



Sen. Linda Holmes

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1 AMENDMENT TO HOUSE BILL 5342

2 AMENDMENT NO. _____. Amend House Bill 5342 by inserting
3 the following immediately above Section 5:

4 "Section 3. The Illinois Banking Act is amended by changing
5 Section 48 as follows:

6 (205 ILCS 5/48)

7 Sec. 48. Secretary's powers; duties. The Secretary shall
8 have the powers and authority, and is charged with the duties
9 and responsibilities designated in this Act, and a State bank
10 shall not be subject to any other visitorial power other than
11 as authorized by this Act, except those vested in the courts,
12 or upon prior consultation with the Secretary, a foreign bank
13 regulator with an appropriate supervisory interest in the
14 parent or affiliate of a state bank. In the performance of the
15 Secretary's duties:

16 (1) The Commissioner shall call for statements from all

1 State banks as provided in Section 47 at least one time during
2 each calendar quarter.

3 (2) (a) The Commissioner, as often as the Commissioner
4 shall deem necessary or proper, and no less frequently than 18
5 months following the preceding examination, shall appoint a
6 suitable person or persons to make an examination of the
7 affairs of every State bank, except that for every eligible
8 State bank, as defined by regulation, the Commissioner in lieu
9 of the examination may accept on an alternating basis the
10 examination made by the eligible State bank's appropriate
11 federal banking agency pursuant to Section 111 of the Federal
12 Deposit Insurance Corporation Improvement Act of 1991,
13 provided the appropriate federal banking agency has made such
14 an examination. A person so appointed shall not be a
15 stockholder or officer or employee of any bank which that
16 person may be directed to examine, and shall have powers to
17 make a thorough examination into all the affairs of the bank
18 and in so doing to examine any of the officers or agents or
19 employees thereof on oath and shall make a full and detailed
20 report of the condition of the bank to the Commissioner. In
21 making the examination the examiners shall include an
22 examination of the affairs of all the affiliates of the bank,
23 as defined in subsection (b) of Section 35.2 of this Act, or
24 subsidiaries of the bank as shall be necessary to disclose
25 fully the conditions of the subsidiaries or affiliates, the
26 relations between the bank and the subsidiaries or affiliates

1 and the effect of those relations upon the affairs of the bank,
2 and in connection therewith shall have power to examine any of
3 the officers, directors, agents, or employees of the
4 subsidiaries or affiliates on oath. After May 31, 1997, the
5 Commissioner may enter into cooperative agreements with state
6 regulatory authorities of other states to provide for
7 examination of State bank branches in those states, and the
8 Commissioner may accept reports of examinations of State bank
9 branches from those state regulatory authorities. These
10 cooperative agreements may set forth the manner in which the
11 other state regulatory authorities may be compensated for
12 examinations prepared for and submitted to the Commissioner.

13 (b) After May 31, 1997, the Commissioner is authorized to
14 examine, as often as the Commissioner shall deem necessary or
15 proper, branches of out-of-state banks. The Commissioner may
16 establish and may assess fees to be paid to the Commissioner
17 for examinations under this subsection (b). The fees shall be
18 borne by the out-of-state bank, unless the fees are borne by
19 the state regulatory authority that chartered the out-of-state
20 bank, as determined by a cooperative agreement between the
21 Commissioner and the state regulatory authority that chartered
22 the out-of-state bank.

23 (2.1) Pursuant to paragraph (a) of subsection (6) of this
24 Section, the Secretary shall adopt rules that ensure
25 consistency and due process in the examination process. The
26 Secretary may also establish guidelines that (i) define the

1 scope of the examination process and (ii) clarify examination
2 items to be resolved. The rules, formal guidance, interpretive
3 letters, or opinions furnished to State banks by the Secretary
4 may be relied upon by the State banks.

5 (2.5) Whenever any State bank, any subsidiary or affiliate
6 of a State bank, or after May 31, 1997, any branch of an
7 out-of-state bank causes to be performed, by contract or
8 otherwise, any bank services for itself, whether on or off its
9 premises:

10 (a) that performance shall be subject to examination by
11 the Commissioner to the same extent as if services were
12 being performed by the bank or, after May 31, 1997, branch
13 of the out-of-state bank itself on its own premises; and

14 (b) the bank or, after May 31, 1997, branch of the
15 out-of-state bank shall notify the Commissioner of the
16 existence of a service relationship. The notification
17 shall be submitted with the first statement of condition
18 (as required by Section 47 of this Act) due after the
19 making of the service contract or the performance of the
20 service, whichever occurs first. The Commissioner shall be
21 notified of each subsequent contract in the same manner.

22 For purposes of this subsection (2.5), the term "bank
23 services" means services such as sorting and posting of checks
24 and deposits, computation and posting of interest and other
25 credits and charges, preparation and mailing of checks,
26 statements, notices, and similar items, or any other clerical,

1 bookkeeping, accounting, statistical, or similar functions
2 performed for a State bank, including but not limited to
3 electronic data processing related to those bank services.

4 (3) The expense of administering this Act, including the
5 expense of the examinations of State banks as provided in this
6 Act, shall to the extent of the amounts resulting from the fees
7 provided for in paragraphs (a), (a-2), and (b) of this
8 subsection (3) be assessed against and borne by the State
9 banks:

10 (a) Each bank shall pay to the Secretary a Call Report
11 Fee which shall be paid in quarterly installments equal to
12 one-fourth of the sum of the annual fixed fee of \$800, plus
13 a variable fee based on the assets shown on the quarterly
14 statement of condition delivered to the Secretary in
15 accordance with Section 47 for the preceding quarter
16 according to the following schedule: 16¢ per \$1,000 of the
17 first \$5,000,000 of total assets, 15¢ per \$1,000 of the
18 next \$20,000,000 of total assets, 13¢ per \$1,000 of the
19 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next
20 \$400,000,000 of total assets, 7¢ per \$1,000 of the next
21 \$500,000,000 of total assets, and 5¢ per \$1,000 of all
22 assets in excess of \$1,000,000,000, of the State bank. The
23 Call Report Fee shall be calculated by the Secretary and
24 billed to the banks for remittance at the time of the
25 quarterly statements of condition provided for in Section
26 47. The Secretary may require payment of the fees provided

1 in this Section by an electronic transfer of funds or an
2 automatic debit of an account of each of the State banks.
3 In case more than one examination of any bank is deemed by
4 the Secretary to be necessary in any examination frequency
5 cycle specified in subsection 2(a) of this Section, and is
6 performed at his direction, the Secretary may assess a
7 reasonable additional fee to recover the cost of the
8 additional examination; provided, however, that an
9 examination conducted at the request of the State Treasurer
10 pursuant to the Uniform Disposition of Unclaimed Property
11 Act shall not be deemed to be an additional examination
12 under this Section. In lieu of the method and amounts set
13 forth in this paragraph (a) for the calculation of the Call
14 Report Fee, the Secretary may specify by rule that the Call
15 Report Fees provided by this Section may be assessed
16 semiannually or some other period and may provide in the
17 rule the formula to be used for calculating and assessing
18 the periodic Call Report Fees to be paid by State banks.

19 (a-1) If in the opinion of the Commissioner an
20 emergency exists or appears likely, the Commissioner may
21 assign an examiner or examiners to monitor the affairs of a
22 State bank with whatever frequency he deems appropriate,
23 including but not limited to a daily basis. The reasonable
24 and necessary expenses of the Commissioner during the
25 period of the monitoring shall be borne by the subject
26 bank. The Commissioner shall furnish the State bank a

1 statement of time and expenses if requested to do so within
2 30 days of the conclusion of the monitoring period.

3 (a-2) On and after January 1, 1990, the reasonable and
4 necessary expenses of the Commissioner during examination
5 of the performance of electronic data processing services
6 under subsection (2.5) shall be borne by the banks for
7 which the services are provided. An amount, based upon a
8 fee structure prescribed by the Commissioner, shall be paid
9 by the banks or, after May 31, 1997, branches of
10 out-of-state banks receiving the electronic data
11 processing services along with the Call Report Fee assessed
12 under paragraph (a) of this subsection (3).

13 (a-3) After May 31, 1997, the reasonable and necessary
14 expenses of the Commissioner during examination of the
15 performance of electronic data processing services under
16 subsection (2.5) at or on behalf of branches of
17 out-of-state banks shall be borne by the out-of-state
18 banks, unless those expenses are borne by the state
19 regulatory authorities that chartered the out-of-state
20 banks, as determined by cooperative agreements between the
21 Commissioner and the state regulatory authorities that
22 chartered the out-of-state banks.

23 (b) "Fiscal year" for purposes of this Section 48 is
24 defined as a period beginning July 1 of any year and ending
25 June 30 of the next year. The Commissioner shall receive
26 for each fiscal year, commencing with the fiscal year

1 ending June 30, 1987, a contingent fee equal to the lesser
2 of the aggregate of the fees paid by all State banks under
3 paragraph (a) of subsection (3) for that year, or the
4 amount, if any, whereby the aggregate of the administration
5 expenses, as defined in paragraph (c), for that fiscal year
6 exceeds the sum of the aggregate of the fees payable by all
7 State banks for that year under paragraph (a) of subsection
8 (3), plus any amounts transferred into the Bank and Trust
9 Company Fund from the State Pensions Fund for that year,
10 plus all other amounts collected by the Commissioner for
11 that year under any other provision of this Act, plus the
12 aggregate of all fees collected for that year by the
13 Commissioner under the Corporate Fiduciary Act, excluding
14 the receivership fees provided for in Section 5-10 of the
15 Corporate Fiduciary Act, and the Foreign Banking Office
16 Act. The aggregate amount of the contingent fee thus
17 arrived at for any fiscal year shall be apportioned
18 amongst, assessed upon, and paid by the State banks and
19 foreign banking corporations, respectively, in the same
20 proportion that the fee of each under paragraph (a) of
21 subsection (3), respectively, for that year bears to the
22 aggregate for that year of the fees collected under
23 paragraph (a) of subsection (3). The aggregate amount of
24 the contingent fee, and the portion thereof to be assessed
25 upon each State bank and foreign banking corporation,
26 respectively, shall be determined by the Commissioner and

1 shall be paid by each, respectively, within 120 days of the
2 close of the period for which the contingent fee is
3 computed and is payable, and the Commissioner shall give 20
4 days advance notice of the amount of the contingent fee
5 payable by the State bank and of the date fixed by the
6 Commissioner for payment of the fee.

7 (c) The "administration expenses" for any fiscal year
8 shall mean the ordinary and contingent expenses for that
9 year incident to making the examinations provided for by,
10 and for otherwise administering, this Act, the Corporate
11 Fiduciary Act, excluding the expenses paid from the
12 Corporate Fiduciary Receivership account in the Bank and
13 Trust Company Fund, the Foreign Banking Office Act, the
14 Electronic Fund Transfer Act, and the Illinois Bank
15 Examiners' Education Foundation Act, including all
16 salaries and other compensation paid for personal services
17 rendered for the State by officers or employees of the
18 State, including the Commissioner and the Deputy
19 Commissioners, communication equipment and services,
20 office furnishings, surety bond premiums, and travel
21 expenses of those officers and employees, employees,
22 expenditures or charges for the acquisition, enlargement
23 or improvement of, or for the use of, any office space,
24 building, or structure, or expenditures for the
25 maintenance thereof or for furnishing heat, light, or power
26 with respect thereto, all to the extent that those

1 expenditures are directly incidental to such examinations
2 or administration. The Commissioner shall not be required
3 by paragraphs (c) or (d-1) of this subsection (3) to
4 maintain in any fiscal year's budget appropriated reserves
5 for accrued vacation and accrued sick leave that is
6 required to be paid to employees of the Commissioner upon
7 termination of their service with the Commissioner in an
8 amount that is more than is reasonably anticipated to be
9 necessary for any anticipated turnover in employees,
10 whether due to normal attrition or due to layoffs,
11 terminations, or resignations.

12 (d) The aggregate of all fees collected by the
13 Secretary under this Act, the Corporate Fiduciary Act, or
14 the Foreign Banking Office Act on and after July 1, 1979,
15 shall be paid promptly after receipt of the same,
16 accompanied by a detailed statement thereof, into the State
17 treasury and shall be set apart in a special fund to be
18 known as the "Bank and Trust Company Fund", except as
19 provided in paragraph (c) of subsection (11) of this
20 Section. All earnings received from investments of funds in
21 the Bank and Trust Company Fund shall be deposited in the
22 Bank and Trust Company Fund and may be used for the same
23 purposes as fees deposited in that Fund. The amount from
24 time to time deposited into the Bank and Trust Company Fund
25 shall be used: (i) to offset the ordinary administrative
26 expenses of the Secretary as defined in this Section or

1 (ii) as a credit against fees under paragraph (d-1) of this
2 subsection (3). Nothing in this amendatory Act of 1979
3 shall prevent continuing the practice of paying expenses
4 involving salaries, retirement, social security, and
5 State-paid insurance premiums of State officers by
6 appropriations from the General Revenue Fund. However, the
7 General Revenue Fund shall be reimbursed for those payments
8 made on and after July 1, 1979, by an annual transfer of
9 funds from the Bank and Trust Company Fund. Moneys in the
10 Bank and Trust Company Fund may be transferred to the
11 Professions Indirect Cost Fund, as authorized under
12 Section 2105-300 of the Department of Professional
13 Regulation Law of the Civil Administrative Code of
14 Illinois.

15 Notwithstanding provisions in the State Finance Act,
16 as now or hereafter amended, or any other law to the
17 contrary, the sum of \$18,788,847 shall be transferred from
18 the Bank and Trust Company Fund to the Financial
19 Institutions Settlement of 2008 Fund on the effective date
20 of this amendatory Act of the 95th General Assembly, or as
21 soon thereafter as practical.

22 Notwithstanding provisions in the State Finance Act,
23 as now or hereafter amended, or any other law to the
24 contrary, the Governor may, during any fiscal year through
25 January 10, 2011, from time to time direct the State
26 Treasurer and Comptroller to transfer a specified sum not

1 exceeding 10% of the revenues to be deposited into the Bank
2 and Trust Company Fund during that fiscal year from that
3 Fund to the General Revenue Fund in order to help defray
4 the State's operating costs for the fiscal year.
5 Notwithstanding provisions in the State Finance Act, as now
6 or hereafter amended, or any other law to the contrary, the
7 total sum transferred during any fiscal year through
8 January 10, 2011, from the Bank and Trust Company Fund to
9 the General Revenue Fund pursuant to this provision shall
10 not exceed during any fiscal year 10% of the revenues to be
11 deposited into the Bank and Trust Company Fund during that
12 fiscal year. The State Treasurer and Comptroller shall
13 transfer the amounts designated under this Section as soon
14 as may be practicable after receiving the direction to
15 transfer from the Governor.

16 (d-1) Adequate funds shall be available in the Bank and
17 Trust Company Fund to permit the timely payment of
18 administration expenses. In each fiscal year the total
19 administration expenses shall be deducted from the total
20 fees collected by the Commissioner and the remainder
21 transferred into the Cash Flow Reserve Account, unless the
22 balance of the Cash Flow Reserve Account prior to the
23 transfer equals or exceeds one-fourth of the total initial
24 appropriations from the Bank and Trust Company Fund for the
25 subsequent year, in which case the remainder shall be
26 credited to State banks and foreign banking corporations

1 and applied against their fees for the subsequent year. The
2 amount credited to each State bank and foreign banking
3 corporation shall be in the same proportion as the Call
4 Report Fees paid by each for the year bear to the total
5 Call Report Fees collected for the year. If, after a
6 transfer to the Cash Flow Reserve Account is made or if no
7 remainder is available for transfer, the balance of the
8 Cash Flow Reserve Account is less than one-fourth of the
9 total initial appropriations for the subsequent year and
10 the amount transferred is less than 5% of the total Call
11 Report Fees for the year, additional amounts needed to make
12 the transfer equal to 5% of the total Call Report Fees for
13 the year shall be apportioned amongst, assessed upon, and
14 paid by the State banks and foreign banking corporations in
15 the same proportion that the Call Report Fees of each,
16 respectively, for the year bear to the total Call Report
17 Fees collected for the year. The additional amounts
18 assessed shall be transferred into the Cash Flow Reserve
19 Account. For purposes of this paragraph (d-1), the
20 calculation of the fees collected by the Commissioner shall
21 exclude the receivership fees provided for in Section 5-10
22 of the Corporate Fiduciary Act.

23 (e) The Commissioner may upon request certify to any
24 public record in his keeping and shall have authority to
25 levy a reasonable charge for issuing certifications of any
26 public record in his keeping.

1 (f) In addition to fees authorized elsewhere in this
2 Act, the Commissioner may, in connection with a review,
3 approval, or provision of a service, levy a reasonable
4 charge to recover the cost of the review, approval, or
5 service.

6 (4) Nothing contained in this Act shall be construed to
7 limit the obligation relative to examinations and reports of
8 any State bank, deposits in which are to any extent insured by
9 the United States or any agency thereof, nor to limit in any
10 way the powers of the Commissioner with reference to
11 examinations and reports of that bank.

12 (5) The nature and condition of the assets in or investment
13 of any bonus, pension, or profit sharing plan for officers or
14 employees of every State bank or, after May 31, 1997, branch of
15 an out-of-state bank shall be deemed to be included in the
16 affairs of that State bank or branch of an out-of-state bank
17 subject to examination by the Commissioner under the provisions
18 of subsection (2) of this Section, and if the Commissioner
19 shall find from an examination that the condition of or
20 operation of the investments or assets of the plan is unlawful,
21 fraudulent, or unsafe, or that any trustee has abused his
22 trust, the Commissioner shall, if the situation so found by the
23 Commissioner shall not be corrected to his satisfaction within
24 60 days after the Commissioner has given notice to the board of
25 directors of the State bank or out-of-state bank of his
26 findings, report the facts to the Attorney General who shall

1 thereupon institute proceedings against the State bank or
2 out-of-state bank, the board of directors thereof, or the
3 trustees under such plan as the nature of the case may require.

4 (6) The Commissioner shall have the power:

5 (a) To promulgate reasonable rules for the purpose of
6 administering the provisions of this Act.

7 (a-5) To impose conditions on any approval issued by
8 the Commissioner if he determines that the conditions are
9 necessary or appropriate. These conditions shall be
10 imposed in writing and shall continue in effect for the
11 period prescribed by the Commissioner.

12 (b) To issue orders against any person, if the
13 Commissioner has reasonable cause to believe that an unsafe
14 or unsound banking practice has occurred, is occurring, or
15 is about to occur, if any person has violated, is
16 violating, or is about to violate any law, rule, or written
17 agreement with the Commissioner, or for the purpose of
18 administering the provisions of this Act and any rule
19 promulgated in accordance with this Act.

20 (b-1) To enter into agreements with a bank establishing
21 a program to correct the condition of the bank or its
22 practices.

23 (c) To appoint hearing officers to execute any of the
24 powers granted to the Commissioner under this Section for
25 the purpose of administering this Act and any rule
26 promulgated in accordance with this Act and otherwise to

1 authorize, in writing, an officer or employee of the Office
2 of Banks and Real Estate to exercise his powers under this
3 Act.

4 (d) To subpoena witnesses, to compel their attendance,
5 to administer an oath, to examine any person under oath,
6 and to require the production of any relevant books,
7 papers, accounts, and documents in the course of and
8 pursuant to any investigation being conducted, or any
9 action being taken, by the Commissioner in respect of any
10 matter relating to the duties imposed upon, or the powers
11 vested in, the Commissioner under the provisions of this
12 Act or any rule promulgated in accordance with this Act.

13 (e) To conduct hearings.

14 (7) Whenever, in the opinion of the Secretary, any
15 director, officer, employee, or agent of a State bank or any
16 subsidiary or bank holding company of the bank or, after May
17 31, 1997, of any branch of an out-of-state bank or any
18 subsidiary or bank holding company of the bank shall have
19 violated any law, rule, or order relating to that bank or any
20 subsidiary or bank holding company of the bank, shall have
21 obstructed or impeded any examination or investigation by the
22 Secretary, shall have engaged in an unsafe or unsound practice
23 in conducting the business of that bank or any subsidiary or
24 bank holding company of the bank, or shall have violated any
25 law or engaged or participated in any unsafe or unsound
26 practice in connection with any financial institution or other

1 business entity such that the character and fitness of the
2 director, officer, employee, or agent does not assure
3 reasonable promise of safe and sound operation of the State
4 bank, the Secretary may issue an order of removal. If, in the
5 opinion of the Secretary, any former director, officer,
6 employee, or agent of a State bank or any subsidiary or bank
7 holding company of the bank, prior to the termination of his or
8 her service with that bank or any subsidiary or bank holding
9 company of the bank, violated any law, rule, or order relating
10 to that State bank or any subsidiary or bank holding company of
11 the bank, obstructed or impeded any examination or
12 investigation by the Secretary, engaged in an unsafe or unsound
13 practice in conducting the business of that bank or any
14 subsidiary or bank holding company of the bank, or violated any
15 law or engaged or participated in any unsafe or unsound
16 practice in connection with any financial institution or other
17 business entity such that the character and fitness of the
18 director, officer, employee, or agent would not have assured
19 reasonable promise of safe and sound operation of the State
20 bank, the Secretary may issue an order prohibiting that person
21 from further service with a bank or any subsidiary or bank
22 holding company of the bank as a director, officer, employee,
23 or agent. An order issued pursuant to this subsection shall be
24 served upon the director, officer, employee, or agent. A copy
25 of the order shall be sent to each director of the bank
26 affected by registered mail. A copy of the order shall also be

1 served upon the bank of which he is a director, officer,
2 employee, or agent, whereupon he shall cease to be a director,
3 officer, employee, or agent of that bank. The Secretary may
4 institute a civil action against the director, officer, or
5 agent of the State bank or, after May 31, 1997, of the branch
6 of the out-of-state bank against whom any order provided for by
7 this subsection (7) of this Section 48 has been issued, and
8 against the State bank or, after May 31, 1997, out-of-state
9 bank, to enforce compliance with or to enjoin any violation of
10 the terms of the order. Any person who has been the subject of
11 an order of removal or an order of prohibition issued by the
12 Secretary under this subsection or Section 5-6 of the Corporate
13 Fiduciary Act may not thereafter serve as director, officer,
14 employee, or agent of any State bank or of any branch of any
15 out-of-state bank, or of any corporate fiduciary, as defined in
16 Section 1-5.05 of the Corporate Fiduciary Act, or of any other
17 entity that is subject to licensure or regulation by the
18 Division of Banking unless the Secretary has granted prior
19 approval in writing.

20 For purposes of this paragraph (7), "bank holding company"
21 has the meaning prescribed in Section 2 of the Illinois Bank
22 Holding Company Act of 1957.

23 (8) The Commissioner may impose civil penalties of up to
24 \$100,000 against any person for each violation of any provision
25 of this Act, any rule promulgated in accordance with this Act,
26 any order of the Commissioner, or any other action which in the

1 Commissioner's discretion is an unsafe or unsound banking
2 practice.

3 (9) The Commissioner may impose civil penalties of up to
4 \$100 against any person for the first failure to comply with
5 reporting requirements set forth in the report of examination
6 of the bank and up to \$200 for the second and subsequent
7 failures to comply with those reporting requirements.

8 (10) All final administrative decisions of the
9 Commissioner hereunder shall be subject to judicial review
10 pursuant to the provisions of the Administrative Review Law.
11 For matters involving administrative review, venue shall be in
12 either Sangamon County or Cook County.

13 (11) The endowment fund for the Illinois Bank Examiners'
14 Education Foundation shall be administered as follows:

15 (a) (Blank).

16 (b) The Foundation is empowered to receive voluntary
17 contributions, gifts, grants, bequests, and donations on
18 behalf of the Illinois Bank Examiners' Education
19 Foundation from national banks and other persons for the
20 purpose of funding the endowment of the Illinois Bank
21 Examiners' Education Foundation.

22 (c) The aggregate of all special educational fees
23 collected by the Secretary and property received by the
24 Secretary on behalf of the Illinois Bank Examiners'
25 Education Foundation under this subsection (11) on or after
26 June 30, 1986, shall be either (i) promptly paid after

1 receipt of the same, accompanied by a detailed statement
2 thereof, into the State Treasury and shall be set apart in
3 a special fund to be known as "The Illinois Bank Examiners'
4 Education Fund" to be invested by either the Treasurer of
5 the State of Illinois in the Public Treasurers' Investment
6 Pool or in any other investment he is authorized to make or
7 by the Illinois State Board of Investment as the State
8 Banking Board of Illinois may direct or (ii) deposited into
9 an account maintained in a commercial bank or corporate
10 fiduciary in the name of the Illinois Bank Examiners'
11 Education Foundation pursuant to the order and direction of
12 the Board of Trustees of the Illinois Bank Examiners'
13 Education Foundation.

14 (12) (Blank).

15 (13) The Secretary may borrow funds from the General
16 Revenue Fund on behalf of the Bank and Trust Company Fund if
17 the Director of Banking certifies to the Governor that there is
18 an economic emergency affecting banking that requires a
19 borrowing to provide additional funds to the Bank and Trust
20 Company Fund. The borrowed funds shall be paid back within 3
21 years and shall not exceed the total funding appropriated to
22 the Agency in the previous year.

23 (Source: P.A. 96-1163, eff. 1-1-11; 96-1365, eff. 7-28-10;
24 97-333, eff. 8-12-11.)

25 Section 4. The Savings Bank Act is amended by changing

1 Section 9004 as follows:

2 (205 ILCS 205/9004) (from Ch. 17, par. 7309-4)

3 Sec. 9004. Examination.

4 (a) At least once every 18 months or more often if it is
5 deemed necessary or expedient, the Secretary shall examine the
6 books, records, operations, and affairs of each savings bank
7 operating under this Act. In the course of the examination, the
8 Secretary may also examine in the same manner all entities,
9 companies, and individuals which or whom the Secretary
10 determines may have a relationship with the savings bank or any
11 subsidiary or entity affiliated with it, if the relationship
12 may adversely affect the affairs, activities, and safety and
13 soundness of the savings bank, including: (i) companies
14 controlled by the savings bank; (ii) entities, including
15 companies controlled by the company, individual, or
16 individuals that control the savings bank; and (iii) the
17 company or other entity which controls or owns the savings
18 bank. Notwithstanding any other provision of this Act, every
19 savings bank, as defined by rule, or, if not defined, to the
20 same extent as would be permitted in the case of a State bank,
21 the Secretary, in lieu of the examination, may accept on an
22 alternating basis the examination made by the eligible savings
23 bank's appropriate federal banking agency pursuant to Section
24 111 of the Federal Deposit Insurance Corporation Improvement
25 Act of 1991, provided the appropriate federal banking agency

1 has made an examination.

2 (b) The Secretary shall examine to determine:

3 (1) Quality of financial condition, including safety
4 and soundness and investment and loan quality.

5 (2) Compliance with this Act and other applicable
6 statutes and regulations.

7 (3) Quality of management policies.

8 (4) Overall safety and soundness of the savings bank,
9 its parent, subsidiaries, and affiliates.

10 (5) Remedial actions required to correct and to restore
11 compliance with applicable statutes, regulations, and
12 proper business policies.

13 (c) The Secretary may promulgate regulations to implement
14 and administer this Section.

15 (d) If a savings bank, its holding company, or any of its
16 corporate subsidiaries has not been audited at least once in
17 the 12 months prior to the Secretary's examination, the
18 Secretary may cause an audit of the savings bank's books and
19 records to be made by an independent licensed public
20 accountant. The cost of the audit shall be paid for by the
21 entity being audited.

22 (e) The Secretary or his or her examiners or other formally
23 designated agents are authorized to administer oaths and to
24 examine and to take and preserve testimony under oath as to
25 anything in the affairs or ownership of any savings bank or
26 institution or affiliate thereof.

1 (f) Pursuant to subsection (c) of this Section, the
2 Secretary shall adopt rules that ensure consistency and due
3 process in the examination process. The Secretary may also
4 establish guidelines that (i) define the scope of the
5 examination process and (ii) clarify examination items to be
6 resolved. The rules, formal guidance, interpretive letters, or
7 opinions furnished to savings banks by the Secretary may be
8 relied upon by the savings banks.

9 (Source: P.A. 96-1365, eff. 7-28-10; 97-492, eff. 1-1-12.)".