

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Banking Act is amended by changing
5 Sections 5 and 14.1 as follows:

6 (205 ILCS 5/5) (from Ch. 17, par. 311)

7 Sec. 5. General corporate powers. A bank organized under
8 this Act or subject hereto shall be a body corporate and
9 politic and shall, without specific mention thereof in the
10 charter, have all the powers conferred by this Act and the
11 following additional general corporate powers:

12 (1) To sue and be sued, complain, and defend in its
13 corporate name.

14 (2) To have a corporate seal, which may be altered at
15 pleasure, and to use the same by causing it or a facsimile
16 thereof to be impressed or affixed or in any manner
17 reproduced, provided that the affixing of a corporate seal
18 to an instrument shall not give the instrument additional
19 force or effect, or change the construction thereof, and
20 the use of a corporate seal is not mandatory.

21 (3) To make, alter, amend, and repeal bylaws, not
22 inconsistent with its charter or with law, for the
23 administration of the affairs of the bank. If this Act does

1 not provide specific guidance in matters of corporate
2 governance, the provisions of the Business Corporation Act
3 of 1983 may be used if so provided in the bylaws, and if
4 the bank is a limited liability company, the provisions of
5 the Limited Liability Company Act shall be used.

6 (4) To elect or appoint and remove officers and agents
7 of the bank and define their duties and fix their
8 compensation.

9 (5) To adopt and operate reasonable bonus plans,
10 profit-sharing plans, stock-bonus plans, stock-option
11 plans, pension plans and similar incentive plans for its
12 directors, officers and employees.

13 (5.1) To manage, operate and administer a fund for the
14 investment of funds by a public agency or agencies,
15 including any unit of local government or school district,
16 or any person. The fund for a public agency shall invest in
17 the same type of investments and be subject to the same
18 limitations provided for the investment of public funds.
19 The fund for public agencies shall maintain a separate
20 ledger showing the amount of investment for each public
21 agency in the fund. "Public funds" and "public agency" as
22 used in this Section shall have the meanings ascribed to
23 them in Section 1 of the Public Funds Investment Act.

24 (6) To make reasonable donations for the public welfare
25 or for charitable, scientific, religious or educational
26 purposes.

1 (7) To borrow or incur an obligation; and to pledge its
2 assets:

3 (a) to secure its borrowings, its lease of personal
4 or real property or its other nondeposit obligations;

5 (b) to enable it to act as agent for the sale of
6 obligations of the United States;

7 (c) to secure deposits of public money of the
8 United States, whenever required by the laws of the
9 United States, including without being limited to,
10 revenues and funds the deposit of which is subject to
11 the control or regulation of the United States or any
12 of its officers, agents, or employees and Postal
13 Savings funds;

14 (d) to secure deposits of public money of any state
15 or of any political corporation or subdivision thereof
16 including, without being limited to, revenues and
17 funds the deposit of which is subject to the control or
18 regulation of any state or of any political corporation
19 or subdivisions thereof or of any of their officers,
20 agents, or employees;

21 (e) to secure deposits of money whenever required
22 by the National Bankruptcy Act;

23 (f) (blank); and

24 (g) to secure trust funds commingled with the
25 bank's funds, whether deposited by the bank or an
26 affiliate of the bank, pursuant to Section 2-8 of the

1 Corporate Fiduciary Act.

2 (8) To own, possess, and carry as assets all or part of
3 the real estate necessary in or with which to do its
4 banking business, either directly or indirectly through
5 the ownership of all or part of the capital stock, shares
6 or interests in any corporation, association, trust
7 engaged in holding any part or parts or all of the bank
8 premises, engaged in such business and in conducting a safe
9 deposit business in the premises or part of them, or
10 engaged in any activity that the bank is permitted to
11 conduct in a subsidiary pursuant to paragraph (12) of this
12 Section 5.

13 (9) To own, possess, and carry as assets other real
14 estate to which it may obtain title in the collection of
15 its debts or that was formerly used as a part of the bank
16 premises, but title to any real estate except as herein
17 permitted shall not be retained by the bank, either
18 directly or by or through a subsidiary, as permitted by
19 subsection (12) of this Section for a total period of more
20 than 10 years after acquiring title, either directly or
21 indirectly.

22 (10) To do any act, including the acquisition of stock,
23 necessary to obtain insurance of its deposits, or part
24 thereof, and any act necessary to obtain a guaranty, in
25 whole or in part, of any of its loans or investments by the
26 United States or any agency thereof, and any act necessary

1 to sell or otherwise dispose of any of its loans or
2 investments to the United States or any agency thereof, and
3 to acquire and hold membership in the Federal Reserve
4 System.

5 (11) Notwithstanding any other provisions of this Act
6 or any other law, to do any act and to own, possess, and
7 carry as assets property of the character, including stock,
8 that is at the time authorized or permitted to national
9 banks by an Act of Congress, but subject always to the same
10 limitations and restrictions as are applicable to national
11 banks by the pertinent federal law and subject to
12 applicable provisions of the Financial Institutions
13 Insurance Sales Law.

14 (12) To own, possess, and carry as assets stock of one
15 or more corporations that is, or are, engaged in one or
16 more of the following businesses:

17 (a) holding title to and administering assets
18 acquired as a result of the collection or liquidating
19 of loans, investments, or discounts; or

20 (b) holding title to and administering personal
21 property acquired by the bank, directly or indirectly
22 through a subsidiary, for the purpose of leasing to
23 others, provided the lease or leases and the investment
24 of the bank, directly or through a subsidiary, in that
25 personal property otherwise comply with Section 35.1
26 of this Act; or

1 (c) carrying on or administering any of the
2 activities excepting the receipt of deposits or the
3 payment of checks or other orders for the payment of
4 money in which a bank may engage in carrying on its
5 general banking business; provided, however, that
6 nothing contained in this paragraph (c) shall be deemed
7 to permit a bank organized under this Act or subject
8 hereto to do, either directly or indirectly through any
9 subsidiary, any act, including the making of any loan
10 or investment, or to own, possess, or carry as assets
11 any property that if done by or owned, possessed, or
12 carried by the State bank would be in violation of or
13 prohibited by any provision of this Act.

14 The provisions of this subsection (12) shall not apply
15 to and shall not be deemed to limit the powers of a State
16 bank with respect to the ownership, possession, and
17 carrying of stock that a State bank is permitted to own,
18 possess, or carry under this Act.

19 Any bank intending to establish a subsidiary under this
20 subsection (12) shall give written notice to the
21 Commissioner 60 days prior to the subsidiary's commencing
22 of business or, as the case may be, prior to acquiring
23 stock in a corporation that has already commenced business.
24 After receiving the notice, the Commissioner may waive or
25 reduce the balance of the 60 day notice period. The
26 Commissioner may specify the form of the notice, may

1 designate the types of subsidiaries not subject to this
2 notice requirement, and may promulgate rules and
3 regulations to administer this subsection (12).

4 (13) To accept for payment at a future date not
5 exceeding one year from the date of acceptance, drafts
6 drawn upon it by its customers; and to issue, advise, or
7 confirm letters of credit authorizing the holders thereof
8 to draw drafts upon it or its correspondents.

9 (14) To own and lease personal property acquired by the
10 bank at the request of a prospective lessee and upon the
11 agreement of that person to lease the personal property
12 provided that the lease, the agreement with respect
13 thereto, and the amount of the investment of the bank in
14 the property comply with Section 35.1 of this Act.

15 (15) (a) To establish and maintain, in addition to the
16 main banking premises, branches offering any banking
17 services permitted at the main banking premises of a State
18 bank.

19 (b) To establish and maintain, after May 31, 1997,
20 branches in another state that may conduct any activity in
21 that state that is authorized or permitted for any bank
22 that has a banking charter issued by that state, subject to
23 the same limitations and restrictions that are applicable
24 to banks chartered by that state.

25 (16) (Blank).

26 (17) To establish and maintain terminals, as

1 authorized by the Electronic Fund Transfer Act.

2 (18) To establish and maintain temporary service
3 booths at any International Fair held in this State which
4 is approved by the United States Department of Commerce,
5 for the duration of the international fair for the sole
6 purpose of providing a convenient place for foreign trade
7 customers at the fair to exchange their home countries'
8 currency into United States currency or the converse. This
9 power shall not be construed as establishing a new place or
10 change of location for the bank providing the service
11 booth.

12 (19) To indemnify its officers, directors, employees,
13 and agents, as authorized for corporations under Section
14 8.75 of the Business Corporation Act of 1983.

15 (20) To own, possess, and carry as assets stock of, or
16 be or become a member of, any corporation, mutual company,
17 association, trust, or other entity formed exclusively for
18 the purpose of providing directors' and officers'
19 liability and bankers' blanket bond insurance or
20 reinsurance to and for the benefit of the stockholders,
21 members, or beneficiaries, or their assets or businesses,
22 or their officers, directors, employees, or agents, and not
23 to or for the benefit of any other person or entity or the
24 public generally.

25 (21) To make debt or equity investments in corporations
26 or projects, whether for profit or not for profit, designed

1 to promote the development of the community and its
2 welfare, provided that the aggregate investment in all of
3 these corporations and in all of these projects does not
4 exceed 10% of the unimpaired capital and unimpaired surplus
5 of the bank and provided that this limitation shall not
6 apply to creditworthy loans by the bank to those
7 corporations or projects. Upon written application to the
8 Commissioner, a bank may make an investment that would,
9 when aggregated with all other such investments, exceed 10%
10 of the unimpaired capital and unimpaired surplus of the
11 bank. The Commissioner may approve the investment if he is
12 of the opinion and finds that the proposed investment will
13 not have a material adverse effect on the safety and
14 soundness of the bank.

15 (22) To own, possess, and carry as assets the stock of
16 a corporation engaged in the ownership or operation of a
17 travel agency or to operate a travel agency as a part of
18 its business.

19 (23) With respect to affiliate facilities:

20 (a) to conduct at affiliate facilities for and on
21 behalf of another commonly owned bank, if so authorized
22 by the other bank, all transactions that the other bank
23 is authorized or permitted to perform; and

24 (b) to authorize a commonly owned bank to conduct
25 for and on behalf of it any of the transactions it is
26 authorized or permitted to perform at one or more

1 affiliate facilities.

2 Any bank intending to conduct or to authorize a
3 commonly owned bank to conduct at an affiliate facility any
4 of the transactions specified in this paragraph (23) shall
5 give written notice to the Commissioner at least 30 days
6 before any such transaction is conducted at the affiliate
7 facility.

8 (24) To act as the agent for any fire, life, or other
9 insurance company authorized by the State of Illinois, by
10 soliciting and selling insurance and collecting premiums
11 on policies issued by such company; and to receive for
12 services so rendered such fees or commissions as may be
13 agreed upon between the bank and the insurance company for
14 which it may act as agent; provided, however, that no such
15 bank shall in any case assume or guarantee the payment of
16 any premium on insurance policies issued through its agency
17 by its principal; and provided further, that the bank shall
18 not guarantee the truth of any statement made by an assured
19 in filing his application for insurance.

20 (25) Notwithstanding any other provisions of this Act
21 or any other law, to offer any product or service that is
22 at the time authorized or permitted to any insured savings
23 association or out-of-state bank by applicable law,
24 provided that powers conferred only by this subsection
25 (25):

26 (a) shall always be subject to the same limitations

1 and restrictions that are applicable to the insured
2 savings association or out-of-state bank for the
3 product or service by such applicable law;

4 (b) shall be subject to applicable provisions of
5 the Financial Institutions Insurance Sales Law;

6 (c) shall not include the right to own or conduct a
7 real estate brokerage business for which a license
8 would be required under the laws of this State; and

9 (d) shall not be construed to include the
10 establishment or maintenance of a branch, nor shall
11 they be construed to limit the establishment or
12 maintenance of a branch pursuant to subsection (11).

13 Not less than 30 days before engaging in any activity
14 under the authority of this subsection, a bank shall
15 provide written notice to the Commissioner of its intent to
16 engage in the activity. The notice shall indicate the
17 specific federal or state law, rule, regulation, or
18 interpretation the bank intends to use as authority to
19 engage in the activity.

20 (26) Nothing in this Section shall be construed to
21 require the filing of a notice or application for approval
22 with the United States Office of the Comptroller of the
23 Currency or a bank supervisor of another state as a
24 condition to the right of a State bank to exercise any of
25 the powers conferred by this Section in this State.

26 (Source: P.A. 98-44, eff. 6-28-13.)

1 (205 ILCS 5/14.1) (from Ch. 17, par. 321.1)

2 Sec. 14.1. Quasi-Reorganization of Capital ~~Upon a Change in~~
3 ~~Control.~~

4 (a) For the purposes of declaring dividends pursuant to
5 Section 14(8)(b) of this Act upon a change in control, if a
6 bank:

7 (1) incurs a change in ownership of more than 50% of its
8 voting stock; and

9 (2) has a deficit in its net profits then on hand at the
10 time of such change in ownership; and

11 (3) receives the prior written approval of the Secretary
12 ~~Commissioner~~; such bank may restate its asset and liability
13 accounts to fair value for the purpose of reorganizing the
14 capital accounts of the bank so that net profits then on hand
15 are restated to zero; provided that in no event may total
16 capital be increased as a result of a capital reorganization
17 made pursuant to this Section.

18 (b) A bank may reorganize its capital accounts pursuant to
19 item (3) of subsection (a) of this Section without a change in
20 control to the same extent and in the same manner authorized
21 for national banks, subject to the same limitations and
22 restrictions as are applicable to national banks, upon
23 receiving the prior written approval of the Secretary.

24 (Source: P.A. 87-841.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.