

1 AN ACT concerning certain financial institutions.

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

4 Section 5. The Office of Banks and Real Estate Act is
5 amended by changing Sections 5 and 6 as follows:

6 (20 ILCS 3205/5) (from Ch. 17, par. 455)

7 Sec. 5. Powers. In addition to all the other powers and
8 duties provided by law, the Commissioner shall have the
9 following powers:

10 (a) To exercise the rights, powers and duties formerly
11 vested by law in the Director of Financial Institutions under
12 the Illinois Banking Act.

13 (b) To exercise the rights, powers and duties formerly
14 vested by law in the Department of Financial Institutions
15 under "An act to provide for and regulate the administration
16 of trusts by trust companies", approved June 15, 1887, as
17 amended.

18 (c) To exercise the rights, powers and duties formerly
19 vested by law in the Director of Financial Institutions under
20 "An act authorizing foreign corporations, including banks and
21 national banking associations domiciled in other states, to
22 act in a fiduciary capacity in this state upon certain
23 conditions herein set forth", approved July 13, 1953, as
24 amended.

25 (d) Whenever the Commissioner is authorized or required
26 by law to consider or to make findings regarding the
27 character of incorporators, directors, management personnel,
28 or other relevant individuals under the Illinois Banking Act,
29 the Corporate Fiduciary Act, the Pawnbroker Regulation Act,
30 or at other times as the Commissioner deems necessary for the
31 purpose of carrying out the Commissioner's statutory powers

1 and responsibilities, the Commissioner shall consider
2 criminal history record information, including nonconviction
3 information, pursuant to the Criminal Identification Act.
4 The Commissioner shall, in the form and manner required by
5 the Department of State Police and the Federal Bureau of
6 Investigation, cause to be conducted a criminal history
7 record investigation to obtain information currently
8 contained in the files of the Department of State Police or
9 the Federal Bureau of Investigation, provided that the
10 Commissioner need not cause additional criminal history
11 record investigations to be conducted on individuals for whom
12 the Commissioner, a federal bank regulatory agency, or any
13 other government agency has caused such investigations to
14 have been conducted previously unless such additional
15 investigations are otherwise required by law or unless the
16 Commissioner deems such additional investigations to be
17 necessary for the purposes of carrying out the Commissioner's
18 statutory powers and responsibilities. The Department of
19 State Police shall provide, on the Commissioner's request,
20 information concerning criminal charges and their disposition
21 currently on file with respect to a relevant individual.
22 Information obtained as a result of an investigation under
23 this Section shall be used in determining eligibility to be
24 an incorporator, director, management personnel, or other
25 relevant individual in relation to a financial institution or
26 other entity supervised by the Commissioner. Upon request
27 and payment of fees in conformance with the requirements of
28 Section 2605-400 of the Department of State Police Law (20
29 ILCS 2605/2605-400), the Department of State Police is
30 authorized to furnish, pursuant to positive identification,
31 such information contained in State files as is necessary to
32 fulfill the request.

33 (e) When issuing charters, permits, licenses, or other
34 authorizations, the Commissioner may impose such terms and

1 conditions on the issuance as he deems necessary or
2 appropriate. Failure to abide by those terms and conditions
3 may result in the revocation of the issuance, the imposition
4 of corrective orders, or the imposition of civil money
5 penalties.

6 (f) If the Commissioner has reasonable cause to believe
7 that any entity that has not submitted an application for
8 authorization or licensure is conducting any activity that
9 would otherwise require authorization or licensure by the
10 Commissioner, the Commissioner shall have the power to
11 subpoena witnesses, to compel their attendance, and to
12 require the production of any relevant books, papers,
13 accounts, and documents in order to determine whether the
14 entity is subject to authorization or licensure by the
15 Commissioner or the Office of Banks and Real Estate.

16 (g) The Commissioner may, through the Attorney General,
17 request the circuit court of any county to issue an
18 injunction to restrain any person from violating the
19 provisions of any Act administered by the Commissioner.

20 (h) Whenever the Commissioner is authorized to take any
21 action or required by law to consider or make findings, the
22 Commissioner may delegate or appoint, in writing, an officer
23 or employee of the Office of Banks and Real Estate to take
24 that action or make that finding.

25 (Source: P.A. 90-301, eff. 8-1-97; 90-602, eff. 7-1-98;
26 91-239, eff. 1-1-00.)

27 (20 ILCS 3205/6) (from Ch. 17, par. 456)

28 Sec. 6. Duties. The Commissioner shall direct and
29 supervise all the administrative and technical activities of
30 the Office and shall:

31 (a) Apply and carry out this Act and the law and all
32 rules adopted in pursuance thereof.

33 (b) Appoint, subject to the provisions of the Personnel

1 Code, such employees, experts, and special assistants as may
2 be necessary to carry out effectively the provisions of this
3 Act and, if the rate of compensation is not otherwise fixed
4 by law, fix their compensation; but neither the Commissioner
5 nor any deputy commissioner shall be subject to the Personnel
6 Code.

7 (c) Serve as Chairman of the State Banking Board of
8 Illinois.

9 (d) Serve as Chairman of the Board of Trustees of the
10 Illinois Bank Examiners' Education Foundation.

11 (e) Issue guidelines in the form of rules or regulations
12 which will prohibit discrimination by any State chartered
13 bank against any individual, corporation, partnership,
14 association or other entity because it appears in a so-called
15 blacklist issued by any domestic or foreign corporate or
16 governmental entity.

17 (f) Make an annual report to the Governor regarding the
18 work of the Office as the Commissioner may consider desirable
19 or as the Governor may request.

20 (g) Perform such other acts as may be requested by the
21 State Banking Board of Illinois pursuant to its lawful powers
22 and perform any other lawful act that the Commissioner
23 considers to be necessary or desirable to carry out the
24 purposes and provisions of this Act.

25 (h) Adopt, in accordance with the Illinois
26 Administrative Procedure Act, reasonable rules that the
27 Commissioner deems necessary for the proper administration
28 and enforcement of any Act the administration of which is
29 vested in the Commissioner or the Office of Banks and Real
30 Estate.

31 (Source: P.A. 89-508, eff. 7-3-96.)

32 Section 10. The Illinois Banking Act is amended by
33 changing Sections 2, 5, 5b, 7, 8, 10, 12, 13, 13.5, 14, 15,

1 16.1, 17, 18, 22, 25, 30.5, 31, 33, 37, 47, 48, 48.1, 48.5,
2 49, 51, and 53 as follows:

3 (205 ILCS 5/2) (from Ch. 17, par. 302)

4 Sec. 2. General definitions. In this Act, unless the
5 context otherwise requires, the following words and phrases
6 shall have the following meanings:

7 "Accommodation party" shall have the meaning ascribed to
8 that term in Section 3-419 of the Uniform Commercial Code.

9 "Action" in the sense of a judicial proceeding includes
10 recoupments, counterclaims, set-off, and any other proceeding
11 in which rights are determined.

12 "Affiliate facility" of a bank means a main banking
13 premises or branch of another commonly owned bank. The main
14 banking premises or any branch of a bank may be an "affiliate
15 facility" with respect to one or more other commonly owned
16 banks.

17 "Appropriate federal banking agency" means the Federal
18 Deposit Insurance Corporation, the Federal Reserve Bank of
19 Chicago, or the Federal Reserve Bank of St. Louis, as
20 determined by federal law.

21 "Bank" means any person doing a banking business whether
22 subject to the laws of this or any other jurisdiction.

23 A "banking house", "branch", "branch bank" or "branch
24 office" shall mean any place of business of a bank at which
25 deposits are received, checks paid, or loans made, but shall
26 not include any place at which only records thereof are made,
27 posted, or kept. A place of business at which deposits are
28 received, checks paid, or loans made shall not be deemed to
29 be a branch, branch bank, or branch office if the place of
30 business is adjacent to and connected with the main banking
31 premises, or if it is separated from the main banking
32 premises by not more than an alley; provided always that (i)
33 if the place of business is separated by an alley from the

1 main banking premises there is a connection between the two
2 by public or private way or by subterranean or overhead
3 passage, and (ii) if the place of business is in a building
4 not wholly occupied by the bank, the place of business shall
5 not be within any office or room in which any other business
6 or service of any kind or nature other than the business of
7 the bank is conducted or carried on. A place of business at
8 which deposits are received, checks paid, or loans made shall
9 not be deemed to be a branch, branch bank, or branch office
10 (i) of any bank if the place is a terminal established and
11 maintained in accordance with paragraph (17) of Section 5 of
12 this Act, or (ii) of a commonly owned bank by virtue of
13 transactions conducted at that place on behalf of the other
14 commonly owned bank under paragraph (23) of Section 5 of this
15 Act if the place is an affiliate facility with respect to the
16 other bank.

17 "Branch of an out-of-state bank" means a branch
18 established or maintained in Illinois by an out-of-state bank
19 as a result of a merger between an Illinois bank and the
20 out-of-state bank that occurs on or after May 31, 1997, or
21 any branch established by the out-of-state bank following the
22 merger.

23 "Call report fee" means the fee to be paid to the
24 Commissioner by each State bank pursuant to paragraph (a) of
25 subsection (3) of Section 48 of this Act.

26 "Capital" includes the aggregate of outstanding capital
27 stock and preferred stock.

28 "Cash flow reserve account" means the account within the
29 books and records of the Commissioner of Banks and Real
30 Estate used to record funds designated to maintain a
31 reasonable Bank and Trust Company Fund operating balance to
32 meet agency obligations on a timely basis.

33 "Charter" includes the original charter and all
34 amendments thereto and articles of merger or consolidation.

1 "Commissioner" means the Commissioner of Banks and Real
2 Estate or a person authorized by the Commissioner, the Office
3 of Banks and Real Estate Act, or this Act to act in the
4 Commissioner's stead.

5 "Commonly owned banks" means 2 or more banks that each
6 qualify as a bank subsidiary of the same bank holding company
7 pursuant to Section 18 of the Federal Deposit Insurance Act;
8 "commonly owned bank" refers to one of a group of commonly
9 owned banks but only with respect to one or more of the other
10 banks in the same group.

11 "Community" means a city, village, or incorporated town
12 and also includes the area served by the banking offices of a
13 bank, but need not be limited or expanded to conform to the
14 geographic boundaries of units of local government in this
15 State.

16 "Company" means a corporation, limited liability company,
17 partnership, business trust, association, or similar
18 organization and, unless specifically excluded, includes a
19 "State bank" and a "bank".

20 "Consolidating bank" means a party to a consolidation.

21 "Consolidation" takes place when 2 or more banks, or a
22 trust company and a bank, are extinguished and by the same
23 process a new bank is created, taking over the assets and
24 assuming the liabilities of the banks or trust company
25 passing out of existence.

26 "Continuing bank" means a merging bank, the charter of
27 which becomes the charter of the resulting bank.

28 "Converting bank" means a State bank converting to become
29 a national bank, or a national bank converting to become a
30 State bank.

31 "Converting trust company" means a trust company
32 converting to become a State bank.

33 "Court" means a court of competent jurisdiction.

34 "Eligible depository institution" means an insured

1 savings association that is in default, an insured savings
2 association that is in danger of default, a State or national
3 bank that is in default or a State or national bank that is
4 in danger of default, as those terms are defined in this
5 Section, or a new bank as that term defined in Section 11(m)
6 of the Federal Deposit Insurance Act or a bridge bank as that
7 term is defined in Section 11(n) of the Federal Deposit
8 Insurance Act or a new federal savings association authorized
9 under Section 11(d)(2)(f) of the Federal Deposit Insurance
10 Act.

11 "Fiduciary" means trustee, agent, executor,
12 administrator, committee, guardian for a minor or for a
13 person under legal disability, receiver, trustee in
14 bankruptcy, assignee for creditors, or any holder of similar
15 position of trust.

16 "Financial institution" means a bank, savings and loan
17 association, credit union, or any licensee under the Consumer
18 Installment Loan Act or the Sales Finance Agency Act and, for
19 purposes of Section 48.3, any proprietary network, funds
20 transfer corporation, or other entity providing electronic
21 funds transfer services, or any corporate fiduciary, its
22 subsidiaries, affiliates, parent company, or contractual
23 service provider that is examined by the Commissioner.

24 "Foundation" means the Illinois Bank Examiners' Education
25 Foundation.

26 "General obligation" means a bond, note, debenture,
27 security, or other instrument evidencing an obligation of the
28 government entity that is the issuer that is supported by the
29 full available resources of the issuer, the principal and
30 interest of which is payable in whole or in part by taxation.

31 "Guarantee" means an undertaking or promise to answer for
32 payment of another's debt or performance of another's duty,
33 liability, or obligation whether "payment guaranteed" or
34 "collection guaranteed".

1 "In danger of default" means a State or national bank, a
2 federally chartered insured savings association or an
3 Illinois state chartered insured savings association with
4 respect to which the Commissioner or the appropriate federal
5 banking agency has advised the Federal Deposit Insurance
6 Corporation that:

7 (1) in the opinion of the Commissioner or the
8 appropriate federal banking agency,

9 (A) the State or national bank or insured
10 savings association is not likely to be able to meet
11 the demands of the State or national bank's or
12 savings association's obligations in the normal
13 course of business; and

14 (B) there is no reasonable prospect that the
15 State or national bank or insured savings
16 association will be able to meet those demands or
17 pay those obligations without federal assistance; or

18 (2) in the opinion of the Commissioner or the
19 appropriate federal banking agency,

20 (A) the State or national bank or insured
21 savings association has incurred or is likely to
22 incur losses that will deplete all or substantially
23 all of its capital; and

24 (B) there is no reasonable prospect that the
25 capital of the State or national bank or insured
26 savings association will be replenished without
27 federal assistance.

28 "In default" means, with respect to a State or national
29 bank or an insured savings association, any adjudication or
30 other official determination by any court of competent
31 jurisdiction, the Commissioner, the appropriate federal
32 banking agency, or other public authority pursuant to which a
33 conservator, receiver, or other legal custodian is appointed
34 for a State or national bank or an insured savings

1 association.

2 "Insured savings association" means any federal savings
3 association chartered under Section 5 of the federal Home
4 Owners' Loan Act and any State savings association chartered
5 under the Illinois Savings and Loan Act of 1985 or a
6 predecessor Illinois statute, the deposits of which are
7 insured by the Federal Deposit Insurance Corporation. The
8 term also includes a savings bank organized or operating
9 under the Savings Bank Act.

10 "Insured savings association in recovery" means an
11 insured savings association that is not an eligible
12 depository institution and that does not meet the minimum
13 capital requirements applicable with respect to the insured
14 savings association.

15 "Issuer" means for purposes of Section 33 every person
16 who shall have issued or proposed to issue any security;
17 except that (1) with respect to certificates of deposit,
18 voting trust certificates, collateral-trust certificates, and
19 certificates of interest or shares in an unincorporated
20 investment trust not having a board of directors (or persons
21 performing similar functions), "issuer" means the person or
22 persons performing the acts and assuming the duties of
23 depositor or manager pursuant to the provisions of the trust,
24 agreement, or instrument under which the securities are
25 issued; (2) with respect to trusts other than those specified
26 in clause (1) above, where the trustee is a corporation
27 authorized to accept and execute trusts, "issuer" means the
28 entrusters, depositors, or creators of the trust and any
29 manager or committee charged with the general direction of
30 the affairs of the trust pursuant to the provisions of the
31 agreement or instrument creating the trust; and (3) with
32 respect to equipment trust certificates or like securities,
33 "issuer" means the person to whom the equipment or property
34 is or is to be leased or conditionally sold.

1 "Letter of credit" and "customer" shall have the meanings
2 ascribed to those terms in Section 5-102 of the Uniform
3 Commercial Code.

4 "Main banking premises" means the location that is
5 designated in a bank's charter as its main office.

6 "Maker or obligor" means for purposes of Section 33 the
7 issuer of a security, the promisor in a debenture or other
8 debt security, or the mortgagor or grantor of a trust deed or
9 similar conveyance of a security interest in real or personal
10 property.

11 "Merged bank" means a merging bank that is not the
12 continuing, resulting, or surviving bank in a consolidation
13 or merger.

14 "Merger" includes consolidation.

15 "Merging bank" means a party to a bank merger.

16 "Merging trust company" means a trust company party to a
17 merger with a State bank.

18 "Mid-tier bank holding company" means a corporation that
19 (a) owns 100% of the issued and outstanding shares of each
20 class of stock of a State bank, (b) has no other
21 subsidiaries, and (c) 100% of the issued and outstanding
22 shares of the corporation are owned by a parent bank holding
23 company.

24 "Municipality" means any municipality, political
25 subdivision, school district, taxing district, or agency.

26 "National bank" means a national banking association
27 located in this State and after May 31, 1997, means a
28 national banking association without regard to its location.

29 "Out-of-state bank" means a bank chartered under the laws
30 of a state other than Illinois, a territory of the United
31 States, or the District of Columbia.

32 "Parent bank holding company" means a corporation that is
33 a bank holding company as that term is defined in the
34 Illinois Bank Holding Company Act of 1957 and owns 100% of

1 the issued and outstanding shares of a mid-tier bank holding
2 company.

3 "Person" means an individual, corporation, limited
4 liability company, partnership, joint venture, trust, estate,
5 or unincorporated association.

6 "Public agency" means the State of Illinois, the various
7 counties, townships, cities, towns, villages, school
8 districts, educational service regions, special road
9 districts, public water supply districts, fire protection
10 districts, drainage districts, levee districts, sewer
11 districts, housing authorities, the Illinois Bank Examiners'
12 Education Foundation, the Chicago Park District, and all
13 other political corporations or subdivisions of the State of
14 Illinois, whether now or hereafter created, whether herein
15 specifically mentioned or not, and shall also include any
16 other state or any political corporation or subdivision of
17 another state.

18 "Public funds" or "public money" means current operating
19 funds, special funds, interest and sinking funds, and funds
20 of any kind or character belonging to, in the custody of, or
21 subject to the control or regulation of the United States or
22 a public agency. "Public funds" or "public money" shall
23 include funds held by any of the officers, agents, or
24 employees of the United States or of a public agency in the
25 course of their official duties and, with respect to public
26 money of the United States, shall include Postal Savings
27 funds.

28 "Published" means, unless the context requires otherwise,
29 the publishing of the notice or instrument referred to in
30 some newspaper of general circulation in the community in
31 which the bank is located at least once each week for 3
32 successive weeks. Publishing shall be accomplished by, and
33 at the expense of, the bank required to publish. Where
34 publishing is required, the bank shall submit to the

1 Commissioner that evidence of the publication as the
2 Commissioner shall deem appropriate.

3 "Qualified financial contract" means any security
4 contract, commodity contract, forward contract, including
5 spot and forward foreign exchange contracts, repurchase
6 agreement, swap agreement, and any similar agreement, any
7 option to enter into any such agreement, including any
8 combination of the foregoing, and any master agreement for
9 such agreements. A master agreement, together with all
10 supplements thereto, shall be treated as one qualified
11 financial contract. The contract, option, agreement, or
12 combination of contracts, options, or agreements shall be
13 reflected upon the books, accounts, or records of the bank,
14 or a party to the contract shall provide documentary evidence
15 of such agreement.

16 "Recorded" means the filing or recording of the notice or
17 instrument referred to in the office of the Recorder of the
18 county wherein the bank is located.

19 "Resulting bank" means the bank resulting from a merger
20 or conversion.

21 "Securities" means stocks, bonds, debentures, notes, or
22 other similar obligations.

23 "Stand-by letter of credit" means a letter of credit
24 under which drafts are payable upon the condition the
25 customer has defaulted in performance of a duty, liability,
26 or obligation.

27 "State bank" means any banking corporation that has a
28 banking charter issued by the Commissioner under this Act.

29 "State Banking Board" means the State Banking Board of
30 Illinois.

31 "Subsidiary" with respect to a specified company means a
32 company that is controlled by the specified company. For
33 purposes of paragraphs (8) and (12) of Section 5 of this Act,
34 "control" means the exercise of operational or managerial

1 control of a corporation by the bank, either alone or
2 together with other affiliates of the bank.

3 "Surplus" means the aggregate of (i) amounts paid in
4 excess of the par value of capital stock and preferred stock;
5 (ii) amounts contributed other than for capital stock and
6 preferred stock and allocated to the surplus account; and
7 (iii) amounts transferred from undivided profits.

8 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
9 assigned to those terms in regulations promulgated for the
10 appropriate federal banking agency of a state bank, as those
11 regulations are now or hereafter amended.

12 "Trust company" means a limited liability company or
13 corporation incorporated in this State for the purpose of
14 accepting and executing trusts.

15 "Undivided profits" means undistributed earnings less
16 discretionary transfers to surplus.

17 "Unimpaired capital and unimpaired surplus", for the
18 purposes of paragraph (21) of Section 5 and Sections 32, 33,
19 34, 35.1, 35.2, and 47 of this Act means the sum of the state
20 bank's Tier 1 Capital and Tier 2 Capital plus such other
21 shareholder equity as may be included by regulation of the
22 Commissioner. Unimpaired capital and unimpaired surplus
23 shall be calculated on the basis of the date of the last
24 quarterly call report filed with the Commissioner preceding
25 the date of the transaction for which the calculation is
26 made, provided that: (i) when a material event occurs after
27 the date of the last quarterly call report filed with the
28 Commissioner that reduces or increases the bank's unimpaired
29 capital and unimpaired surplus by 10% or more, then the
30 unimpaired capital and unimpaired surplus shall be calculated
31 from the date of the material event for a transaction
32 conducted after the date of the material event; and (ii) if
33 the Commissioner determines for safety and soundness reasons
34 that a state bank should calculate unimpaired capital and

1 unimpaired surplus more frequently than provided by this
2 paragraph, the Commissioner may by written notice direct the
3 bank to calculate unimpaired capital and unimpaired surplus
4 at a more frequent interval. In the case of a state bank
5 newly chartered under Section 13 or a state bank resulting
6 from a merger, consolidation, or conversion under Sections 21
7 through 26 for which no preceding quarterly call report has
8 been filed with the Commissioner, unimpaired capital and
9 unimpaired surplus shall be calculated for the first calendar
10 quarter on the basis of the effective date of the charter,
11 merger, consolidation, or conversion.

12 (Source: P.A. 89-208, eff. 9-29-95; 89-364, eff. 8-18-95;
13 89-508, eff. 7-3-96; 89-534, eff. 1-1-97; 89-567, eff.
14 7-26-96; 89-626, eff. 8-9-96; 90-14, eff. 7-1-97; 90-301,
15 eff. 8-1-97.)

16 (205 ILCS 5/5) (from Ch. 17, par. 311)

17 Sec. 5. General corporate powers. A bank organized
18 under this Act or subject hereto shall be a body corporate
19 and politic and shall, without specific mention thereof in
20 the charter, have all the powers conferred by this Act and
21 the following additional general corporate powers:

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

24 (2) To have a corporate seal, which may be altered at
25 pleasure, and to use the same by causing it or a facsimile
26 thereof to be impressed or affixed or in any manner
27 reproduced, provided that the affixing of a corporate seal to
28 an instrument shall not give the instrument additional force
29 or effect, or change the construction thereof, and the use of
30 a corporate seal is not mandatory.

31 (3) To make, alter, amend, and repeal bylaws, not
32 inconsistent with its charter or with law, for the
33 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 of
3 1983 may be used if so provided in the bylaws.

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

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

11 (5.1) To manage, operate and administer a fund for the
12 investment of funds by a public agency or agencies, including
13 any unit of local government or school district, or any
14 person. The fund for a public agency shall invest in the
15 same type of investments and be subject to the same
16 limitations provided for the investment of public funds. The
17 fund for public agencies shall maintain a separate ledger
18 showing the amount of investment for each public agency in
19 the fund. "Public funds" and "public agency" as used in this
20 Section shall have the meanings ascribed to them in Section 1
21 of the Public Funds Investment Act.

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

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

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

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

31 (c) to secure deposits of public money of the
32 United States, whenever required by the laws of the
33 United States, including without being limited to,
34 revenues and funds the deposit of which is subject to the

1 control or regulation of the United States or any of its
2 officers, agents, or employees and Postal Savings funds;

3 (d) to secure deposits of public money of any state
4 or of any political corporation or subdivision thereof
5 including, without being limited to, revenues and funds
6 the deposit of which is subject to the control or
7 regulation of any state or of any political corporation
8 or subdivisions thereof or of any of their officers,
9 agents, or employees;

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

12 (f) (blank); and

13 (g) to secure trust funds commingled with the
14 bank's funds, whether deposited by the bank or an
15 affiliate of the bank, pursuant to Section 2-8 of the
16 Corporate Fiduciary Act.

17 (8) To own, possess, and carry as assets all or part of
18 the real estate necessary in or with which to do its banking
19 business, either directly or indirectly through the ownership
20 of all or part of the capital stock, shares or interests in
21 any corporation, association, trust engaged in holding any
22 part or parts or all of the bank premises, engaged in such
23 business and in conducting a safe deposit business in the
24 premises or part of them, or engaged in any activity that the
25 bank is permitted to conduct in a subsidiary pursuant to
26 paragraph (12) of this Section 5.

27 (9) To own, possess, and carry as assets other real
28 estate to which it may obtain title in the collection of its
29 debts or that was formerly used as a part of the bank
30 premises, but title to any real estate except as herein
31 permitted shall not be retained by the bank, either directly
32 or by or through a subsidiary, as permitted by subsection
33 (12) of this Section for a total period of more than 10 years
34 after acquiring title, either directly or indirectly.

1 (10) To do any act, including the acquisition of stock,
2 necessary to obtain insurance of its deposits, or part
3 thereof, and any act necessary to obtain a guaranty, in whole
4 or in part, of any of its loans or investments by the United
5 States or any agency thereof, and any act necessary to sell
6 or otherwise dispose of any of its loans or investments to
7 the United States or any agency thereof, and to acquire and
8 hold membership in the Federal Reserve System.

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

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

20 (a) holding title to and administering assets
21 acquired as a result of the collection or liquidating of
22 loans, investments, or discounts; or

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

30 (c) carrying on or administering any of the
31 activities excepting the receipt of deposits or the
32 payment of checks or other orders for the payment of
33 money in which a bank may engage in carrying on its
34 general banking business; provided, however, that nothing

1 contained in this paragraph (c) shall be deemed to permit
2 a bank organized under this Act or subject hereto to do,
3 either directly or indirectly through any subsidiary, any
4 act, including the making of any loan or investment, or
5 to own, possess, or carry as assets any property that if
6 done by or owned, possessed, or carried by the State bank
7 would be in violation of or prohibited by any provision
8 of this Act.

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

14 Any bank intending to establish a subsidiary under this
15 subsection (12) shall give written notice to the Commissioner
16 60 days prior to the subsidiary's commencing of business or,
17 as the case may be, prior to acquiring stock in a corporation
18 that has already commenced business. After receiving the
19 notice, the Commissioner may waive or reduce the balance of
20 the 60 day notice period. The Commissioner may specify the
21 form of the notice and may promulgate rules and regulations
22 to administer this subsection (12).

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

28 (14) To own and lease personal property acquired by the
29 bank at the request of a prospective lessee and upon the
30 agreement of that person to lease the personal property
31 provided that the lease, the agreement with respect thereto,
32 and the amount of the investment of the bank in the property
33 comply with Section 35.1 of this Act.

34 (15) (a) To establish and maintain, in addition to the

1 main banking premises, branches offering any banking
2 services permitted at the main banking premises of a
3 State bank.

4 (b) To establish and maintain, after May 31, 1997,
5 branches in another state that may conduct any activity
6 in that state that is authorized or permitted for any
7 bank that has a banking charter issued by that state,
8 subject to the same limitations and restrictions that are
9 applicable to banks chartered by that state.

10 (16) (Blank).

11 (17) To establish and maintain terminals, as authorized
12 by the Electronic Fund Transfer Act.

13 (18) To establish and maintain temporary service booths
14 at any International Fair held in this State which is
15 approved by the United States Department of Commerce, for the
16 duration of the international fair for the sole purpose of
17 providing a convenient place for foreign trade customers at
18 the fair to exchange their home countries' currency into
19 United States currency or the converse. This power shall not
20 be construed as establishing a new place or change of
21 location for the bank providing the service booth.

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

25 (20) To own, possess, and carry as assets stock of, or
26 be or become a member of, any corporation, mutual company,
27 association, trust, or other entity formed exclusively for
28 the purpose of providing directors' and officers' liability
29 and bankers' blanket bond insurance or reinsurance to and for
30 the benefit of the stockholders, members, or beneficiaries,
31 or their assets or businesses, or their officers, directors,
32 employees, or agents, and not to or for the benefit of any
33 other person or entity or the public generally.

34 (21) To make debt or equity investments in corporations

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

15 (22) To own, possess, and carry as assets the stock of a
16 corporation engaged in the ownership or operation of a travel
17 agency or to operate a travel agency as a part of its
18 business, ~~provided that the bank either owned, possessed, and~~
19 ~~carried as assets the stock of such a corporation or operated~~
20 ~~a travel agency as part of its business before July 1, 1991.~~

21 (23) With respect to affiliate facilities:

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

26 (b) to authorize a commonly owned bank to conduct
27 for and on behalf of it any of the transactions it is
28 authorized or permitted to perform at one or more
29 affiliate facilities.

30 Any bank intending to conduct or to authorize a commonly
31 owned bank to conduct at an affiliate facility any of the
32 transactions specified in this paragraph (23) shall give
33 written notice to the Commissioner at least 30 days before
34 any such transaction is conducted at the affiliate facility.

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

13 (25) Notwithstanding any other provisions of this Act or
14 any other law, to offer any product or service that is at the
15 time authorized or permitted to any insured savings
16 association or out-of-state bank by applicable law, provided
17 that powers conferred only by this subsection (25):

18 (a) shall always be subject to the same limitations
19 and restrictions that are applicable to the insured
20 savings association or out-of-state bank for the product
21 or service by such applicable law;

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

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

27 (d) shall not be construed to include the
28 establishment or maintenance of a branch, nor shall they
29 be construed to limit the establishment or maintenance of
30 a branch pursuant to subsection (11).

31 (Source: P.A. 90-41, eff. 10-1-97; 90-301, eff. 8-1-97;
32 90-655, eff. 7-30-98; 90-665, eff. 7-30-98; 91-330, eff.
33 7-29-99; 91-849, eff. 6-22-00.)

1 (205 ILCS 5/5b) (from Ch. 17, par. 312.1)

2 Sec. 5b. Deposits in outside depository.

3 (a) Except as provided in subsection (b), every bank is
4 liable for deposits made in an outside depository from the
5 time the deposit is made.

6 (b) A bank may adopt a policy that its liability for
7 deposits made in outside depositories will be delayed until
8 the deposits are recorded, and, if such a policy is adopted
9 and depositors are notified in writing at least 21 days in
10 advance of the effective date of such policy, the bank's
11 liability will be delayed in accordance with the policy. In
12 case of deposit accounts opened after such a policy is
13 adopted, the policy shall be effective if the depositor is
14 given written notice of the policy at the time the deposit
15 account is opened.

16 (c) For the purposes of this Section "outside
17 depository" means any receptacle attached to a main banking
18 premise, or branch, as allowed in subsection (15) of Section
19 5 of this Act, or other location for the purpose of making
20 deposits either during or after regular banking hours, but
21 does not include an automatic teller machine or point of sale
22 terminal, as defined in the Electronic Fund Transfer Act.

23 (Source: P.A. 88-273; 89-310, eff. 1-1-96.)

24 (205 ILCS 5/7) (from Ch. 17, par. 314)

25 Sec. 7. Organization capital requirements. A bank may be
26 organized to exercise the powers conferred by this Act with
27 minimum capital and surplus as determined by the
28 Commissioner. ~~The---Commissioner---shall---record---such~~
29 ~~organization--capital--requirements--in--the--Office--of--the~~
30 ~~Secretary-of-State.~~

31 (Source: P.A. 90-301, eff. 8-1-97.)

32 (205 ILCS 5/8) (from Ch. 17, par. 315)

1 Sec. 8. Incorporators. A State bank may be organized on
2 application by 5 or more incorporators who shall be
3 individuals except that a bank holding company may be the
4 sole incorporator of a State bank. Each--incorporator--shall
5 undertake--to--subscribe--and--pay--in--full--in--cash--for--stock
6 having--a--value--of--not--less--than--one--per--cent--of--the--minimum
7 capital--and--surplus--requirements--as--set--forth--in--Section--7,
8 except--that--incorporators--of--a--State--bank--that--will--be--owned
9 by--a--bank--holding--company--may--subscribe--and--pay--in--full--in
10 cash--for--stock--of--the--bank--holding--company,--provided--that--the
11 incorporator's--investment--in--the--bank--holding--company--must--at
12 least--equal--the--amount--of--money--that--would--have--been--needed
13 for--the--incorporator--to--acquire--shares--of--the--bank's--stock
14 pursuant--to--this--Section.

15 (Source: P.A. 90-301, eff. 8-1-97.)

16 (205 ILCS 5/10) (from Ch. 17, par. 317)

17 Sec. 10. Permit to organize.

18 (a) Upon the filing of an application for a permit to
19 organize, the Commissioner shall investigate the truth of the
20 statements therein and shall consider the proposed bank's
21 capital structure, its future earnings prospects, the general
22 character, experience, and qualifications of its proposed
23 management, its proposed plan of operation, and the
24 convenience and needs of the area sought to be served, and
25 notwithstanding the provisions of Section 7 of this Act, the
26 Commissioner shall not approve the application and issue a
27 permit to organize unless he shall be of the opinion and
28 finds:

29 (1) that the proposed capital at least meets the
30 minimum requirements of this Act determined by the
31 Commissioner pursuant to Section 7 of this Act including
32 additional capital necessitated by the circumstances of
33 the proposed bank including its size, scope of

1 operations and market in which it proposes to operate;

2 (2) that the future earnings prospects are
3 favorable;

4 (3) that the general character, experience, and
5 qualifications of its proposed management and its
6 proposed plan of operation are such as to assure
7 reasonable promise of successful, safe and sound
8 operation;

9 (4) that the name of the proposed bank is not the
10 same as or deceptively similar to a name reserved with
11 the Commissioner's office under Section 9.5 or to the
12 name of any other bank then operating in this State; and

13 (5) that the convenience and needs of the area
14 sought to be served by the proposed bank will be
15 promoted.

16 (b) The Commissioner shall revoke the permit to organize
17 and order liquidation of any funds collected in the event
18 that the organizers do not obtain a charter from the
19 Commissioner authorizing the bank to commence business within
20 6 months from the date of the issuance of the permit, unless
21 a request has been submitted, in writing, to the Commissioner
22 for an extension and the request has been approved.

23 (c) The Commissioner may impose such terms and
24 conditions, if any, on the issuance of the permit to organize
25 as the Commissioner deems appropriate and necessary for the
26 organization of the bank.

27 (Source: P.A. 90-665, eff. 7-30-98; 91-452, eff. 1-1-00.)

28 (205 ILCS 5/12) (from Ch. 17, par. 319)

29 Sec. 12. Organization.

30 (a) The directors so elected shall may proceed to
31 organize in conformity with this Act and as follows:

32 (1) To qualify themselves as directors.

33 (2) To elect one of their number as president.

1 (3) To make and adopt by-laws not inconsistent with
2 its charter or with law for the administration of the
3 affairs of the bank.

4 (4) To appoint such officers as the by-laws may
5 provide, and fix the salaries of all officers.

6 (5) To furnish to the Commissioner lists of the
7 stockholders and copies of any other records the
8 Commissioner may require.

9 (6) To collect the subscriptions to the capital
10 stock and to the preferred stock, if any, including the
11 surplus and the reserves for operating expenses.

12 (6.5) To notify the Commissioner of any significant
13 deviation or change from the original plan of operation
14 or proposed business activities submitted with the
15 application for a permit to organize.

16 (7) To report the organization to the Commissioner.

17 (b) Subscriptions to the capital stock and to the
18 preferred stock, if any, collected pursuant to item (6) of
19 subsection (a) of this Section must be placed in escrow.

20 (Source: P.A. 85-204.)

21 (205 ILCS 5/13) (from Ch. 17, par. 320)

22 Sec. 13. Issuance of charter.

23 (a) When the directors have organized as provided in
24 Section 12 of this Act, and the capital stock and the
25 preferred stock, if any, together with a surplus of not less
26 than 50% of the capital, has been all fully paid in and a
27 record of the same filed with the Commissioner, the
28 Commissioner or some competent person of the Commissioner's
29 appointment shall make a thorough examination into the
30 affairs of the proposed bank, and if satisfied (i) that all
31 the requirements of this Act have been complied with, (ii)
32 that no intervening circumstance has occurred to change the
33 Commissioner's findings made pursuant to Section 10 of this

1 Act, and (iii) that the prior involvement by any stockholder
2 who will own a sufficient amount of stock to have control, as
3 defined in Section 18 of this Act, of the proposed bank with
4 any other financial institution, whether as stockholder,
5 director, officer, or customer, was conducted in a safe and
6 sound manner, upon payment into the Commissioner's office of
7 the reasonable expenses of the examination, as determined by
8 the Commissioner, the Commissioner shall issue a charter
9 authorizing the bank to commence business as authorized in
10 this Act. All charters issued by the Commissioner or any
11 predecessor agency which chartered State banks, including any
12 charter outstanding as of September 1, 1989, shall be
13 perpetual. For the 2 years after the Commissioner has issued
14 a charter to a bank, the bank shall request and obtain from
15 the Commissioner prior written approval before it may change
16 senior management personnel or directors.

17 The original charter, duly certified by the Commissioner,
18 or a certified copy shall be evidence in all courts and
19 places of the existence and authority of the bank to do
20 business. Upon the issuance of the charter by the
21 Commissioner, the bank shall be deemed fully organized and
22 may proceed to do business. The Commissioner may, in the
23 Commissioner's discretion, withhold the issuing of the
24 charter when the Commissioner has reason to believe that the
25 bank is organized for any purpose other than that
26 contemplated by this Act ~~or that a commission or fee has been~~
27 ~~paid in connection with the sale of the stock of the bank.~~
28 The Commissioner shall revoke the charter and order
29 liquidation in the event that the bank does not commence a
30 general banking business within one year from the date of the
31 issuance of the charter, unless a request has been submitted,
32 in writing, to the Commissioner for an extension and the
33 request has been approved. After commencing a general
34 banking business, a bank may change its name by filing

1 written notice with the Commissioner at least 30 days prior
2 to the effective date of such change. A bank chartered under
3 this Act may change its main banking premises by filing
4 written application with the Commissioner, on forms
5 prescribed by the Commissioner, provided (i) the change shall
6 not be a removal to a new location without complying with the
7 capital requirements of Section 7 and of subsection (1) of
8 Section 10 of this Act; (ii) the Commissioner approves the
9 relocation or change; and (iii) the bank complies with any
10 applicable federal law or regulation. The application shall
11 be deemed to be approved if the Commissioner has not acted on
12 the application within 30 days after receipt of the
13 application, unless within the 30-day time frame the
14 Commissioner informs the bank that an extension of time is
15 necessary prior to the Commissioner's action on the
16 application.

17 (b) (1) The Commissioner may also issue a charter to a
18 bank that is owned exclusively by other depository
19 institutions or depository institution holding companies and
20 is organized to engage exclusively in providing services to
21 or for other depository institutions, their holding
22 companies, and the officers, directors, and employees of such
23 institutions and companies, and in providing correspondent
24 banking services at the request of other depository
25 institutions or their holding companies (also referred to as
26 a "bankers' bank").

27 (2) A bank chartered pursuant to paragraph (1) shall,
28 except as otherwise specifically determined or limited by the
29 Commissioner in an order or pursuant to a rule, be vested
30 with the same rights and privileges and subject to the same
31 duties, restrictions, penalties, and liabilities now or
32 hereafter imposed under this Act.

33 (c) A bank chartered under this Act after November 1,
34 1985, and an out-of-state bank that merges with a State bank

1 and establishes or maintains a branch in this State after May
2 31, 1997, shall obtain from and, at all times while it
3 accepts or retains deposits, maintain with the Federal
4 Deposit Insurance Corporation, or such other instrumentality
5 of or corporation chartered by the United States, deposit
6 insurance as authorized under federal law.

7 (d) (i) A bank that has a banking charter issued by the
8 Commissioner under this Act may, pursuant to a written
9 purchase and assumption agreement, transfer substantially all
10 of its assets to another State bank or national bank in
11 consideration, in whole or in part, for the transferee banks'
12 assumption of any part or all of its liabilities. Such a
13 transfer shall in no way be deemed to impair the charter of
14 the transferor bank or cause the transferor bank to forfeit
15 any of its rights, powers, interests, franchises, or
16 privileges as a State bank, nor shall any voluntary reduction
17 in the transferor bank's activities resulting from the
18 transfer have any such effect; provided, however, that a
19 State bank that transfers substantially all of its assets
20 pursuant to this subsection (d) and following the transfer
21 does not accept deposits and make loans, shall not have any
22 rights, powers, interests, franchises, or privileges under
23 subsection (15) of Section 5 of this Act until the bank has
24 resumed accepting deposits and making loans.

25 (ii) The fact that a State bank does not resume
26 accepting deposits and making loans for a period of 24 months
27 commencing on September 11, 1989 or on a date of the transfer
28 of substantially all of a State bank's assets, whichever is
29 later, or such longer period as the Commissioner may allow in
30 writing, may be the basis for a finding by the Commissioner
31 under Section 51 of this Act that the bank is unable to
32 continue operations.

33 (iii) The authority provided by subdivision (i) of this
34 subsection (d) shall terminate on May 31, 1997, and no bank

1 that has transferred substantially all of its assets pursuant
2 to this subsection (d) shall continue in existence after May
3 31, 1997.

4 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
5 90-665, eff. 7-30-98; 91-322, eff. 1-1-00.)

6 (205 ILCS 5/13.5)

7 Sec. 13.5. Formation and merger of interim banks.

8 (a) An interim bank may be chartered as a State bank for
9 the exclusive purpose of accomplishing a corporate
10 restructuring through merger with an existing State bank,
11 national bank, trust company, or an insured savings
12 association. An interim bank shall be chartered and merged
13 pursuant to the provisions of this Section. The interim bank
14 shall not accept deposits, make loans, pay checks, or engage
15 in the general banking business or any part thereof, and
16 shall not be subject to the provisions of this Act other than
17 those set forth in this Section; provided, however, that if
18 the interim bank becomes the resulting bank in a merger, such
19 resulting bank shall have all of the powers, rights, and
20 duties of a State bank and must comply with all applicable
21 provisions of this Act.

22 (b) An interim State bank may be organized upon
23 application by 5 or more incorporators or by a bank holding
24 company. The application shall be made on forms prescribed
25 by the Commissioner which shall request, at a minimum, the
26 following information:

27 (1) the names and addresses of the incorporators;

28 (2) the proposed name and address of the interim
29 bank;

30 (3) the name and address of all banks with which
31 the interim bank will be merging;

32 (4) a copy of the merger agreement by which the
33 interim bank will be merged with the banks identified in

1 item (3) containing the same information required in
2 merger agreements pursuant to subsection (1) of Section
3 22 of this Act; and

4 (5) an acknowledgement that the interim bank shall
5 not engage in the general banking business or any part
6 thereof unless and until the interim bank becomes the
7 resulting bank in a merger.

8 (c) The merger agreement must be approved by all of the
9 incorporators of the interim bank and must be approved by the
10 existing State bank with which the interim bank will merge,
11 as required by Section 22 of this Act.

12 (d) Upon receipt of the application to organize the
13 interim bank and the merger agreement submitted pursuant to
14 this Section and Section 22 of this Act, the Commissioner may
15 issue a charter to the interim bank and approve the merger
16 agreement if the Commissioner makes the findings set forth in
17 subsection (3) of Section 22 of this Act. The interim bank's
18 charter shall not take effect until, and shall only be
19 effective for purposes of, the merger.

20 (e) Nothing in this Section affects the obligations of
21 an existing State bank with which the interim bank will
22 merge, or the rights of minority or dissenting shareholders
23 of the existing State bank, in connection with the approval,
24 execution, and accomplishment of a merger agreement as
25 provided elsewhere in this Act.

26 (Source: P.A. 90-301, eff. 8-1-97.)

27 (205 ILCS 5/14) (from Ch. 17, par. 321)

28 Sec. 14. Stock. Unless otherwise provided for in this
29 Act provisions of general application to stock of a state
30 bank shall be as follows:

31 (1) All banks shall have their capital divided into
32 shares of a par value of not less than \$1 ~~one-dollar~~ each and
33 not more than \$100 ~~one-hundred-dollars~~ each, however, the par

1 value of shares of a bank effecting a reverse stock split
 2 pursuant to item (8) of subsection (a) of Section 17 may
 3 temporarily exceed this limit provided it conforms to the
 4 limits immediately after the reverse stock split is
 5 completed. No issue of capital stock or preferred stock shall
 6 be valid until not less than the par value of all such stock
 7 so issued shall be paid in and notice thereof by the
 8 president, a vice-president or cashier of the bank has been
 9 transmitted to the Commissioner. In the case of an increase
 10 in capital stock by the declaration of a stock dividend, the
 11 capitalization of retained earnings effected by such stock
 12 dividend shall constitute the payment for such shares
 13 required by the preceding sentence, provided that the surplus
 14 of said bank after such stock dividend shall be at least
 15 equal to fifty per cent of the capital as increased. The
 16 charter shall not limit or deny the voting power of the
 17 shares of any class of stock except as provided in Section
 18 15(3) of this Act.

19 (2) Pursuant to action taken in accordance with the
 20 requirements of Section 17, a bank may issue preferred stock
 21 of one or more classes as shall be approved by the
 22 Commissioner as hereinafter provided, and make such amendment
 23 to its charter as may be necessary for this purpose; but in
 24 the case of any newly organized bank which has not yet issued
 25 capital stock the requirements of Section 17 shall not apply.

26 (3) Without limiting the authority herein contained a
 27 bank, when so provided in its charter and when approved by
 28 the Commissioner, may issue shares of preferred stock:

29 (a) Subject to the right of the bank to redeem any
 30 of such shares at not exceeding the price fixed by the
 31 charter for the redemption thereof;

32 (b) Subject to the provisions of subsection (8) of
 33 this Section 14 entitling the holders thereof to
 34 cumulative or noncumulative dividends;

1 (c) Having preference over any other class or
2 classes of shares as to the payment of dividends;

3 (d) Having preference as to the assets of the bank
4 over any other class or classes of shares upon the
5 voluntary or involuntary liquidation of the bank;

6 (e) Convertible into shares of any other class of
7 stock, provided that preferred shares shall not be
8 converted into shares of a different par value unless
9 that part of the capital of the bank represented by such
10 preferred shares is at the time of the conversion equal
11 to the aggregate par value of the shares into which the
12 preferred shares are to be converted.

13 (4) If any part of the capital of a bank consists of
14 preferred stock, the determination of whether or not the
15 capital of such bank is impaired and the amount of such
16 impairment shall be based upon the par value of its stock
17 even though the amount which the holders of such preferred
18 stock shall be entitled to receive in the event of retirement
19 or liquidation shall be in excess of the par value of such
20 preferred stock.

21 (5) Pursuant to action taken in accordance with the
22 requirements of Section 17 of this Act, a state bank may
23 provide for a specified number of authorized but unissued
24 shares of capital stock for one or more of the following
25 purposes:

26 (a) Reserved for issuance under stock option plan
27 or plans to directors, officers or employees;

28 (b) Reserved for issuance upon conversion of
29 convertible preferred stock issued pursuant to and in
30 compliance with the provisions of subsections (2) and (3)
31 of this Section 14.

32 (c) Reserved for issuance upon conversion of
33 convertible debentures or other convertible evidences of
34 indebtedness issued by a state bank, provided always that

1 the terms of such conversion have been approved by the
2 Commissioner;

3 (d) Reserved for issuance by the declaration of a
4 stock dividend. If and when any shares of capital stock
5 are proposed to be authorized and reserved for any of the
6 purposes set forth in subparagraphs (a), (b) or (c)
7 above, the notice of the meeting, whether special or
8 annual, of stockholders at which such proposition is to
9 be considered shall be accompanied by a statement setting
10 forth or summarizing the terms upon which the shares of
11 capital stock so reserved are to be issued, and the
12 extent to which any preemptive rights of stockholders are
13 inapplicable to the issuance of the shares so reserved or
14 to the convertible preferred stock or convertible
15 debentures or other convertible evidences of
16 indebtedness, and the approving vote of the holders of at
17 least two-thirds of the outstanding shares of stock
18 entitled to vote at such meeting of the terms of such
19 issuance shall be requisite for the adoption of any
20 amendment providing for the reservation of authorized but
21 unissued shares for any of said purposes. Nothing in this
22 subsection (5) contained shall be deemed to authorize the
23 issuance of any capital stock for a consideration less
24 than the par value thereof.

25 (6) Upon written application to the Commissioner 60 days
26 prior to the proposed purchase and receipt of the written
27 approval of the Commissioner, a state bank may purchase and
28 hold as treasury stock such amounts of the total number of
29 issued and outstanding shares of its capital and preferred
30 stock outstanding as the Commissioner determines is
31 consistent with safety and soundness of the bank. The
32 Commissioner may specify the manner of accounting for the
33 treasury stock and the form of notice prior to ultimate
34 disposition of the shares. Except as authorized in this

1 subsection, it shall not be lawful for a state bank to
2 purchase or hold any additional such shares or securities
3 described in subsection (2) of Section 37 unless necessary to
4 prevent loss upon a debt previously contracted in good faith,
5 in which event such shares or securities so purchased or
6 acquired shall, within 6 months from the time of purchase or
7 acquisition, be sold or disposed of at public or private
8 sale. Any state bank which intends to purchase and hold
9 treasury stock as authorized in this subsection (6) shall
10 file a written application with the Commissioner 60 days
11 prior to any such proposed purchase. The application shall
12 state the number of shares to be purchased, the consideration
13 for the shares, the name and address of the person from whom
14 the shares are to be purchased, if known, and the total
15 percentage of its issued and outstanding shares to be held by
16 the bank after the purchase. The total consideration paid by
17 a state bank for treasury stock shall reduce capital and
18 surplus of the bank for purposes of Sections of this Act
19 relating to lending and investment limits which require
20 computation of capital and surplus. After considering and
21 approving an application to purchase and hold treasury stock
22 under this subsection, the Commissioner may waive or reduce
23 the balance of the 60 day application period. The
24 Commissioner may specify the form of the application for
25 approval to acquire treasury stock and promulgate rules and
26 regulations for the administration of this subsection (6). A
27 state bank may, acquire or resell its owns shares as treasury
28 stock pursuant to this subsection (6) without a change in its
29 charter pursuant to Section 17. Such stock may be held for
30 any purpose permitted in subsection (5) of this Section 14 or
31 may be resold upon such reasonable terms as the board of
32 directors may determine provided notice is given to the
33 Commissioner prior to the resale of such stock.

34 (7) During the time that a state bank shall continue its

1 banking business, it shall not withdraw or permit to be
2 withdrawn, either in the form of dividends or otherwise, any
3 portion of its capital, but nothing in this subsection shall
4 prevent a reduction or change of the capital stock or the
5 preferred stock under the provisions of Sections 17 through
6 30 of this Act, a purchase of treasury stock under the
7 provisions of subsection (6) of this Section 14 or a
8 redemption of preferred stock pursuant to charter provisions
9 therefor.

10 (8) (a) Subject to the provisions of this Act, the
11 board of directors of a state bank from time to time may
12 declare a dividend of so much of the net profits of such
13 bank as it shall judge expedient, but each bank before
14 the declaration of a dividend shall carry at least
15 one-tenth of its net profits since the date of the
16 declaration of the last preceding dividend, or since the
17 issuance of its charter in the case of its first
18 dividend, to its surplus until the same shall be equal to
19 its capital.

20 (b) No dividends shall be paid by a state bank
21 while it continues its banking business to an amount
22 greater than its net profits then on hand, deducting
23 first therefrom its losses and bad debts. All debts due
24 to a state bank on which interest is past due and unpaid
25 for a period of 6 months or more, unless the same are
26 well secured and in the process of collection, shall be
27 considered bad debts.

28 (9) A State bank may, but shall not be obliged to, issue
29 a certificate for a fractional share, and, by action of its
30 board of directors, may in lieu thereof, pay cash equal to
31 the value of the fractional share. A certificate for a
32 fractional share shall entitle the holder to exercise
33 fractional voting rights, to receive dividends, and to
34 participate in any of the assets of the bank in the event of

1 liquidation.

2 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
3 90-655, eff. 7-30-98.)

4 (205 ILCS 5/15) (from Ch. 17, par. 322)

5 Sec. 15. Stock and stockholders. Unless otherwise
6 provided for in this Act, provisions of general application
7 to capital stock, preferred stock, and stockholders of a
8 State bank shall be as follows:

9 (1) There shall be an annual meeting of the stockholders
10 for the election of directors each year on the first business
11 day in January, unless some other date shall be fixed by the
12 by-laws. A special meeting of the stockholders may be called
13 at any time by the board of directors, and otherwise as may
14 be provided in the bylaws.

15 (2) Written or printed notice stating the place, day,
16 and hour of the meeting, and in case of a special meeting,
17 the purpose or purposes for which the meeting is called,
18 shall be delivered not less than 10 nor more than 40 days
19 before the date of the meeting either personally or by mail,
20 by or at the direction of the president, or the secretary, or
21 the officer or persons calling the meeting, to each
22 stockholder of record entitled to vote at the meeting. If
23 mailed, the notice shall be deemed to be delivered when
24 deposited in the United States mail with postage thereon
25 prepaid addressed to the stockholder at his address as it
26 appears on the records of the bank.

27 (3) Except as provided below in this paragraph (3), each
28 outstanding share shall be entitled to one vote on each
29 matter submitted to a vote at a meeting of stockholders.
30 Shares of its own stock belonging to a bank shall not be
31 voted, directly or indirectly, at any meeting and shall not
32 be counted in determining the total number of outstanding
33 shares at any given time, but shares of its own stock held by

1 it in a fiduciary capacity may be voted and shall be counted
2 in determining the total number of outstanding shares at any
3 given time. A stockholder may vote either in person or by
4 proxy executed in writing by the stockholder or by his duly
5 authorized attorney-in-fact. No proxy shall be valid after
6 11 months from the date of its execution, unless otherwise
7 provided in the proxy. Except as provided below in this
8 paragraph (3), in all elections for directors every
9 stockholder (or subscriber to the stock prior to the issuance
10 of a charter) shall have the right to vote, in person or by
11 proxy, for the number of shares of stock owned by him, for as
12 many persons as there are directors to be elected, or to
13 cumulate the shares and give one candidate as many votes as
14 the number of directors multiplied by the number of his or
15 her shares of stock shall equal, or to distribute them on the
16 same principle among as many candidates as he or she shall
17 think fit. The bank charter of any bank organized on or
18 after January 1, 1984 may limit or eliminate cumulative
19 voting rights in all or specified circumstances, or may
20 eliminate voting rights entirely, as to any class or classes
21 or series of stock of the bank; provided that one class of
22 shares or series thereof shall always have voting rights in
23 respect of all matters in the bank. A bank organized prior to
24 January 1, 1984 may amend its charter to eliminate cumulative
25 voting rights under all or specified circumstances, or to
26 eliminate voting rights entirely, as to any class or classes
27 or series of stock of the bank; provided that one class of
28 shares or series thereof shall always have voting rights in
29 respect of all matters in the bank, and provided further that
30 the proposal to eliminate the voting rights receives the
31 approval of the holders of 70% of the outstanding shares of
32 stock entitled to vote as provided in paragraph (b) (7) of
33 Section 17. A majority of the outstanding shares represented
34 in person or by proxy shall constitute a quorum at a meeting

1 of stockholders. In the absence of a quorum a meeting may be
2 adjourned from time to time without notice to the
3 stockholders.

4 (4) Whenever additional stock of a class is offered for
5 sale, stockholders of record of the same class on the date of
6 the offer shall have the right to subscribe to the proportion
7 of the shares as the stock of the class held by them bears to
8 the total of the outstanding stock of the class, and the
9 price thereof may be in excess of par value. This right
10 shall be transferable but shall terminate if not exercised
11 within 60 days of the offer, unless the Commissioner shall
12 authorize a shorter time. If the right is not exercised, the
13 stock shall not be re-offered for sale to others at a lower
14 price without the stockholders of the same class again being
15 accorded a preemptive right to subscribe at the lower price.
16 Notwithstanding any of the provisions of this paragraph (4)
17 or any other provision of law, stockholders shall not have
18 any preemptive or other right to subscribe for or to purchase
19 or acquire shares of capital stock issued or to be issued
20 under a stock-option plan or upon conversion of preferred
21 stock or convertible debentures or other convertible
22 indebtedness that has been approved by stockholders in the
23 manner required by the provisions of subsection (5) of
24 Section 14 hereof or to treasury stock acquired pursuant to
25 subsection (6) of Section 14.

26 (5) For the purpose of determining stockholders entitled
27 to notice of or to vote at any meeting of stockholders, or
28 stockholders entitled to receive payment of any dividend, or
29 in order to make a determination of stockholders for any
30 other proper purpose, the board of directors of a bank may
31 provide that the stock transfer books shall be closed for a
32 stated period not to exceed, in any case, 40 days. In lieu
33 of closing the stock transfer books, the board of directors
34 may fix in advance a date as the record date for any

1 determination of stockholders, the date in any case to be not
2 more than 40 days, and in case of a meeting of stockholders,
3 not less than 10 days prior to the date on which the
4 particular action, requiring the determination of
5 stockholders, is to be taken. If the stock transfer books
6 are not closed and no record date is fixed for the
7 determination of stockholders entitled to notice of or to
8 vote at a meeting of stockholders, or stockholders entitled
9 to receive payment of a dividend, the date on which notice of
10 a meeting is mailed or the date on which the resolution of
11 the board of directors declaring the dividend is adopted, as
12 the case may be, shall be the record date for the
13 determination of stockholders.

14 (6) Stock standing in the name of another corporation,
15 domestic or foreign, may be voted by the officer, agent, or
16 proxy as the by-laws of the corporation may prescribe, or, in
17 the absence of such provision, as the board of directors of
18 the corporation may determine. Stock standing in the name of
19 a deceased person may be voted by his or her administrator or
20 executor, either in person or by proxy. Stock standing in
21 the name of a guardian or trustee may be voted by that
22 fiduciary either in person or by proxy. Shares standing in
23 the name of a receiver may be voted by the receiver, and
24 shares held by or under control of a receiver may be voted by
25 the receiver without the transfer thereof into his or her
26 name if authority so to do be contained in an appropriate
27 order of the court by which the receiver was appointed. A
28 stockholder whose shares of stock are pledged shall be
29 entitled to vote those shares until the shares have been
30 transferred into the name of the pledgee, and thereafter the
31 pledgee shall be entitled to vote the shares so transferred.

32 (7) Shares of stock shall be transferable in accordance
33 with the general laws of this State governing the transfer of
34 corporate shares.

1 (8) The president and cashier of every State bank shall
2 cause to be kept at all times a full and correct list of the
3 names and residences of all the shareholders in the State
4 bank and the number of shares held by each in the office
5 where its business is transacted. The list shall be subject
6 to the inspection of all the shareholders of the State bank
7 and the officers authorized to assess taxes under State
8 authority during business hours of each day in which business
9 may be legally transacted. A copy of the list, verified by
10 the oath of the president or cashier, shall be transmitted to
11 the Commissioner of Banks and Real Estate within 10 days of
12 any demand therefor made by the Commissioner.

13 (9) Any number of shareholders of a bank may create a
14 voting trust for the purpose of conferring upon a trustee or
15 trustees the right to vote or otherwise represent their
16 shares for a period of not to exceed 10 years by entering
17 into a written voting trust agreement specifying the terms
18 and conditions of the voting trust and by transferring their
19 shares to the trustee or trustees for the purposes of the
20 agreement. The trust agreement shall not become effective
21 until a counterpart of the agreement is deposited with the
22 bank at its main banking premises ~~registered-office~~. The
23 counterpart of the voting trust agreement so deposited with
24 the bank shall be subject to the same right of examination by
25 a shareholder of the bank, in person or by agent or attorney,
26 as is the record of shareholders of the bank and shall be
27 subject to examination by any holder of a beneficial interest
28 in the voting trust, either in person or by agent or
29 attorney, at any reasonable time for any proper purpose.

30 (10) Voting agreements. Shareholders may provide for
31 the voting of their shares by signing an agreement for that
32 purpose. A voting agreement created under this paragraph is
33 not subject to the provisions of paragraph (9).

34 A voting agreement created under this paragraph is

1 specifically enforceable in accordance with the principles of
2 equity.

3 (Source: P.A. 89-508, eff. 7-3-96.)

4 (205 ILCS 5/16.1) (from Ch. 17, par. 323.1)

5 Sec. 16.1. One or more of the directors may be removed,
6 with or without cause, at a meeting of shareholders by the
7 affirmative vote of the holders of a majority of the
8 outstanding shares then entitled to vote at an election of
9 directors, except as follows:

10 (1) No director shall be removed at a meeting of
11 shareholders unless the notice of the meeting shall state
12 that a purpose of the meeting is to vote upon the removal of
13 one or more directors named in the notice. Only the named
14 director or directors may be removed at that meeting.

15 (2) In the case of a bank having cumulative voting, if
16 less than the entire board is to be removed, no director may
17 be removed if the votes cast against his or her removal would
18 be sufficient to elect him or her if then cumulatively voted
19 at an election of the entire board of directors.

20 (3) If a director is elected by a class or series of
21 shares, he or she may be removed only by the shareholders of
22 that class or series.

23 (4) In the case of a State bank whose board is
24 classified as provided in paragraph (3) ~~(5)~~ of Section 16 of
25 this Act, the charter or the by-laws may provide that
26 directors may be removed only for cause.

27 (Source: P.A. 86-368; 87-269.)

28 (205 ILCS 5/17) (from Ch. 17, par. 324)

29 Sec. 17. Changes in charter.

30 (a) By compliance with the provisions of this Act a
31 State bank may:

32 (1) (blank);

1 (2) increase, decrease or change its capital stock,
2 whether issued or unissued, provided that in no case
3 shall the capital be diminished to the prejudice of its
4 creditors;

5 (3) provide for authorized but unissued capital
6 stock reserved for issuance for one or more of the
7 purposes provided for in subsection (5) of Section 14
8 hereof;

9 (4) authorize preferred stock, or increase,
10 decrease or change the preferences, qualifications,
11 limitations, restrictions or special or relative rights
12 of its preferred stock, whether issued or unissued,
13 provided that in no case shall the capital be diminished
14 to the prejudice of its creditors;

15 (5) increase, decrease or change the par value of
16 its shares of its capital stock or preferred stock,
17 whether issued or unissued;

18 (6) (blank) ~~extend-the-duration-of-its-charter;~~

19 (7) eliminate cumulative voting rights under all or
20 specified circumstances, or eliminate voting rights
21 entirely, as to any class or classes or series of stock
22 of the bank pursuant to paragraph (3) of Section 15,
23 provided that one class of shares or series thereof shall
24 always have voting in respect to all matters in the bank,
25 and provided further that the proposal to eliminate such
26 voting rights receives the approval of the holders of 70%
27 of the outstanding shares of stock entitled to vote as
28 provided in paragraph (7) of subsection (b) of this
29 Section 17;

30 (8) increase, decrease, or change its capital stock
31 or preferred stock, whether issued or unissued, for the
32 purpose of eliminating fractional shares or avoiding the
33 issuance of fractional shares, provided that in no case
34 shall the capital be diminished to the prejudice of its

1 creditors; or

2 (9) make such other change in its charter as may be
3 authorized in this Act.

4 (b) To effect a change or changes in a State bank's
5 charter as provided for in this Section 17:

6 (1) The board of directors shall adopt a resolution
7 setting forth the proposed amendment and directing that
8 it be submitted to a vote at a meeting of stockholders,
9 which may be either an annual or special meeting.

10 (2) If the meeting is a special meeting, written or
11 printed notice setting forth the proposed amendment or
12 summary thereof shall be given to each stockholder of
13 record entitled to vote at such meeting at least 30 days
14 before such meeting and in the manner provided in this
15 Act for the giving of notice of meetings of stockholders.

16 (3) At such special meeting, a vote of the
17 stockholders entitled to vote shall be taken on the
18 proposed amendment. Except as provided in paragraph (7)
19 of this subsection (b), the proposed amendment shall be
20 adopted upon receiving the affirmative vote of the
21 holders of at least two-thirds of the outstanding shares
22 of stock entitled to vote at such meeting, unless holders
23 of preferred stock are entitled to vote as a class in
24 respect thereof, in which event the proposed amendment
25 shall be adopted upon receiving the affirmative vote of
26 the holders of at least two-thirds of the outstanding
27 shares of each class of shares entitled to vote as a
28 class in respect thereof and of the total outstanding
29 shares entitled to vote at such meeting. Any number of
30 amendments may be submitted to the stockholders and voted
31 upon by them at one meeting. A certificate of the
32 amendment, or amendments, verified by the president, or a
33 vice-president, or the cashier, shall be filed
34 immediately in the office of the Commissioner.

1 (4) At any annual meeting without a resolution of
2 the board of directors and without a notice and prior
3 publication, as hereinabove provided, a proposition for a
4 change in the bank's charter as provided for in this
5 Section 17 may be submitted to a vote of the stockholders
6 entitled to vote at the annual meeting, except that no
7 proposition for authorized but unissued capital stock
8 reserved for issuance for one or more of the purposes
9 provided for in subsection (5) of Section 14 hereof shall
10 be submitted without complying with the provisions of
11 said subsection. The proposed amendment shall be adopted
12 upon receiving the affirmative vote of the holders of at
13 least two-thirds of the outstanding shares of stock
14 entitled to vote at such meeting, unless holders of
15 preferred stock are entitled to vote as a class in
16 respect thereof, in which event the proposed amendment
17 shall be adopted upon receiving the affirmative vote of
18 the holders of at least two-thirds of the outstanding
19 shares of each class of shares entitled to vote as a
20 class in respect thereof and the total outstanding shares
21 entitled to vote at such meeting. A certificate of the
22 amendment, or amendments, verified by the president, or a
23 vice-president or cashier, shall be filed immediately in
24 the office of the Commissioner.

25 (5) If an amendment or amendments shall be approved
26 in writing by the Commissioner, the amendment or
27 amendments so adopted and so approved shall be
28 accomplished in accordance with the vote of the
29 stockholders. The Commissioner may impose such terms and
30 conditions on the approval of the amendment or amendments
31 as he deems necessary or appropriate. The Commissioner
32 shall revoke such approval in the event such amendment or
33 amendments are not effected within one year from the date
34 of the issuance of the Commissioner's certificate and

1 written approval except for transactions permitted under
2 subsection (5) of Section 14 of this Act.

3 (6) No amendment or amendments shall affect suits
4 in which the bank is a party, nor affect causes of
5 action, nor affect rights of persons in any particular,
6 nor shall actions brought against such bank by its former
7 name be abated by a change of name.

8 (7) A proposal to amend the charter to eliminate
9 cumulative voting rights under all or specified
10 circumstances, or to eliminate voting rights entirely, as
11 to any class or classes or series or stock of a bank,
12 pursuant to paragraph (3) of Section 15 and paragraph (7)
13 of subsection (a) of this Section 17, shall be adopted
14 only upon such proposal receiving the approval of the
15 holders of 70% of the outstanding shares of stock
16 entitled to vote at the meeting where the proposal is
17 presented for approval, unless holders of preferred stock
18 are entitled to vote as a class in respect thereof, in
19 which event the proposed amendment shall be adopted upon
20 receiving the approval of the holders of 70% of the
21 outstanding shares of each class of shares entitled to
22 vote as a class in respect thereof and of the total
23 outstanding shares entitled to vote at the meeting where
24 the proposal is presented for approval. The proposal to
25 amend the charter pursuant to this paragraph (7) may be
26 voted upon at the annual meeting or a special meeting.

27 (8) Written or printed notice of a stockholders'
28 meeting to vote on a proposal to increase, decrease or
29 change the capital stock or preferred stock pursuant to
30 paragraph (8) of subsection (a) of this Section 17 and to
31 eliminate fractional shares or avoid the issuance of
32 fractional shares shall be given to each stockholder of
33 record entitled to vote at the meeting at least 30 days
34 before the meeting and in the manner provided in this Act

1 for the giving of notice of meetings of stockholders, and
2 shall include all of the following information:

3 (A) A statement of the purpose of the proposed
4 reverse stock split.

5 (B) A statement of the amount of consideration
6 being offered for the bank's stock.

7 (C) A statement that the bank considers the
8 transaction fair to the stockholders, and a
9 statement of the material facts upon which this
10 belief is based.

11 (D) A statement that the bank has secured an
12 opinion from a third party with respect to the
13 fairness, from a financial point of view, of the
14 consideration to be paid, the identity and
15 qualifications of the third party, how the third
16 party was selected, and any material relationship
17 between the third party and the bank.

18 (E) A summary of the opinion including the
19 basis for and the methods of arriving at the
20 findings and any limitation imposed by the bank in
21 arriving at fair value and a statement making the
22 opinion available for reviewing or copying by any
23 stockholder.

24 (F) A statement that objecting stockholders
25 will be entitled to the fair value of those shares
26 that are voted against the charter amendment, if a
27 proper demand is made on the bank and the
28 requirements are satisfied as specified in this
29 Section.

30 If a stockholder shall file with the bank, prior to or at the
31 meeting of stockholders at which the proposed charter
32 amendment is submitted to a vote, a written objection to the
33 proposed charter amendment and shall not vote in favor
34 thereof, and if the stockholder, within 20 days after

1 receiving written notice of the date the charter amendment
2 was accomplished pursuant to paragraph (5) of subsection (a)
3 of this Section 17, shall make written demand on the bank for
4 payment of the fair value of the stockholder's shares as of
5 the day prior to the date on which the vote was taken
6 approving the charter amendment, the bank shall pay to the
7 stockholder, upon surrender of the certificate or
8 certificates representing the stock, the fair value thereof.
9 The demand shall state the number of shares owned by the
10 objecting stockholder. The bank shall provide written notice
11 of the date on which the charter amendment was accomplished
12 to all stockholders who have filed written objections in
13 order that the objecting stockholders may know when they must
14 file written demand if they choose to do so. Any stockholder
15 failing to make demand within the 20-day period shall be
16 conclusively presumed to have consented to the charter
17 amendment and shall be bound by the terms thereof. If within
18 30 days after the date on which a charter amendment was
19 accomplished the value of the shares is agreed upon between
20 the objecting stockholders and the bank, payment therefor
21 shall be made within 90 days after the date on which the
22 charter amendment was accomplished, upon the surrender of the
23 stockholder's certificate or certificates representing the
24 shares. Upon payment of the agreed value the objecting
25 stockholder shall cease to have any interest in the shares or
26 in the bank. If within such period of 30 days the
27 stockholder and the bank do not so agree, then the objecting
28 stockholder may, within 60 days after the expiration of the
29 30-day period, file a complaint in the circuit court asking
30 for a finding and determination of the fair value of the
31 shares, and shall be entitled to judgment against the bank
32 for the amount of the fair value as of the day prior to the
33 date on which the vote was taken approving the charter
34 amendment with interest thereon to the date of the judgment.

1 The practice, procedure and judgment shall be governed by the
2 Civil Practice Law. The judgment shall be payable only upon
3 and simultaneously with the surrender to the bank of the
4 certificate or certificates representing the shares. Upon
5 payment of the judgment, the objecting stockholder shall
6 cease to have any interest in the shares or the bank. The
7 shares may be held and disposed of by the bank. Unless the
8 objecting stockholder shall file such complaint within the
9 time herein limited, the stockholder and all persons claiming
10 under the stockholder shall be conclusively presumed to have
11 approved and ratified the charter amendment, and shall be
12 bound by the terms thereof. The right of an objecting
13 stockholder to be paid the fair value of the stockholder's
14 shares of stock as herein provided shall cease if and when
15 the bank shall abandon the charter amendment.

16 (c) The purchase and holding and later resale of
17 treasury stock of a state bank pursuant to the provisions of
18 subsection (6) of Section 14 may be accomplished without a
19 change in its charter reflecting any decrease or increase in
20 capital stock.

21 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
22 90-655, eff. 7-30-98; 91-322, eff. 1-1-00.)

23 (205 ILCS 5/18) (from Ch. 17, par. 325)

24 Sec. 18. Change in control.

25 (a) Before a change may occur in the ownership of
26 outstanding stock of any State bank, whether by sale and
27 purchase, gift, bequest or inheritance, or any other means,
28 including the acquisition of stock of the State bank by any
29 bank holding company, which will result in control or a
30 change in the control of the bank or before a change in the
31 control of a holding company having control of the
32 outstanding stock of a State bank whether by sale and
33 purchase, gift, bequest or inheritance, or any other means,

1 including the acquisition of stock of such holding company by
2 any other bank holding company, which will result in control
3 or a change in control of the bank or holding company, or
4 before a transfer of substantially all the assets or
5 liabilities of the State bank, the Commissioner shall be of
6 the opinion and find:

7 (1) that the general character of its proposed
8 management or of the person desiring to purchase
9 substantially all the assets or to assume substantially
10 all the liabilities of the State bank, after the change
11 in control, is such as to assure reasonable promise of
12 successful, safe and sound operation;

13 (1.1) that depositors' interests will not be
14 jeopardized by the purchase or assumption and that
15 adequate provision has been made for all liabilities as
16 required for a voluntary liquidation under Section 68 of
17 this Act;

18 (2) that the future earnings prospects of the
19 person desiring to purchase substantially all assets or
20 to assume substantially all the liabilities of the State
21 bank, after the proposed change in control, are
22 favorable;

23 (3) that any prior involvement by the persons
24 proposing to obtain control, to purchase substantially
25 all the assets, or to assume substantially all the
26 liabilities of the State bank or by the proposed
27 management personnel with any other financial
28 institution, whether as stockholder, director, officer or
29 customer, was conducted in a safe and sound manner; and

30 (4) that if the acquisition is being made by a bank
31 holding company, the acquisition is authorized under the
32 Illinois Bank Holding Company Act of 1957.

33 (b) Persons desiring to purchase control of an existing
34 state bank, to purchase substantially all the assets, or to

1 assume substantially all the liabilities of the State bank
2 shall, prior to that purchase, submit to the Commissioner:

3 (1) a statement of financial worth;

4 (2) satisfactory evidence that any prior
5 involvement by the persons and the proposed management
6 personnel with any other financial institution, whether
7 as stockholder, director, officer or customer, was
8 conducted in a safe and sound manner; and

9 (3) such other relevant information as the
10 Commissioner may request to substantiate the findings
11 under subsection (a) of this Section.

12 A person who has submitted information to the
13 Commissioner pursuant to this subsection (b) is under a
14 continuing obligation until the Commissioner takes action on
15 the application to immediately supplement that information if
16 there are any material changes in the information previously
17 furnished or if there are any material changes in any
18 circumstances that may affect the Commissioner's opinion and
19 findings. In addition, a person submitting information under
20 this subsection shall notify the Commissioner of the date
21 when the change in control is finally effected.

22 The Commissioner may impose such terms and conditions on
23 the approval of the change in control application as he deems
24 necessary or appropriate.

25 If an applicant, whose application for a change in
26 control has been approved pursuant to subsection (a) of this
27 Section, fails to effect the change in control within 180
28 days after the date of the Commissioner's approval, the
29 Commissioner shall revoke that approval unless a request has
30 been submitted, in writing, to the Commissioner for an
31 extension and the request has been approved.

32 As--used--in--this--Section, the term "control" means the
33 ownership of such amount of stock or ability to direct the
34 voting of such stock as to give power to, directly or

1 indirectly, direct or cause the direction of the management
 2 or policies of the bank. A change in ownership of stock
 3 which would result in direct or indirect ownership by a
 4 stockholder, an affiliated group of stockholders or a holding
 5 company of less than 10 percent of the outstanding stock
 6 shall not be considered a change of control. A change in
 7 ownership of stock which would result in direct or indirect
 8 ownership by a stockholder, an affiliated group of
 9 stockholders or a holding company of 20 percent or such
 10 lesser amount which would entitle the holder by applying
 11 cumulative voting to elect one director shall be presumed to
 12 constitute a change of control for purposes of this Section
 13 18. If there is any doubt as to whether a change in the
 14 ownership or control of the outstanding stock is sufficient
 15 to result in obtaining control thereof or to effect a change
 16 in the control thereof, such doubt shall be resolved in favor
 17 of reporting the facts to the Commissioner.

18 As used in this Section, "substantially all" the assets
 19 or liabilities of a State bank means that portion of the
 20 assets or liabilities of a State bank such that their
 21 purchase or transfer will materially impair the ability of
 22 the State bank to continue successful, safe, and sound
 23 operations or to continue as a going concern or would cause
 24 the bank to lose its federal deposit insurance.

25 (b-1) Any person who obtains ownership of stock of an
 26 existing State bank or stock of a holding company that
 27 controls the State bank by gift, bequest, or inheritance such
 28 that ownership of the stock would constitute control of the
 29 State bank or holding company may obtain title and ownership
 30 of the stock, but may not exercise management or control of
 31 the business and affairs of the bank or vote his or her
 32 shares so as to exercise management or control unless and
 33 until the Commissioner approves an application for the change
 34 of control as provided in subsection (b) of this Section.

1 (c) Whenever a state bank makes a loan or loans,
2 secured, or to be secured, by 25% or more of the outstanding
3 stock of a state bank, the president or other chief executive
4 officer of the lending bank shall promptly report such fact
5 to the Commissioner upon obtaining knowledge of such loan or
6 loans, except that no report need be made in those cases
7 where the borrower has been the owner of record of the stock
8 for a period of one year or more, or the stock is that of a
9 newly organized bank prior to its opening.

10 (d) The reports required by subsections (b) and (c) of
11 this Section 18, other than those relating to a transfer of
12 assets or assumption of liabilities, shall contain the
13 following information to the extent that it is known by the
14 person making the report: (1) the number of shares involved;
15 (2) the names of the sellers (or transferors); (3) the names
16 of the purchasers (or transferees); (4) the names of the
17 beneficial owners if the shares are registered in another
18 name: (5) the purchase price, if applicable; (6) the total
19 number of shares owned by the sellers (or transferors), the
20 purchasers (or transferees) and the beneficial owners both
21 immediately before and after the transaction; and, (7) in the
22 case of a loan, the name of the borrower, the amount of the
23 loan, the name of the bank issuing the stock securing the
24 loan and the number of shares securing the loan. In addition
25 to the foregoing, such reports shall contain such other
26 information which is requested by the Commissioner to inform
27 the Commissioner of the effect of the transaction upon
28 control of the bank whose stock is involved.

29 (d-1) The reports required by subsection (b) of this
30 Section 18 that relate to purchase of assets and assumption
31 of liabilities shall contain the following information to the
32 extent that it is known by the person making the report: (1)
33 the value, amount, and description of the assets transferred;
34 (2) the amount, type, and to whom each type of liabilities

1 are owed; (3) the names of the purchasers (or transferees);
2 (4) the names of the beneficial owners if the shares of a
3 purchaser or transferee are registered in another name; (5)
4 the purchase price, if applicable; and, (6) in the case of a
5 loan obtained to effect a purchase, the name of the borrower,
6 the amount and terms of the loan, and the description of the
7 assets securing the loan. In addition to the foregoing,
8 these reports shall contain any other information that is
9 requested by the Commissioner to inform the Commissioner of
10 the effect of the transaction upon the bank from which assets
11 are purchased or liabilities are transferred.

12 (e) Whenever such a change as described in subsection
13 (a) of this Section 18 occurs, each state bank shall report
14 promptly to the Commissioner any changes or replacement of
15 its chief executive officer or of any director occurring in
16 the next 12 month period, including in its report a statement
17 of the past and current business and professional
18 affiliations of the new chief executive officer or directors.

19 (f) (Blank).

20 (g) (1) Except as otherwise expressly provided in this
21 subsection (g), the Commissioners shall not approve an
22 application for a change in control if upon consummation
23 of the change in control the persons applying for the
24 change in control, including any affiliates of the
25 persons applying, would control 30% or more of the total
26 amount of deposits which are located in this State at
27 insured depository institutions. For purposes of this
28 subsection (g), the words "insured depository
29 institution" shall mean State banks, national banks, and
30 insured savings associations. For purposes of this
31 subsection (g), the word "deposits" shall have the
32 meaning ascribed to that word in Section 3(1) of the
33 Federal Deposit Insurance Act. For purposes of this
34 subsection (g), the total amount of deposits which are

1 considered to be located in this State at insured
2 depository institutions shall equal the sum of all
3 deposits held at the main banking premises and branches
4 in the State of Illinois of State banks, national banks,
5 or insured savings associations. For purposes of this
6 subsection (g), the word "affiliates" shall have the
7 meaning ascribed to that word in Section 35.2 of this
8 Act.

9 (2) Notwithstanding the provisions of subsection
10 (g)(1) of this Section, the Commissioner may approve an
11 application for a change in control for a bank that is in
12 default or in danger of default. Except in those
13 instances in which an application for a change in control
14 is for a bank that is in default or in danger of default,
15 the Commissioner may not approve a change in control
16 which does not meet the requirements of subsection (g)(1)
17 of this Section. The Commissioner may not waive the
18 provisions of subsection (g)(1) of this Section, whether
19 pursuant to Section 3(d) of the federal Bank Holding
20 Company Act of 1956 or Section 44(d) of the Federal
21 Deposit Insurance Act, except as expressly provided in
22 this subsection (g)(2).

23 (h) As used in this Section, the term "control" means
24 the ownership of such amount of stock or ability to direct
25 the voting of such stock as to, directly or indirectly, give
26 power to direct or cause the direction of the management or
27 policies of the bank. A change in ownership of stock that
28 would result in direct or indirect ownership by a
29 stockholder, an affiliated group of stockholders, or a
30 holding company of less than 10% of the outstanding stock
31 shall not be considered a change in control. A change in
32 ownership of stock that would result in direct or indirect
33 ownership by a stockholder, an affiliated group of
34 stockholders, or a holding company of 20% or such lesser

1 amount that would entitle the holder by applying cumulative
 2 voting to elect one director shall be presumed to constitute
 3 a change of control for purposes of this Section 18. If
 4 there is any question as to whether a change in the ownership
 5 or control of the outstanding stock is sufficient to result
 6 in obtaining control thereof or to effect a change in the
 7 control thereof, the question shall be resolved in favor of
 8 reporting the facts to the Commissioner.

9 As used in this Section, "substantially all" the assets
 10 or liabilities of a State bank means that portion of the
 11 assets or liabilities of a State bank such that their
 12 purchase or transfer will materially impair the ability of
 13 the State bank to continue successful, safe, and sound
 14 operations or to continue as a going concern or would cause
 15 the bank to lose its federal deposit insurance.

16 As used in this Section, "purchase" includes a transfer
 17 by gift, bequest, inheritance, or any other means.

18 (Source: P.A. 89-567, eff. 7-26-96; 90-226, eff. 7-25-97.)

19 (205 ILCS 5/22) (from Ch. 17, par. 329)

20 Sec. 22. Merger procedure; resulting State bank. The
 21 merger procedure required of a State bank where there is to
 22 be a resulting State bank by consolidation or merger shall
 23 be:

24 (1) The board of directors of each merging bank or
 25 insured savings association shall, by a majority of the
 26 entire board, approve a merger agreement that shall contain:

27 (a) The name of each merging bank or insured
 28 savings association and its location and a list of each
 29 merging bank's or insured savings association's
 30 stockholders as of the date of the merger agreement;

31 (b) With respect to the resulting bank (i) its name
 32 and place of business; (ii) the amount of Tier 1 capital,
 33 ~~surplus-and-reserve-for--operating--expenses;~~ (iii) the

1 classes and the number of shares of stock and the par
2 value of each share; (iv) the designation of the
3 continuing bank and the charter which is to be the
4 charter of the resulting bank, together with the
5 amendments to the continuing charter and to the
6 continuing by-laws; and (v) a detailed financial
7 Statement showing the assets and liabilities after the
8 proposed merger or consolidation;

9 (c) Provisions stating the method, terms and
10 conditions of carrying the merger into effect, including
11 the manner of converting the shares of the merging banks
12 or insured savings association into the cash, shares of
13 stock or other securities of any corporation or other
14 property, or any combination of the foregoing, Stated in
15 the merger agreement as to be received by the
16 stockholders of each merging bank or insured savings
17 association;

18 (d) A Statement that the agreement is subject to
19 approval by the Commissioner and by the stockholders of
20 each merging bank or insured savings association and that
21 whether approved or disapproved the merging banks or
22 insured savings association will pay the Commissioner's
23 expenses of examination;

24 (e) Provisions governing the manner of disposing of
25 the shares of the resulting bank not taken by the
26 dissenting stockholders of the merging banks or insured
27 savings association; and

28 (f) Such other provisions as the Commissioner may
29 reasonably require to enable him to discharge his duties
30 with respect to the merger.

31 (2) After approval by the board of directors of each
32 bank or insured savings association, the merger agreement
33 shall be submitted to the Commissioner for approval, together
34 with certified copies of the authorizing resolutions of each

1 board of directors showing approval by a majority of the
2 entire board of each bank or insured savings association.

3 (3) After receipt by the Commissioner of the papers
4 specified in paragraph (2), he shall approve or disapprove
5 the merger agreement. The Commissioner shall not approve the
6 merger agreement unless he shall be of the opinion and shall
7 find:

8 (a) That the resulting bank meets the requirements
9 of this Act for the formation of a new bank at the
10 proposed main banking premises of the resulting bank;

11 (b) That the same matters exist with respect to the
12 resulting bank which would have been required under
13 Section 10 of this Act for the organization of a new
14 bank;

15 (c) That the merger agreement is fair to all
16 persons affected; and

17 (d) That the resulting bank will be operated in a
18 safe and sound manner.

19 If the Commissioner disapproves an agreement he shall
20 State his objections and give an opportunity to the merging
21 banks to amend the merger agreement to obviate such
22 objections.

23 (4) The Commissioner may impose such terms and
24 conditions on the approval of the merger agreement as he
25 deems necessary or appropriate.

26 (5) If the Commissioner approves a merger agreement, he
27 may revoke that approval if the merger has not been approved
28 by the shareholders in accordance with Section 23 within 180
29 days after the date of the Commissioner's approval, unless a
30 request has been submitted, in writing, to the Commissioner
31 for an extension and the request has been approved.

32 (6) The board of directors of a bank or insured savings
33 association is under a continuing obligation until the
34 Commissioner takes action on the application to furnish

1 additional information if there are any material changes in
2 circumstances after the merger agreement has been submitted
3 which may affect the Commissioner's opinions and findings.

4 (Source: P.A. 87-1226.)

5 (205 ILCS 5/25) (from Ch. 17, par. 332)

6 Sec. 25. Conversion of national bank or insured savings
7 association into State bank. A national bank or insured
8 savings association located in this State which follows the
9 procedure prescribed by the laws of the United States or of
10 the State of Illinois to convert into a State bank may be
11 granted a charter by the Commissioner. The national bank or
12 insured savings association may apply for such charter by
13 filing with the Commissioner:

14 (1) A certificate signed by its president, or a
15 vice-president, or the cashier, and by a majority of the
16 entire board of directors setting forth the corporate action
17 taken in compliance with the provisions of the laws of the
18 United States or of the State of Illinois governing the
19 conversion of a national bank or insured savings association
20 to a State bank;

21 (2) The plan of conversion and the proposed charter
22 approved by the stockholders for the operation of the bank or
23 insured savings association as a State bank;

24 (3) The name proposed for the converting bank or insured
25 savings association, its location and a list of its
26 stockholders as of the date of the stockholders' approval of
27 the plan of conversion;

28 (4) The amount of its Tier 1 capital, ~~surplus and~~
29 ~~reserve for operation expenses~~, the classes and the number of
30 the shares of stock and the par value of each share, and a
31 detailed statement showing the assets and liabilities of the
32 converting bank or insured savings association; and

33 (5) A statement that the plan of conversion is subject

1 to the approval of the Commissioner and that whether approved
2 or disapproved the converting bank or insured savings
3 association will pay the Commissioner's expenses of
4 examination.

5 For purposes of this Section, a national bank or insured
6 savings association is located in the State where its main
7 banking premises or main office is located.

8 (Source: P.A. 89-567, eff. 7-26-96.)

9 (205 ILCS 5/30.5)

10 Sec. 30.5. Mid-tier bank holding company merger with
11 State bank. Upon approval by the Commissioner, a mid-tier
12 bank holding company having power so to do under the law
13 under which it is organized may merge into its subsidiary
14 State bank as prescribed by this Act; except that the action
15 by the mid-tier bank holding company shall be taken in the
16 manner prescribed by and shall be subject to limitations and
17 requirements imposed by the law under which it is organized.
18 The merger procedure shall be as follows:

19 (1) The board of directors of the parent bank holding
20 company shall, by resolution, approve a merger agreement
21 which shall contain:

22 (a) the name and location of the merging bank and
23 of the mid-tier bank holding company;

24 (b) with respect to the merging bank (i) the amount
25 of Tier 1 capital, surplus, and reserve for operating
26 expenses; (ii) the classes and the number of shares of
27 stock and the par value of each share; (iii) a detailed
28 financial statement showing the assets and liabilities
29 after the proposed merger; and (iv) any amendments to the
30 charter or by-laws;

31 (c) provisions governing the manner of converting
32 the shares of the merging bank and the mid-tier bank
33 holding company into shares of the merging bank and the

1 manner of transferring the converted shares to the parent
2 bank holding company;

3 (d) a statement that the merger agreement is
4 subject to approval by the Commissioner and that whether
5 approved or disapproved, the parties thereto will pay the
6 Commissioner's expenses of examination; and

7 (e) such other provisions as the Commissioner may
8 reasonably require to enable him to discharge his duties
9 with respect to the merger.

10 (2) After approval by the board of directors of the
11 parent bank holding company, the merger agreement shall be
12 submitted to the Commissioner for approval.

13 (3) After receipt by the Commissioner of the papers
14 specified in item (2), he shall approve or disapprove the
15 merger agreement. The Commissioner shall not approve the
16 agreement unless he shall be of the opinion and finds that
17 the same matters exist in respect of the continuing bank
18 which would have been required under Section 10 of this Act
19 for the organization of a new bank, that the mid-tier bank
20 holding company has no known liabilities that will become
21 liabilities of the continuing bank, and that the parent bank
22 holding company will indemnify the continuing bank for any
23 known and unknown contingent liabilities for which the
24 continuing bank may become liable as a result of the merger.

25 Nothing in this Section shall authorize a resulting State
26 bank to acquire, hold, or invest any asset or to assume or
27 incur any liability that does not conform to the legal
28 requirements for assets acquired, held, or invested or
29 liabilities assumed or incurred by State banks, or to engage
30 in any activity in which a State bank is not authorized to
31 engage as part of a general banking business. If the
32 Commissioner disapproves the merger agreement, he shall state
33 his objections in writing and give an opportunity to the
34 merging bank and mid-tier bank holding company to obviate the

1 objections.

2 (4) To be effective, if approved by the Commissioner, a
3 copy of the merger agreement executed by the duly authorized
4 president of the mid-tier bank holding company and president
5 of the merging State bank, together with copies of the
6 resolution of the board of directors of the parent bank
7 holding company, approving the merger agreement, certified by
8 the parent bank holding company's president or vice-president
9 and attested by the secretary, must be filed with the
10 Commissioner. The merger shall, unless a later date is
11 specified in the agreement, become effective when the
12 Commissioner has approved the agreement and issued a
13 certificate of merger to the continuing bank, which shall
14 specify the name of the mid-tier bank holding company, the
15 name of the continuing bank, and the amendments to the
16 charter of the continuing bank provided for by the merger
17 agreement. The charter of the mid-tier bank holding company
18 shall thereupon automatically terminate. Such certificate
19 shall be conclusive evidence of the merger and of the
20 correctness of all proceedings therefor in all courts and
21 places including the office of the Secretary of State, and
22 the certificate shall be recorded.

23 (Source: P.A. 89-364, eff. 8-18-95.)

24 (205 ILCS 5/31) (from Ch. 17, par. 338)

25 Sec. 31. Emergency sale of assets, change in control, or
26 merger.

27 (a) With the prior written approval of the Commissioner,
28 any State bank in danger of default may, by vote of a
29 majority of its board of directors, and without a vote of its
30 shareholders, and any State bank in default may, by
31 appropriate action of its receiver or conservator, and
32 without a vote of its shareholders, sell all or any part of
33 its assets to another State bank that is not an eligible

1 depository institution, to a national bank that is not an
2 eligible depository institution, to an insured savings
3 association that is not an eligible depository institution,
4 to the Federal Deposit Insurance Corporation, or to any one
5 or more of them, provided that a State bank that is not an
6 eligible depository institution, a national bank that is not
7 an eligible depository institution, an insured savings
8 association that is not an eligible depository institution,
9 the Federal Deposit Insurance Corporation, or any one or more
10 of them assumes in writing all of the liabilities of the
11 selling bank as shown by its records, other than the
12 liabilities of the selling bank to its shareholders as such.

13 (b) If the Commissioner has made one or more of the
14 findings provided in Section 51, and the finding that an
15 emergency exists as provided in Section 52, and if, in
16 addition, the Commissioner gives his approval in writing, any
17 State bank may, by vote of a majority of its board of
18 directors and without a vote of its shareholders, merge with
19 another State bank that is not an eligible depository
20 institution, a national bank that is not an eligible
21 depository institution, or an insured savings association
22 located in Illinois that is not an eligible depository
23 institution, and after May 31, 1997, an out-of-state bank
24 that is not an eligible depository institution, with such
25 other State bank, out-of-state bank, national bank, or
26 insured savings association being the resulting or continuing
27 bank or resulting insured savings association in such a
28 merger.

29 (c) With the prior written approval of the Commissioner,
30 any State bank may either purchase, assume, or both purchase
31 and assume all or any part of the assets or liabilities, or
32 act as paying agent for the payment of deposit insurance to
33 the depositors of an eligible depository institution.

34 (d) With the prior written approval of the Commissioner,

1 a State bank may, by vote of a majority of its board of
2 directors and without a vote of its shareholders, merge with
3 an insured savings association, national bank, or after May
4 31, 1997, out-of-state bank, in default or in danger of
5 default, provided such State bank results from such merger,
6 and provided further that such resulting bank shall conform
7 all assets acquired or liabilities incurred as a result of
8 such merger to the legal requirements for such assets
9 acquired, held or invested or liabilities assumed or incurred
10 by State banks, and that such resulting or continuing bank
11 shall conform all of its activities to those activities in
12 which a State bank is authorized to engage as part of a
13 general banking business.

14 (d-5) If the Commissioner has made one or more of the
15 findings provided in Section 51 or the finding that an
16 emergency exists as provided in Section 52, and if, in
17 addition, the Commissioner gives his approval in writing, a
18 change in the ownership of outstanding stock of any State
19 bank, including the acquisition of stock of the State bank by
20 any bank holding company, may occur that will result in
21 control or a change in the control of the State bank or a
22 change in the control of a holding company having control of
23 the outstanding stock of a State bank, including the
24 acquisition of stock of such holding company by any other
25 bank holding company, which will result in control or a
26 change in control of the bank or holding company.

27 (e) Nothing in this Section shall authorize a State bank
28 to acquire, hold, or invest any asset or to assume or incur
29 any liability that does not conform to the legal requirements
30 for assets acquired, held, or invested or liabilities assumed
31 or incurred by State banks, or to engage in any activity in
32 which a State bank is not authorized to engage as part of a
33 general banking business.

34 (f) Nothing in this Section shall authorize a bank

1 holding company to own or control, directly or indirectly, a
2 State bank or a national bank having its main banking
3 premises in Illinois unless such ownership or control is
4 expressly authorized under the provisions of the Illinois
5 Bank Holding Company Act of 1957.

6 (Source: P.A. 88-4; 89-208, eff. 9-29-95.)

7 (205 ILCS 5/33) (from Ch. 17, par. 341)

8 Sec. 33. Marketable investment securities limit. Any
9 State bank may purchase for its own account marketable
10 investment securities without regard to any other liability
11 to the bank of the issuer, maker, obligor, or guarantor of
12 any marketable investment securities, but the total amount of
13 the marketable investment securities of any one issuer, maker
14 or obligor held by the bank or for its account at any one
15 time shall not exceed 20% of its unimpaired capital and
16 unimpaired surplus. As used in this Section the term
17 "marketable investment securities" means marketable
18 obligations evidencing indebtedness of any person in the form
19 of bonds, notes, or debentures commonly known as investment
20 securities; obligations identified by certificates of
21 participation in investments the bank could have invested in
22 directly; and includes certificates of participation in open
23 end investment companies registered with the Securities and
24 Exchange Commission pursuant to the Investment Company Act of
25 1940 and Securities Act of 1933 commonly referred to as
26 mutual or money market funds, provided the portfolios of
27 those investment companies consist of investments that a bank
28 could invest in directly. Marketable investment securities
29 shall be rated in the top 4 rating categories by national
30 rating services and designated as "investment grade" or "bank
31 quality investments" securities. The rating restriction on
32 marketable investment securities does not apply to securities
33 that are issued by a public agency as defined in Section 1 of

1 the Public Funds Investment Act.

2 (Source: P.A. 88-546; 89-364, eff. 8-18-95.)

3 (205 ILCS 5/37) (from Ch. 17, par. 347)

4 Sec. 37. Loans to officers and loans on and purchases of
5 bank's own stock.

6 (1) No state bank shall make any loan or extension of
7 credit in excess of the limits, as determined by the
8 Commissioner, at any one time outstanding each to its
9 president, or to any of its vice presidents or its salaried
10 officers or employees or directors or to corporations or
11 firms, controlled by them, or in the management of which any
12 of them are actively engaged, unless such loan or extension
13 of credit shall have been first approved, by the board of
14 directors. The Commissioner shall prescribe such limits by
15 rules.

16 (2) It shall not be lawful for a state bank to make any
17 loan or discount on the security of the shares of its own
18 capital stock or preferred stock or on the security of its
19 own debentures or evidences of debt which are either
20 convertible into capital stock or are junior or subordinate
21 in right of payment to deposit or other liabilities of the
22 bank.

23 (3)(a) For purposes of this Section, "control" means (i)
24 ownership, control, or power to vote 25% or more of the
25 outstanding shares of any class of voting security of the
26 corporation or firm, directly or indirectly, or acting
27 through or in concert with one or more other persons; (ii)
28 control in any manner over the election of a majority of the
29 directors of the corporation or firm; or (iii) the power to
30 exercise a controlling influence over the management or
31 policies of the corporation or firm, directly or indirectly,
32 or acting through or in concert with one or more persons.

33 (3)(b) A person does not have the power to exercise a

1 controlling influence over the management or policies of a
2 corporation or firm solely by virtue of the person's position
3 as an officer or director of the corporation or firm.

4 (3)(c) A person is presumed to have control, including
5 the power to exercise a controlling influence over the
6 management or policies, of a corporation or firm if:

7 (i) the person:

8 (A) is an executive officer, director, or
9 individual exercising similar functions of the
10 corporation or firm; and

11 (B) directly or indirectly owns, controls, or
12 has the power to vote more than 10% of any class of
13 voting securities of the corporation or firm; or

14 (ii)(A) the person directly or indirectly owns,
15 controls, or has the power to vote more than 10% of any
16 class of voting securities of the corporation or firm;
17 and

18 (B) no other person directly or indirectly
19 owns, controls, or has the power to vote a greater
20 percentage of that class of voting securities.

21 (3)(d) A person may rebut a presumption established
22 under subdivision (3)(c) of this Section by submitting
23 written materials that, in the Commissioner's judgment,
24 demonstrate an absence of control.

25 (Source: P.A. 86-754.)

26 (205 ILCS 5/47) (from Ch. 17, par. 358)

27 Sec. 47. Reports to Commissioner.

28 (a) All State banks shall make a full and accurate
29 statement of their affairs at least 1 time during each
30 calendar quarter which shall be certified to, under oath by
31 the president, a vice-president or the cashier of such bank.
32 If the statement is submitted in electronic form, the
33 Commissioner may, in the call for the report, specify the

1 manner in which the appropriate officer of the bank shall
2 certify the statement of affairs. The statement shall be
3 according to the form which may be prescribed by the
4 Commissioner and shall exhibit in detail information
5 concerning such bank at the close of business of any day the
6 Commissioner may choose and designate in a call for such
7 report. Each bank shall deliver its quarterly statement to
8 the location specified by the Commissioner within 30 calendar
9 days of the date of the call for such reports. If the
10 quarterly statement is mailed, it must be postmarked within
11 the period prescribed for delivery, and if the quarterly
12 statement is delivered in electronic form, the bank shall
13 generate and retain satisfactory proof that it has caused the
14 report to be delivered within the period prescribed for
15 delivery. ~~Within--60--calendar--days--after--the--Commissioner's~~
16 ~~call--for--the--fourth--calendar--quarter--statement--of--affairs,--a~~
17 ~~State--bank--shall--publish--an--annual--disclosure--statement~~
18 ~~setting--forth--the--information--required--by--rule--of--the~~
19 ~~Commissioner.--The--disclosure--statement--shall--contain--the~~
20 ~~required--information--as--of--the--close--of--the--business--day~~
21 ~~designated--by--the--Commissioner--for--the--fourth--quarter~~
22 ~~statement--of--affairs.--Any--bank--failing--to--make--and--deliver~~
23 ~~such--statement--or--to--comply--with--any--provisions--of--this~~
24 ~~Section--may--be--subject--to--a--penalty--payable--to--the~~
25 ~~Commissioner--of--\$100--for--each--day--of--noncompliance.~~

26 (b) In addition to the foregoing reports, any bank which
27 is the victim of a shortage of funds in excess of \$10,000, an
28 apparent misapplication of the bank's funds by an officer,
29 employee or director, or any adverse legal action in an
30 amount in excess of 10% of total unimpaired capital and
31 unimpaired surplus of the bank, including but not limited to,
32 the entry of an adverse money judgment against the bank or a
33 write-off of assets of the bank, shall report that
34 information in writing to the Commissioner within 7 days of

1 the occurrence. Compliance with the time frames prescribed by
2 the United States Department of Treasury's Financial Crimes
3 Enforcement Network shall be deemed compliance with this
4 Section. Neither the bank, its directors, officers, employees
5 or its agents, in the preparation or filing of the reports
6 required by subsection (b) of this Section, shall be subject
7 to any liability for libel, slander, or other charges
8 resulting from information supplied in such reports, except
9 when the supplying of such information is done in a corrupt
10 or malicious manner or otherwise not in good faith.
11 (Source: P.A. 89-505, eff. 6-28-96; 89-567, eff. 7-26-96;
12 90-14, eff. 7-1-97.)

13 (205 ILCS 5/48) (from Ch. 17, par. 359)

14 Sec. 48. Commissioner's powers; duties. The Commissioner
15 shall have the powers and authority, and is charged with the
16 duties and responsibilities designated in this Act, and a
17 State bank shall not be subject to any other visitorial power
18 other than as authorized by this Act, except those vested in
19 the courts, or upon prior consultation with the Commissioner,
20 a foreign bank regulator with an appropriate supervisory
21 interest in the parent or affiliate of a state bank. In the
22 performance of the Commissioner's duties:

23 (1) The Commissioner shall call for statements from all
24 State banks as provided in Section 47 at least one time
25 during each calendar quarter.

26 (2) (a) The Commissioner, as often as the Commissioner
27 shall deem necessary or proper, and no less frequently than
28 18 months following the preceding examination, shall appoint
29 a suitable person or persons to make an examination of the
30 affairs of every State bank, except that for every eligible
31 State bank, as defined by regulation, the Commissioner in
32 lieu of the examination may accept on an alternating basis
33 the examination made by the eligible State bank's appropriate

1 federal banking agency pursuant to Section 111 of the Federal
2 Deposit Insurance Corporation Improvement Act of 1991,
3 provided the appropriate federal banking agency has made such
4 an examination. A person so appointed shall not be a
5 stockholder or officer or employee of any bank which that
6 person may be directed to examine, and shall have powers to
7 make a thorough examination into all the affairs of the bank
8 and in so doing to examine any of the officers or agents or
9 employees thereof on oath and shall make a full and detailed
10 report of the condition of the bank to the Commissioner. In
11 making the examination the examiners shall include an
12 examination of the affairs of all the affiliates of the bank,
13 as defined in subsection (b) of Section 35.2 of this Act, or
14 subsidiaries of the bank as shall be necessary to disclose
15 fully the conditions of the subsidiaries or affiliates, the
16 relations between the bank and the subsidiaries or affiliates
17 and the effect of those relations upon the affairs of the
18 bank, and in connection therewith shall have power to examine
19 any of the officers, directors, agents, or employees of the
20 subsidiaries or affiliates on oath. After May 31, 1997, the
21 Commissioner may enter into cooperative agreements with state
22 regulatory authorities of other states to provide for
23 examination of State bank branches in those states, and the
24 Commissioner may accept reports of examinations of State bank
25 branches from those state regulatory authorities. These
26 cooperative agreements may set forth the manner in which the
27 other state regulatory authorities may be compensated for
28 examinations prepared for and submitted to the Commissioner.

29 (b) After May 31, 1997, the Commissioner is authorized
30 to examine, as often as the Commissioner shall deem necessary
31 or proper, branches of out-of-state banks. The Commissioner
32 may establish and may assess fees to be paid to the
33 Commissioner for examinations under this subsection (b). The
34 fees shall be borne by the out-of-state bank, unless the fees

1 are borne by the state regulatory authority that chartered
2 the out-of-state bank, as determined by a cooperative
3 agreement between the Commissioner and the state regulatory
4 authority that chartered the out-of-state bank.

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

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

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

24 For purposes of this subsection (2.5), the term "bank
25 services" means services such as sorting and posting of
26 checks and deposits, computation and posting of interest and
27 other credits and charges, preparation and mailing of checks,
28 statements, notices, and similar items, or any other
29 clerical, bookkeeping, accounting, statistical, or similar
30 functions performed for a State bank, including but not
31 limited to electronic data processing related to those bank
32 services.

33 (3) The expense of administering this Act, including the
34 expense of the examinations of State banks as provided in

1 this Act, shall to the extent of the amounts resulting from
2 the fees provided for in paragraphs (a), (a-2), and (b) of
3 this subsection (3) be assessed against and borne by the
4 State banks:

5 (a) Each bank shall pay to the Commissioner a Call
6 Report Fee which shall be paid in quarterly installments
7 equal to one-fourth of the sum of the annual fixed fee of
8 \$800, plus a variable fee based on the assets shown on
9 the quarterly statement of condition delivered to the
10 Commissioner in accordance with Section 47 for the
11 preceding quarter according to the following schedule:
12 16¢ per \$1,000 of the first \$5,000,000 of total assets,
13 15¢ per \$1,000 of the next \$20,000,000 of total assets,
14 13¢ per \$1,000 of the next \$75,000,000 of total assets,
15 9¢ per \$1,000 of the next \$400,000,000 of total assets,
16 7¢ per \$1,000 of the next \$500,000,000 of total assets,
17 and 5¢ per \$1,000 of all assets in excess of
18 \$1,000,000,000, of the State bank. The Call Report Fee
19 shall be calculated by the Commissioner and billed to the
20 banks for remittance at the time of the quarterly
21 statements of condition provided for in Section 47. The
22 Commissioner may require payment of the fees provided in
23 this Section by an electronic transfer of funds or an
24 automatic debit of an account of each of the State banks.
25 In case more than one examination of any bank is deemed
26 by the Commissioner to be necessary in any examination
27 frequency cycle specified in subsection 2(a) of this
28 Section, and is performed at his direction, the
29 Commissioner may assess a reasonable additional fee to
30 recover the cost of the additional examination; provided,
31 however, that an examination conducted at the request of
32 the State Treasurer pursuant to the Uniform Disposition
33 of Unclaimed Property Act shall not be deemed to be an
34 additional examination under this Section. In lieu of the

1 method and amounts set forth in this paragraph (a) for
2 the calculation of the Call Report Fee, the Commissioner
3 may specify by rule that the Call Report Fees provided by
4 this Section may be assessed semiannually or some other
5 period and may provide in the rule the formula to be used
6 for calculating and assessing the periodic Call Report
7 Fees to be paid by State banks.

8 (a-1) If in the opinion of the Commissioner an
9 emergency exists or appears likely, the Commissioner may
10 assign an examiner or examiners to monitor the affairs of
11 a State bank with whatever frequency he deems
12 appropriate, including but not limited to a daily basis.
13 The reasonable and necessary expenses of the Commissioner
14 during the period of the monitoring shall be borne by the
15 subject bank. The Commissioner shall furnish the State
16 bank a statement of time and expenses if requested to do
17 so within 30 days of the conclusion of the monitoring
18 period.

19 (a-2) On and after January 1, 1990, the reasonable
20 and necessary expenses of the Commissioner during
21 examination of the performance of electronic data
22 processing services under subsection (2.5) shall be borne
23 by the banks for which the services are provided. An
24 amount, based upon a fee structure prescribed by the
25 Commissioner, shall be paid by the banks or, after May
26 31, 1997, branches of out-of-state banks receiving the
27 electronic data processing services along with the Call
28 Report Fee assessed under paragraph (a) of this
29 subsection (3).

30 (a-3) After May 31, 1997, the reasonable and
31 necessary expenses of the Commissioner during examination
32 of the performance of electronic data processing services
33 under subsection (2.5) at or on behalf of branches of
34 out-of-state banks shall be borne by the out-of-state

1 banks, unless those expenses are borne by the state
2 regulatory authorities that chartered the out-of-state
3 banks, as determined by cooperative agreements between
4 the Commissioner and the state regulatory authorities
5 that chartered the out-of-state banks.

6 (b) "Fiscal year" for purposes of this Section 48
7 is defined as a period beginning July 1 of any year and
8 ending June 30 of the next year. The Commissioner shall
9 receive for each fiscal year, commencing with the fiscal
10 year ending June 30, 1987, a contingent fee equal to the
11 lesser of the aggregate of the fees paid by all State
12 banks under paragraph (a) of subsection (3) for that
13 year, or the amount, if any, whereby the aggregate of the
14 administration expenses, as defined in paragraph (c), for
15 that fiscal year exceeds the sum of the aggregate of the
16 fees payable by all State banks for that year under
17 paragraph (a) of subsection (3), plus any amounts
18 transferred into the Bank and Trust Company Fund from the
19 State Pensions Fund for that year, plus all other amounts
20 collected by the Commissioner for that year under any
21 other provision of this Act, plus the aggregate of all
22 fees collected for that year by the Commissioner under
23 the Corporate Fiduciary Act, excluding the receivership
24 fees provided for in Section 5-10 of the Corporate
25 Fiduciary Act, and the Foreign Banking Office Act. The
26 aggregate amount of the contingent fee thus arrived at
27 for any fiscal year shall be apportioned amongst,
28 assessed upon, and paid by the State banks and foreign
29 banking corporations, respectively, in the same
30 proportion that the fee of each under paragraph (a) of
31 subsection (3), respectively, for that year bears to the
32 aggregate for that year of the fees collected under
33 paragraph (a) of subsection (3). The aggregate amount of
34 the contingent fee, and the portion thereof to be

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

10 (c) The "administration expenses" for any fiscal
11 year shall mean the ordinary and contingent expenses for
12 that year incident to making the examinations provided
13 for by, and for otherwise administering, this Act, the
14 Corporate Fiduciary Act, excluding the expenses paid from
15 the Corporate Fiduciary Receivership account in the Bank
16 and Trust Company Fund, the Foreign Banking Office Act,
17 the Electronic Fund Transfer Act, and the Illinois Bank
18 Examiners' Education Foundation Act, including all
19 salaries and other compensation paid for personal
20 services rendered for the State by officers or employees
21 of the State, including the Commissioner and the Deputy
22 Commissioners, all expenditures for telephone and
23 telegraph charges, postage and postal charges, office
24 stationery, supplies and services, and office furniture
25 and equipment, including typewriters and copying and
26 duplicating machines and filing equipment, surety bond
27 premiums, and travel expenses of those officers and
28 employees, employees, expenditures or charges for the
29 acquisition, enlargement or improvement of, or for the
30 use of, any office space, building, or structure, or
31 expenditures for the maintenance thereof or for
32 furnishing heat, light, or power with respect thereto,
33 all to the extent that those expenditures are directly
34 incidental to such examinations or administration. The

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

11 (d) The aggregate of all fees collected by the
12 Commissioner under this Act, the Corporate Fiduciary Act,
13 or the Foreign Banking Office Act on and after July 1,
14 1979, shall be paid promptly after receipt of the same,
15 accompanied by a detailed statement thereof, into the
16 State treasury and shall be set apart in a special fund
17 to be known as the "Bank and Trust Company Fund", except
18 as provided in paragraph (c) of subsection (11) of this
19 Section. The amount from time to time deposited into the
20 Bank and Trust Company Fund shall be used to offset the
21 ordinary administrative expenses of the Commissioner of
22 Banks and Real Estate as defined in this Section. Nothing
23 in this amendatory Act of 1979 shall prevent continuing
24 the practice of paying expenses involving salaries,
25 retirement, social security, and State-paid insurance
26 premiums of State officers by appropriations from the
27 General Revenue Fund. However, the General Revenue Fund
28 shall be reimbursed for those payments made on and after
29 July 1, 1979, by an annual transfer of funds from the
30 Bank and Trust Company Fund.

31 (d-1) Adequate funds shall be available in the Bank
32 and Trust Company Fund to permit the timely payment of
33 administration expenses. In each fiscal year the total
34 administration expenses shall be deducted from the total

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

31 (e) The Commissioner may upon request certify to
32 any public record in his keeping and shall have authority
33 to levy a reasonable charge for issuing certifications of
34 any public record in his keeping.

1 (f) In addition to fees authorized elsewhere in
2 this Act, the Commissioner may, in connection with a
3 review, approval, or provision of a service, levy a
4 reasonable charge to recover the cost of the review,
5 approval, or 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
9 by the United States or any agency thereof, nor to limit in
10 any 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
13 investment of any bonus, pension, or profit sharing plan for
14 officers or employees of every State bank or, after May 31,
15 1997, branch of an out-of-state bank shall be deemed to be
16 included in the affairs of that State bank or branch of an
17 out-of-state bank subject to examination by the Commissioner
18 under the provisions of subsection (2) of this Section, and
19 if the Commissioner shall find from an examination that the
20 condition of or operation of the investments or assets of the
21 plan is unlawful, fraudulent, or unsafe, or that any trustee
22 has abused his trust, the Commissioner shall, if the
23 situation so found by the Commissioner shall not be corrected
24 to his satisfaction within 60 days after the Commissioner has
25 given notice to the board of directors of the State bank or
26 out-of-state bank of his findings, report the facts to the
27 Attorney General who shall thereupon institute proceedings
28 against the State bank or out-of-state bank, the board of
29 directors thereof, or the trustees under such plan as the
30 nature of the case may require.

31 (6) The Commissioner shall have the power:

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

34 (a-5) To impose conditions on any approval issued

1 by the Commissioner if he determines that the conditions
2 are necessary or appropriate. These conditions shall be
3 imposed in writing and shall continue in effect for the
4 period prescribed by the Commissioner.

5 (b) To issue orders against any person, if the
6 Commissioner has reasonable cause to believe that an
7 unsafe or unsound banking practice has occurred, is
8 occurring, or is about to occur, if any person has
9 violated, is violating, or is about to violate any law,
10 rule, or written agreement with the Commissioner, or for
11 the purpose of administering the provisions of this Act,
12 and any rule promulgated in accordance with this Act.

13 (b-1) To enter into agreements with a bank
14 establishing a program to correct the condition of the
15 bank or its practices.

16 (c) To appoint hearing officers to execute any of
17 the powers granted to the Commissioner under this Section
18 for the purpose of administering this Act and any rule
19 promulgated in accordance with this Act and otherwise to
20 authorize, in writing, an officer or employee of the
21 Office of Banks and Real Estate to exercise his powers
22 under this Act.

23 (d) To subpoena witnesses, to compel their
24 attendance, to administer an oath, to examine any person
25 under oath, and to require the production of any relevant
26 books, papers, accounts, and documents in the course of
27 and pursuant to any investigation being conducted, or any
28 action being taken, by the Commissioner in respect of any
29 matter relating to the duties imposed upon, or the powers
30 vested in, the Commissioner under the provisions of this
31 Act or any rule promulgated in accordance with this Act.

32 (e) To conduct hearings.

33 (7) Whenever, in the opinion of the Commissioner, any
34 director, officer, employee, or agent of a State bank or any

1 subsidiary or bank holding company of the bank or, after May
2 31, 1997, of any branch of an out-of-state bank or any
3 subsidiary or bank holding company of the bank shall have
4 violated any law, rule, or order relating to that bank or any
5 subsidiary or bank holding company of the bank, shall have
6 obstructed or impeded any examination or investigation by the
7 Commissioner, or shall have engaged in an unsafe or unsound
8 practice in conducting the business of that bank or any
9 subsidiary or bank holding company of the bank, or shall have
10 violated any law or engaged or participated in any unsafe or
11 unsound practice in connection with any financial institution
12 or other business entity such that the character and fitness
13 of the director, officer, employee, or agent does not assure
14 reasonable promise of safe and sound operation of the State
15 bank, the Commissioner may issue an order of removal. If, in
16 the opinion of the Commissioner, any former director,
17 officer, employee, or agent of a State bank or any subsidiary
18 or bank holding company of the bank, prior to the termination
19 of his or her service with that bank or any subsidiary or
20 bank holding company of the bank, violated any law, rule, or
21 order relating to that State bank or any subsidiary or bank
22 holding company of the bank, obstructed or impeded any
23 examination or investigation by the Commissioner, or engaged
24 in an unsafe or unsound practice in conducting the business
25 of that bank or any subsidiary or bank holding company of the
26 bank, or violated any law or engaged or participated in any
27 unsafe or unsound practice in connection with any financial
28 institution or other business entity such that the character
29 and fitness of the director, officer, employee, or agent
30 would not have assured reasonable promise of safe and sound
31 operation of the State bank, the Commissioner may issue an
32 order prohibiting that person from further service with a
33 bank or any subsidiary or bank holding company of the bank as
34 a director, officer, employee, or agent. An order issued

1 pursuant to this subsection shall be served upon the
2 director, officer, employee, or agent. A copy of the order
3 shall be sent to each director of the bank affected by
4 registered mail. The person affected by the action may
5 request a hearing before the State Banking Board within 10
6 days after receipt of the order of ~~removal~~. The hearing
7 shall be held by the Board within 30 days after the request
8 has been received by the Board. The Board shall make a
9 determination approving, modifying, or disapproving the order
10 of the Commissioner as its final administrative decision. If
11 a hearing is held by the Board, the Board shall make its
12 determination within 60 days from the conclusion of the
13 hearing. Any person affected by a decision of the Board under
14 this subsection (7) of Section 48 of this Act may have the
15 decision reviewed only under and in accordance with the
16 Administrative Review Law and the rules adopted pursuant
17 thereto. A copy of the order shall also be served upon the
18 bank of which he is a director, officer, employee, or agent,
19 whereupon he shall cease to be a director, officer, employee,
20 or agent of that bank. The Commissioner may institute a
21 civil action against the director, officer, or agent of the
22 State bank or, after May 31, 1997, of the branch of the
23 out-of-state bank against whom any order provided for by this
24 subsection (7) of this Section 48 has been issued, and
25 against the State bank or, after May 31, 1997, out-of-state
26 bank, to enforce compliance with or to enjoin any violation
27 of the terms of the order. Any person who has been the
28 subject of an order of removal or an order of prohibition
29 issued by the Commissioner under this subsection or Section
30 5-6 of the Corporate Fiduciary Act may not thereafter serve
31 as director, officer, employee, or agent of any State bank or
32 of any branch of any out-of-state bank, or of any corporate
33 fiduciary, as defined in Section 1-5.05 of the Corporate
34 Fiduciary Act, or of any other entity that is subject to

1 licensure or regulation by the Commissioner or the Office of
2 Banks and Real Estate unless the Commissioner has granted
3 prior approval in writing.

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

7 (8) The Commissioner may impose civil penalties of up to
8 \$10,000 against any person for each violation of any
9 provision of this Act, any rule promulgated in accordance
10 with this Act, any order of the Commissioner, or any other
11 action which in the Commissioner's discretion is an unsafe or
12 unsound banking practice.

13 (9) The Commissioner may impose civil penalties of up to
14 \$100 against any person for the first failure to comply with
15 reporting requirements set forth in the report of examination
16 of the bank and up to \$200 for the second and subsequent
17 failures to comply with those reporting requirements.

18 (10) All final administrative decisions of the
19 Commissioner hereunder shall be subject to judicial review
20 pursuant to the provisions of the Administrative Review Law.
21 For matters involving administrative review, venue shall be
22 in either Sangamon County or Cook County.

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

25 (a) (Blank).

26 (b) The Foundation is empowered to receive
27 voluntary contributions, gifts, grants, bequests, and
28 donations on behalf of the Illinois Bank Examiners'
29 Education Foundation from national banks and other
30 persons for the purpose of funding the endowment of the
31 Illinois Bank Examiners' Education Foundation.

32 (c) The aggregate of all special educational fees
33 collected by the Commissioner and property received by
34 the Commissioner on behalf of the Illinois Bank

1 Examiners' Education Foundation under this subsection
2 (11) on or after June 30, 1986, shall be either (i)
3 promptly paid after receipt of the same, accompanied by a
4 detailed statement thereof, into the State Treasury and
5 shall be set apart in a special fund to be known as "The
6 Illinois Bank Examiners' Education Fund" to be invested
7 by either the Treasurer of the State of Illinois in the
8 Public Treasurers' Investment Pool or in any other
9 investment he is authorized to make or by the Illinois
10 State Board of Investment as the board of trustees of the
11 Illinois Bank Examiners' Education Foundation may direct
12 or (ii) deposited into an account maintained in a
13 commercial bank or corporate fiduciary in the name of the
14 Illinois Bank Examiners' Education Foundation pursuant to
15 the order and direction of the Board of Trustees of the
16 Illinois Bank Examiners' Education Foundation.

17 (12) (Blank).

18 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
19 90-665, eff. 7-30-98; 91-16, eff. 7-1-99.)

20 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

21 Sec. 48.1. Customer financial records; confidentiality.

22 (a) For the purpose of this Section, the term "financial
23 records" means any original, any copy, or any summary of:

24 (1) a document granting signature authority over a
25 deposit or account;

26 (2) a statement, ledger card or other record on any
27 deposit or account, which shows each transaction in or
28 with respect to that account;

29 (3) a check, draft or money order drawn on a bank
30 or issued and payable by a bank; or

31 (4) any other item containing information
32 pertaining to any relationship established in the
33 ordinary course of a bank's business between a bank and

1 its customer, including financial statements or other
2 financial information provided by the customer.

3 (b) This Section does not prohibit:

4 (1) The preparation, examination, handling or
5 maintenance of any financial records by any officer,
6 employee or agent of a bank having custody of the
7 records, or the examination of the records by a certified
8 public accountant engaged by the bank to perform an
9 independent audit.

10 (2) The examination of any financial records by, or
11 the furnishing of financial records by a bank to, any
12 officer, employee or agent of (i) the Commissioner of
13 Banks and Real Estate, (ii) after May 31, 1997, a state
14 regulatory authority authorized to examine a branch of a
15 State bank located in another state, (iii) the
16 Comptroller of the Currency, (iv) the Federal Reserve
17 Board, or (v) the Federal Deposit Insurance Corporation
18 for use solely in the exercise of his duties as an
19 officer, employee, or agent.

20 (3) The publication of data furnished from
21 financial records relating to customers where the data
22 cannot be identified to any particular customer or
23 account.

24 (4) The making of reports or returns required under
25 Chapter 61 of the Internal Revenue Code of 1986.

26 (5) Furnishing information concerning the dishonor
27 of any negotiable instrument permitted to be disclosed
28 under the Uniform Commercial Code.

29 (6) The exchange in the regular course of business
30 of (i) credit information between a bank and other banks
31 or financial institutions or commercial enterprises,
32 directly or through a consumer reporting agency or (ii)
33 financial records or information derived from financial
34 records between a bank and other banks or financial

1 institutions or commercial enterprises for the purpose of
2 conducting due diligence pursuant to a purchase or sale
3 involving the bank or assets or liabilities of the bank.

4 (7) The furnishing of information to the
5 appropriate law enforcement authorities where the bank
6 reasonably believes it has been the victim of a crime.

7 (8) The furnishing of information under the Uniform
8 Disposition of Unclaimed Property Act.

9 (9) The furnishing of information under the
10 Illinois Income Tax Act and the Illinois Estate and
11 Generation-Skipping Transfer Tax Act.

12 (10) The furnishing of information under the
13 federal Currency and Foreign Transactions Reporting Act
14 Title 31, United States Code, Section 1051 et seq.

15 (11) The furnishing of information under any other
16 statute that by its terms or by regulations promulgated
17 thereunder requires the disclosure of financial records
18 other than by subpoena, summons, warrant, or court order.

19 (12) The furnishing of information about the
20 existence of an account of a person to a judgment
21 creditor of that person who has made a written request
22 for that information.

23 (13) The exchange in the regular course of business
24 of information between commonly owned banks in connection
25 with a transaction authorized under paragraph (23) of
26 Section 5 and conducted at an affiliate facility.

27 (14) The furnishing of information in accordance
28 with the federal Personal Responsibility and Work
29 Opportunity Reconciliation Act of 1996. Any bank governed
30 by this Act shall enter into an agreement for data
31 exchanges with a State agency provided the State agency
32 pays to the bank a reasonable fee not to exceed its
33 actual cost incurred. A bank providing information in
34 accordance with this item shall not be liable to any

1 account holder or other person for any disclosure of
2 information to a State agency, for encumbering or
3 surrendering any assets held by the bank in response to a
4 lien or order to withhold and deliver issued by a State
5 agency, or for any other action taken pursuant to this
6 item, including individual or mechanical errors, provided
7 the action does not constitute gross negligence or
8 willful misconduct. A bank shall have no obligation to
9 hold, encumber, or surrender assets until it has been
10 served with a subpoena, summons, warrant, court or
11 administrative order, lien, or levy.

12 (15) The exchange in the regular course of business
13 of information between a bank and any commonly owned
14 affiliate of the bank, subject to the provisions of the
15 Financial Institutions Insurance Sales Law.

16 (16) The furnishing of information to law
17 enforcement authorities, the Illinois Department on Aging
18 and its regional administrative and provider agencies,
19 the Department of Human Services Office of Inspector
20 General, or public guardians, if the bank suspects that a
21 customer who is an elderly or disabled person has been or
22 may become the victim of financial exploitation. For the
23 purposes of this item (16), the term: (i) "elderly
24 person" means a person who is 60 or more years of age,
25 (ii) "disabled person" means a person who has or
26 reasonably appears to the bank to have a physical or
27 mental disability that impairs his or her ability to seek
28 or obtain protection from or prevent financial
29 exploitation, and (iii) "financial exploitation" means
30 tortious or illegal use of the assets or resources of an
31 elderly or disabled person, and includes, without
32 limitation, misappropriation of the elderly or disabled
33 person's assets or resources by undue influence, breach
34 of fiduciary relationship, intimidation, fraud,

1 deception, extortion, or the use of assets or resources
2 in any manner contrary to law. A bank or person
3 furnishing information pursuant to this item (16) shall
4 be entitled to the same rights and protections as a
5 person furnishing information under the Elder Abuse and
6 Neglect Act and the Illinois Domestic Violence Act of
7 1986.

8 (17) The disclosure of financial records or
9 information as necessary to effect, administer, or
10 enforce a transaction requested or authorized by the
11 customer, or in connection with:

12 (A) servicing or processing a financial
13 product or service requested or authorized by the
14 customer;

15 (B) maintaining or servicing a customer's
16 account with the bank; or

17 (C) a proposed or actual securitization or
18 secondary market sale (including sales of servicing
19 rights) related to a transaction of a customer.

20 Nothing in this item (17), however, authorizes the
21 sale of the financial records or information of a
22 customer without the consent of the customer.

23 (18) The disclosure of financial records or
24 information as necessary to protect against actual or
25 potential fraud, unauthorized transactions, claims, or
26 other liability.

27 (c) Except as otherwise provided by this Act, a bank may
28 not disclose to any person, except to the customer or his
29 duly authorized agent, any financial records or financial
30 information obtained from financial records relating to that
31 customer of that bank unless:

32 (1) the customer has authorized disclosure to the
33 person;

34 (2) the financial records are disclosed in response

1 to a lawful subpoena, summons, warrant or court order
2 which meets the requirements of subsection (d) of this
3 Section; or

4 (3) the bank is attempting to collect an obligation
5 owed to the bank and the bank complies with the
6 provisions of Section 2I of the Consumer Fraud and
7 Deceptive Business Practices Act.

8 (d) A bank shall disclose financial records under
9 paragraph (2) of subsection (c) of this Section under a
10 lawful subpoena, summons, warrant, or court order only after
11 the bank mails a copy of the subpoena, summons, warrant, or
12 court order to the person establishing the relationship with
13 the bank, if living, and, otherwise his personal
14 representative, if known, at his last known address by first
15 class mail, postage prepaid, unless the bank is specifically
16 prohibited from notifying the person by order of court or by
17 applicable State or federal law. A bank shall not mail a
18 copy of a subpoena to any person pursuant to this subsection
19 if the subpoena was issued by a grand jury under the
20 Statewide Grand Jury Act.

21 (e) Any officer or employee of a bank who knowingly and
22 willfully furnishes financial records in violation of this
23 Section is guilty of a business offense and, upon conviction,
24 shall be fined not more than \$1,000.

25 (f) Any person who knowingly and willfully induces or
26 attempts to induce any officer or employee of a bank to
27 disclose financial records in violation of this Section is
28 guilty of a business offense and, upon conviction, shall be
29 fined not more than \$1,000.

30 (g) A bank shall be reimbursed for costs that are
31 reasonably necessary and that have been directly incurred in
32 searching for, reproducing, or transporting books, papers,
33 records, or other data of a customer required or requested to
34 be produced pursuant to a lawful subpoena, summons, warrant,

1 or court order. The Commissioner shall determine the rates
2 and conditions under which payment may be made.

3 (Source: P.A. 90-18, eff. 7-1-97; 90-665, eff. 7-30-98;
4 91-330, eff. 7-29-99; 91-929, eff. 12-15-00.)

5 (205 ILCS 5/48.5)

6 Sec. 48.5. Reliance on Commissioner.

7 (a) The Commissioner may issue an opinion in response to
8 a specific request from a member of the public or the banking
9 industry or on his own initiative. The opinion may be in the
10 form of an interpretive letter, no-objection letter, or other
11 issuance the Commissioner deems appropriate.

12 (b) No bank or other person shall be liable under this
13 Act for any act done or omitted in good faith in conformity
14 with any rule, interpretation, or opinion issued by the
15 Commissioner of Banks and Real Estate, notwithstanding that
16 after the act or omission has occurred, the rule, opinion, or
17 interpretation upon which reliance is placed is amended,
18 rescinded, or determined by judicial or other authority to be
19 invalid for any reason.

20 (Source: P.A. 90-161, eff. 7-23-97; 90-655, eff. 7-30-98.)

21 (205 ILCS 5/49) (from Ch. 17, par. 361)

22 Sec. 49. False statements; penalty. It is unlawful for
23 any officer, director, or employee of any State bank or
24 subsidiary or holding company of that bank or, after May 31,
25 1997, branch out of an out-of-state bank subject to
26 examination by the Commissioner or any person filing an
27 application or notice or submitting information in connection
28 with an application or notice with the Commissioner to who
29 shall willfully and knowingly subscribe to or make, or cause
30 to be made, any false statement or false entry with intent to
31 deceive any person or persons authorized to examine into the
32 affairs of the bank or the subsidiary or holding company of

1 that bank, or the branch of an out-of-state bank, or the
2 applicant or with intent to deceive the Commissioner or his
3 administrative officers in the performance of their duties
4 under this Act. A person who violates this Section is~~7--upon~~
5 ~~conviction thereof, shall be~~ guilty of a Class 3 felony.

6 (Source: P.A. 89-208, eff. 9-29-95.)

7 (205 ILCS 5/51) (from Ch. 17, par. 363)

8 Sec. 51. Capital impairment, etc.; correction.

9 (a) If the Commissioner with respect to a State bank
10 shall find:

11 (1) its capital is impaired or it is otherwise in
12 an unsound condition; or

13 (2) its business is being conducted in an unlawful,
14 including, without limitation, in violation of any
15 provisions of this Act, or in a fraudulent or unsafe
16 manner; or

17 (3) it is unable to continue operations; or

18 (4) its examination has been obstructed or impeded;
19 the Commissioner may give notice to the board of
20 directors or his finding or findings. If the situation so
21 found by the Commissioner shall not be corrected to his
22 satisfaction within a period of at least sixty but no
23 more than one hundred and eighty days after receipt of
24 such notice, which period shall be determined by the
25 Commissioner and set forth in the notice, the
26 Commissioner at the termination of said period shall take
27 possession and control of the bank and its assets as in
28 this Act provided for the purpose of examination,
29 reorganization or liquidation through receivership.

30 (b) If the Commissioner has given notice to the board of
31 directors of his findings, as provided in subsection (a), and
32 the time period prescribed in that notice has expired, the
33 Commissioner may extend the time period prescribed in that

1 notice for such period as the Commissioner deems appropriate.

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

3 (205 ILCS 5/53) (from Ch. 17, par. 365)

4 Sec. 53. Commissioner's possession; power. The
5 Commissioner may take possession and control of a state bank
6 and its assets, by posting upon the premises a notice
7 reciting that he is assuming possession pursuant to this Act,
8 and the time when his possession shall be deemed to commence,
9 which time shall not pre-date the posting of the notice.
10 Promptly after taking possession and control of a bank, if
11 the Federal Deposit Insurance Corporation is not appointed as
12 receiver, the Commissioner shall file a copy of the notice
13 posted upon the premises in the circuit court in the county
14 in which the bank is located, and thereupon the clerk of such
15 court shall note the filing thereof upon the records of the
16 court, and shall enter such cause as a court action upon the
17 dockets of such court under the name and style of "In the
18 matter of the possession and control of the Commissioner of
19 Banks and Real Estate of" (inserting the name of such
20 bank), and thereupon the court wherein such cause is docketed
21 shall be vested with jurisdiction to hear and determine all
22 issues and matters pertaining to or connected with the
23 Commissioner's possession and control of such bank as
24 provided in this Act, and such further issues and matters
25 pertaining to or connected with the Commissioner's possession
26 and control as may be submitted to such court for its
27 adjudication by the Commissioner. When the Commissioner has
28 taken possession and control of a bank and its assets, he
29 shall be vested with the full powers of management and
30 control, including without limiting the generality thereof,
31 the following:

32 (1) the power to continue or to discontinue the
33 business;

1 (2) the power to stop or to limit the payment of
2 its obligations, provided, however with respect to a
3 qualified financial contract between any party and a bank
4 or banking office, the branch or agency of which the
5 Commissioner has taken possession and control, which
6 party has a perfected security interest in collateral or
7 other valid lien or security interest in collateral
8 enforceable against third parties pursuant to a security
9 arrangement related to that qualified financial contract,
10 the party may retain all of the collateral and upon
11 repudiation or termination of that qualified financial
12 contract in accordance with its terms apply the
13 collateral in satisfaction of any claims secured by the
14 collateral; in no event shall the total amount so applied
15 exceed the global net payment obligation, if any;

16 (3) the power to collect and to use its assets and
17 to give valid receipts and acquittances therefor;

18 (4) the power to employ and to pay any necessary
19 assistants;

20 (5) the power to execute any instrument in the name
21 of the bank;

22 (6) the power to commence, defend and conduct in
23 its name any action or proceeding in which it may be a
24 party;

25 (7) the power, upon the order of the court, to sell
26 and convey its assets in whole or in part, and to sell or
27 compound bad or doubtful debts upon such terms and
28 conditions as may be fixed in such order;

29 (8) the power, upon the order of the court, to make
30 and to carry out agreements with other banks or with the
31 United States or any agency thereof which shall have
32 insured the bank's deposits, in whole or in part, for the
33 payment or assumption of the bank's liabilities, in whole
34 or in part, and to transfer assets and to make

1 guaranties, in whole or in part, and to transfer assets
2 and to make guaranties in connection therewith;

3 (9) the power, upon the order of the court, to
4 borrow money in the name of the bank and to pledge its
5 assets as security for the loan;

6 (10) the power to terminate his possession and
7 control by restoring the bank to its board of directors;

8 (11) the power to reorganize the bank as provided
9 in this Act;

10 (12) the power to appoint a receiver and to order
11 liquidation of the bank as provided in this Act; and

12 (13) the power, upon the order of the court and
13 without the appointment of a receiver, to determine that
14 the bank has been closed for the purpose of liquidation
15 without adequate provision being made for payment of its
16 depositors, and thereupon the bank shall be deemed to
17 have been closed on account of inability to meet the
18 demands of its depositors.

19 As soon as practical after taking possession, the
20 Commissioner shall make his examination of the condition of
21 the bank and an inventory of the assets. Unless the time
22 shall be extended by order of the court and, unless the
23 Commissioner shall have otherwise settled the affairs of a
24 bank pursuant to the provisions of this Act, at the
25 termination of thirty days from the time of taking possession
26 and control of a bank for the purpose of examination,
27 reorganization or liquidation through receivership, the
28 Commissioner shall either terminate his possession and
29 control by restoring the bank to its board of directors or
30 appoint a receiver and order the liquidation of the bank as
31 provided in this Act. All necessary and reasonable expenses
32 of the Commissioner's possession and control and of its
33 reorganization shall be borne by the bank and may be paid by
34 the Commissioner from its assets. If the Federal Deposit

1 Insurance Corporation is appointed by the Commissioner as
2 receiver of a State bank, or the Federal Deposit Insurance
3 Corporation takes possession of such State bank, the
4 receivership proceedings and the powers and duties of the
5 Federal Deposit Insurance Corporation shall be governed by
6 the Federal Deposit Insurance Act and regulations promulgated
7 thereunder rather than the provisions of this Act.

8 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

9 Section 15. The Illinois Bank Holding Company Act of
10 1957 is amended by changing Section 3.074 as follows:

11 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

12 Sec. 3.074. Powers; administrative review.

13 (a) The Commissioner shall have the power and authority:

14 (1) ~~(a)~~ to promulgate reasonable procedural rules
15 for the purposes of administering the provisions of this
16 Act. The Commissioner shall specify the form of any
17 application, report or document that is required to be
18 filed with the Commissioner pursuant to this Act;

19 (2) ~~(b)~~ to issue orders for the purpose of
20 administering the provisions of this Act and any rule
21 promulgated in accordance with this Act;

22 (3) ~~(c)~~ to appoint hearing officers to execute any
23 of the powers granted to the Commissioner under this
24 Section for the purpose of administering this Act or any
25 rule promulgated in accordance with this Act; and

26 (4) ~~(d)~~ to subpoena witnesses, to compel their
27 attendance, to administer an oath, to examine any person
28 under oath and to require the production of any relevant
29 books, papers, accounts and documents in the course of
30 and pursuant to any investigation or hearing being
31 conducted or any action being taken by the Commissioner
32 in respect to any matter relating to the duties imposed

1 upon or the powers vested in the Commissioner under the
2 provisions of this Act or any rule promulgated in
3 accordance with this Act, ~~and~~

4 (b) Whenever, in the opinion of the Commissioner, any
5 director, officer, employee, or agent of any bank holding
6 company or subsidiary or affiliate of that company shall have
7 violated any law, rule, or order relating to that bank
8 holding company or subsidiary or affiliate of that company,
9 shall have obstructed or impeded any examination or
10 investigation by the Commissioner, shall have engaged in
11 an unsafe or unsound practice in conducting the business
12 of that bank holding company or subsidiary or affiliate of
13 that company, or shall have violated any law or engaged or
14 participated in any unsafe or unsound practice in
15 connection with any financial institution or other business
16 entity such that the character and fitness of the director,
17 officer, employee, or agent does not assure reasonable
18 promise of safe and sound operation of the bank holding
19 company, the Commissioner may issue an order of removal. If,
20 in the opinion of the Commissioner, any former director,
21 officer, employee, or agent of a bank holding company or
22 subsidiary or affiliate of that company, prior to the
23 termination of his or her service with that holding company
24 or subsidiary or affiliate of that company, violated any law,
25 rule, or order relating to that bank holding company or
26 subsidiary or affiliate of that company, obstructed or
27 impeded any examination or investigation by the Commissioner,
28 engaged in an unsafe or unsound practice in conducting the
29 business of that bank holding company or subsidiary or
30 affiliate of that company, or violated any law or engaged
31 or participated in any unsafe or unsound practice in
32 connection with any financial institution or other business
33 entity such that the character and fitness of the director,
34 officer, employee, or agent would not have assured

1 reasonable promise of safe and sound operation of the bank
2 holding company, the Commissioner may issue an order
3 prohibiting that person from further service with a bank
4 holding company or subsidiary or affiliate of that company as
5 a director, officer, employee, or agent.

6 An order issued pursuant to this subsection shall be
7 served upon the director, officer, employee, or agent. A copy
8 of the order shall be sent to each director of the bank
9 holding company affected by registered mail. The person
10 affected by the action may request a hearing before the State
11 Banking Board within 10 days after receipt of the order. The
12 hearing shall be held by the State Banking Board within 30
13 days after the request has been received by the State Banking
14 Board. The State Banking Board shall make a determination
15 approving, modifying, or disapproving the order of the
16 Commissioner as its final administrative decision. If a
17 hearing is held by the State Banking Board, the State Banking
18 Board shall make its determination within 60 days from the
19 conclusion of the hearing. Any person affected by a decision
20 of the State Banking Board under this subsection may have the
21 decision reviewed only under and in accordance with the
22 Administrative Review Law and the rules adopted pursuant
23 thereto. A copy of the order shall also be served upon the
24 bank holding company of which he is a director, officer,
25 employee, or agent, whereupon he shall cease to be a
26 director, officer, employee, or agent of that bank holding
27 company.

28 The Commissioner may institute a civil action against the
29 director, officer, employee, or agent of the bank holding
30 company, against whom any order provided for by this
31 subsection has been issued, to enforce compliance with or to
32 enjoin any violation of the terms of the order.

33 Any person who has been the subject of an order of
34 removal or an order of prohibition issued by the Commissioner

1 under this subsection, subdivision (7) of Section 48 of the
 2 Illinois Banking Act, or Section 5-6 of the Corporate
 3 Fiduciary Act may not thereafter serve as director, officer,
 4 employee, or agent of any holding company, State bank, or
 5 branch of any out-of-state bank, of any corporate fiduciary,
 6 as defined in Section 1-5.05 of the Corporate Fiduciary Act,
 7 or of any other entity that is subject to licensure or
 8 regulation by the Commissioner or the Office of Banks and
 9 Real Estate unless the Commissioner has granted prior
 10 approval in writing.

11 (c) ~~(e)~~ All final administrative decisions of the
 12 Commissioner under this Act shall be subject to judicial
 13 review pursuant to provisions of the Administrative Review
 14 Law. For matters involving administrative review, venue shall
 15 be in either Sangamon County or Cook County.
 16 (Source: P.A. 86-754.)

17 Section 20. The Illinois Savings and Loan Act of 1985 is
 18 amended by changing Sections 1-6, 2B-2, 2B-5, 3-8, and 5-16
 19 and adding Section 7-3.2 as follows:

20 (205 ILCS 105/1-6) (from Ch. 17, par. 3301-6)
 21 Sec. 1-6. General corporate powers. An association
 22 operating under this Act shall be a body corporate and
 23 politic and shall have all of the powers conferred by this
 24 Act including, but not limited to, the following powers:
 25 (a) To sue and be sued, complain and defend in its
 26 corporate name, and to have a common seal, which it may alter
 27 or renew at pleasure;
 28 (b) To obtain and maintain insurance of the
 29 association's withdrawable capital by an insurance
 30 corporation as defined in this Act;
 31 (c) Notwithstanding anything to the contrary contained
 32 in this Act, to become a member of the Federal Home Loan

1 Bank, and to have all of the powers granted to a savings or
2 thrift institution organized under the laws of the United
3 States and which is located and doing business in the State
4 of Illinois, subject to regulations of the Commissioner;

5 (d) To act as a fiscal agent for the United States, the
6 State of Illinois or any department, branch, arm or agency of
7 the State or any unit of local government or school district
8 in the State when duly designated for that purpose, and as
9 agent to perform the reasonable functions as may be required
10 of it;

11 (e) To become a member of or deal with any corporation
12 or agency of the United States or the State of Illinois, to
13 the extent that the agency assists in furthering or
14 facilitating the association's purposes or powers and to that
15 end to purchase stock or securities thereof or deposit money
16 therewith, and to comply with any other conditions of
17 membership or credit;

18 (f) To make donations in reasonable amounts for the
19 public welfare or for charitable, scientific, religious or
20 educational purposes;

21 (g) To adopt and operate reasonable insurance, bonus,
22 profit sharing, and retirement plans for officers and
23 employees; likewise, directors who are not officers,
24 including, but not limited to, advisory, honorary, and
25 emeritus directors, may participate in those plans;

26 (h) To reject any application for membership, to retire
27 withdrawable capital by enforced retirement as provided in
28 this Act and the by-laws, and to limit the issuance of or
29 payments on withdrawable capital, subject, however, to
30 contractual obligations;

31 (i) To purchase stock in service corporations and to
32 invest in any form of indebtedness of any service corporation
33 as defined in this Act, subject to regulations of the
34 Commissioner;

1 (j) To purchase stock of a corporation whose principal
2 purpose is to operate a safe deposit company or escrow
3 service company;

4 (k) To act as Trustee or Custodian under the Federal
5 Self-Employed Individuals' Tax Retirement Act of 1962 or any
6 amendments thereto or any other retirement account and invest
7 any funds held in such capacity in a savings account of the
8 institution;

9 (l) (Blank);

10 (m) To establish, maintain and operate terminals as
11 authorized by the Electronic Fund Transfer Act and by Section
12 5 of the Illinois Banking Act. The establishment,
13 maintenance, operation and location of such terminals shall
14 be subject to the approval of the Commissioner;

15 (n) Subject to the approval and regulations of the
16 Commissioner, an association may purchase or assume all or
17 any part of the assets or liabilities of an eligible insured
18 bank;

19 (o) To purchase from a bank, as defined in Section 2 of
20 the Illinois Banking Act, an insubstantial portion of the
21 total deposits of an insured bank. For the purpose of this
22 subparagraph, "insubstantial portion of the total deposits"
23 shall have the same meaning as provided in Section 5(d)(2)(D)
24 of the Federal Deposit Insurance Act;

25 (p) To effect an acquisition of or conversion to another
26 financial institution pursuant to Section 205 of the
27 Financial Institutions Reform, Recovery and Enforcement Act
28 of 1989;

29 (q) To pledge its assets:

30 (1) to enable it to act as an agent for the sale of
31 obligations of the United States;

32 (2) to secure deposits;

33 (3) to secure deposits of money whenever required
34 by the National Bankruptcy Act;

1 (4) ~~(Blank) to qualify under Section 2-9 of the~~
2 ~~Corporate Fiduciary Act;~~ and

3 (5) to secure trust funds commingled with the
4 institution's funds, whether deposited by the institution
5 or an affiliate of the institution, as required under
6 Section 2-8 of the Corporate Fiduciary Act;

7 (r) To provide temporary periodic service to persons
8 residing in a bona fide nursing home, senior citizens'
9 retirement home, or long-term care facility;

10 (s) To purchase for its own account shares of stock of a
11 bankers' bank, described in Section 13(b)(1) of the Illinois
12 Banking Act, on the same terms and conditions as a bank may
13 purchase such shares. In no event shall the total amount of
14 such stock held by an association in such bankers' bank
15 exceed 10% of its capital and surplus (including undivided
16 profits) and in no event shall an association acquire more
17 than 5% of any class of voting securities of such bankers'
18 bank;

19 (t) To effect a conversion to a State bank pursuant to
20 the provisions of the Illinois Banking Act;

21 (u) Subject to Article XLIV of the Illinois Insurance
22 Code, to act as the agent for any fire, life, or other
23 insurance company authorized by the State of Illinois, by
24 soliciting and selling insurance and collecting premiums on
25 policies issued by such company; and may receive for services
26 so rendered such fees or commissions as may be agreed upon
27 between the said association and the insurance company for
28 which it may act as agent; provided, however, that no such
29 association shall in any case assume or guarantee the payment
30 of any premium on insurance policies issued through its
31 agency by its principal; and provided further, that the
32 association shall not guarantee the truth of any statement
33 made by an assured in filing his application for insurance;
34 and

1 (v) To exercise all powers necessary to qualify as a
2 trustee or custodian under federal or State law, however, the
3 authority to accept and execute trusts is subject to the
4 Corporate Fiduciary Act and to the supervision of those
5 activities by the Commissioner.

6 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97; 91-97,
7 eff. 7-9-99.)

8 (205 ILCS 105/2B-2) (from Ch. 17, par. 3302B-2)

9 Sec. 2B-2. Notice of filing of application; hearing;
10 renewal of certificate.

11 (a) Whenever such association has complied with the
12 provisions of this Act, and the Commissioner is satisfied
13 that such association and any subsidiary operating in this
14 State are is doing business according to the laws of this
15 State, and are is in sound financial condition, he shall
16 authorize the association to publish in newspapers of general
17 circulation in the State of Illinois, notice of filing of its
18 application, provided that subsections (a) through (e) of
19 this Section shall not apply in the case of merger,
20 consolidation, or purchase as set forth in paragraph (c) of
21 Section 2B-1. Publication in the manner and on forms
22 prescribed by the Commissioner in the county of the proposed
23 office of the association shall be made within 15 days of
24 authorization.

25 (b) Within 10 days following the date of publication of
26 notice of application any association or person wishing to
27 object to any application filed pursuant to Section 2B-1
28 shall:

29 (1) file in triplicate, on forms prescribed by the
30 Commissioner, its verified objections at the Springfield
31 Office of the Commissioner; and

32 (2) serve the applicant or its attorney of record
33 with a copy of the objections and show proof of service

1 of said copy.

2 (c) If the Commissioner considers the verified
3 objections to be substantial, he shall so advise the objector
4 and the applicant within 15 calendar days after receipt of
5 the objections and shall issue notice of intent to conduct a
6 hearing on the application. Such notice shall provide for
7 public examination of the application. A determination that
8 an objection is substantial shall be based only on data
9 showing undue injury to properly conducted existing
10 associations or data disputing the propriety of information
11 set forth in the application, or both.

12 (d) The Commissioner shall conduct a hearing upon
13 receipt of an objection filed on time and containing the
14 following:

15 (1) a summary of the reasons for the objection;

16 (2) the specific matters in the application to
17 which objection is raised and the reasons for each
18 objection;

19 (3) facts supporting the objection, including
20 relevant economic or financial data; and

21 (4) adverse effects on the objector which may
22 result from approval of the application.

23 The time and place of said hearing shall be established
24 by the Commissioner and 20 days notice shall be given to all
25 parties of record. The hearing shall be conducted in
26 conformance with administrative hearing procedures
27 established pursuant to rules and regulations adopted by the
28 Commissioner. A transcript of any such hearing shall be
29 taken and made a part of the record in the matter.

30 (e) A certificate of authority shall not be issued
31 unless the Commissioner finds that a need exists for savings
32 and loan association services in the community or area of
33 operations of the applicant association and the applicant
34 association will satisfy said need or that the association

1 can be maintained without undue injury to properly conducted
2 existing associations.

3 (f) Annually thereafter, upon the filing of the annual
4 statement herein provided for, if the Commissioner finds that
5 the association and any subsidiary operating in this State
6 are is doing business in accordance with this Act and are is
7 otherwise in sound financial condition, he shall issue a
8 renewal of such certificate of Authority.

9 (Source: P.A. 86-210; 86-952.)

10 (205 ILCS 105/2B-5) (from Ch. 17, par. 3302B-5)

11 Sec. 2B-5. Cancellation of authority; notice. Should
12 the Commissioner find, upon examination, that any foreign
13 association or any subsidiary operating in Illinois does not
14 conduct its business in accordance with the law, or that the
15 affairs of any such association or subsidiary are in an
16 unsound condition, or if such association refuses to permit
17 examination to be made, he may cancel the authority of such
18 association to do business in this State, and cause a notice
19 thereof to be sent to the home office of the association, and
20 to be published in at least one newspaper in the City of
21 Springfield. After the publication of such notice, it shall
22 be unlawful for any agent of the association to receive any
23 further stock deposits from members residing in this State,
24 except payments on stock on which a loan has been taken.

25 (Source: P.A. 85-1143.)

26 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

27 Sec. 3-8. Access to books and records; communication
28 with members.

29 (a) Every member or holder of capital shall have the
30 right to inspect the books and records of the association
31 that pertain to his account. Otherwise, the right of
32 inspection and examination of the books and records shall be

1 limited as provided in this Act, and no other person shall
2 have access to the books and records or shall be entitled to
3 a list of the members.

4 (b) For the purpose of this Section, the term "financial
5 records" means any original, any copy, or any summary of (i)
6 a document granting signature authority over a deposit or
7 account; (ii) a statement, ledger card, or other record on
8 any deposit or account that shows each transaction in or with
9 respect to that account; (iii) a check, draft, or money order
10 drawn on an association or issued and payable by an
11 association; or (iv) any other item containing information
12 pertaining to any relationship established in the ordinary
13 course of an association's business between an association
14 and its customer, including financial statements or other
15 financial information provided by the member or holder of
16 capital.

17 (c) This Section does not prohibit:

18 (1) The preparation, examination, handling, or
19 maintenance of any financial records by any officer,
20 employee, or agent of an association having custody of
21 those records or the examination of those records by a
22 certified public accountant engaged by the association to
23 perform an independent audit.;

24 (2) The examination of any financial records by, or
25 the furnishing of financial records by an association to,
26 any officer, employee, or agent of the Commissioner of
27 Banks and Real Estate, Federal Savings and Loan Insurance
28 Corporation and its successors, Federal Deposit Insurance
29 Corporation, Resolution Trust Corporation and its
30 successors, Federal Home Loan Bank Board and its
31 successors, Office of Thrift Supervision, Federal Housing
32 Finance Board, Board of Governors of the Federal Reserve
33 System, any Federal Reserve Bank, or the Office of the
34 Comptroller of the Currency for use solely in the

1 exercise of his duties as an officer, employee, or
2 agent.†

3 (3) The publication of data furnished from
4 financial records relating to members or holders of
5 capital where the data cannot be identified to any
6 particular member, holder of capital, or account.†

7 (4) The making of reports or returns required under
8 Chapter 61 of the Internal Revenue Code of 1986.†

9 (5) Furnishing information concerning the dishonor
10 of any negotiable instrument permitted to be disclosed
11 under the Uniform Commercial Code.†

12 (6) The exchange in the regular course of business
13 of (i) credit information between an association and
14 other associations or financial institutions or
15 commercial enterprises, directly or through a consumer
16 reporting agency or (ii) financial records or information
17 derived from financial records between an association and
18 other associations or financial institutions or
19 commercial enterprises for the purpose of conducting due
20 diligence pursuant to a purchase or sale involving the
21 association or assets or liabilities of the association.†

22 (7) The furnishing of information to the
23 appropriate law enforcement authorities where the
24 association reasonably believes it has been the victim of
25 a crime.†

26 (8) The furnishing of information pursuant to the
27 Uniform Disposition of Unclaimed Property Act.†

28 (9) The furnishing of information pursuant to the
29 Illinois Income Tax Act and the Illinois Estate and
30 Generation-Skipping Transfer Tax Act.†

31 (10) The furnishing of information pursuant to the
32 federal "Currency and Foreign Transactions Reporting
33 Act", (Title 31, United States Code, Section 1051 et
34 seq.) .†

1 (11) The furnishing of information pursuant to any
2 other statute that by its terms or by regulations
3 promulgated thereunder requires the disclosure of
4 financial records other than by subpoena, summons,
5 warrant, or court order.†

6 (12) The exchange of information between an
7 association and an affiliate of the association; as used
8 in this item, "affiliate" includes any company,
9 partnership, or organization that controls, is controlled
10 by, or is under common control with an association.

11 (13) The furnishing of information in accordance
12 with the federal Personal Responsibility and Work
13 Opportunity Reconciliation Act of 1996. Any association
14 governed by this Act shall enter into an agreement for
15 data exchanges with a State agency provided the State
16 agency pays to the association a reasonable fee not to
17 exceed its actual cost incurred. An association
18 providing information in accordance with this item shall
19 not be liable to any account holder or other person for
20 any disclosure of information to a State agency, for
21 encumbering or surrendering any assets held by the
22 association in response to a lien or order to withhold
23 and deliver issued by a State agency, or for any other
24 action taken pursuant to this item, including individual
25 or mechanical errors, provided the action does not
26 constitute gross negligence or willful misconduct. An
27 association shall have no obligation to hold, encumber,
28 or surrender assets until it has been served with a
29 subpoena, summons, warrant, court or administrative
30 order, lien, or levy.

31 (14) The furnishing of information to law
32 enforcement authorities, the Illinois Department on Aging
33 and its regional administrative and provider agencies,
34 the Department of Human Services Office of Inspector

1 General, or public guardians, if the association suspects
2 that a customer who is an elderly or disabled person has
3 been or may become the victim of financial exploitation.
4 For the purposes of this item (14), the term: (i)
5 "elderly person" means a person who is 60 or more years
6 of age, (ii) "disabled person" means a person who has or
7 reasonably appears to the association to have a physical
8 or mental disability that impairs his or her ability to
9 seek or obtain protection from or prevent financial
10 exploitation, and (iii) "financial exploitation" means
11 tortious or illegal use of the assets or resources of an
12 elderly or disabled person, and includes, without
13 limitation, misappropriation of the elderly or disabled
14 person's assets or resources by undue influence, breach
15 of fiduciary relationship, intimidation, fraud,
16 deception, extortion, or the use of assets or resources
17 in any manner contrary to law. An association or person
18 furnishing information pursuant to this item (14) shall
19 be entitled to the same rights and protections as a
20 person furnishing information under the Elder Abuse and
21 Neglect Act and the Illinois Domestic Violence Act of
22 1986.

23 (15) The disclosure of financial records or
24 information as necessary to effect, administer, or
25 enforce a transaction requested or authorized by the
26 member or holder of capital, or in connection with:

27 (A) servicing or processing a financial
28 product or service requested or authorized by the
29 member or holder of capital;

30 (B) maintaining or servicing an account of a
31 member or holder of capital with the association; or

32 (C) a proposed or actual securitization or
33 secondary market sale (including sales of servicing
34 rights) related to a transaction of a member or

1 holder of capital.

2 Nothing in this item (15), however, authorizes the
3 sale of the financial records or information of a member
4 or holder of capital without the consent of the member or
5 holder of capital.

6 (16) The disclosure of financial records or
7 information as necessary to protect against or prevent
8 actual or potential fraud, unauthorized transactions,
9 claims, or other liability.

10 (d) An association may not disclose to any person,
11 except to the member or holder of capital or his duly
12 authorized agent, any financial records relating to that
13 member or holder of capital of that association unless:

14 (1) The member or holder of capital has authorized
15 disclosure to the person; or

16 (2) The financial records are disclosed in response
17 to a lawful subpoena, summons, warrant, or court order
18 that meets the requirements of subsection (e) of this
19 Section.

20 (e) An association shall disclose financial records
21 under subsection (d) of this Section pursuant to a lawful
22 subpoena, summons, warrant, or court order only after the
23 association mails a copy of the subpoena, summons, warrant,
24 or court order to the person establishing the relationship
25 with the association, if living, and, otherwise, his personal
26 representative, if known, at his last known address by first
27 class mail, postage prepaid, unless the association is
28 specifically prohibited from notifying that person by order
29 of court.

30 (f) (1) Any officer or employee of an association who
31 knowingly and willfully furnishes financial records in
32 violation of this Section is guilty of a business offense
33 and, upon conviction, shall be fined not more than \$1,000.

34 (2) Any person who knowingly and willfully induces or

1 attempts to induce any officer or employee of an association
2 to disclose financial records in violation of this Section is
3 guilty of a business offense and, upon conviction, shall be
4 fined not more than \$1,000.

5 (g) However, if any member desires to communicate with
6 the other members of the association with reference to any
7 question pending or to be presented at a meeting of the
8 members, the association shall give him upon request a
9 statement of the approximate number of members entitled to
10 vote at the meeting and an estimate of the cost of preparing
11 and mailing the communication. The requesting member then
12 shall submit the communication to the Commissioner who, if he
13 finds it to be appropriate and truthful, shall direct that it
14 be prepared and mailed to the members upon the requesting
15 member's payment or adequate provision for payment of the
16 expenses of preparation and mailing.

17 (h) An association shall be reimbursed for costs that
18 are necessary and that have been directly incurred in
19 searching for, reproducing, or transporting books, papers,
20 records, or other data of a customer required to be
21 reproduced pursuant to a lawful subpoena, warrant, or court
22 order.

23 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

24 (205 ILCS 105/5-16) (from Ch. 17, par. 3305-16)

25 Sec. 5-16. Limitation on loans to a single borrower.
26 Except for loans to its wholly owned service corporations, an
27 association may not at any one time hold, directly or
28 indirectly, loans to any one corporation or person in a total
29 amount equal to or in excess of 10% of the association's
30 total withdrawable accounts or an amount equal to the total
31 net worth of the association, whichever is less. An
32 association may make loans to a wholly owned service
33 corporation in an amount equal to the association's net worth

1 or in an amount that exceeds an association's net worth if
2 such excess amount is secured by collateral, of a type upon
3 which the association itself could lend, of a value
4 determined in accordance with rules and regulations
5 promulgated by the Commissioner.

6 (a) In computing the total mortgage loans made by an
7 association to an individual, there shall be included all
8 mortgage loans made by the association to a partnership or
9 other unincorporated association of which he is a member, the
10 unpaid balance of mortgage loans made either for his benefit
11 or for the benefit of such partnership or other
12 unincorporated association and all mortgage loans to or for
13 the benefit of a corporation of which he owns or controls 25%
14 or more of the capital stock.

15 (b) In computing the total mortgage loans made by an
16 association to a partnership or other unincorporated
17 association, there shall be included the unpaid balance of
18 mortgage loans to its individual members, the unpaid balance
19 of mortgage loans made for the benefit of such partnership or
20 other unincorporated association, or of any member thereof,
21 and all mortgage loans to or for the benefit of any
22 corporation of which the partnership or unincorporated
23 association, or any member thereof, owns or controls 25% or
24 more of the capital stock.

25 (c) In computing the total mortgage loans made by an
26 association to a corporation, there shall be included the
27 unpaid balance of mortgage loans made for the benefit of the
28 corporation and all mortgage loans to or for the benefit of
29 any individual who owns or controls 25% or more of the
30 capital stock of such corporation.

31 (d) This Section does not apply to the obligations as
32 endorser, whether with or without recourse, or as guarantor,
33 whether conditional or unconditional, of negotiable or
34 nonnegotiable installment consumer paper of the person

1 transferring the same if the association's files or the
2 knowledge of its officers of the financial condition of each
3 maker of those obligations is reasonably adequate and if an
4 officer of the association, designated for that purpose by
5 the board of directors of the association, certifies that the
6 responsibility of each maker of the obligations has been
7 evaluated and that the association is relying primarily upon
8 each maker for the payment of the obligations. The
9 certification shall be in writing and shall be retained as
10 part of the records of the association.

11 (Source: P.A. 86-137.)

12 (205 ILCS 105/7-3.2 new)

13 Sec. 7-3.2. Reliance on Commissioner.

14 (a) The Commissioner may issue an opinion in response to
15 a specific request from a member of the public or the savings
16 association industry or on his own initiative. The opinion
17 may be in the form of an interpretive letter, no-objection
18 letter, or other issuance the Commissioner deems appropriate.

19 (b) If the Commissioner determines that the opinion is
20 useful for the general guidance of the public or
21 associations, the Commissioner may disseminate the opinion by
22 newsletter, via an electronic medium such as the internet, in
23 a volume of statutes or related materials published by the
24 Commissioner or others, or by other means reasonably
25 calculated to notify persons affected by the opinion. A
26 published opinion must be redacted to preserve the
27 confidentiality of the requesting party unless the requesting
28 party consents to be identified in the published opinion.

29 (c) No association or other person shall be liable under
30 this Act for any act done or omitted in good faith in
31 conformity with any rule, interpretation, or opinion issued
32 by the Commissioner, notwithstanding that after the act or
33 omission has occurred, the rule, opinion, or interpretation

1 upon which reliance is placed is amended, rescinded, or
2 determined by judicial or other authority to be invalid for
3 any reason.

4 (205 ILCS 105/11-5 rep.)

5 Section 22. The Illinois Savings and Loan Act of 1985 is
6 amended by repealing Section 11-5.

7 Section 25. The Savings Bank Act is amended by changing
8 Sections 1007.35, 1008, 4005, 4013, 6013, 8015, 10001, 11003,
9 11004, and 11008 and adding Section 9019 as follows:

10 (205 ILCS 205/1007.35) (from Ch. 17, par. 7301-7.35)

11 Sec. 1007.35. "Control", unless specified otherwise in
12 this Act, shall mean:

13 (1) the ability of any person, entity, persons, or
14 entities acting alone or in concert with one or more persons
15 or entities, to own, hold, or direct with power to vote, or
16 to hold proxies representing, 10% or more of the voting
17 shares or rights of a savings bank, savings bank subsidiary,
18 savings bank affiliate, or savings bank holding company; or

19 (2) the ability to achieve in any manner the election or
20 appointment of a majority of the directors of a savings
21 bank; or

22 (3) the power to direct or exercise significant
23 influence over the management or policies of the savings bank
24 or savings bank affiliate.

25 "Control" does not include ~~This--definition--shall--not~~
26 ~~apply--to~~ the voting of proxies obtained from depositors if
27 the proxies are voted as directed by a majority of the board
28 of directors of the savings bank or of a committee of
29 directors when the committee's composition and powers may be
30 revoked by a majority vote of the board of directors.

31 (Source: P.A. 86-1213.)

1 (205 ILCS 205/1008) (from Ch. 17, par. 7301-8)

2 Sec. 1008. General corporate powers.

3 (a) A savings bank operating under this Act shall be a
4 body corporate and politic and shall have all of the powers
5 conferred by this Act including, but not limited to, the
6 following powers:

7 (1) To sue and be sued, complain, and defend in its
8 corporate name and to have a common seal, which it may
9 alter or renew at pleasure.

10 (2) To obtain and maintain insurance by a deposit
11 insurance corporation as defined in this Act.

12 (3) To act as a fiscal agent for the United States,
13 the State of Illinois or any department, branch, arm, or
14 agency of the State or any unit of local government or
15 school district in the State, when duly designated for
16 that purpose, and as agent to perform reasonable
17 functions as may be required of it.

18 (4) To become a member of or deal with any
19 corporation or agency of the United States or the State
20 of Illinois, to the extent that the agency assists in
21 furthering or facilitating its purposes or powers and to
22 that end to purchase stock or securities thereof or
23 deposit money therewith, and to comply with any other
24 conditions of membership or credit.

25 (5) To make donations in reasonable amounts for the
26 public welfare or for charitable, scientific, religious,
27 or educational purposes.

28 (6) To adopt and operate reasonable insurance,
29 bonus, profit sharing, and retirement plans for officers
30 and employees and for directors including, but not
31 limited to, advisory, honorary, and emeritus directors,
32 who are not officers or employees.

33 (7) To reject any application for membership; to
34 retire deposit accounts by enforced retirement as

1 provided in this Act and the bylaws; and to limit the
2 issuance of, or payments on, deposit accounts, subject,
3 however, to contractual obligations.

4 (8) To purchase stock in service corporations and
5 to invest in any form of indebtedness of any service
6 corporation as defined in this Act, subject to
7 regulations of the Commissioner.

8 (9) To purchase stock of a corporation whose
9 principal purpose is to operate a safe deposit company or
10 escrow service company.

11 (10) To exercise all the powers necessary to
12 qualify as a trustee or custodian under federal or State
13 law, provided that the authority to accept and execute
14 trusts is subject to the provisions of the Corporate
15 Fiduciary Act and to the supervision of those activities
16 by the Commissioner.

17 (11) (Blank).

18 (12) To establish, maintain, and operate terminals
19 as authorized by the Electronic Fund Transfer Act.

20 (13) To pledge its assets:

21 (A) to enable it to act as agent for the sale
22 of obligations of the United States;

23 (B) to secure deposits;

24 (C) to secure deposits of money whenever
25 required by the National Bankruptcy Act;

26 (D) (blank) to-qualify-under--Section--2-9--of
27 the-Corporate-Fidueiary-Act; and

28 (E) to secure trust funds commingled with the
29 savings bank's funds, whether deposited by the
30 savings bank or an affiliate of the savings bank, as
31 required under Section 2-8 of the Corporate
32 Fiduciary Act.

33 (14) To accept for payment at a future date not to
34 exceed one year from the date of acceptance, drafts drawn

1 upon it by its customers; and to issue, advise, or
2 confirm letters of credit authorizing holders thereof to
3 draw drafts upon it or its correspondents.

4 (15) Subject to the regulations of the
5 Commissioner, to own and lease personal property acquired
6 by the savings bank at the request of a prospective
7 lessee and, upon the agreement of that person, to lease
8 the personal property.

9 (16) To establish temporary service booths at any
10 International Fair in this State that is approved by the
11 United States Department of Commerce for the duration of
12 the international fair for the purpose of providing a
13 convenient place for foreign trade customers to exchange
14 their home countries' currency into United States
15 currency or the converse. To provide temporary periodic
16 service to persons residing in a bona fide nursing home,
17 senior citizens' retirement home, or long-term care
18 facility. These powers shall not be construed as
19 establishing a new place or change of location for the
20 savings bank providing the service booth.

21 (17) To indemnify its officers, directors,
22 employees, and agents, as authorized for corporations
23 under Section 8.75 of the Business Corporations Act of
24 1983.

25 (18) To provide data processing services to others
26 on a for-profit basis.

27 (19) To utilize any electronic technology to
28 provide customers with home banking services.

29 (20) Subject to the regulations of the
30 Commissioner, to enter into an agreement to act as a
31 surety.

32 (21) Subject to the regulations of the
33 Commissioner, to issue credit cards, extend credit
34 therewith, and otherwise engage in or participate in

1 credit card operations.

2 (22) To purchase for its own account shares of
3 stock of a bankers' bank, described in Section 13(b)(1)
4 of the Illinois Banking Act, on the same terms and
5 conditions as a bank may purchase such shares. In no
6 event shall the total amount of such stock held by a
7 savings bank in such bankers' bank exceed 10% of its
8 capital and surplus (including undivided profits) and in
9 no event shall a savings bank acquire more than 5% of any
10 class of voting securities of such bankers' bank.

11 (23) With respect to affiliate facilities:

12 (A) to conduct at affiliate facilities any of
13 the following transactions for and on behalf of any
14 affiliated depository institution, if so authorized
15 by the affiliate or affiliates: receiving deposits;
16 renewing deposits; cashing and issuing checks,
17 drafts, money orders, travelers checks, or similar
18 instruments; changing money; receiving payments on
19 existing indebtedness; and conducting ministerial
20 functions with respect to loan applications,
21 servicing loans, and providing loan account
22 information; and

23 (B) to authorize an affiliated depository
24 institution to conduct for and on behalf of it, any
25 of the transactions listed in this subsection at one
26 or more affiliate facilities.

27 A savings bank intending to conduct or to authorize
28 an affiliated depository institution to conduct at an
29 affiliate facility any of the transactions specified in
30 this subsection shall give written notice to the
31 Commissioner at least 30 days before any such transaction
32 is conducted at an affiliate facility. All conduct under
33 this subsection shall be on terms consistent with safe
34 and sound banking practices and applicable law.

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

16 (25) To become a member of the Federal Home Loan
17 Bank and to have the powers granted to a savings
18 association organized under the Illinois Savings and Loan
19 Act of 1985 or the laws of the United States, subject to
20 regulations of the Commissioner.

21 (26) To offer any product or service that is at the
22 time authorized or permitted to a bank by applicable law,
23 but subject always to the same limitations and
24 restrictions that are applicable to the bank for the
25 product or service by such applicable law and subject to
26 the applicable provisions of the Financial Institutions
27 Insurance Sales Law and rules of the Commissioner.

28 (b) If this Act or the regulations adopted under this
29 Act fail to provide specific guidance in matters of corporate
30 governance, the provisions of the Business Corporation Act of
31 1983 may be used.

32 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97;
33 90-270, eff. 7-30-97; 90-301, eff. 8-1-97; 90-655, eff.
34 7-30-98; 90-665, eff. 7-30-98; 91-97, eff. 7-9-99; 91-357,

1 eff. 7-29-99.)

2 (205 ILCS 205/4005) (from Ch. 17, par. 7304-5)

3 Sec. 4005. Voting.

4 (a) Voting at a meeting may be either in person or by
5 proxy executed in writing by the member or stockholder or by
6 his duly authorized attorney-in-fact.

7 (b) In the determination of all questions requiring
8 ascertainment of who is entitled to vote and of the number of
9 outstanding shares, the following rules shall apply:

10 (1) The date of determination shall be the record
11 date for voting provided in this Act.

12 (2) Each person holding one or more withdrawable
13 accounts in a mutual savings bank shall have the vote of
14 one share for each \$100 of the aggregate withdrawal value
15 of the accounts and shall have the vote of one share for
16 any fraction of \$100; however, subject to regulation of
17 the Commissioner, a mutual savings bank may in its
18 by-laws limit the number of votes a person may cast to
19 1,000 votes. A mutual savings bank may adopt a different
20 voting arrangement if the Commissioner finds that the
21 arrangement would not be inequitable to members and if
22 the members approve the arrangement by an affirmative
23 vote of at least two-thirds of the votes entitled to be
24 cast, however, the voting arrangement need not obtain the
25 foregoing member approval if such voting arrangement is
26 otherwise approved as part of a corporate change under
27 this Act.

28 (3) Each holder of capital stock held shall have
29 one vote for each share held.

30 (4) Shares owned by the savings bank shall not be
31 counted or voted.

32 (5) A savings bank authorized to issue stock shall
33 provide in its articles of incorporation that voting

1 rights shall may be vested exclusively in stockholders.

2 (Source: P.A. 91-97, eff. 7-9-99.)

3 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

4 Sec. 4013. Access to books and records; communication
5 with members and shareholders.

6 (a) Every member or shareholder shall have the right to
7 inspect books and records of the savings bank that pertain to
8 his accounts. Otherwise, the right of inspection and
9 examination of the books and records shall be limited as
10 provided in this Act, and no other person shall have access
11 to the books and records nor shall be entitled to a list of
12 the members or shareholders.

13 (b) For the purpose of this Section, the term "financial
14 records" means any original, any copy, or any summary of (1)
15 a document granting signature authority over a deposit or
16 account; (2) a statement, ledger card, or other record on any
17 deposit or account that shows each transaction in or with
18 respect to that account; (3) a check, draft, or money order
19 drawn on a savings bank or issued and payable by a savings
20 bank; or (4) any other item containing information pertaining
21 to any relationship established in the ordinary course of a
22 savings bank's business between a savings bank and its
23 customer, including financial statements or other financial
24 information provided by the member or shareholder.

25 (c) This Section does not prohibit:

26 (1) The preparation examination, handling, or
27 maintenance of any financial records by any officer,
28 employee, or agent of a savings bank having custody of
29 records or examination of records by a certified public
30 accountant engaged by the savings bank to perform an
31 independent audit.

32 (2) The examination of any financial records by, or
33 the furnishing of financial records by a savings bank to,

1 any officer, employee, or agent of the Commissioner of
2 Banks and Real Estate or the Federal Deposit Insurance
3 Corporation for use solely in the exercise of his duties
4 as an officer, employee, or agent.

5 (3) The publication of data furnished from
6 financial records relating to members or holders of
7 capital where the data cannot be identified to any
8 particular member, shareholder, or account.

9 (4) The making of reports or returns required under
10 Chapter 61 of the Internal Revenue Code of 1986.

11 (5) Furnishing information concerning the dishonor
12 of any negotiable instrument permitted to be disclosed
13 under the Uniform Commercial Code.

14 (6) The exchange in the regular course of business
15 of (i) credit information between a savings bank and
16 other savings banks or financial institutions or
17 commercial enterprises, directly or through a consumer
18 reporting agency or (ii) financial records or information
19 derived from financial records between a savings bank and
20 other savings banks or financial institutions or
21 commercial enterprises for the purpose of conducting due
22 diligence pursuant to a purchase or sale involving the
23 savings bank or assets or liabilities of the savings
24 bank.

25 (7) The furnishing of information to the
26 appropriate law enforcement authorities where the savings
27 bank reasonably believes it has been the victim of a
28 crime.

29 (8) The furnishing of information pursuant to the
30 Uniform Disposition of Unclaimed Property Act.

31 (9) The furnishing of information pursuant to the
32 Illinois Income Tax Act and the Illinois Estate and
33 Generation-Skipping Transfer Tax Act.

34 (10) The furnishing of information pursuant to the

1 federal "Currency and Foreign Transactions Reporting
2 Act", (Title 31, United States Code, Section 1051 et
3 seq.).

4 (11) The furnishing of information pursuant to any
5 other statute which by its terms or by regulations
6 promulgated thereunder requires the disclosure of
7 financial records other than by subpoena, summons,
8 warrant, or court order.

9 (12) The furnishing of information in accordance
10 with the federal Personal Responsibility and Work
11 Opportunity Reconciliation Act of 1996. Any savings bank
12 governed by this Act shall enter into an agreement for
13 data exchanges with a State agency provided the State
14 agency pays to the savings bank a reasonable fee not to
15 exceed its actual cost incurred. A savings bank
16 providing information in accordance with this item shall
17 not be liable to any account holder or other person for
18 any disclosure of information to a State agency, for
19 encumbering or surrendering any assets held by the
20 savings bank in response to a lien or order to withhold
21 and deliver issued by a State agency, or for any other
22 action taken pursuant to this item, including individual
23 or mechanical errors, provided the action does not
24 constitute gross negligence or willful misconduct. A
25 savings bank shall have no obligation to hold, encumber,
26 or surrender assets until it has been served with a
27 subpoena, summons, warrant, court or administrative
28 order, lien, or levy.

29 (13) The furnishing of information to law
30 enforcement authorities, the Illinois Department on Aging
31 and its regional administrative and provider agencies,
32 the Department of Human Services Office of Inspector
33 General, or public guardians, if the savings bank
34 suspects that a customer who is an elderly or disabled

1 person has been or may become the victim of financial
2 exploitation. For the purposes of this item (13), the
3 term: (i) "elderly person" means a person who is 60 or
4 more years of age, (ii) "disabled person" means a person
5 who has or reasonably appears to the savings bank to have
6 a physical or mental disability that impairs his or her
7 ability to seek or obtain protection from or prevent
8 financial exploitation, and (iii) "financial
9 exploitation" means tortious or illegal use of the assets
10 or resources of an elderly or disabled person, and
11 includes, without limitation, misappropriation of the
12 elderly or disabled person's assets or resources by undue
13 influence, breach of fiduciary relationship,
14 intimidation, fraud, deception, extortion, or the use of
15 assets or resources in any manner contrary to law. A
16 savings bank or person furnishing information pursuant to
17 this item (13) shall be entitled to the same rights and
18 protections as a person furnishing information under the
19 Elder Abuse and Neglect Act and the Illinois Domestic
20 Violence Act of 1986.

21 (14) The disclosure of financial records or
22 information as necessary to effect, administer, or
23 enforce a transaction requested or authorized by the
24 member or holder of capital, or in connection with:

25 (A) servicing or processing a financial
26 product or service requested or authorized by the
27 member or holder of capital;

28 (B) maintaining or servicing an account of a
29 member or holder of capital with the savings bank;
30 or

31 (C) a proposed or actual securitization or
32 secondary market sale (including sales of servicing
33 rights) related to a transaction of a member or
34 holder of capital.

1 Nothing in this item (14), however, authorizes the
 2 sale of the financial records or information of a member
 3 or holder of capital without the consent of the member or
 4 holder of capital.

5 (15) The exchange in the regular course of business
 6 of information between a savings bank and any commonly
 7 owned affiliate of the savings bank, subject to the
 8 provisions of the Financial Institutions Insurance Sales
 9 Law.

10 (16) The disclosure of financial records or
 11 information as necessary to protect against or prevent
 12 actual or potential fraud, unauthorized transactions,
 13 claims, or other liability.

14 (d) A savings bank may not disclose to any person,
 15 except to the member or holder of capital or his duly
 16 authorized agent, any financial records relating to that
 17 member or shareholder of the savings bank unless:

18 (1) the member or shareholder has authorized
 19 disclosure to the person; or

20 (2) the financial records are disclosed in response
 21 to a lawful subpoena, summons, warrant, or court order
 22 that meets the requirements of subsection (e) of this
 23 Section.

24 (e) A savings bank shall disclose financial records
 25 under subsection (d) of this Section pursuant to a lawful
 26 subpoena, summons, warrant, or court order only after the
 27 savings bank mails a copy of the subpoena, summons, warrant,
 28 or court order to the person establishing the relationship
 29 with the savings bank, if living, and otherwise, his personal
 30 representative, if known, at his last known address by first
 31 class mail, postage prepaid, unless the savings bank is
 32 specifically prohibited from notifying the person by order of
 33 court.

34 (f) Any officer or employee of a savings bank who

1 knowingly and willfully furnishes financial records in
2 violation of this Section is guilty of a business offense
3 and, upon conviction, shall be fined not more than \$1,000.

4 (g) Any person who knowingly and willfully induces or
5 attempts to induce any officer or employee of a savings bank
6 to disclose financial records in violation of this Section is
7 guilty of a business offense and, upon conviction, shall be
8 fined not more than \$1,000.

9 (h) If any member or shareholder desires to communicate
10 with the other members or shareholders of the savings bank
11 with reference to any question pending or to be presented at
12 an annual or special meeting, the savings bank shall give
13 that person, upon request, a statement of the approximate
14 number of members or shareholders entitled to vote at the
15 meeting and an estimate of the cost of preparing and mailing
16 the communication. The requesting member shall submit the
17 communication to the Commissioner who, upon finding it to be
18 appropriate and truthful, shall direct that it be prepared
19 and mailed to the members upon the requesting member's or
20 shareholder's payment or adequate provision for payment of
21 the expenses of preparation and mailing.

22 (i) A savings bank shall be reimbursed for costs that
23 are necessary and that have been directly incurred in
24 searching for, reproducing, or transporting books, papers,
25 records, or other data of a customer required to be
26 reproduced pursuant to a lawful subpoena, warrant, or court
27 order.

28 (j) Notwithstanding the provisions of this Section, a
29 savings bank may sell or otherwise make use of lists of
30 customers' names and addresses. All other information
31 regarding a customer's account are subject to the disclosure
32 provisions of this Section. At the request of any customer,
33 that customer's name and address shall be deleted from any
34 list that is to be sold or used in any other manner beyond

1 identification of the customer's accounts.

2 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

3 (205 ILCS 205/6013) (from Ch. 17, par. 7306-13)

4 Sec. 6013. Loans to one borrower.

5 (a) Except as provided in subsection (c), the total
6 loans and extensions of credit, both direct and indirect, by
7 a savings bank to any person, other than a municipal
8 corporation for money borrowed, outstanding at one time shall
9 not exceed 20% of the savings bank's total capital plus
10 general loan loss reserves.

11 (b) Except as provided in subsection (c), the total
12 loans and extensions of credit, both direct and indirect, by
13 a savings bank to any person outstanding at one time and at
14 least 100% secured by readily marketable collateral having a
15 market value, as determined by reliable and continuously
16 available price quotations, shall not exceed 10% of the
17 savings bank's total capital plus general loan loss reserves.
18 This limitation shall be separate from and in addition to the
19 limitation contained in subsection (a).

20 (c) If the limit under subsection (a) or (b) on total
21 loans to one borrower is less than \$500,000, a savings bank
22 that meets its minimum capital requirement under this Act may
23 have loan and extensions of credit, both direct and indirect,
24 outstanding to any person at one time not to exceed \$500,000.
25 With the prior written approval of the Commissioner, a
26 savings bank that has capital in excess of 6% of assets may
27 make loans and extensions of credit to one borrower for the
28 development of residential housing properties, located or to
29 be located in this State, not to exceed 30% of the savings
30 bank's total capital plus general loan loss reserves.

31 (d) For purposes of this Section, the term "person"
32 shall be deemed to include an individual, firm, corporation,
33 business trust, partnership, trust, estate, association,

1 joint venture, pool, syndicate, sole proprietorship,
2 unincorporated association, any political subdivision, or any
3 similar entity or organization.

4 (e) For the purposes of this Section any loan or
5 extension of credit granted to one person, the proceeds of
6 which are used for the direct benefit of a second person,
7 shall be deemed a loan or extension of credit to the second
8 person as well as the first person. In addition, a loan or
9 extension of credit to one person shall be deemed a loan or
10 extension of credit to others when a common enterprise exists
11 between the first person and such other persons.

12 (f) For the purposes of this Section, the total
13 liabilities of a firm, partnership, pool, syndicate, or joint
14 venture shall include the liabilities of the members of the
15 entity.

16 (g) For the purposes of this Section, the term "readily
17 marketable collateral" means financial instruments or bullion
18 that are salable under ordinary circumstances with reasonable
19 promptness at a fair market value on an auction or a
20 similarly available daily bid-and-ask price market.
21 "Financial instruments" include stocks, bonds, notes,
22 debentures traded on a national exchange or over the counter,
23 commercial paper, negotiable certificates of deposit,
24 bankers' acceptances, and shares in money market or mutual
25 funds.

26 (h) Each savings bank shall institute adequate
27 procedures to ensure that collateral fully secures the
28 outstanding loan or extension of credit at all times.

29 (i) If collateral values fall below 100% of the
30 outstanding loan or extension of credit to the extent that
31 the loan or extension of credit no longer is in conformance
32 with subsection (b) and exceeds the 20% limitation of
33 subsection (a), the loan must be brought into conformance
34 with this Section within 5 business days except where

1 judicial proceedings or other similar extraordinary
2 occurrences prevent the savings bank from taking action.

3 (j) This Section shall not apply to loans or extensions
4 of credit to the United States of America or its agencies or
5 this State or its agencies or to any loan, investment, or
6 extension of credit made pursuant to Section 6003 of this
7 Act.

8 (k) This Section does not apply to the obligations as
9 endorser, whether with or without recourse, or as guarantor,
10 whether conditional or unconditional, of negotiable or
11 nonnegotiable installment consumer paper of the person
12 transferring the same if the bank's files or the knowledge of
13 its officers of the financial condition of each maker of
14 those obligations is reasonably adequate and if an officer of
15 the bank, designated for that purpose by the board of
16 directors of the bank, certifies that the responsibility of
17 each maker of the obligations has been evaluated and that the
18 bank is relying primarily upon each maker for the payment of
19 the obligations. The certification shall be in writing and
20 shall be retained as part of the records of the bank.

21 (l) The Commissioner may prescribe rules to carry out
22 the purposes of this Section and to establish limits or
23 requirements other than those specified in this Section for
24 particular types of loans and extensions of credit.

25 (Source: P.A. 89-74, eff. 6-30-95; 90-665, eff. 7-30-98.)

26 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)

27 Sec. 8015. Change in control.

28 (a) Any person, whether acting directly or indirectly or
29 through or in concert with one or more persons, shall give
30 the Commissioner 60 days written notice of intent to acquire
31 control ~~of 10% or more~~ of a savings bank or savings bank
32 affiliate operating under this Act. The Commissioner shall
33 promulgate rules to implement this provision including

1 definitions, application, procedures, standards for approval
2 or disapproval.

3 (b) The Commissioner may examine the books and records
4 of any person giving notice of intent to acquire control of
5 ~~10%-or-more~~ of a savings bank operating under this Act.

6 (c) The Commissioner may approve or disapprove an
7 application for change of control. In either case, the
8 decision must be issued within 30 days of the filing of the
9 initial application or the date of receipt of any additional
10 information requested by the Commissioner that is necessary
11 for his decision to be made. The request for additional
12 information must be made within 20 days of the filing of the
13 initial application.

14 (Source: P.A. 86-1213.)

15 (205 ILCS 205/9019 new)

16 Sec. 9019. Reliance on the Commissioner.

17 (a) The Commissioner may issue an opinion in response to
18 a specific request from a member of the public or the banking
19 or thrift industry or on his own initiative. The opinion may
20 be in the form of an interpretive letter, no-objection
21 letter, or other issuance the Commissioner deems appropriate.

22 (b) If the Commissioner determines that the opinion is
23 useful for the general guidance of the public or savings
24 banks, the Commissioner may disseminate the opinion by
25 newsletter, via an electronic medium such as the internet, in
26 a volume of statutes or related materials published by the
27 Commissioner or others, or by other means reasonably
28 calculated to notify persons affected by the opinion. A
29 published opinion must be redacted to preserve the
30 confidentiality of the requesting party unless the requesting
31 party consents to be identified in the published opinion.

32 (c) No savings bank or other person shall be liable
33 under this Act for any act done or omitted in good faith in

1 conformity with any rule, interpretation, or opinion issued
2 by the Commissioner, notwithstanding that after the act or
3 omission has occurred, the rule, interpretation, or opinion
4 upon which reliance is placed is amended, rescinded, or
5 determined by judicial or other authority to be invalid for
6 any reason.

7 (205 ILCS 205/10001) (from Ch. 17, par. 7310-1)
8 Sec. 10001. Commissioner's authority to take custody and
9 appoint a conservator or a receiver.

10 (a) The Commissioner, in his discretion, may take
11 custody of and appoint a conservator for the property,
12 liabilities, books, records, business, and assets of every
13 kind and character of any savings bank for any of the
14 purposes hereinafter enumerated if it appears from reports
15 made to the Commissioner or from examination made by or on
16 behalf of the Commissioner:

17 (1) That the savings bank has failed to produce an
18 annual audited financial statement, after receiving one
19 extension from the Commissioner as permitted by this Act.

20 (2) That the savings bank's books and records,
21 after at least 2 consecutive notices from the
22 Commissioner spanning at least 2 consecutive calendar
23 quarters, are in an inaccurate and incomplete condition
24 to the extent that the Commissioner is unable, through
25 the normal supervisory process, to determine the
26 financial condition of the savings bank or the details or
27 purpose of any transaction that may materially affect the
28 savings bank's financial condition.

29 (3) That the savings bank has failed or is about to
30 fail to meet its capital requirement and can meet its
31 requirements and restore its capital only with assistance
32 from its federal insurer.

33 (4) That the savings bank is insolvent in that its

1 assets are less than its obligations to its creditors,
2 including its depositors.

3 (5) That the savings bank has experienced
4 substantial dissipation of assets due to any violation of
5 a law, regulation, or order of the Commissioner or due to
6 any unsafe or unsound practice.

7 (6) That there is a likelihood that the savings
8 bank will not be able to meet the demands of its
9 depositors or pay its obligations in the normal course of
10 business.

11 (7) That losses have occurred or are likely to
12 occur that have or will deplete all or substantially all
13 of the savings bank's capital and that there is no
14 reasonable prospect for replenishment of the savings
15 bank's capital without federal assistance.

16 (8) That the savings bank or its officers,
17 directors, ~~or~~ employees, or persons in control of the
18 savings bank are violating a law, regulation, or
19 supervisory order of the Commissioner or of another of
20 its financial regulators.

21 (9) That the savings bank is in an unsafe or
22 unsound condition likely to cause insolvency or a
23 substantial dissipation of assets or earnings that will
24 weaken the condition of the savings bank and will
25 prejudice the interests of its depositors.

26 (10) That the directors, officers, trustees, or
27 liquidators have neglected, failed, or refused to take
28 any action that the Commissioner may deem necessary for
29 the protection of the savings bank, including production
30 of an annual audited financial statement after an
31 extension was granted, have continued to maintain the
32 savings bank's books and records in an inaccurate and
33 incomplete condition for 2 consecutive quarters after 2
34 notices from the Commissioner, or have impeded or

1 obstructed an examination.

2 (11) That the deposit accounts of the savings bank
3 are impaired to the extent that the realizable value of
4 its assets is insufficient to pay in full its creditors
5 and holders of its deposit accounts or meet its
6 obligations in the normal course of business; or that its
7 capital stock is impaired.

8 (12) That the savings bank is unable to continue
9 operation.

10 (13) That the business of the savings bank or
11 savings bank in liquidation is being conducted in a
12 fraudulent, illegal, or unsafe or unsound manner.

13 (14) That the officers, employees, trustees, or
14 liquidators have continued to assume duties or perform
15 acts without giving bond as required by the provisions of
16 this Act.

17 (b) If any condition exists that would give the
18 Commissioner authority to take custody of an insured
19 depository institution, the action of the Commissioner may be
20 withheld pending a satisfactory resolution of the condition
21 as suggested by the insurance corporation, provided the
22 savings bank has sufficient liquidity and has adopted and
23 implemented an operating plan considered prudent by the
24 Commissioner.

25 (c) No action or inaction of the Commissioner taken
26 under this Article shall cause the Commissioner to be
27 personally liable for that action or inaction unless the
28 Commissioner's action or inaction is found to be in violation
29 of a criminal statute.

30 (d) The Commissioner shall promulgate rules and
31 regulations to govern the determination of a need for a
32 conservator or receiver, the selection and appointment of a
33 conservator or receiver, and the conduct of a conservatorship
34 or receivership, including allocation of the payment of

1 costs.

2 (e) The proceedings pursuant to this Article shall be
3 the exclusive remedy and, except for the Federal Deposit
4 Insurance Corporation acting pursuant to the Federal Deposit
5 Insurance Act, shall be the only proceedings commenced in any
6 court for the taking of custody, the dissolution, the winding
7 up of the affairs, or the appointment of a receiver for a
8 savings bank.

9 (Source: P.A. 90-301, eff. 8-1-97.)

10 (205 ILCS 205/11003) (from Ch. 17, par. 7311-3)

11 Sec. 11003. Removal and prohibition authority.

12 (a) In addition to other provisions of this Act
13 concerning officers and directors, the Commissioner may
14 remove or suspend from any savings bank operating under this
15 Act any officer, director, employee, or agent of a savings
16 bank, and the Commissioner may prohibit participation in the
17 affairs of any savings bank by any current, former, or
18 prospective officer, director, employee, or agent of a
19 savings bank, if he finds that:

20 (1) The person or persons have directly or
21 indirectly violated any law, regulation, or order
22 including orders, conditions, and agreements between the
23 savings bank and the Commissioner or between the savings
24 bank and its federal regulators.

25 (2) The person or persons have breached their
26 fiduciary or professional responsibilities to the savings
27 bank.

28 (3) The person or persons have similarly behaved
29 towards any other insured depository institution or
30 otherwise regulated entity or that the person or persons
31 are the subject of any final order issued by the federal
32 insurer, the Office of the Comptroller of the Currency,
33 the Federal Reserve Board, a state financial institutions

1 regulator, the Securities and Exchange Commission, or by
2 a state or federal court of law.

3 (b) The Commissioner may serve upon a party a written
4 notice of the Commissioner's intention to remove or suspend
5 the party from office in the savings bank or to prohibit any
6 further participation in any manner by the party in the
7 ~~conduct---of--the~~ affairs of any savings bank ~~financial~~
8 ~~institution~~, if the Commissioner finds because of a violation
9 of subsection (a) that:

10 (1) Any savings bank, other insured depository
11 institution, or other regulated entity has or probably
12 will suffer financial loss or other damage.

13 (2) The interests of savings bank's depositors or
14 other insured depository institution's depositors have
15 been or could be prejudiced.

16 (3) The party has received financial gain or other
17 benefit by reason of the violation.

18 (4) The violation or breach involves personal
19 dishonesty on the part of the party or demonstrates
20 willful or continuing disregard by the party for the
21 safety and soundness of the savings bank or other insured
22 depository institution.

23 (Source: P.A. 86-1213.)

24 (205 ILCS 205/11004) (from Ch. 17, par. 7311-4)

25 Sec. 11004. Industrywide prohibition.

26 (a) Except as provided in regulations of the
27 Commissioner, any person who has been removed or suspended
28 from office in a savings bank operating under this Act or
29 prohibited from participating in the ~~conduct-of-the~~ affairs
30 of a savings bank operating under this Act may not, while an
31 order is in effect, continue or begin to hold any office in,
32 or participate in any manner in the ~~conduct-of-the~~ affairs of
33 any savings bank regulated by the State of Illinois, another

1 insured depository institution regulated by the State of
2 Illinois, or any other financial services entity regulated by
3 the State of Illinois.

4 (b) Any violation of subsection (a) by any person who is
5 subject to an order described in that subsection shall be
6 treated as violation of the order.

7 (Source: P.A. 86-1213.)

8 (205 ILCS 205/11008) (from Ch. 17, par. 7311-8)

9 Sec. 11008. Unauthorized participation by convicted
10 individual.

11 (a) Except with the prior written consent of the
12 Commissioner, no person who has been convicted of any
13 criminal offense involving dishonesty or a breach of trust
14 may own or control directly or indirectly more than 0.001% of
15 the capital stock of, receive benefit directly or indirectly
16 from, or participate directly or indirectly in any manner in
17 the ~~conduct of the~~ affairs of a savings bank.

18 (b) A savings bank may not permit participation by a
19 person described in subsection (a).

20 (c) Whoever knowingly violates subsection (a) or (b) is
21 guilty of a Class 3 felony and may be fined not more than
22 \$10,000 for each day of violation.

23 (Source: P.A. 91-97, eff. 7-9-99.)

24 (205 ILCS 205/11012 rep.)

25 Section 27. The Savings Bank Act is amended by repealing
26 Section 11012.

27 Section 28. The Illinois Credit Union Act is amended by
28 changing Section 10 as follows:

29 (205 ILCS 305/10) (from Ch. 17, par. 4411)

30 Sec. 10. Credit union records; member financial records.

1 (1) A credit union shall establish and maintain books,
2 records, accounting systems and procedures which accurately
3 reflect its operations and which enable the Department to
4 readily ascertain the true financial condition of the credit
5 union and whether it is complying with this Act.

6 (2) A photostatic or photographic reproduction of any
7 credit union records shall be admissible as evidence of
8 transactions with the credit union.

9 (3) (a) For the purpose of this Section, the term
10 "financial records" means any original, any copy, or any
11 summary of (1) a document granting signature authority
12 over an account, (2) a statement, ledger card or other
13 record on any account which shows each transaction in or
14 with respect to that account, (3) a check, draft or money
15 order drawn on a financial institution or other entity or
16 issued and payable by or through a financial institution
17 or other entity, or (4) any other item containing
18 information pertaining to any relationship established in
19 the ordinary course of business between a credit union
20 and its member, including financial statements or other
21 financial information provided by the member.

22 (b) This Section does not prohibit:

23 (1) The preparation, examination, handling or
24 maintenance of any financial records by any officer,
25 employee or agent of a credit union having custody
26 of such records, or the examination of such records
27 by a certified public accountant engaged by the
28 credit union to perform an independent audit.;

29 (2) The examination of any financial records
30 by or the furnishing of financial records by a
31 credit union to any officer, employee or agent of
32 the Department, the National Credit Union
33 Administration, Federal Reserve board or any insurer
34 of share accounts for use solely in the exercise of

1 his duties as an officer, employee or agent.†

2 (3) The publication of data furnished from
3 financial records relating to members where the data
4 cannot be identified to any particular customer of
5 account.†

6 (4) The making of reports or returns required
7 under Chapter 61 of the Internal Revenue Code of
8 1954.†

9 (5) Furnishing information concerning the
10 dishonor of any negotiable instrument permitted to
11 be disclosed under the Uniform Commercial Code.†

12 (6) The exchange in the regular course of
13 business of (i) credit information between a credit
14 union and other credit unions or financial
15 institutions or commercial enterprises, directly or
16 through a consumer reporting agency or (ii)
17 financial records or information derived from
18 financial records between a credit union and other
19 credit unions or financial institutions or
20 commercial enterprises for the purpose of conducting
21 due diligence pursuant to a merger or a purchase or
22 sale of assets or liabilities of the credit union.†

23 (7) The furnishing of information to the
24 appropriate law enforcement authorities where the
25 credit union reasonably believes it has been the
26 victim of a crime.†

27 (8) The furnishing of information pursuant to
28 the Uniform Disposition of Unclaimed Property Act.†

29 (9) The furnishing of information pursuant to
30 the Illinois Income Tax Act and the Illinois Estate
31 and Generation-Skipping Transfer Tax Act.†

32 (10) The furnishing of information pursuant to
33 the federal "Currency and Foreign Transactions
34 Reporting Act", Title 31, United States Code,

1 Section 1051 et sequentia. ~~er~~

2 (11) The furnishing of information pursuant to
3 any other statute which by its terms or by
4 regulations promulgated thereunder requires the
5 disclosure of financial records other than by
6 subpoena, summons, warrant or court order.

7 (12) The furnishing of information in
8 accordance with the federal Personal Responsibility
9 and Work Opportunity Reconciliation Act of 1996. Any
10 credit union governed by this Act shall enter into
11 an agreement for data exchanges with a State agency
12 provided the State agency pays to the credit union a
13 reasonable fee not to exceed its actual cost
14 incurred. A credit union providing information in
15 accordance with this item shall not be liable to any
16 account holder or other person for any disclosure of
17 information to a State agency, for encumbering or
18 surrendering any assets held by the credit union in
19 response to a lien or order to withhold and deliver
20 issued by a State agency, or for any other action
21 taken pursuant to this item, including individual or
22 mechanical errors, provided the action does not
23 constitute gross negligence or willful misconduct. A
24 credit union shall have no obligation to hold,
25 encumber, or surrender assets until it has been
26 served with a subpoena, summons, warrant, court or
27 administrative order, lien, or levy.

28 (13) The furnishing of information to law
29 enforcement authorities, the Illinois Department on
30 Aging and its regional administrative and provider
31 agencies, the Department of Human Services Office of
32 Inspector General, or public guardians, if the
33 credit union suspects that a member who is an
34 elderly or disabled person has been or may become

1 the victim of financial exploitation. For the
2 purposes of this item (13), the term: (i) "elderly
3 person" means a person who is 60 or more years of
4 age, (ii) "disabled person" means a person who has
5 or reasonably appears to the credit union to have a
6 physical or mental disability that impairs his or
7 her ability to seek or obtain protection from or
8 prevent financial exploitation, and (iii) "financial
9 exploitation" means tortious or illegal use of the
10 assets or resources of an elderly or disabled
11 person, and includes, without limitation,
12 misappropriation of the elderly or disabled person's
13 assets or resources by undue influence, breach of
14 fiduciary relationship, intimidation, fraud,
15 deception, extortion, or the use of assets or
16 resources in any manner contrary to law. A credit
17 union or person furnishing information pursuant to
18 this item (13) shall be entitled to the same rights
19 and protections as a person furnishing information
20 under the Elder Abuse and Neglect Act and the
21 Illinois Domestic Violence Act of 1986.

22 (14) The disclosure of financial records or
23 information as necessary to effect, administer, or
24 enforce a transaction requested or authorized by the
25 member, or in connection with:

26 (A) servicing or processing a financial
27 product or service requested or authorized by
28 the member;

29 (B) maintaining or servicing a member's
30 account with the credit union; or

31 (C) a proposed or actual securitization
32 or secondary market sale (including sales of
33 servicing rights) related to a transaction of a
34 member.

1 Nothing in this item (14), however, authorizes the
2 sale of the financial records or information of a member
3 without the consent of the member.

4 (15) The disclosure of financial records or
5 information as necessary to protect against or prevent
6 actual or potential fraud, unauthorized transactions,
7 claims, or other liability.

8 (c) Except as otherwise provided by this Act, a credit
9 union may not disclose to any person, except to the member or
10 his duly authorized agent, any financial records relating to
11 that member of the credit union unless:

12 (1) the member has authorized disclosure to the
13 person;

14 (2) the financial records are disclosed in response
15 to a lawful subpoena, summons, warrant or court order
16 that meets the requirements of subparagraph (d) of this
17 Section; or

18 (3) the credit union is attempting to collect an
19 obligation owed to the credit union and the credit union
20 complies with the provisions of Section 2I of the
21 Consumer Fraud and Deceptive Business Practices Act.

22 (d) A credit union shall disclose financial records
23 under subparagraph (c)(2) of this Section pursuant to a
24 lawful subpoena, summons, warrant or court order only after
25 the credit union mails a copy of the subpoena, summons,
26 warrant or court order to the person establishing the
27 relationship with the credit union, if living, and otherwise
28 his personal representative, if known, at his last known
29 address by first class mail, postage prepaid unless the
30 credit union is specifically prohibited from notifying the
31 person by order of court or by applicable State or federal
32 law. In the case of a grand jury subpoena, a credit union
33 shall not mail a copy of a subpoena to any person pursuant to
34 this subsection if the subpoena was issued by a grand jury

1 under the Statewide Grand Jury Act or notifying the person
2 would constitute a violation of the federal Right to
3 Financial Privacy Act of 1978.

4 (e) (1) Any officer or employee of a credit union who
5 knowingly and wilfully furnishes financial records in
6 violation of this Section is guilty of a business offense
7 and upon conviction thereof shall be fined not more than
8 \$1,000.

9 (2) Any person who knowingly and wilfully induces
10 or attempts to induce any officer or employee of a credit
11 union to disclose financial records in violation of this
12 Section is guilty of a business offense and upon
13 conviction thereof shall be fined not more than \$1,000.

14 (f) A credit union shall be reimbursed for costs which
15 are reasonably necessary and which have been directly
16 incurred in searching for, reproducing or transporting books,
17 papers, records or other data of a member required or
18 requested to be produced pursuant to a lawful subpoena,
19 summons, warrant or court order. The Director may determine,
20 by rule, the rates and conditions under which payment shall
21 be made. Delivery of requested documents may be delayed
22 until final reimbursement of all costs is received.

23 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

24 Section 30. The Interest Act is amended by changing
25 Sections 4 and 4a as follows:

26 (815 ILCS 205/4) (from Ch. 17, par. 6404)

27 Sec. 4. General interest rate.

28 (1) In all written contracts it shall be lawful for the
29 parties to stipulate or agree that 9% per annum, or any less
30 sum of interest, shall be taken and paid upon every \$100 of
31 money loaned or in any manner due and owing from any person
32 to any other person or corporation in this state, and after

1 that rate for a greater or less sum, or for a longer or
2 shorter time, except as herein provided.

3 The maximum rate of interest that may lawfully be
4 contracted for is determined by the law applicable thereto at
5 the time the contract is made. Any provision in any
6 contract, whether made before or after July 1, 1969, which
7 provides for or purports to authorize, contingent upon a
8 change in the Illinois law after the contract is made, any
9 rate of interest greater than the maximum lawful rate at the
10 time the contract is made, is void.

11 It is lawful for a state bank or a branch of an
12 out-of-state bank, as those terms are defined in Section 2 of
13 the Illinois Banking Act, to receive or to contract to
14 receive and collect interest and charges at any rate or rates
15 agreed upon by the bank or branch and the borrower. It is
16 lawful for a savings bank chartered under the Savings Bank
17 Act or a savings association chartered under the Illinois
18 Savings and Loan Act of 1985 to receive or contract to
19 receive and collect interest and charges at any rate agreed
20 upon by the savings bank or savings association and the
21 borrower.

22 It is lawful to receive or to contract to receive and
23 collect interest and charges as authorized by this Act and as
24 authorized by the Consumer Installment Loan Act and by the
25 "Consumer Finance Act", approved July 10, 1935, as now or
26 hereafter amended. It is lawful to charge, contract for, and
27 receive any rate or amount of interest or compensation with
28 respect to the following transactions:

- 29 (a) Any loan made to a corporation;
- 30 (b) Advances of money, repayable on demand, to an
31 amount not less than \$5,000, which are made upon
32 warehouse receipts, bills of lading, certificates of
33 stock, certificates of deposit, bills of exchange, bonds
34 or other negotiable instruments pledged as collateral

1 security for such repayment, if evidenced by a writing;

2 (c) Any credit transaction between a merchandise
3 wholesaler and retailer; any business loan to a business
4 association or copartnership or to a person owning and
5 operating a business as sole proprietor or to any persons
6 owning and operating a business as joint venturers, joint
7 tenants or tenants in common, or to any limited
8 partnership, or to any trustee owning and operating a
9 business or whose beneficiaries own and operate a
10 business, except that any loan which is secured (1) by an
11 assignment of an individual obligor's salary, wages,
12 commissions or other compensation for services, or (2) by
13 his household furniture or other goods used for his
14 personal, family or household purposes shall be deemed
15 not to be a loan within the meaning of this subsection;
16 and provided further that a loan which otherwise
17 qualifies as a business loan within the meaning of this
18 subsection shall not be deemed as not so qualifying
19 because of the inclusion, with other security consisting
20 of business assets of any such obligor, of real estate
21 occupied by an individual obligor solely as his
22 residence. The term "business" shall be deemed to mean a
23 commercial, agricultural or industrial enterprise which
24 is carried on for the purpose of investment or profit,
25 but shall not be deemed to mean the ownership or
26 maintenance of real estate occupied by an individual
27 obligor solely as his residence;

28 (d) Any loan made in accordance with the provisions
29 of Subchapter I of Chapter 13 of Title 12 of the United
30 States Code, which is designated as "Housing Renovation
31 and Modernization";

32 (e) Any mortgage loan insured or upon which a
33 commitment to insure has been issued under the provisions
34 of the National Housing Act, Chapter 13 of Title 12 of

1 the United States Code;

2 (f) Any mortgage loan guaranteed or upon which a
3 commitment to guaranty has been issued under the
4 provisions of the Veterans' Benefits Act, Subchapter II
5 of Chapter 37 of Title 38 of the United States Code;

6 (g) Interest charged by a broker or dealer
7 registered under the Securities Exchange Act of 1934, as
8 amended, or registered under the Illinois Securities Law
9 of 1953, approved July 13, 1953, as now or hereafter
10 amended, on a debit balance in an account for a customer
11 if such debit balance is payable at will without penalty
12 and is secured by securities as defined in Uniform
13 Commercial Code-Investment Securities;

14 (h) Any loan made by a participating bank as part
15 of any loan guarantee program which provides for loans
16 and for the refinancing of such loans to medical
17 students, interns and residents and which are guaranteed
18 by the American Medical Association Education and
19 Research Foundation;

20 (i) Any loan made, guaranteed, or insured in
21 accordance with the provisions of the Housing Act of
22 1949, Subchapter III of Chapter 8A of Title 42 of the
23 United States Code and the Consolidated Farm and Rural
24 Development Act, Subchapters I, II, and III of Chapter 50
25 of Title 7 of the United States Code;

26 (j) Any loan by an employee pension benefit plan,
27 as defined in Section 3 (2) of the Employee Retirement
28 Income Security Act of 1974 (29 U.S.C.A. Sec. 1002), to
29 an individual participating in such plan, provided that
30 such loan satisfies the prohibited transaction exemption
31 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec.
32 1108 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975
33 (d) (1)) of the Employee Retirement Income Security Act
34 of 1974;

1 (k) Written contracts, agreements or bonds for deed
2 providing for installment purchase of real estate;

3 (1) Loans secured by a mortgage on real estate;

4 (m) Loans made by a sole proprietorship,
5 partnership, or corporation to an employee or to a person
6 who has been offered employment by such sole
7 proprietorship, partnership, or corporation made for the
8 sole purpose of transferring an employee or person who
9 has been offered employment to another office maintained
10 and operated by the same sole proprietorship,
11 partnership, or corporation;

12 (n) Loans to or for the benefit of students made by
13 an institution of higher education.

14 (2) Except for loans described in subparagraph (a), (c),
15 (d), (e), (f) or (i) of subsection (1) of this Section, and
16 except to the extent permitted by the applicable statute for
17 loans made pursuant to Section 4a or pursuant to the Consumer
18 Installment Loan Act:

19 (a) Whenever the rate of interest exceeds 8% per
20 annum on any written contract, agreement or bond for deed
21 providing for the installment purchase of residential
22 real estate, or on any loan secured by a mortgage on
23 residential real estate, it shall be unlawful to provide
24 for a prepayment penalty or other charge for prepayment.

25 (b) No agreement, note or other instrument
26 evidencing a loan secured by a mortgage on residential
27 real estate, or written contract, agreement or bond for
28 deed providing for the installment purchase of
29 residential real estate, may provide for any change in
30 the contract rate of interest during the term thereof.
31 However, if the Congress of the United States or any
32 federal agency authorizes any class of lender to enter,
33 within limitations, into mortgage contracts or written
34 contracts, agreements or bonds for deed in which the rate

1 of interest may be changed during the term of the
2 contract, any person, firm, corporation or other entity
3 not otherwise prohibited from entering into mortgage
4 contracts or written contracts, agreements or bonds for
5 deed in Illinois may enter into mortgage contracts or
6 written contracts, agreements or bonds for deed in which
7 the rate of interest may be changed during the term of
8 the contract, within the same limitations.

9 (3) In any contract or loan which is secured by a
10 mortgage, deed of trust, or conveyance in the nature of a
11 mortgage, on residential real estate, the interest which is
12 computed, calculated, charged, or collected pursuant to such
13 contract or loan, or pursuant to any regulation or rule
14 promulgated pursuant to this Act, may not be computed,
15 calculated, charged or collected for any period of time
16 occurring after the date on which the total indebtedness,
17 with the exception of late payment penalties, is paid in
18 full.

19 For purposes of this Section, a prepayment shall mean the
20 payment of the total indebtedness, with the exception of late
21 payment penalties if incurred or charged, on any date before
22 the date specified in the contract or loan agreement on which
23 the total indebtedness shall be paid in full, or before the
24 date on which all payments, if timely made, shall have been
25 made. In the event of a prepayment of the indebtedness which
26 is made on a date after the date on which interest on the
27 indebtedness was last computed, calculated, charged, or
28 collected but before the next date on which interest on the
29 indebtedness was to be calculated, computed, charged, or
30 collected, the lender may calculate, charge and collect
31 interest on the indebtedness for the period which elapsed
32 between the date on which the prepayment is made and the date
33 on which interest on the indebtedness was last computed,
34 calculated, charged or collected at a rate equal to $1/360$ of

1 the annual rate for each day which so elapsed, which rate
2 shall be applied to the indebtedness outstanding as of the
3 date of prepayment. The lender shall refund to the borrower
4 any interest charged or collected which exceeds that which
5 the lender may charge or collect pursuant to the preceding
6 sentence. The provisions of this amendatory Act of 1985 shall
7 apply only to contracts or loans entered into on or after the
8 effective date of this amendatory Act, but shall not apply to
9 contracts or loans entered into on or after that date that
10 are subject to Section 4a of this Act, the Consumer
11 Installment Loan Act, or the Retail Installment Sales Act, or
12 that provide for the refund of precomputed interest on
13 prepayment in the manner provided by such Act.

14 (Source: P.A. 89-208, eff. 9-29-95.)

15 (815 ILCS 205/4a) (from Ch. 17, par. 6410)

16 Sec. 4a. Installment loan rate.

17 (a) On money loaned to or in any manner owing from any
18 person, whether secured or unsecured, except where the money
19 loaned or in any manner owing is directly or indirectly for
20 the purchase price of real estate or an interest therein and
21 is secured by a lien on or retention of title to that real
22 estate or interest therein, to an amount not more than
23 \$25,000 (excluding interest) which is evidenced by a written
24 instrument providing for the payment thereof in 2 or more
25 periodic installments over a period of not more than 181
26 months from the date of the execution of the written
27 instrument, it is lawful to receive or to contract to receive
28 and collect either:

29 (i) interest in an amount equivalent to interest
30 computed at a rate not exceeding 9% per year on the
31 entire principal amount of the money loaned or in any
32 manner owing for the period from the date of the making
33 of the loan or the incurring of the obligation for the

1 amount owing evidenced by the written instrument until
2 the date of the maturity of the last installment thereof,
3 and to add that amount to the principal, except that
4 there shall be no limit on the rate of interest which may
5 be received or contracted to be received and collected by
6 (1) any bank that has its main office or, after May 31,
7 1997, a branch in this State; (2) a savings and loan
8 association chartered under the Illinois Savings and Loan
9 Act of 1985, a savings bank chartered under the Savings
10 Bank Act, or a federal savings and loan association
11 established under the laws of the United States and
12 having its main office in this State; or (3) any lender
13 licensed under either the Consumer Finance Act or the
14 Consumer Installment Loan Act, but in any case in which
15 interest is received, contracted for or collected on the
16 basis of this clause (i), the debtor may satisfy in full
17 at any time before maturity the debt evidenced by the
18 written instrument, and in so satisfying must receive a
19 refund credit against the total amount of interest added
20 to the principal computed in the manner provided under
21 Section 15(f)(3) of the Consumer Installment Loan Act for
22 refunds or credits of applicable interest on payment in
23 full of precomputed loans before the final installment
24 due date; or

25 (ii) interest accrued on the principal balance from
26 time to time remaining unpaid, from the date of making of
27 the loan or the incurring of the obligation to the date
28 of the payment of the debt in full, at a rate not
29 exceeding the annual percentage rate equivalent of the
30 rate permitted to be charged under clause (i) above, but
31 in any such case the debtor may, provided that the debtor
32 shall have paid in full all interest and other charges
33 accrued to the date of such prepayment, prepay the
34 principal balance in full or in part at any time, and

1 interest shall, upon any such prepayment, cease to accrue
2 on the principal amount which has been prepaid.

3 (b) Whenever the principal amount of an installment loan
4 is \$300 or more and the repayment period is 6 months or more,
5 a minimum charge of \$15 may be collected instead of interest,
6 but only one minimum charge may be collected from the same
7 person during one year. When the principal amount of the loan
8 (excluding interest) is \$800 or less, the lender or creditor
9 may contract for and receive a service charge not to exceed
10 \$5 in addition to interest; and that service charge may be
11 collected when the loan is made, but only one service charge
12 may be contracted for, received, or collected from the same
13 person during one year.

14 (c) Credit life insurance and credit accident and health
15 insurance, and any charge therefor which is deducted from the
16 loan or paid by the obligor, must comply with Article IX 1/2
17 of the Illinois Insurance Code and all lawful requirements of
18 the Director of Insurance related thereto. When there are 2
19 or more obligors on the loan contract, only one charge for
20 credit life insurance and credit accident and health
21 insurance may be made and only one of the obligors may be
22 required to be insured. Insurance obtained from, by or
23 through the lender or creditor must be in effect when the
24 loan is transacted. The purchase of that insurance from an
25 agent, broker or insurer specified by the lender or creditor
26 may not be a condition precedent to the granting of the loan.

27 (d) The lender or creditor may require the obligor to
28 provide property insurance on security other than household
29 goods, furniture and personal effects. The amount and term of
30 the insurance must be reasonable in relation to the amount
31 and term of the loan contract and the type and value of the
32 security, and the insurance must be procured in accordance
33 with the insurance laws of this State. The purchase of that
34 insurance from an agent, broker or insurer specified by the

1 lender or creditor may not be a condition precedent to the
2 granting of the loan.

3 (e) The lender or creditor may, if the contract
4 provides, collect a delinquency and collection charge on each
5 installment in default for a period of not less than 10 days
6 in an amount not exceeding 5% of the installment on
7 installments in excess of \$200 or \$10 on installments of \$200
8 or less, but only one delinquency and collection charge may
9 be collected on any installment regardless of the period
10 during which it remains in default. In addition, the contract
11 may provide for the payment by the borrower or debtor of
12 attorney's fees incurred by the lender or creditor. The
13 lender or creditor may enforce such a provision to the extent
14 of the reasonable attorney's fees incurred by him in the
15 collection or enforcement of the contract or obligation.
16 Whenever interest is contracted for or received under this
17 Section, no amount in addition to the charges authorized by
18 this Section may be directly or indirectly charged,
19 contracted for or received, except lawful fees paid to a
20 public officer or agency to record, file or release security,
21 and except costs and disbursements including reasonable
22 attorney's fees, incurred in legal proceedings to collect a
23 loan or to realize on a security after default. This Section
24 does not prohibit the receipt of any commission, dividend or
25 other benefit by the creditor or an employee, affiliate or
26 associate of the creditor from the insurance authorized by
27 this Section.

28 (f) When interest is contracted for or received under
29 this Section, the lender must disclose the following items to
30 the obligor in a written statement before the loan is
31 consummated:

- 32 (1) the amount and date of the loan contract;
33 (2) the amount of loan credit using the term
34 "amount financed";

1 (3) every deduction from the amount financed or
2 payment made by the obligor for insurance and the type of
3 insurance for which each deduction or payment was made;

4 (4) every other deduction from the loan or payment
5 made by the obligor in connection with obtaining the
6 loan;

7 (5) the date on which the finance charge begins to
8 accrue if different from the date of the transaction;

9 (6) the total amount of the loan charge for the
10 scheduled term of the loan contract with a description of
11 each amount included using the term "finance charge";

12 (7) the finance charge expressed as an annual
13 percentage rate using the term "annual percentage rate".
14 "Annual percentage rate" means the nominal annual
15 percentage rate of finance charge determined in
16 accordance with the actuarial method of computation with
17 an accuracy at least to the nearest 1/4 of 1%; or at the
18 option of the lender by application of the United States
19 rule so that it may be disclosed with an accuracy at
20 least to the nearest 1/4 of 1%;

21 (8) the number, amount and due dates or periods of
22 payments scheduled to repay the loan and the sum of such
23 payments using the term "total of payments";

24 (9) the amount, or method of computing the amount
25 of any default, delinquency or similar charges payable in
26 the event of late payments;

27 (10) the right of the obligor to prepay the loan
28 and the fact that such prepayment will reduce the charge
29 for the loan;

30 (11) a description or identification of the type of
31 any security interest held or to be retained or acquired
32 by the lender in connection with the loan and a clear
33 identification of the property to which the security
34 interest relates. If after-acquired property will be

1 subject to the security interest, or if other or future
2 indebtedness is or may be secured by any such property,
3 this fact shall be clearly set forth in conjunction with
4 the description or identification of the type of security
5 interest held, retained or acquired;

6 (12) a description of any penalty charge that may
7 be imposed by the lender for prepayment of the principal
8 of the obligation with an explanation of the method of
9 computation of such penalty and the conditions under
10 which it may be imposed;

11 (13) unless the contract provides for the accrual
12 and payment of the finance charge on the balance of the
13 amount financed from time to time remaining unpaid, an
14 identification of the method of computing any unearned
15 portion of the finance charge in the event of prepayment
16 of the loan.

17 The terms "finance charge" and "annual percentage rate"
18 shall be printed more conspicuously than other terminology
19 required by this Section.

20 (g) At the time disclosures are made, the lender shall
21 deliver to the obligor a duplicate of the instrument or
22 statement by which the required disclosures are made and on
23 which the lender and obligor are identified and their
24 addresses stated. All of the disclosures shall be made
25 clearly, conspicuously and in meaningful sequence and made
26 together on either:

27 (i) the note or other instrument evidencing the
28 obligation on the same side of the page and above or
29 adjacent to the place for the obligor's signature;
30 however, where a creditor elects to combine disclosures
31 with the contract, security agreement, and evidence of a
32 transaction in a single document, the disclosures
33 required under this Section shall be made on the face of
34 the document, on the reverse side, or on both sides,

1 provided that the amount of the finance charge and the
2 annual percentage rate shall appear on the face of the
3 document, and, if the reverse side is used, the printing
4 on both sides of the document shall be equally clear and
5 conspicuous, both sides shall contain the statement,
6 "NOTICE: See other side for important information", and
7 the place for the customer's signature shall be provided
8 following the full content of the document; or

9 (ii) one side of a separate statement which
10 identifies the transaction.

11 The amount of the finance charge shall be determined as
12 the sum of all charges, payable directly or indirectly by the
13 obligor and imposed directly or indirectly by the lender as
14 an incident to or as a condition to the extension of credit,
15 whether paid or payable by the obligor, any other person on
16 behalf of the obligor, to the lender or to a third party,
17 including any of the following types of charges:

18 (1) Interest, time price differential, and any
19 amount payable under a discount or other system of
20 additional charges.

21 (2) Service, transaction, activity, or carrying
22 charge.

23 (3) Loan fee, points, finder's fee, or similar
24 charge.

25 (4) Fee for an appraisal, investigation, or credit
26 report.

27 (5) Charges or premiums for credit life, accident,
28 health, or loss of income insurance, written in
29 connection with any credit transaction unless (a) the
30 insurance coverage is not required by the lender and this
31 fact is clearly and conspicuously disclosed in writing to
32 the obligor; and (b) any obligor desiring such insurance
33 coverage gives specific dated and separately signed
34 affirmative written indication of such desire after

1 receiving written disclosure to him of the cost of such
2 insurance.

3 (6) Charges or premiums for insurance, written in
4 connection with any credit transaction, against loss of
5 or damage to property or against liability arising out of
6 the ownership or use of property, unless a clear,
7 conspicuous, and specific statement in writing is
8 furnished by the lender to the obligor setting forth the
9 cost of the insurance if obtained from or through the
10 lender and stating that the obligor may choose the person
11 through which the insurance is to be obtained.

12 (7) Premium or other charges for any other
13 guarantee or insurance protecting the lender against the
14 obligor's default or other credit loss.

15 (8) Any charge imposed by a lender upon another
16 lender for purchasing or accepting an obligation of an
17 obligor if the obligor is required to pay any part of
18 that charge in cash, as an addition to the obligation, or
19 as a deduction from the proceeds of the obligation.

20 A late payment, delinquency, default, reinstatement or
21 other such charge is not a finance charge if imposed for
22 actual unanticipated late payment, delinquency, default or
23 other occurrence.

24 (h) Advertising for loans transacted under this Section
25 may not be false, misleading, or deceptive. That advertising,
26 if it states a rate or amount of interest, must state that
27 rate as an annual percentage rate of interest charged. In
28 addition, if charges other than for interest are made in
29 connection with those loans, those charges must be separately
30 stated. No advertising may indicate or imply that the rates
31 or charges for loans are in any way "recommended",
32 "approved", "set" or "established" by the State government or
33 by this Act.

34 (i) A lender or creditor who complies with the federal

1 Truth in Lending Act, amendments thereto, and any regulations
2 issued or which may be issued thereunder, shall be deemed to
3 be in compliance with the provisions of subsections (f), (g)
4 and (h) of this Section.

5 (Source: P.A. 89-208, eff. 9-29-95; 90-437, eff. 1-1-98.)

6 Section 35. The Banking Emergencies Act is amended by
7 changing Sections 1 and 2 as follows:

8 (205 ILCS 610/1) (from Ch. 17, par. 1001)

9 Sec. 1. Definitions. A. As used in this Act, unless the
10 context otherwise requires:

11 (1) "Commissioner" means the officer of this State
12 designated by law to exercise supervision over banks and
13 trust companies, and any other person lawfully exercising
14 such powers.

15 (2) "Bank" includes commercial banks, trust companies
16 and any branch thereof lawfully carrying on the business of
17 banking and, to the extent that the provisions hereof are not
18 inconsistent with and do not infringe upon paramount Federal
19 law, also includes national banks.

20 (3) "Officers" means the person or persons designated by
21 the board of directors, to act for the bank in carrying out
22 the provisions of this Act or, in the absence of any such
23 designation or of the officer or officers so designated, the
24 president or any other officer currently in charge of the
25 bank or of the office or offices in question.

26 (4) "Office" means any place at which a bank transacts
27 its business or conducts operations related to its business.

28 (5) "Emergency" means any condition or occurrence which
29 may interfere physically with the conduct of normal business
30 operations at one or more or all of the offices of a bank, or
31 which poses an imminent or existing threat to the safety or
32 security of persons or property, or both at one or more or

1 all of the offices of a bank.

2 Without limiting the generality of the foregoing, an
3 emergency may arise as a result of any one or more of the
4 following: natural disasters; civil strife; power failures;
5 computer failures; interruption of communication facilities;
6 robbery or attempted robbery.

7 (Source: P.A. 85-204.)

8 (205 ILCS 610/2) (from Ch. 17, par. 1002)

9 Sec. 2. Power of Commissioner. Whenever the Commissioner
10 is notified by any officer of a bank or by any other means
11 becomes aware that an emergency exists, or is impending, in
12 ~~the county or municipality or any part thereof,~~ he may, by
13 proclamation, authorize all banks in the State of Illinois
14 ~~located in the affected area or areas~~ to close any or all of
15 their offices, or if only a bank or banks, or offices
16 thereof, in a particular area or areas of the State of
17 Illinois are affected by the emergency or impending
18 emergency, the Commissioner may authorize only the affected
19 bank, banks, or offices thereof, to close. The office or
20 offices so closed may remain closed until the Commissioner
21 declares, by further proclamation, that the emergency or
22 impending emergency has ended. The Commissioner during an
23 emergency or while an impending emergency exists, which
24 affects, or may affect, a particular bank or banks, or a
25 particular office or offices thereof, but not banks located
26 in the area generally of the said county or municipality, may
27 authorize the particular bank or banks, or office or offices
28 so affected, to close. The office or offices so closed shall
29 remain closed until the Commissioner is notified by a bank
30 officer of the closed bank that the emergency has ended. The
31 Commissioner shall notify, at such time, the officers of the
32 bank that one or more offices, heretofore closed because of
33 the emergency, should reopen and, in either event, for such

1 further time thereafter as may reasonably be required to
2 reopen.

3 (Source: P.A. 77-1782.)

4 Section 40. The Corporate Fiduciary Act is amended by
5 changing Sections 1-8, 3-1, 3-2, 4-3, 4-4, 4-5, 5-3, 5-6, and
6 6-2 and adding Article 4A as follows:

7 (205 ILCS 620/1-8) (from Ch. 17, par. 1551-8)

8 Sec. 1-8. Change of name or location. A corporate
9 fiduciary holding a certificate of authority issued pursuant
10 to this Act must notify and receive written approval from the
11 Commissioner before changing its name or changing the
12 location of its corporate headquarters. A corporate
13 fiduciary which is a State bank chartered by the Commissioner
14 and which accomplishes a change of name in compliance with
15 Section 13 of the Illinois Banking Act or a change of
16 location in compliance with Section ~~13~~ 17 of the Illinois
17 Banking Act, as now or hereafter amended, shall be deemed to
18 have complied with this Section 1-8.

19 (Source: P.A. 90-301, eff. 8-1-97.)

20 (205 ILCS 620/3-1) (from Ch. 17, par. 1553-1)

21 Sec. 3-1. Merger. The merger procedure required of a
22 trust company where there is to be a resulting trust company
23 by consolidation or merger shall be:

24 (1) The board of directors of each party to the merger
25 ~~merging-trust-company~~ shall, by a majority of the entire
26 board, approve a merger agreement which shall contain:

27 (a) The name of each party to the merger ~~merging~~
28 ~~trust-company~~ and its location and a list of each merging
29 party's ~~trust-company's~~ stockholders as of the date of
30 the merger agreement;

31 (b) With respect to the resulting trust company (i)

1 its name and place of business; (ii) the amount of
2 capital, surplus and reserve for operating expenses;
3 (iii) the classes and the number of shares of stock and
4 the par value of each share; (iv) the designation of the
5 continuing trust company and the charter which is to be
6 the charter of the resulting trust company, together with
7 the amendments to the continuing charter and to the
8 continuing by-laws; and (v) a detailed financial
9 statement showing the assets and liabilities after the
10 proposed merger or consolidation;

11 (c) Provisions stating the method, terms and
12 conditions of carrying the merger into effect, including
13 the manner of converting the shares of the merging
14 parties trust-companies into the cash, shares of stock or
15 other securities of any corporation or other property, or
16 any combination of the foregoing, stated in the merger
17 agreement as to be received by the stockholders of each
18 merging party trust-company;

19 (d) A statement that the agreement is subject to
20 approval by the Commissioner and by the stockholders of
21 each party to the merger merging-trust-company and that
22 whether approved or disapproved, the parties to the
23 merger merging---trust---companies will pay the
24 Commissioner's expenses of examination;

25 (e) Provisions governing the manner of disposing of
26 the shares of the resulting trust company not taken by
27 the dissenting stockholders of the parties to the merger
28 merging-trust-companies; and

29 (f) Such other provisions as the Commissioner may
30 reasonably require to enable him to discharge his duties
31 with respect to the merger.

32 (2) After approval by the board of directors of each
33 party to the merger trust-company, the merger agreement shall
34 be submitted to the Commissioner for approval, together with

1 certified copies of the authorizing resolutions of each board
2 of directors showing approval by a majority of the entire
3 board of each party to the merger ~~trust-company~~.

4 (3) After receipt by the Commissioner of the papers
5 specified in paragraph (2), he shall approve or disapprove
6 the merger agreement. The Commissioner shall not approve the
7 merger agreement unless he shall be of the opinion and shall
8 find:

9 (a) That the resulting trust company meets the
10 requirements of this Act for the formation of a new trust
11 company at the proposed place of business of the
12 resulting trust company;

13 (b) That the same matters exist in respect of the
14 resulting trust company which would have been required
15 under Section 2-6 of this Act for the organization of a
16 new trust company.

17 If the Commissioner disapproves an agreement, he shall
18 state his objection and give an opportunity to the parties to
19 the merger ~~merging--trust--companies~~ to amend the merger
20 agreement to obviate such objections.

21 (Source: P.A. 88-408.)

22 (205 ILCS 620/3-2) (from Ch. 17, par. 1553-2)

23 Sec. 3-2. Change in control.

24 (a) Before a change may occur in the ownership of
25 outstanding stock or membership interests of any trust
26 company whether by sale and purchase, gift, bequest or
27 inheritance, or any other means, which will result in control
28 or a change in the control of the trust company or before a
29 change in the control of a holding company having control of
30 the outstanding stock or membership interests of a trust
31 company whether by sale and purchase, gift, bequest or
32 inheritance, or any other means, which will result in control
33 or a change in control of the trust company or holding

1 company, the Commissioner shall be of the opinion and find:

2 (1) that the general character of its proposed
3 management, after the change in control, is such as to
4 assure reasonable promise of competent, successful, safe
5 and sound operation;

6 (2) that the future earnings prospects, after the
7 proposed change in control, are favorable; and

8 (3) that the prior business affairs of the persons
9 proposing to obtain control or by the proposed management
10 personnel, whether as stockholder, director, member,
11 officer, or customer, were conducted in a safe, sound,
12 and lawful manner.

13 (b) Persons desiring to purchase control of an existing
14 trust company and persons obtaining control by gift, bequest
15 or inheritance, or any other means shall submit to the
16 Commissioner:

17 (1) A statement of financial worth; and

18 (2) Satisfactory evidence that the prior business
19 affairs of the persons and the proposed management
20 personnel, whether as stockholder, director, officer, or
21 customer, were conducted in a safe, sound, and lawful
22 manner.

23 ~~As used in this Section, the term "control" means the~~
24 ~~ownership of such amount of stock or membership interests or~~
25 ~~ability to direct the voting of such stock or membership~~
26 ~~interests as to give power to, directly or indirectly, direct~~
27 ~~or cause the direction of the management or policies of the~~
28 ~~trust company. A change in ownership of stock which would~~
29 ~~result in direct or indirect ownership by a stockholder or~~
30 ~~member, an affiliated group of stockholders or members or a~~
31 ~~holding company of less than 10% of the outstanding stock or~~
32 ~~membership interests shall not be considered a change of~~
33 ~~control. A change in ownership of stock or membership~~
34 ~~interests which would result in direct or indirect ownership~~

1 by--a--stockholder--or--member,--an---affiliated---group---of
2 stockholders--or--members--or--a--holding--company--of--20%--or--such
3 lesser--amount--which--would--entitle--the--holder--by--applying
4 cumulative--voting--to--elect--one--director--shall--be--presumed--to
5 constitute--a--change--of--control--for--purposes--of--this--Section.
6 If--there--is--any--doubt--as--to--whether--a--change--in--the--ownership
7 or--control--of--the--outstanding--stock--or--membership--interests
8 is--sufficient--to--result--in--obtaining--control--thereof--or--to
9 effect--a--change--in--the--control--thereof,--such--doubt--shall--be
10 resolved--in--favor--of--reporting--the--facts--to--the--Commissioner.

11 (c) Whenever a bank makes a loan or loans, secured, or
12 to be secured, by 25% or more of the outstanding stock of a
13 trust company, the president or other chief executive officer
14 of the lending bank shall promptly report such fact to the
15 Commissioner upon obtaining knowledge of such loan or loans,
16 except that no report need be made in those cases where the
17 borrower has been the owner of record of the stock for a
18 period of one year or more, or the stock is that of a
19 newly-organized trust company prior to its opening.

20 (d) (1) Before a purchase of substantially all the
21 assets and an assumption of substantially all the liabilities
22 of a trust company or before a purchase of substantially all
23 the trust assets and an assumption of substantially all the
24 trust liabilities of a trust company, the Commissioner shall
25 be of the opinion and find:

26 (i) that the general character of the acquirer's
27 proposed management, after the transfer, is such as to
28 assure reasonable promise of competent, successful, safe,
29 and sound operation;

30 (ii) that the acquirer's future earnings prospects,
31 after the proposed transfer, are favorable;

32 (iii) that any prior involvement by the acquirer or
33 by the proposed management personnel, whether as
34 stockholder, director, officer, agent, or customer, was

1 conducted in a safe, sound, and lawful manner;

2 (iv) that customers' interests will not be
3 jeopardized by the purchase and assumption; and

4 (v) that adequate provision has been made for all
5 obligations and trusts as required under Section 7-1 of
6 this Act.

7 (2) Persons desiring to purchase substantially all the
8 assets and assume substantially all the liabilities of a
9 trust company or to purchase substantially all the trust
10 assets and assume substantially all the trust liabilities of
11 a trust company shall submit to the Commissioner:

12 (i) a statement of financial worth; and

13 (ii) satisfactory evidence that the prior business
14 affairs of the persons and the proposed management
15 personnel, whether as stockholder, director, officer, or
16 customer, were conducted in a safe, sound, and lawful
17 manner.

18 ~~As used in this Section, "substantially all" the assets~~
19 ~~or liabilities of the trust assets or trust liabilities of a~~
20 ~~trust company means that portion such that their transfer~~
21 ~~will materially impair the ability of the trust company to~~
22 ~~continue successful, safe, and sound operations or to~~
23 ~~continue as a going concern.~~

24 (e) The reports required by subsections (a), (b), (c),
25 and (d) of this Section 3-2 shall contain the following
26 information to the extent that it is known by the person
27 making the report: (1) the number of shares involved; (2) the
28 names of the sellers (or transferors); (3) the names of the
29 purchasers (or transferees); (4) the names of the beneficial
30 owners if the shares are registered in another name; (5) the
31 purchase price; (6) the total number of shares owned by the
32 sellers (or transferors), the purchasers (or transferees) and
33 the beneficial owners both immediately before and after the
34 transaction; and, (7) in the case of a loan, the name of the

1 borrower, the amount of the loan, and the name of the trust
2 company issuing the stock securing the loan and the number of
3 shares securing the loan. In addition to the foregoing, such
4 reports shall contain such other information as may be
5 available and which is requested by the Commissioner to
6 inform the Commissioner of the effect of the transaction upon
7 the trust company or trust companies whose stock or assets
8 and liabilities are involved.

9 (f) Whenever such a change as described in subsection
10 (a) of this Section 3-2 occurs, each trust company shall
11 report promptly to the Commissioner any changes or
12 replacement of its chief executive officer or of any director
13 occurring in the next 12 month period, including in its
14 report a statement of the past and current business and
15 professional affiliations of the new chief executive officer
16 or directors.

17 (g) The provisions of this Section do not apply when the
18 change in control is the result of organizational
19 restructuring under a holding company.

20 (h) As used in this Section, the term "control" means
21 the ownership of such amount of stock or membership interests
22 or ability to direct the voting of such stock or membership
23 interests as to, directly or indirectly, give power to
24 direct or cause the direction of the management or policies
25 of the trust company. A change in ownership of stock that
26 would result in direct or indirect ownership by a stockholder
27 or member, an affiliated group of stockholders or members, or
28 a holding company of less than 10% of the outstanding stock
29 or membership interests shall not be considered a change
30 of control. A change in ownership of stock or membership
31 interests that would result in direct or indirect ownership
32 by a stockholder or member, an affiliated group of
33 stockholders or members, or a holding company of 20% or such
34 lesser amount which would entitle the holder by applying

1 cumulative voting to elect one director shall be presumed to
 2 constitute a change of control for purposes of this Section.
 3 If there is any question as to whether a change in the
 4 ownership or control of the outstanding stock or membership
 5 interests is sufficient to result in obtaining control
 6 thereof or to effect a change in the control thereof, the
 7 question shall be resolved in favor of reporting the facts to
 8 the Commissioner.

9 As used in this Section, "substantially all" the
 10 assets or liabilities or the trust assets or trust
 11 liabilities of a trust company means that portion such that
 12 their transfer will materially impair the ability of the
 13 trust company to continue successful, safe, and sound
 14 operations or to continue as a going concern.

15 (Source: P.A. 89-364, eff. 8-18-95; 90-424, eff. 1-1-98.)

16 (205 ILCS 620/4-3) (from Ch. 17, par. 1554-3)

17 Sec. 4-3. Service of process upon Secretary of State.
 18 Any foreign corporation acting in this State in a fiduciary
 19 capacity pursuant to the provisions of Article IV and Article
 20 IVA of this Act shall be deemed to have appointed the
 21 Secretary of State to be its true and lawful attorney upon
 22 whom may be served all legal process in any action or
 23 proceeding against it relating to or growing out of any
 24 trust, estate or matter in respect of which such foreign
 25 corporation has acted or is acting in this state in any such
 26 fiduciary capacity, and the acceptance of or engagement in
 27 this State in any acts in any such fiduciary capacity shall
 28 be signification of its agreement that any such process
 29 against it which is so served, shall be of the same legal
 30 force and validity as though served upon it personally.
 31 Service of such process shall be made by delivering to the
 32 Secretary of State, the corporation department of the office
 33 a copy of such process, together with the fee for service of

1 process required by the Secretary of State, and such service
2 shall be sufficient service upon said foreign corporation if
3 notice of such service and a copy of the process are, within
4 10 days thereafter, sent by registered mail by the plaintiff
5 to the defendant at its principal office in such other state
6 or territory and the plaintiff's affidavit of compliance
7 herewith is appended to the summons. The court in which the
8 action is pending may order such continuances as may be
9 necessary to afford the defendant reasonable opportunity to
10 defend the action. The fee paid by the plaintiff to the
11 Secretary of State at the time of the service may be
12 recovered as taxable costs by the plaintiff if such party
13 prevails in the action. The Secretary of State shall keep a
14 record of all process served upon him under this section and
15 shall record therein the time of such service.

16 (Source: P.A. 85-858.)

17 (205 ILCS 620/4-4) (from Ch. 17, par. 1554-4)

18 Sec. 4-4. Place of business not to be established in
19 State; not deemed transacting business.

20 (a) A foreign corporation, as defined in Section 1-5.08
21 of this Act, shall not establish in this State a place of
22 business, branch office, or agency for the conduct of
23 business as a fiduciary and because it is not permitted to
24 establish in this State a place of business, branch office or
25 agency, a foreign corporation insofar as it acts in a
26 fiduciary capacity in this State pursuant to the provisions
27 of this Act shall not be deemed to be transacting business in
28 this State. The foreign corporation may apply for, and
29 procure from the Commissioner, a license to establish a
30 representative office pursuant to the Foreign Bank
31 Representative Office Act.

32 The provisions of this subsection (a) do not apply to
33 foreign corporations establishing or acquiring and

1 maintaining a place of business in this State to conduct
2 business as a fiduciary in accordance with Article IVA of
3 this Act.

4 (b) Notwithstanding subsection (a) of this Section 4-4,
5 after May 31, 1997, a branch of an out-of-state bank, as
6 defined in Section 2 of the Illinois Banking Act, and a
7 foreign association, as defined in Section 1-10.31 of the
8 Illinois Savings and Loan Act of 1985, may establish an
9 office in this State for the conduct of business as a
10 fiduciary, provided: (i) fiduciary business conducted in this
11 State by a branch of an out-of-state bank is subject to
12 examination by the Commissioner; and (ii) the trust
13 activities of the branch of the out-of-state bank are subject
14 to regulation, including enforcement actions, by the
15 Commissioner to the same extent as Illinois corporate
16 fiduciaries.

17 (Source: P.A. 90-665, eff. 7-30-98; 91-97, eff. 7-9-99.)

18 (205 ILCS 620/4-5) (from Ch. 17, par. 1554-5)

19 Sec. 4-5. Certificate of authority; fees; certificate of
20 reciprocity.

21 (a) Prior to the time any foreign corporation acts in
22 this State as testamentary trustee, trustee appointed by any
23 court, trustee under any written agreement, declaration or
24 instrument of trust, executor, administrator, administrator
25 to collect, guardian or in any other like fiduciary capacity,
26 such foreign corporation shall apply to the Commissioner of
27 Banks and Real Estate for a certificate of authority with
28 reference to the fiduciary capacity or capacities in which
29 such foreign corporation proposes to act in this State, and
30 the Commissioner of Banks and Real Estate shall issue a
31 certificate of authority to such corporation concerning only
32 the fiduciary capacity or such of the fiduciary capacities to
33 which the application pertains and with respect to which he

1 has been furnished satisfactory evidence that such foreign
2 corporation meets the requirements of Section 4-2 of this
3 Act. The certificate of authority shall set forth the
4 fiduciary capacity or capacities, as the case may be, for
5 which the certificate is issued, and shall recite and certify
6 that such foreign corporation is eligible to act in this
7 State in such fiduciary capacity or capacities, as the case
8 may be, pursuant to the provisions of this Act. The
9 certificate of authority shall remain in full force and
10 effect until such time as such foreign corporation ceases to
11 be eligible so to act under the provisions of this Act.

12 (b) Each foreign corporation making application for a
13 certificate of authority shall pay reasonable fees to the
14 Commissioner of Banks and Real Estate as determined by the
15 Commissioner for the services of his office.

16 (c) Any foreign corporation holding a certificate of
17 reciprocity which recites and certifies that such foreign
18 corporation is eligible to act in this State in any such
19 fiduciary capacity pursuant to the provisions of Article IV
20 of this Act or any predecessor Act upon the same subject,
21 issued prior to the effective date of this amendatory Act of
22 1987 may act in this State under such certificate of
23 reciprocity in any such fiduciary capacity without applying
24 for a new certificate of authority. Such certificate of
25 reciprocity shall remain in full force and effect until such
26 time as such foreign corporation ceases to be eligible so to
27 act under the provisions of Article IV of this Act.

28 (d) Any foreign corporation acting in Illinois under a
29 certificate of authority or a certificate of reciprocity
30 shall report changes in its name or address to the
31 Commissioner and shall notify the Commissioner when it is no
32 longer serving as a corporate fiduciary in Illinois.

33 (e) The provisions of this Section shall not apply to a
34 foreign corporation establishing or acquiring and maintaining

1 a place of business in this State to conduct business as a
2 fiduciary in accordance with Article IVA of this Act.

3 (Source: P.A. 89-508, eff. 7-3-96.)

4 (205 ILCS 620/Art. IVA heading new)

5 ARTICLE IVA MULTISTATE TRUST ACTIVITIES

6 (205 ILCS 620/4A-1 new)

7 Sec. 4A-1. Corporate fiduciaries establishing offices in
8 other states.

9 (a) A corporate fiduciary may act as a fiduciary or
10 otherwise engage in fiduciary activities in this or any other
11 state or foreign country, subject to complying with
12 applicable laws of that state or foreign country, at an
13 office established and maintained pursuant to this Act, at a
14 branch, or at any location other than an office or branch. A
15 corporate fiduciary seeking to establish or acquire a branch
16 in another state or foreign country must comply with the
17 notice provisions in Section 1-7 of this Act.

18 (b) A corporate fiduciary may also conduct any
19 activities at any office outside Illinois that are
20 permissible for a trust institution chartered by the state
21 where the office is located, except to the extent those
22 activities are expressly prohibited by the laws of Illinois
23 or by any regulation or order of the Commissioner. However,
24 the Commissioner may waive any such prohibition if he
25 determines, by order or regulation, that the involvement of
26 out-of-state offices of state corporate fiduciaries in
27 particular activities would not threaten the safety or
28 soundness of those state corporate fiduciaries.

29 (205 ILCS 620/4A-5 new)

30 Sec. 4A-5. Foreign corporations establishing places of
31 business to conduct fiduciary activities in Illinois.

1 (a) A foreign corporation may establish or acquire and
2 maintain a place of business for the conduct of business as a
3 fiduciary in this State provided that a corporate fiduciary
4 that has its principal place of business in Illinois is
5 permitted to establish or acquire and maintain a similar
6 place of business that may engage in activities substantially
7 similar to those permitted to foreign corporations under this
8 Act in the state where the foreign corporation has its
9 principal place of business.

10 (b) A foreign corporation desiring to establish or
11 acquire and maintain a place of business to conduct business
12 as a fiduciary in Illinois under this Section shall provide,
13 or cause its home state regulator to provide, written notice
14 of the proposed transaction to the Commissioner on or after
15 the date on which the foreign corporation applies to its home
16 state regulator for approval to establish or acquire and
17 maintain a place of business in Illinois. The filing of the
18 notice shall be preceded or accompanied by a copy of the
19 resolution adopted by the board authorizing the additional
20 place of business and the filing fee required by the
21 Commissioner. The Commissioner may prescribe the form of the
22 notice required under this Section. In the Commissioner's
23 discretion, the application or notice submitted to the
24 foreign corporation's home state regulator may be sufficient
25 notice under this Section.

26 (c) A foreign corporation desiring to establish or
27 acquire and maintain a place of business to conduct business
28 as a fiduciary shall (i) confirm in writing to the
29 Commissioner that for as long as it maintains a place of
30 business in Illinois, it will comply with the laws of this
31 State and (ii) provide satisfactory evidence to the
32 Commissioner of compliance with any applicable requirements
33 of state foreign corporation qualification laws and
34 applicable requirements of its home state regulator for

1 acquiring or establishing and maintaining the office.

2 (d) A foreign corporation submitting a notice to the
3 Commissioner in accordance with subsection (b) may commence
4 fiduciary business at the place of business listed in its
5 notice on the 61st day after the date the Commissioner
6 receives the notice unless the Commissioner specifies an
7 earlier or later date. However, if the foreign corporation
8 is not a depository institution and the Commissioner approves
9 the foreign corporation to conduct a fiduciary business in
10 Illinois subject to specific conditions, the foreign
11 corporation shall not commence a fiduciary business in
12 Illinois until it has satisfied those conditions and provided
13 evidence satisfactory to the Commissioner that it has done
14 so. The Commissioner may extend the 60-day review period if
15 additional time or information is needed for approval of the
16 notice. The Commissioner may deny approval of the notice if
17 he finds that the foreign corporation lacks sufficient
18 financial resources to undertake the proposed expansion
19 without adversely affecting its safety or soundness or that
20 the place of business is contrary to the public interest.

21 (205 ILCS 620/4A-10 new)

22 Sec. 4A-10. Additional places of business for foreign
23 corporations. A foreign corporation that establishes or
24 acquires and maintains a place of business to conduct
25 business as a fiduciary in Illinois pursuant to Section 4A-5
26 may establish or acquire additional trust offices or
27 representative offices in this State to the same extent that
28 a corporate fiduciary may establish or acquire additional
29 offices in Illinois under Section 1-7 of this Act.

30 (205 ILCS 620/4A-15 new)

31 Sec. 4A-15. Representative offices. A foreign
32 corporation not conducting fiduciary activities may establish

1 a representative office under the Foreign Bank Representative
2 Office Act. At these offices, the foreign corporation may
3 market and solicit fiduciary services and provide bank office
4 and administrative support to the foreign corporation's
5 fiduciary activities, but it may not engage in fiduciary
6 activities.

7 (205 ILCS 620/4A-20 new)

8 Sec. 4A-20. Examination of foreign corporations.

9 (a) To the extent consistent with subsection (c) of this
10 Section, the Commissioner may make such examinations of any
11 place of business established or maintained under Section
12 4A-5 by a foreign corporation as the Commissioner may deem
13 necessary to determine whether the place of business is being
14 operated in compliance with the laws of this State and in
15 accordance with safe and sound banking practices. The
16 provisions of Section 5-2 of this Act shall apply to the
17 examinations.

18 (b) The Commissioner may require periodic reports
19 regarding any foreign corporation that has maintained a place
20 of business in this State under Section 4A-5. The required
21 reports shall be provided by the foreign corporation or by
22 the home state regulator. Any reporting requirements
23 prescribed by the Commissioner under this Section shall be
24 consistent with Section 5-9 of this Act.

25 (c) The Commissioner may enter into cooperative,
26 coordinating, and information-sharing agreements with any
27 other bank supervisory agencies or any organization
28 affiliated with or representing one or more bank supervisory
29 agencies with respect to the periodic examination or other
30 supervision of any office in this State of a foreign
31 corporation or any office of a corporate fiduciary in a host
32 state. The Commissioner may accept a report of examination
33 or report of investigation in lieu of the Commissioner

1 conducting an examination or investigation.

2 (d) The Commissioner may enter into contracts with any
3 bank supervisory agency that has concurrent jurisdiction over
4 a corporate fiduciary or foreign corporation maintaining a
5 place of business under Section 4A-5 of this Act to engage
6 the services of that agency's examiners at a reasonable rate
7 of compensation or to provide the services of the
8 Commissioner's examiners to that agency at a reasonable rate
9 of compensation.

10 (e) The Commissioner may enter joint examinations or
11 joint enforcement actions with other bank supervisory
12 agencies having concurrent jurisdiction over any place of
13 business established under Section 4A-5 or any office of a
14 corporate fiduciary in any host state. The Commissioner may
15 at any time take such actions independently if the
16 Commissioner deems such actions to be necessary or
17 appropriate to ensure compliance with the laws of this State.
18 However, in the case of a foreign corporation, the
19 Commissioner shall recognize the exclusive authority of the
20 home state regulator over corporate governance matters and
21 the primary responsibility of the home state regulator over
22 safety and soundness matters.

23 (f) A foreign corporation that maintains one or more
24 offices pursuant to Section 4A-5 may be assessed, and if
25 assessed, shall pay supervisory and examination fees in
26 accordance with Section 5-10 of this Act. The fees may be
27 shared with other bank supervisory agencies or any
28 organization affiliated with or representing one or more bank
29 supervisory agencies in accordance with agreements between
30 such parties and the Commissioner.

31 (205 ILCS 620/4A-25 new)

32 Sec. 4A-25. Notice to Commissioner. A corporate
33 fiduciary that maintains a place of business in this State

1 under Section 4A-5, or the home state regulator of such
2 foreign corporation, shall give at least 30 days prior
3 written notice or, in the case of an emergency transaction,
4 such shorter notice as is consistent with applicable state or
5 federal law, to the Commissioner of:

6 (1) any merger, consolidation, or other transaction
7 that would cause a change in control with respect to the
8 foreign corporation or any bank holding company that
9 controls the corporation;

10 (2) any transfer of all or substantially all of the
11 trust accounts or trust assets of the foreign corporation
12 to another person; or

13 (3) the closing or disposition of any place of
14 business in this State.

15 (205 ILCS 620/5-3) (from Ch. 17, par. 1555-3)

16 Sec. 5-3. Violations; orders.

17 (a) Whenever it appears to the Commissioner from any
18 examination, statement of condition or report, that any
19 corporate fiduciary has committed any violation of law, has
20 made or published a false statement of condition or is
21 conducting its business in an unsafe, unsound or unauthorized
22 manner, he shall, by an order under his signature, direct the
23 discontinuance of such illegal and unsafe, unsound or
24 unauthorized practices and that the corporate fiduciary
25 strictly conform with the requirements of the law, and with
26 safety and security in its transactions.

27 (b) If a corporate fiduciary refuses or neglects to make
28 a required statement of condition or any report required
29 under this Act, or to comply with an order as above stated,
30 or if it appears to the Commissioner that it is unsafe or
31 inexpedient for the such corporate fiduciary to continue to
32 transact business, or that extraordinary withdrawals of money
33 are jeopardizing the interests of remaining depositors, or

1 that any corporate fiduciary or officer of a corporate
2 fiduciary has abused his trust or is guilty of misconduct in
3 his official position, injurious to the corporate fiduciary,
4 or that it has suffered a serious loss, he shall enter an
5 order appropriate to the circumstances, which may include the
6 appointment of a receiver as hereinafter provided, the taking
7 of possession of the corporate fiduciary, or the removal of a
8 director, officer, employee, or agent of the corporate
9 fiduciary, or he may, represented by the Attorney General,
10 seek an injunction or other appropriate order from the court.

11 (c) No dividends shall be paid by a corporate fiduciary
12 while it continues its business as a corporate fiduciary to
13 an amount greater than its net profits then on hand,
14 deducting first therefrom its losses and bad debts.

15 (Source: P.A. 86-754.)

16 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

17 Sec. 5-6. Removal orders. Whenever, in the opinion of
18 the Commissioner, any director, officer, employee, or agent
19 of a corporate fiduciary or subsidiary or corporate parent of
20 the corporate fiduciary shall have violated any law, rule, or
21 order relating to the corporate fiduciary or subsidiary or
22 corporate parent of the corporate fiduciary, shall have
23 engaged in an unsafe or unsound practice in conducting the
24 business of the corporate fiduciary or subsidiary or
25 corporate parent of the corporate fiduciary, or shall have
26 violated any law or engaged or participated in any unsafe or
27 unsound practice in connection with any financial institution
28 or other business entity such that the character and fitness
29 of the director, officer, employee, or agent does not assure
30 reasonable promise of safe and sound operation of the
31 corporate fiduciary or subsidiary or corporate parent of the
32 corporate fiduciary, the Commissioner may issue an order of
33 removal. If in the opinion of the Commissioner, any former

1 director, officer, employee, or agent of a corporate
2 fiduciary or subsidiary or corporate parent of the corporate
3 fiduciary, prior to the termination of his or her service
4 with the corporate fiduciary or subsidiary or corporate
5 parent of the corporate fiduciary, violated any law, rule, or
6 order relating to the corporate fiduciary or subsidiary or
7 corporate parent of the corporate fiduciary or engaged in an
8 unsafe or unsound practice in conducting the business of the
9 corporate fiduciary or subsidiary or corporate parent of the
10 corporate fiduciary or violated any law or engaged or
11 participated in any unsafe or unsound practice in connection
12 with any financial institution or other business entity such
13 that the character and fitness of the director, officer,
14 employee, or agent would not have assured reasonable promise
15 of safe and sound operation of the corporate fiduciary or
16 subsidiary or corporate parent of the corporate fiduciary,
17 the Commissioner may issue an order prohibiting that person
18 from further service with a corporate fiduciary or subsidiary
19 or corporate parent of the corporate fiduciary as a director,
20 officer, employee, or agent. An order issued pursuant to this
21 Section shall be served upon the director, officer, employee,
22 or agent. A copy of the order shall be sent to each director
23 of the corporate fiduciary affected by personal service,
24 certified mail return receipt requested, or any other method
25 that provides proof of service and receipt. The person
26 affected by the action may request a hearing before the State
27 Banking Board of Illinois, hereafter "the Board", within 10
28 days after receipt of the order of removal or prohibition.
29 The hearing shall be held by the Board according to the same
30 procedures used pursuant to Section 48 of the Illinois
31 Banking Act, and the hearing shall be held within 30 days
32 after the request has been received by the Board. After
33 concluding the hearing, the Board shall make a determination
34 approving, modifying, or disapproving the order of the

1 Commissioner as its final administrative decision. A copy of
2 the order shall be served upon the corporate fiduciary of
3 which the person is a director, officer, employee, or agent,
4 whereupon the person shall cease to be a director, officer,
5 employee, or agent of the corporate fiduciary. Any person
6 who has been removed or prohibited by an order of the
7 Commissioner under this Section or subsection (7) of Section
8 48 of the Illinois Banking Act may not thereafter serve as
9 director, officer, employee, or agent of any State bank or
10 corporate fiduciary, or of any other entity that is subject
11 to licensure or regulation by the Commissioner or the Office
12 of Banks and Real Estate unless the Commissioner has granted
13 prior approval in writing. The Commissioner may institute a
14 civil action against the director, officer, employee, or
15 agent subject to an order issued under this Section and
16 against the corporate fiduciary to enforce compliance with or
17 to enjoin any violation of the terms of the order.

18 (Source: P.A. 90-301, eff. 8-1-97; 90-665, eff. 7-30-98.)

19 (205 ILCS 620/6-2) (from Ch. 17, par. 1556-2)

20 Sec. 6-2. Control by Commissioner.

21 (a) If the Commissioner with respect to a corporate
22 fiduciary shall find:

23 (1) Its capital is impaired or it is otherwise in an
24 unsound condition; or

25 (2) Its business is being conducted in an unlawful
26 manner, including, without limitation, in violation of any
27 provisions of this Act or of an order of the Commissioner, or
28 in a fraudulent or unsafe manner; or

29 (3) It is unable to continue operations; or

30 (4) Its examination has been obstructed or impeded; the
31 Commissioner may give notice to the board of directors of the
32 corporate fiduciary of his finding or findings. If the
33 situation so found by the Commissioner shall not be corrected

1 to his satisfaction within 60 days after receipt of such
2 notice, the Commissioner at the termination of said 60 days
3 may shall take possession and control of the corporate
4 fiduciary, its assets, and assets held for beneficiaries of
5 its fiduciary obligations, as in this Act provided for the
6 purpose of examination, reorganization or liquidation through
7 receivership.

8 (b) If, in addition to a finding as provided in
9 subsection (a) of this Section, the Commissioner shall be of
10 the opinion and shall find that an emergency exists which may
11 result in serious losses to the beneficiaries of fiduciary
12 relationships with the corporate fiduciary, he may, in his
13 discretion, without having given the notice provided for in
14 subsection (a) of this Section, and whether or not
15 proceedings under subsection (a) of this Section have been
16 instituted or are then pending, forthwith take possession and
17 control of the corporate fiduciary and its assets for the
18 purpose of examination, reorganization or liquidation through
19 receivership.

20 (Source: P.A. 85-858.)

21 Section 45. The Foreign Banking Office Act is amended by
22 changing Sections 11 and 12 as follows:

23 (205 ILCS 645/11) (from Ch. 17, par. 2718)

24 Sec. 11. Pledging requirements; discretion of
25 Commissioner. A foreign banking corporation holding a
26 certificate of authority issued pursuant to this Act may be
27 required, when deemed necessary and appropriate in the
28 opinion of the Commissioner, to keep on deposit with the
29 Federal Reserve Bank of Chicago or such State bank or
30 national bank as such foreign banking corporation may
31 designate and the Commissioner may approve, interest-bearing
32 stocks and bonds, notes, debentures or other obligations of

1 the United States or any agency or instrumentality thereof or
2 guaranteed by the United States, or of this State, or of a
3 city, county, town, village, school district, or
4 instrumentality of this State or guaranteed by this State, or
5 dollar deposits, or obligations of the International Bank for
6 Reconstruction and Development, or obligations issued by the
7 Inter-American Development Bank, or obligations of the Asian
8 Development Bank, or obligations of the African Development
9 Bank, or obligations of the International Finance
10 Corporation, or such other assets as the Commissioner shall
11 permit, to an aggregate amount, based upon principal amount
12 or market value, whichever is lower, in the case of the
13 above-described securities, and subject to such limitations
14 as he shall prescribe, such amount as the Commissioner deems
15 necessary for the protection of depositors or the costs of
16 taking possession and control ~~of not less than the greater of~~
17 ~~\$100,000 or 5% of the total liabilities (including contingent~~
18 ~~liabilities--of--such--banking--office,--including--acceptances,~~
19 ~~but--excluding--(i)--accrued--expenses,--(ii)--amounts--due--and~~
20 ~~other--liabilities--to--other--offices,--agencies--or--branches--of,~~
21 ~~and--wholly--owned--(except--for--a--nominal--number--of--directors'~~
22 ~~shares)--subsidiaries--of,--such--foreign--banking--corporation,~~
23 ~~and--(iii)--such--contingent--liabilities--as--the--Commissioner--may~~
24 ~~exclude.~~ The deposit shall be maintained with the Federal
25 Reserve Bank of Chicago or any such State bank or national
26 bank pursuant to a deposit agreement in such form and
27 containing such conditions and limitations (including a
28 deposit in the name of the Commissioner in trust for the
29 depositors of such banking office) as the Commissioner may
30 prescribe. So long as it continues business in the ordinary
31 course such banking office shall, however, be permitted to
32 collect interest on the securities so deposited and from time
33 to time exchange, examine and compare such securities.

34 (Source: P.A. 89-208, eff. 6-1-97; 90-301, eff. 8-1-97.)

1 (205 ILCS 645/12) (from Ch. 17, par. 2719)

2 Sec. 12. Control by Commissioner.

3 (a) Upon the Commissioner's taking possession, pursuant
4 to Section 53 of the Illinois Banking Act, of the business
5 and property in this State of the banking office of a foreign
6 banking corporation whose deposit liabilities in this State
7 are not insured by the Federal Deposit Insurance Corporation,
8 the amounts deposited pursuant to Section 11 shall thereupon
9 become the property of the Commissioner, free and clear of
10 any and all liens and other claims, and shall be held by the
11 Commissioner ~~him~~ in trust for the depositors of such banking
12 office. The Commissioner may, without regard to any
13 priorities, preferences, or adverse claims and without
14 obtaining the approval of any court, reduce such property to
15 cash and, as soon as practicable, utilize the cash to cover
16 initial liquidation costs, if any, and then distribute any
17 excess ~~it~~ to such depositors on a pro rata basis; but no
18 depositor may receive an amount in excess of his account
19 balances. For purposes of this Section, the term "depositor"
20 does not include any other offices or branches of, or
21 wholly-owned (except for a nominal number of directors'
22 shares) subsidiaries of, such foreign banking corporation,
23 but includes those to whom such banking office is indebted by
24 virtue of money or its equivalent received by such banking
25 office (i) for which it has given credit or is obligated to
26 give credit to a time or demand deposit or which is evidenced
27 by a check or draft against a deposit account and certified
28 by such banking office, or (ii) for which it has issued a
29 letter of credit for cash or a traveler's check on which such
30 banking office is primarily liable, or (iii) for which it has
31 issued an outstanding draft (including advice or
32 authorization to charge the banking office's balance at
33 another bank), cashier's check or money order, or other
34 officer's check.

1 (b) Whenever the Commissioner takes possession of the
2 property and business of a foreign bank pursuant to Section
3 53 of the Illinois Banking Act, the Commissioner shall
4 conserve or liquidate the property and business of the
5 foreign bank pursuant to the laws of this State as if the
6 foreign bank were an Illinois bank, with absolute preference
7 and priority given to the creditors of the foreign bank
8 arising out of transactions with, and recorded on the books
9 of, its Illinois state branch or Illinois state agency over
10 the creditors of the foreign bank's offices located outside
11 this State. When the Commissioner has completed the
12 liquidation of the property and business of a foreign bank,
13 the Commissioner shall transfer any remaining assets to the
14 foreign bank in accordance with such orders as the court may
15 issue. However, in case the foreign bank has an office in
16 another state of the United States which is in liquidation
17 and the assets of such office appear to be insufficient to
18 pay in full the creditors of that office, the court shall
19 order the Commissioner to transfer to the liquidator of that
20 office such amount of any such remaining assets as appears to
21 be necessary to cover the insufficiency; if there are 2 or
22 more such offices and the amount of remaining assets is less
23 than the aggregate amount of insufficiencies with respect to
24 the offices, the court shall order the Commissioner to
25 distribute the remaining assets among the liquidators of
26 those offices in such manner as the court finds equitable.

27 (Source: P.A. 84-1308.)

28 Section 50. The Foreign Bank Representative Office Act
29 is amended by changing Sections 4, 6, and 8 as follows:

30 (205 ILCS 650/4) (from Ch. 17, par. 2854)

31 Sec. 4. Application; fees.

32 (a) The application for a license shall contain

1 information and be accompanied by a reasonable fee as
2 determined, by rule, by the Commissioner but--in--no--event
3 shall-such-fee-exceed-\$300-per-year.

4 (b) The Commissioner shall issue a license to a foreign
5 bank to establish and maintain a representative office if the
6 Commissioner finds:

7 (1) the foreign bank is of good character and sound
8 financial standing;

9 (2) the management of the foreign bank and the proposed
10 management of the representative office are adequate; and

11 (3) the convenience and needs of persons to be served by
12 the proposed representative office will be promoted.

13 (Source: P.A. 85-204.)

14 (205 ILCS 650/6) (from Ch. 17, par. 2856)

15 Sec. 6. Revocation of license. If the Commissioner
16 finds:

17 (a) the licensee or its representative has violated any
18 provision of this Act or other law, rule, or regulation of
19 this State; or

20 (b) any fact or condition exists which, if it had
21 existed at the time of the original application for such
22 license, would have resulted in the Commissioner refusing to
23 issue such license; then the Commissioner, ~~may--certify--such~~
24 ~~findings--to--the--State--Banking--Board--of--Illinois.~~ after
25 granting the licensee or representative a reasonable
26 opportunity to be heard before-the-Board, the-Board, upon-a
27 majority-vote-of-all-its-members, may revoke such license.

28 (Source: P.A. 85-204.)

29 (205 ILCS 650/8)

30 Sec. 8. Powers of the Commissioner. The Commissioner
31 shall have under this Act all of the powers granted to him
32 under the Illinois Banking Act, including the authority to

1 impose a reasonable charge to recover the cost of an
2 examination conducted by the Commissioner, to the extent
3 necessary to enable the Commissioner to supervise the
4 representative office of a foreign bank holding a license.
5 (Source: P.A. 90-301, eff. 8-1-97; 90-655, eff. 7-30-98.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.