92\_HB4157 LRB9215282REpk

1 AN ACT concerning community development financial

- 2 institutions.
- 3 Be it enacted by the People of the State of Illinois,
- 4 represented in the General Assembly:
- 5 Section 1. Short title. This Act may be cited as the
- 6 Illinois Investment and Development Authority Act.
- 7 Section 5. Purpose. The purpose of this Act is to
- 8 create a State entity to support the creation and growth of
- 9 community development financial institutions, which provide
- 10 access to capital for business development, capital
- 11 investments, and other financing to expand private sector
- 12 activities in economically disadvantaged communities and for
- low income people, by providing grants, loans, and technical
- 14 assistance to CDFIs. Assistance by this entity would (i)
- 15 expand financial services and capital access in economically
- 16 disadvantaged communities, (ii) provide support for the
- 17 creation of new small businesses and new jobs in economically
- 18 disadvantaged communities, (iii) create opportunities for
- 19 banks to get a federal incentive for investments in a CDFI,
- 20 (iv) increase this State's share of the money distributed
- 21 annually by the federal Community Development Financial
- 22 Institutions Fund, and (v) create a new partnership between
- 23 the State, banks and thrifts, and CDFIs.
- 24 Section 10. Definitions. In this Act:
- 25 "Authority" means the Illinois Investment and Development
- 26 Authority.
- "Community development financial institution" or "CDFI"
- 28 means an Illinois community development financial institution
- 29 certified in accordance with the federal Community
- 30 Development Banking and Financial Institutions Act of 1994

- 1 (Public Law 103-325) and accredited by the Authority under
- 2 Section 50 of this Act.
- 3 Section 15. Creation of Illinois Investment and
- 4 Development Authority; members.
- 5 (a) There is created a political subdivision, body
- 6 politic and corporate, to be known as the Illinois Investment
- 7 and Development Authority. The exercise by the Authority of
- 8 the powers conferred by law shall be an essential public
- 9 function. The governing powers of the Authority shall be
- 10 vested in a body consisting of 11 members, including, as ex
- 11 officio members, the Commissioner of Banks and Real Estate
- 12 and the Director of Commerce and Community Affairs or their
- 13 designees. The other 9 members of the Authority shall be
- 14 appointed by the Governor, with the advice and consent of the
- 15 Senate, and shall be designated "public members". The public
- 16 members shall include representatives from banks and other
- 17 private financial services industries, community development
- 18 finance experts, small business development experts, and
- 19 other community leaders. Not more than 6 members of the
- 20 Authority may be of the same political party. The
- 21 Chairperson of the Authority shall be designated by the
- 22 Governor from among its public members.
- 23 (b) Six members of the Authority shall constitute a
- 24 quorum. However, when a quorum of members of the Authority is
- 25 physically present at the meeting site, other Authority
- 26 members may participate in and act at any meeting through the
- 27 use of a conference telephone or other communications
- 28 equipment by means of which all persons participating in the
- 29 meeting can hear each other. Participation in such meeting
- 30 shall constitute attendance and presence in person at the
- 31 meeting of the person or persons so participating. All
- 32 official acts of the Authority shall require the approval of
- 33 at least 5 members.

- 1 (c) Of the members initially appointed by the Governor 2 pursuant to this Act, 3 shall serve until the third Monday in January, 2004, 3 shall serve until the third Monday in 3 4 January, 2005, and 3 shall serve until the third Monday in 5 2006 and all shall serve until their successors are 6 appointed and qualified. All successors shall hold office 7 for a term of 3 years commencing on the third Monday in January of the year in which their term commences, except in 8 9 an appointment to fill a vacancy. Each member appointed under this Section who is confirmed by the Senate 10 11 shall hold office during the specified term and until his or her successor is appointed and qualified. In case of vacancy 12 in the office when the Senate is not in session, the Governor 13 may make a temporary appointment until the next meeting of 14 the Senate, when the Governor shall nominate such person to 15 16 fill the office, and any person so nominated who is confirmed by the Senate, shall hold his or her office during the 17 remainder of the term and until his or her successor is 18 19 appointed and qualified.
  - (d) Members of the Authority shall not be entitled to compensation for their services as members, but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

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- 25 (e) The Governor may remove any public member of the 26 Authority in case of incompetency, neglect of duty, or 27 malfeasance in office, after service on the member of a copy 28 of the written charges against him or her and an opportunity 29 to be publicly heard in person or by counsel in his or her 30 own defense upon not less than 10 days notice.
- 31 Section 20. Executive Director; other employees. The 32 members of the Authority shall appoint an Executive Director 33 to hold office at the pleasure of the members. The Executive

1 Director shall be the chief administrative and operational 2 officer of the Authority, shall direct and supervise its administrative affairs and general management and perform 3 4 such other duties as may be prescribed from time to time the members, and shall receive compensation fixed by the 5 Authority. The Executive Director or any committee of the 6 7 members may carry out such responsibilities of the members as 8 the members by resolution may delegate. The Executive 9 Director shall attend all meetings of the Authority; however, no action of the Authority shall be invalid on account of the 10 11 absence of the Executive Director from a meeting. The Authority may engage the services of such other agents and 12 employees, including legal and technical experts and other 13 consultants, as it may deem advisable and may prescribe these 14 persons' duties and fix their compensation. 15

Section 25. Powers of Authority.

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- (a) The Authority possesses all the powers as a body corporate necessary and convenient to accomplish the purposes of this Act, including, without any intended limitation upon the general powers hereby conferred, all of the following:
- 21 (1) To enter into loans, contracts, and agreements 22 in any matter connected with any of its corporate 23 purposes and to invest its funds.
  - (2) To sue and be sued.
  - (3) To employ those agents, employees, and independent contractors necessary to carry out its purposes, and to fix their compensation, their benefits, and the terms and conditions of their employment.
  - (4) To have and use a common seal and to alter the seal at pleasure.
- 31 (5) To adopt all needful resolutions, by-laws, and rules for the conduct of its business and affairs.
- 33 (6) To have and exercise all powers and be subject

- to all duties usually incident to boards of directors of
- 2 corporations.
- 3 (b) The Authority shall not have the power to levy taxes
- 4 for any purpose whatsoever.

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- 5 Section 30. Office. The Authority may maintain an
- 6 office or branch office anywhere in this State and may
- 7 utilize, without the payment of rent, any office facilities
- 8 that the State may conveniently make available to the
- 9 Authority.

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- 10 Section 35. Secretary; treasurer; funds.
- 11 (a) The Authority shall appoint a secretary and
- 12 treasurer, who may be a member or members of the Authority,
- 13 to hold office at the pleasure of the Authority. Before
- 14 entering upon the duties of the respective offices, the
- 15 person or persons shall take and subscribe to the

office, and the treasurer shall

18 Authority. The bond shall be payable to the Authority in

execute a bond with corporate sureties to be approved by the

- 19 whatever penal sum may be directed by the Authority,
- 20 conditioned upon the faithful performance of the duties of
- 21 the office and the payment of all money received by him or
- 22 her according to law and the orders of the Authority. The
- 23 Authority may, at any time, require a new bond from the
- 24 treasurer in such penal sum as may then be determined by the
- 25 Authority. The obligation of the sureties shall not extend
- 26 to any loss sustained by the insolvency, failure, or closing
- of any savings and loan association or national or state bank
- 28 wherein the treasurer has deposited funds if the bank or
- 29 savings and loan association has been approved by the
- 30 Authority as a depository for these funds. The oaths of
- 31 office and the treasurer's bond shall be filed in the
- 32 principal office of the Authority.

- 1 (b) All funds of the Authority, including without 2 limitation (i) grants or loans from the federal government, the State, or any agency or instrumentality of the State or 3 4 federal government, (ii) fees, service charges, interest, or 5 other investment earnings on its funds, (iii) payments of principal of and interest on loans of its funds, and (iv) 6 revenue from any other source, except funds the application 7 8 which is otherwise specifically provided for by 9 appropriation, resolution, grant agreement, lease agreement, loan agreement, indenture, mortgage, trust agreement, or 10 11 other agreement, may be held by the Authority in its treasury and be generally available for expenditure by the Authority 12 for any of the purposes authorized by this Act. 13
- In addition to investments authorized by Section 2 14 of the Public Funds Investment Act, funds of the Authority 15 16 may be invested in (i) obligations issued by any state, unit of local government, or school district, which obligations 17 are rated at the time of purchase by a national rating 18 19 service within the 2 highest rating classifications without regard to any rating refinement or gradation by numerical or 20 21 other modifier, or (ii) equity securities of an investment company registered under the federal Investment Company Act 22 23 1940 whose sole assets, other than cash and other temporary investments, are obligations that are eligible 24 25 investments for the Authority, provided that not more than 20% of the assets of the investment company may consist of 26 unrated obligations of the type described in clause (i) of 27 this subsection (c) that the board of directors of 28 29 investment company has determined to be of comparable quality 30 rated obligations described in clause (i) of this subsection (c). 31
- 32 (d) Moneys appropriated by the General Assembly to the 33 Authority shall be held in the State treasury unless the Act 34 making the appropriation specifically states that the moneys

1 are appropriated to the Authority's treasury. Such funds as 2 are authorized to be held in the Authority's treasury, deposited in any bank or savings and loan association, and 3 4 placed in the name of the Authority shall be withdrawn or 5 paid out only by check or draft upon the bank or savings and 6 loan association, signed by the treasurer and countersigned 7 by the Chairperson of the Authority. The Authority may designate any of its members or any officer or 8 employee of 9 the Authority to affix the signature of the Chairperson and may designate another to affix the signature of the treasurer 10 11 to any check or draft for payment of salaries or wages and for payment of any other obligations of not more than \$2,500. 12 In case any person whose signature appears upon any check or 13 draft, issued pursuant to this Act, ceases to hold his or her 14 office before the delivery of the check or draft 15 the 16 signature nevertheless shall be valid and sufficient for all purposes with the same effect as 17 person had remained in office until delivery of the check or 18 19 draft. A bank or savings and loan association may not receive public funds as permitted by this Section unless it 20 2.1 has complied with the requirements established pursuant to Section 6 of the Public Funds Investment Act. 22

## 23 Section 40. Conflict of interest.

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(a) No member, officer, agent, or employee of the Authority shall, in his or her own name or in the name of a nominee, be an officer or director or hold an ownership interest of more than 7.5% in any person, association, trust, corporation, partnership, or other entity that is, in its own name or in the name of a nominee, a party to a contract or agreement upon which the member, officer, agent, or employee may be called upon to act or vote. The prohibition of this subsection (a) does not apply, however, to prohibit contracts or agreements between the Authority and entities qualified

1 under Section 501 of the Internal Revenue Code of 1986 due to

2 a member of the Authority serving as an officer or director

3 of that entity.

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4 With respect to any direct or indirect interest, (b) 5 other than an interest prohibited in subsection (a) of this 6 Section, in a contract or agreement upon which the member, 7 officer, agent, or employee may be called upon to act or 8 vote, a member, officer, agent, or employee of the Authority shall disclose the interest to the secretary of the Authority 9 before the taking of final action by the Authority concerning 10 11 the contract or agreement and shall so disclose the nature and extent of the interest and his or her acquisition of it, 12 and those disclosures shall be publicly acknowledged by the 13 Authority and entered upon the minutes of the Authority. 14 15 a member, officer, agent, or employee of the Authority holds 16 such an interest, then he or she shall refrain (i) from any further official involvement in regard to the contract or 17 agreement, (ii) from voting on any matter pertaining to the 18 contract or agreement, and (iii) from communicating with 19 members of the Authority or its officers, agents, and 20 21 employees concerning the contract or agreement. Notwithstanding any other provision of law, any contract or 22 23 agreement entered into in conformity with this subsection (b) shall not be void or invalid by reason of the 24 25 described in this subsection (b), nor shall any person so disclosing the interest and refraining from further official 26 involvement as provided in this subsection (b) be guilty of 27 an offense, be removed from office, or be subject to any 28 29 other penalty on account of that interest.

(c) Any contract or agreement made in violation of subsection (a) or (b) of this Section shall be null and void, but shall not give rise to any action against the Authority.

Section 45. Audit; fiscal year; report. The accounts

- 1 and books of the Authority, including its receipts, 2 disbursements, contracts, and other matters relating to its finances, operation, and affairs shall be examined and 3 4 audited at least once within each 2-year period by a firm of certified public accountants, who shall certify its audit to 5 6 the State Comptroller. The fiscal year for the Authority 7 shall commence on July 1. As soon after the end of each 8 fiscal year as may be expedient, the Authority shall cause to 9 be prepared and printed a complete report and financial statement of its operations and of its 10 assets and 11 liabilities. A reasonably sufficient number of copies of this report shall be printed for distribution to persons 12 13 interested, upon request, and a copy of the report shall be filed with the Governor, the Secretary of State, the State 14 Comptroller, the Secretary of the Senate, and the Clerk of 15 16 the House of Representatives.
- 17 Section 50. Accreditation.

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- (a) A CDFI must be accredited by the Authority in order 18 to receive assistance from the Authority, unless otherwise 19 20 specified in this Act. The Authority may revoke accreditation 21 from a CDFI that no longer meets the Authority's 22 accreditation criteria. Accreditation of a CDFI under this Act does not, in and of itself, qualify the CDFI to 23 24 participate in a financing program administered by the 25 Authority.
  - (b) Authority criteria for accreditation must include certification under the federal Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325) and any other criteria that the Authority deems appropriate.
- 30 (c) The Authority shall accredit CDFIs in a manner to 31 ensure the use of CDFIs in all geographic regions of this 32 State to the greatest extent possible.

- 1 Section 55. Authority's responsibilities.
- 2 (a) The Authority shall make grants and low-rate loans
- 3 to CDFIs so that CDFIs may fill a credit gap by engaging in
- 4 below market rate financing in economically disadvantaged
- 5 communities and to low income people. As part of a grant or
- 6 loan agreement, a CDFI may request and the Authority may
- 7 consent to having the grant or loan proceeds paid directly to
- 8 a CDFI's creditor. As part of a loan agreement, the
- 9 Authority may require additional security from the CDFI,
- 10 including without limitation a pledge of a certain percentage
- of the CDFI's assets or future earnings.
- 12 (b) The Authority shall provide technical assistance to
- 13 CDFIs to (i) expand the financial services the CDFI sector
- offers, such as micro-business lending, facilities financing,
- 15 low income housing financing, and personal financial services
- 16 for low income persons, (ii) encourage the establishment of
- downstate CDFIs, and (iii) provide technical assistance and
- 18 training to CDFIs' borrowers.
- 19 Section 60. Authority grants. The Authority may issue
- 20 grants to CDFIs or to nonprofit organizations that are
- 21 attempting to obtain federal certification or Authority
- 22 accreditation as a CDFI. The Authority may issue, in a
- 23 manner consistent with subsection (c) of Section 50 of this
- 24 Act, grants for the purpose of developing or enhancing the
- 25 ability of the CDFI or nonprofit organization to be
- 26 accredited as a CDFI under Section 50 of this Act and to
- 27 receive loans from the Authority under Section 65 of this
- 28 Act. The Authority may also issue grants or loans to
- 29 nonprofit organizations that have entered into a written
- 30 contract with a CDFI or a nonprofit organization receiving
- 31 grants from the Authority to obtain federal certification or
- 32 Authority accreditation as a CDFI.
- In areas of this State where no CDFI exists and no

- 1 nonprofit organization is working to obtain certification or
- 2 accreditation as a CDFI, the Authority may issue grants to a
- 3 nonprofit organization deemed by the Authority to be
- 4 performing activities consistent with the goals of the
- 5 federal Community Development Banking and Financial
- 6 Institutions Act of 1994 (Public Law 103-325). The grants
- 7 shall be used by the nonprofit organization to provide
- 8 technical assistance, training, or other support to small
- 9 businesses or other for-profit or not-for-profit
- 10 organizations.
- 11 Section 65. Authority loans. The Authority may make
- loans to CDFIs, from moneys appropriated for this purpose, on
- 13 such terms and conditions as the Authority may determine.
- 14 Loans shall be made and used in a manner consistent with the
- 15 requirements of the federal Community Development Banking and
- 16 Financial Institutions Act of 1994 (Public Law 103-325).
- 17 Loans to CDFIs may be made by the Authority as the sole
- 18 lender or in cooperation with participating investors
- 19 pursuant to agreements entered into in accordance with this
- 20 Act. Loan repayments shall be used by the Authority to make
- 21 new loans to CDFIs.
- 22 Section 70. Community development loans.
- 23 (a) CDFIs that receive loans from the Authority under
- 24 Section 65 of this Act shall make and use community
- 25 development loans pursuant to guidelines established by the
- 26 Authority and in a manner consistent with the federal
- 27 Community Development Banking and Financial Institutions Act
- of 1994 (Public Law 103-325). The guidelines shall include
- 29 criteria for the approval of a portfolio of loans submitted
- 30 by CDFIs.
- 31 (b) In connection with community development loans under
- 32 this Section, the recipient of a loan must provide

- 1 certification to the Authority that the recipient does not
- 2 have any outstanding debts in the form of delinquent real
- 3 estate taxes or utility bills that are more than one year
- 4 outstanding.
- 5 Section 75. Report to General Assembly. Within 90 days
- 6 after the end of each fiscal year, the Authority shall
- 7 prepare a report for that fiscal year and file it with the
- 8 General Assembly as provided in Section 3.1 of the General
- 9 Assembly Organization Act. The report shall include the
- 10 amount of funds appropriated to the Authority that were
- 11 deposited by the Authority in special accounts in banks or
- 12 trust companies, the amount of disbursements made from the
- 13 special accounts, the number, name, and location of CDFIs
- 14 accredited by the Authority, and the number and amount of
- grants to CDFIs or nonprofit organizations.