

AN ACT concerning financial regulation.

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

Section 5. The Office of Banks and Real Estate Act is amended by changing Sections 0.1, 0.2, and 5 as follows:

(20 ILCS 3205/0.1)

Sec. 0.1. Short title. This Act may be cited as the Division of Banking ~~Office of Banks and Real Estate Act~~.

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

(20 ILCS 3205/0.2)

Sec. 0.2. Definitions. For the purposes of this Act, unless the context otherwise requires:

"Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~, or a person authorized by the Secretary ~~Commissioner~~, the Division of Banking Act, or by this Act to act in the Secretary's ~~Commissioner's~~ stead.

"Division" means the Division of Banking within the Department of Financial and Professional Regulation.

"Office" means the Division of Banking within the Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~.

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

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

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

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

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

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

(c-5) To exercise all of the rights, powers, and duties granted to the Director or Secretary under the Illinois Banking Act, the Corporate Fiduciary Act, the Electronic Fund Transfer Act, the Illinois Bank Holding Company Act of 1957, the Savings Bank Act, the Illinois Savings and Loan Act of 1985, the Savings and Loan Share and Account Act, the Residential Mortgage License Act of 1987, and the Pawnbroker Regulation

Act.

(d) Whenever the Commissioner is authorized or required by law to consider or to make findings regarding the character of incorporators, directors, management personnel, or other relevant individuals under the Illinois Banking Act, the Corporate Fiduciary Act, the Pawnbroker Regulation Act, or at other times as the Commissioner deems necessary for the purpose of carrying out the Commissioner's statutory powers and responsibilities, the Commissioner shall consider criminal history record information, including nonconviction information, pursuant to the Criminal Identification Act. The Commissioner shall, in the form and manner required by the Department of State Police and the Federal Bureau of Investigation, cause to be conducted a criminal history record investigation to obtain information currently contained in the files of the Department of State Police or the Federal Bureau of Investigation, provided that the Commissioner need not cause additional criminal history record investigations to be conducted on individuals for whom the Commissioner, a federal bank regulatory agency, or any other government agency has caused such investigations to have been conducted previously unless such additional investigations are otherwise required by law or unless the Commissioner deems such additional investigations to be necessary for the purposes of carrying out the Commissioner's statutory powers and responsibilities. The Department of State Police shall provide, on the Commissioner's

request, information concerning criminal charges and their disposition currently on file with respect to a relevant individual. Information obtained as a result of an investigation under this Section shall be used in determining eligibility to be an incorporator, director, management personnel, or other relevant individual in relation to a financial institution or other entity supervised by the Commissioner. Upon request and payment of fees in conformance with the requirements of Section 2605-400 of the Department of State Police Law (20 ILCS 2605/2605-400), the Department of State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to fulfill the request.

(e) When issuing charters, permits, licenses, or other authorizations, the Commissioner may impose such terms and conditions on the issuance as he deems necessary or appropriate. Failure to abide by those terms and conditions may result in the revocation of the issuance, the imposition of corrective orders, or the imposition of civil money penalties.

(f) If the Commissioner has reasonable cause to believe that any entity that has not submitted an application for authorization or licensure is conducting any activity that would otherwise require authorization or licensure by the Commissioner, the Commissioner shall have the power to subpoena witnesses, to compel their attendance, ~~and~~ to require the production of any relevant books, papers, accounts, and

documents, and to conduct an examination of the entity in order to determine whether the entity is subject to authorization or licensure by the Commissioner or the Division ~~Office of Banks and Real Estate~~. If the Secretary determines that the entity is subject to authorization or licensure by the Secretary, then the Secretary shall have the power to issue orders against or take any other action, including initiating a receivership against the unauthorized or unlicensed entity.

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

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

(i) Whenever the Secretary determines that it is in the public's interest, he or she may publish any cease and desist order or other enforcement action issued by the Division.

(Source: P.A. 91-239, eff. 1-1-00; 92-483, eff. 8-23-01.)

Section 7. The Illinois Bank Examiners' Education Foundation Act is amended by changing Sections 3.01, 4, and 5 as follows:

(20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

Sec. 3.01. "Board" means the State Banking Board of Illinois as established under the provisions of the Illinois Banking Act ~~Board of Trustees of the Illinois Bank Examiners' Education Foundation created by this Act.~~

(Source: P.A. 84-1127.)

(20 ILCS 3210/4) (from Ch. 17, par. 404)

Sec. 4. The Foundation shall establish an endowment fund with the monies in the Illinois Bank Examiners' Education Fund. The income from such Fund shall be used to pay for continuing education and professional training activity for the examination employees of the Commissioner's office authorized by the Board ~~of the Illinois Bank Examiners' Education Program~~ and to pay for reasonable expenses incurred by the Board in the course of administering its official duties under this Act. The continuing education and professional training activity to be funded by the Foundation shall be a supplement to the education and training expenditures regularly being made from the Bank & Trust Company Fund for such purposes.

(Source: P.A. 84-1127.)

(20 ILCS 3210/5) (from Ch. 17, par. 405)

Sec. 5. The Foundation shall be governed by the ~~a~~ Board ~~of Trustees~~. ~~The Board shall consist of the following trustees: the Commissioner, who shall be its chairman; one Class A member~~

~~and three Class B members from the State Banking Board of Illinois, appointed by the Governor.~~

For carrying out their official duties under this Act, the Board members ~~The terms of the trustees of the Foundation who are members of the State Banking Board of Illinois are to be coextensive with their terms on the State Banking Board of Illinois. An appointment to fill a vacancy shall be for the unexpired term of the trustee whose term is being filled. Trustees shall receive no compensation for service on the Board,~~ but shall be reimbursed for all reasonable and necessary expenditures incurred in the performance of said ~~their official~~ duties.

(Source: P.A. 84-1127.)

Section 10. The Illinois Bank Examiners' Education Foundation Act is amended by changing Section 3.02 and by adding Section 3.025 as follows:

(20 ILCS 3210/3.02) (from Ch. 17, par. 403.2)

Sec. 3.02. "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner,~~ the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

(20 ILCS 3210/3.025 new)

Sec. 3.025. Division. "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

Section 15. The Illinois Banking Act is amended by changing Sections 13, 32, 40, 48, 51, and 52 as follows:

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

Sec. 13. Issuance of charter.

(a) When the directors have organized as provided in Section 12 of this Act, and the capital stock and the preferred stock, if any, together with a surplus of not less than 50% of the capital, has been all fully paid in and a record of the same filed with the Commissioner, the Commissioner or some competent person of the Commissioner's appointment shall make a thorough examination into the affairs of the proposed bank, and if satisfied (i) that all the requirements of this Act have been complied with, (ii) that no intervening circumstance has occurred to change the Commissioner's findings made pursuant to Section 10 of this Act, and (iii) that the prior involvement by any stockholder who will own a sufficient amount of stock to have control, as defined in Section 18 of this Act, of the proposed bank with any other financial institution, whether as stockholder, director, officer, or customer, was conducted in a safe and sound manner, upon payment into the Commissioner's



office of the reasonable expenses of the examination, as determined by the Commissioner, the Commissioner shall issue a charter authorizing the bank to commence business as authorized in this Act. All charters issued by the Commissioner or any predecessor agency which chartered State banks, including any charter outstanding as of September 1, 1989, shall be perpetual. For the 2 years after the Commissioner has issued a charter to a bank, the bank shall request and obtain from the Commissioner prior written approval before it may change senior management personnel or directors.

The original charter, duly certified by the Commissioner, or a certified copy shall be evidence in all courts and places of the existence and authority of the bank to do business. Upon the issuance of the charter by the Commissioner, the bank shall be deemed fully organized and may proceed to do business. The Commissioner may, in the Commissioner's discretion, withhold the issuing of the charter when the Commissioner has reason to believe that the bank is organized for any purpose other than that contemplated by this Act. The Commissioner shall revoke the charter and order liquidation in the event that the bank does not commence a general banking business within one year from the date of the issuance of the charter, unless a request has been submitted, in writing, to the Commissioner for an extension and the request has been approved. After commencing a general banking business, a bank may change its name by filing written notice with the Commissioner at least 30 days prior to

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

(b) (1) The Commissioner may also issue a charter to a bank that is owned exclusively by other depository institutions or depository institution holding companies and is organized to engage exclusively in providing services to or for other financial institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing services at the request of other financial institutions or their holding companies (also referred to as a "bankers' bank"). The bank may also provide products and services to its officers, directors, and employees.

(2) A bank chartered pursuant to paragraph (1) shall,

except as otherwise specifically determined or limited by the Commissioner in an order or pursuant to a rule, be vested with the same rights and privileges and subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed under this Act.

(c) A bank chartered under this Act shall ~~after November 1, 1985, and an out of state bank that merges with a State bank and establishes or maintains a branch in this State after May 31, 1997,~~ shall obtain from and, at all times while it accepts or retains deposits, maintain with the Federal Deposit Insurance Corporation, or such other instrumentality of or corporation chartered by the United States, deposit insurance as authorized under federal law.

(d) (i) A bank that has a banking charter issued by the Commissioner under this Act may, pursuant to a written purchase and assumption agreement, transfer substantially all of its assets to another State bank or national bank in consideration, in whole or in part, for the transferee banks' assumption of any part or all of its liabilities. Such a transfer shall in no way be deemed to impair the charter of the transferor bank or cause the transferor bank to forfeit any of its rights, powers, interests, franchises, or privileges as a State bank, nor shall any voluntary reduction in the transferor bank's activities resulting from the transfer have any such effect; provided, however, that a State bank that transfers substantially all

of its assets pursuant to this subsection (d) and following the transfer does not accept deposits and make loans, shall not have any rights, powers, interests, franchises, or privileges under subsection (15) of Section 5 of this Act until the bank has resumed accepting deposits and making loans.

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

(iii) The authority provided by subdivision (i) of this subsection (d) shall terminate on May 31, 1997, and no bank that has transferred substantially all of its assets pursuant to this subsection (d) shall continue in existence after May 31, 1997.

(Source: P.A. 95-924, eff. 8-26-08.)

(205 ILCS 5/32) (from Ch. 17, par. 339)

Sec. 32. Basic loaning limits. The liabilities outstanding at one time to a state bank of a person for money borrowed, including the liabilities of a partnership or joint venture in the liabilities of the several members thereof, shall not

exceed 25% of the amount of the unimpaired capital and unimpaired surplus of the bank.

The liabilities to any state bank of a person may exceed 25% of the unimpaired capital and unimpaired surplus of the bank, provided that (i) the excess amount from time to time outstanding is fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available quotations, at least equal to the excess amount outstanding; and (ii) the total liabilities shall not exceed 30% of the unimpaired capital and unimpaired surplus of the bank.

The following shall not be considered as money borrowed within the meaning of this Section:

(1) The purchase or discount of bills of exchange drawn in good faith against actually existing values.

(2) The purchase or discount of commercial or business paper actually owned by the person negotiating the same.

(3) The purchase of or loaning money in exchange for evidences of indebtedness which shall be secured by mortgage or trust deed upon productive real estate the value of which, as ascertained by the oath of 2 qualified appraisers, neither of whom shall be an officer, director, or employee of the bank or of any subsidiary or affiliate of the bank, is double the amount of the principal debt secured at the time of the original purchase of evidence of indebtedness or loan of money and which is still double the

amount of the principal debt secured at the time of any renewal of the indebtedness or loan, and which mortgage or trust deed is shown, either by a guaranty policy of a title guaranty company approved by the Commissioner or by a registrar's certificate of title in any county having adopted the provisions of the Registered Titles (Torrens) Act, or by the opinion of an attorney-at-law, to be a first lien upon the real estate therein described, and real estate shall not be deemed to be encumbered within the meaning of this subsection (3) by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in wells, building restrictions or other restrictive covenants, nor by reason of the fact it is subject to lease under which rents or profits are reserved by the owners.

(4) The purchase of marketable investment securities.

(5) The liability to a state bank of a person who is an accommodation party to, or guarantor of payment for, any evidence of indebtedness of another person who obtains a loan from or discounts paper with or sells paper to the state bank; but the total liability to a state bank of a person as an accommodation party or guarantor of payment in respect of such evidences of indebtedness shall not exceed 25% of the amount of the unimpaired capital and unimpaired surplus of the bank; provided however that the liability of an accommodation party to paper excepted under subsection 2

of this Section shall not be included in the computation of this limitation.

(6) The liability to a state bank of a person, who as a guarantor, guarantees collection of the obligation or indebtedness of another person.

The total liabilities of any one person, for money borrowed, or otherwise, shall not exceed 25% of the deposits of the bank, and those total liabilities shall at no time exceed 50% of the amount of the unimpaired capital and unimpaired surplus of the bank. Absent an actual unremedied breach, the obligation or responsibility for breach of warranties or representations, express or implied, of a person transferring negotiable or non-negotiable paper to a bank without recourse and without guaranty of payment, shall not be included in determining the amount of liabilities of the person to the bank for borrowed money or otherwise; and in the event of and to the extent of an unremedied breach, the amount remaining unpaid for principal and interest on the paper in respect of which the unremedied breach exists shall thereafter for the purpose of determining whether subsequent transactions giving rise to additional liability of the person to the state bank for borrowed money or otherwise are within the limitations of Sections 32 through 34 of this Act, be included in computing the amount of liabilities of the person for borrowed money or otherwise.

The liability of a person to a state bank on account of

acceptances made or issued by the state bank on behalf of the person shall be included in the computation of the total liabilities of the person for money borrowed except to the extent the acceptances grow out of transactions of the character described in subsection (6) of Section 34 of this Act and are otherwise within the limitations of that subsection; provided nevertheless that any such excepted acceptances acquired by the state bank which accepted the same shall be included in the computation of the liabilities of the person to the state bank for money borrowed.

The Secretary may adopt rules to address the funding by banks of any loan commitment, when such funding would involve additional extensions of credit to be made after the unimpaired capital and unimpaired surplus of the bank have decreased and the Secretary determines that such decrease in unimpaired capital and unimpaired surplus would cause the additional extensions of credit to result in an unsafe and unsound condition.

(Source: P.A. 92-336, eff. 8-10-01; 92-573, eff. 6-26-02.)

(205 ILCS 5/40) (from Ch. 17, par. 350)

Sec. 40. Prohibited activities. The Commissioner, deputy commissioners, and employees of the Office of Banks and Real Estate shall be subject to the restrictions provided in Section 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~ Act including, without limitation, the restrictions on (i)



owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

(Source: P.A. 89-208, eff. 9-29-95; 89-508, eff. 7-3-96.)

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

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

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

(2) (a) The Commissioner, as often as the Commissioner shall deem necessary or proper, and no less frequently than 18 months following the preceding examination, shall appoint a suitable person or persons to make an examination of the affairs of every State bank, except that for every eligible

State bank, as defined by regulation, the Commissioner in lieu of the examination may accept on an alternating basis the examination made by the eligible State bank's appropriate federal banking agency pursuant to Section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991, provided the appropriate federal banking agency has made such an examination. A person so appointed shall not be a stockholder or officer or employee of any bank which that person may be directed to examine, and shall have powers to make a thorough examination into all the affairs of the bank and in so doing to examine any of the officers or agents or employees thereof on oath and shall make a full and detailed report of the condition of the bank to the Commissioner. In making the examination the examiners shall include an examination of the affairs of all the affiliates of the bank, as defined in subsection (b) of Section 35.2 of this Act, or subsidiaries of the bank as shall be necessary to disclose fully the conditions of the subsidiaries or affiliates, the relations between the bank and the subsidiaries or affiliates and the effect of those relations upon the affairs of the bank, and in connection therewith shall have power to examine any of the officers, directors, agents, or employees of the subsidiaries or affiliates on oath. After May 31, 1997, the Commissioner may enter into cooperative agreements with state regulatory authorities of other states to provide for examination of State bank branches in those states, and the

Commissioner may accept reports of examinations of State bank branches from those state regulatory authorities. These cooperative agreements may set forth the manner in which the other state regulatory authorities may be compensated for examinations prepared for and submitted to the Commissioner.

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

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

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

(b) the bank or, after May 31, 1997, branch of the out-of-state bank shall notify the Commissioner of the

existence of a service relationship. The notification shall be submitted with the first statement of condition (as required by Section 47 of this Act) due after the making of the service contract or the performance of the service, whichever occurs first. The Commissioner shall be notified of each subsequent contract in the same manner.

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

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

(a) Each bank shall pay to the Secretary a Call Report Fee which shall be paid in quarterly installments equal to one-fourth of the sum of the annual fixed fee of \$800, plus a variable fee based on the assets shown on the quarterly statement of condition delivered to the Secretary in accordance with Section 47 for the preceding quarter

according to the following schedule: 16¢ per \$1,000 of the first \$5,000,000 of total assets, 15¢ per \$1,000 of the next \$20,000,000 of total assets, 13¢ per \$1,000 of the next \$75,000,000 of total assets, 9¢ per \$1,000 of the next \$400,000,000 of total assets, 7¢ per \$1,000 of the next \$500,000,000 of total assets, and 5¢ per \$1,000 of all assets in excess of \$1,000,000,000, of the State bank. The Call Report Fee shall be calculated by the Secretary and billed to the banks for remittance at the time of the quarterly statements of condition provided for in Section 47. The Secretary may require payment of the fees provided in this Section by an electronic transfer of funds or an automatic debit of an account of each of the State banks. In case more than one examination of any bank is deemed by the Secretary to be necessary in any examination frequency cycle specified in subsection 2(a) of this Section, and is performed at his direction, the Secretary may assess a reasonable additional fee to recover the cost of the additional examination; provided, however, that an examination conducted at the request of the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act shall not be deemed to be an additional examination under this Section. In lieu of the method and amounts set forth in this paragraph (a) for the calculation of the Call Report Fee, the Secretary may specify by rule that the Call Report Fees provided by this Section may be assessed

semiannually or some other period and may provide in the rule the formula to be used for calculating and assessing the periodic Call Report Fees to be paid by State banks.

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

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

(a-3) After May 31, 1997, the reasonable and necessary expenses of the Commissioner during examination of the performance of electronic data processing services under

subsection (2.5) at or on behalf of branches of out-of-state banks shall be borne by the out-of-state banks, unless those expenses are borne by the state regulatory authorities that chartered the out-of-state banks, as determined by cooperative agreements between the Commissioner and the state regulatory authorities that chartered the out-of-state banks.

(b) "Fiscal year" for purposes of this Section 48 is defined as a period beginning July 1 of any year and ending June 30 of the next year. The Commissioner shall receive for each fiscal year, commencing with the fiscal year ending June 30, 1987, a contingent fee equal to the lesser of the aggregate of the fees paid by all State banks under paragraph (a) of subsection (3) for that year, or the amount, if any, whereby the aggregate of the administration expenses, as defined in paragraph (c), for that fiscal year exceeds the sum of the aggregate of the fees payable by all State banks for that year under paragraph (a) of subsection (3), plus any amounts transferred into the Bank and Trust Company Fund from the State Pensions Fund for that year, plus all other amounts collected by the Commissioner for that year under any other provision of this Act, plus the aggregate of all fees collected for that year by the Commissioner under the Corporate Fiduciary Act, excluding the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act, and the Foreign Banking Office

Act. The aggregate amount of the contingent fee thus arrived at for any fiscal year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations, respectively, in the same proportion that the fee of each under paragraph (a) of subsection (3), respectively, for that year bears to the aggregate for that year of the fees collected under paragraph (a) of subsection (3). The aggregate amount of the contingent fee, and the portion thereof to be assessed upon each State bank and foreign banking corporation, respectively, shall be determined by the Commissioner and shall be paid by each, respectively, within 120 days of the close of the period for which the contingent fee is computed and is payable, and the Commissioner shall give 20 days advance notice of the amount of the contingent fee payable by the State bank and of the date fixed by the Commissioner for payment of the fee.

(c) The "administration expenses" for any fiscal year shall mean the ordinary and contingent expenses for that year incident to making the examinations provided for by, and for otherwise administering, this Act, the Corporate Fiduciary Act, excluding the expenses paid from the Corporate Fiduciary Receivership account in the Bank and Trust Company Fund, the Foreign Banking Office Act, the Electronic Fund Transfer Act, and the Illinois Bank Examiners' Education Foundation Act, including all



salaries and other compensation paid for personal services rendered for the State by officers or employees of the State, including the Commissioner and the Deputy Commissioners, communication equipment and services, office furnishings ~~all expenditures for telephone and telegraph charges, postage and postal charges, office stationery, supplies and services, and office furniture and equipment, including typewriters and copying and duplicating machines and filing equipment,~~ surety bond premiums, and travel expenses of those officers and employees, employees, expenditures or charges for the acquisition, enlargement or improvement of, or for the use of, any office space, building, or structure, or expenditures for the maintenance thereof or for furnishing heat, light, or power with respect thereto, all to the extent that those expenditures are directly incidental to such examinations or administration. The Commissioner shall not be required by paragraphs (c) or (d-1) of this subsection (3) to maintain in any fiscal year's budget appropriated reserves for accrued vacation and accrued sick leave that is required to be paid to employees of the Commissioner upon termination of their service with the Commissioner in an amount that is more than is reasonably anticipated to be necessary for any anticipated turnover in employees, whether due to normal attrition or due to layoffs, terminations, or resignations.

(d) The aggregate of all fees collected by the Secretary under this Act, the Corporate Fiduciary Act, or the Foreign Banking Office Act on and after July 1, 1979, shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund to be known as the "Bank and Trust Company Fund", except as provided in paragraph (c) of subsection (11) of this Section. All earnings received from investments of funds in the Bank and Trust Company Fund shall be deposited in the Bank and Trust Company Fund and may be used for the same purposes as fees deposited in that Fund. The amount from time to time deposited into the Bank and Trust Company Fund shall be used: (i) to offset the ordinary administrative expenses of the Secretary as defined in this Section or (ii) as a credit against fees under paragraph (d-1) of this subsection (3). Nothing in this amendatory Act of 1979 shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance premiums of State officers by appropriations from the General Revenue Fund. However, the General Revenue Fund shall be reimbursed for those payments made on and after July 1, 1979, by an annual transfer of funds from the Bank and Trust Company Fund. Moneys in the Bank and Trust Company Fund may be transferred to the Professions Indirect Cost Fund, as authorized under

Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

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

Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the total sum transferred during any fiscal year through January 10, 2011, from the Bank and Trust Company Fund to the General Revenue Fund pursuant to this provision shall not exceed during any fiscal year 10% of the revenues to be deposited into the Bank and Trust Company Fund during that

fiscal year. The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(d-1) Adequate funds shall be available in the Bank and Trust Company Fund to permit the timely payment of administration expenses. In each fiscal year the total administration expenses shall be deducted from the total fees collected by the Commissioner and the remainder transferred into the Cash Flow Reserve Account, unless the balance of the Cash Flow Reserve Account prior to the transfer equals or exceeds one-fourth of the total initial appropriations from the Bank and Trust Company Fund for the subsequent year, in which case the remainder shall be credited to State banks and foreign banking corporations and applied against their fees for the subsequent year. The amount credited to each State bank and foreign banking corporation shall be in the same proportion as the Call Report Fees paid by each for the year bear to the total Call Report Fees collected for the year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for transfer, the balance of the Cash Flow Reserve Account is less than one-fourth of the total initial appropriations for the subsequent year and the amount transferred is less than 5% of the total Call Report Fees for the year, additional amounts needed to make

the transfer equal to 5% of the total Call Report Fees for the year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations in the same proportion that the Call Report Fees of each, respectively, for the year bear to the total Call Report Fees collected for the year. The additional amounts assessed shall be transferred into the Cash Flow Reserve Account. For purposes of this paragraph (d-1), the calculation of the fees collected by the Commissioner shall exclude the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act.

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

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

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

(5) The nature and condition of the assets in or investment of any bonus, pension, or profit sharing plan for officers or employees of every State bank or, after May 31, 1997, branch of an out-of-state bank shall be deemed to be included in the affairs of that State bank or branch of an out-of-state bank subject to examination by the Commissioner under the provisions of subsection (2) of this Section, and if the Commissioner shall find from an examination that the condition of or operation of the investments or assets of the plan is unlawful, fraudulent, or unsafe, or that any trustee has abused his trust, the Commissioner shall, if the situation so found by the Commissioner shall not be corrected to his satisfaction within 60 days after the Commissioner has given notice to the board of directors of the State bank or out-of-state bank of his findings, report the facts to the Attorney General who shall thereupon institute proceedings against the State bank or out-of-state bank, the board of directors thereof, or the trustees under such plan as the nature of the case may require.

(6) The Commissioner shall have the power:

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

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

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

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

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

(d) To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Commissioner in respect of any matter relating to the duties imposed upon, or the powers vested in, the Commissioner under the provisions of this

Act or any rule promulgated in accordance with this Act.

(e) To conduct hearings.

(7) Whenever, in the opinion of the Commissioner, any director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank or, after May 31, 1997, of any branch of an out-of-state bank or any subsidiary or bank holding company of the bank shall have violated any law, rule, or order relating to that bank or any subsidiary or bank holding company of the bank, shall have obstructed or impeded any examination or investigation by the Commissioner, shall have engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the State bank, the Commissioner may issue an order of removal. If, in the opinion of the Commissioner, any former director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank, prior to the termination of his or her service with that bank or any subsidiary or bank holding company of the bank, violated any law, rule, or order relating to that State bank or any subsidiary or bank holding company of the bank, obstructed or impeded any examination or



investigation by the Commissioner, engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the State bank, the Commissioner may issue an order prohibiting that person from further service with a bank or any subsidiary or bank holding company of the bank as a director, officer, employee, or agent. An order issued pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank affected by registered mail. The person affected by the action may request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be held by the Board within 30 days after the request has been received by the Board. The Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision. If a hearing is held by the Board, the Board shall make its determination within 60 days from the conclusion of the hearing. Any person affected by a decision of the Board under this subsection (7) of Section 48 of this Act may have the decision reviewed only under and in accordance with the Administrative Review Law and the rules

adopted pursuant thereto. A copy of the order shall also be served upon the bank of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank. The Commissioner may institute a civil action against the director, officer, or agent of the State bank or, after May 31, 1997, of the branch of the out-of-state bank against whom any order provided for by this subsection (7) of this Section 48 has been issued, and against the State bank or, after May 31, 1997, out-of-state bank, to enforce compliance with or to enjoin any violation of the terms of the order. Any person who has been the subject of an order of removal or an order of prohibition issued by the Commissioner under this subsection or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any State bank or of any branch of any out-of-state bank, or of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the Commissioner or the Office of Banks and Real Estate unless the Commissioner has granted prior approval in writing.

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

(8) The Commissioner may impose civil penalties of up to \$100,000 ~~\$10,000~~ against any person for each violation of any provision of this Act, any rule promulgated in accordance with

this Act, any order of the Commissioner, or any other action which in the Commissioner's discretion is an unsafe or unsound banking practice.

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

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

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

(a) (Blank).

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

(c) The aggregate of all special educational fees collected by the Commissioner and property received by the Commissioner on behalf of the Illinois Bank Examiners' Education Foundation under this subsection (11) on or after

June 30, 1986, shall be either (i) promptly paid after receipt of the same, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in a special fund to be known as "The Illinois Bank Examiners' Education Fund" to be invested by either the Treasurer of the State of Illinois in the Public Treasurers' Investment Pool or in any other investment he is authorized to make or by the Illinois State Board of Investment as the board of trustees of the Illinois Bank Examiners' Education Foundation may direct or (ii) deposited into an account maintained in a commercial bank or corporate fiduciary in the name of the Illinois Bank Examiners' Education Foundation pursuant to the order and direction of the Board of Trustees of the Illinois Bank Examiners' Education Foundation.

(12) (Blank).

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

(Source: P.A. 94-91, eff. 7-1-05; 95-1047, eff. 4-6-09.)

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

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

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

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

(2) its business is being conducted in an unlawful, including, without limitation, in violation of any provisions of State or federal law ~~this Act~~, or in a fraudulent or unsafe manner; or

(3) it is unable to continue operations; or

(4) its examination has been obstructed or impeded; or

(5) that losses have occurred or are likely to occur that have or will deplete all or substantially all of the State bank's capital;

the Commissioner may give notice to the board of directors of ~~or~~ his or her finding or findings. If the situation so found by the Commissioner shall not be corrected to his satisfaction within a period of at least 60 ~~sixty~~ but no more than 180 ~~one hundred and eighty~~ days after receipt of such notice, which period shall be determined by the Commissioner and set forth in the notice, the Commissioner at the termination of said period may ~~shall~~ take possession and control of the bank and its assets as in this Act provided for the purpose of examination, reorganization or liquidation through receivership.

(b) If the Commissioner has given notice to the board of

directors of his findings, as provided in subsection (a), and the time period prescribed in that notice has expired, the Commissioner may extend the time period prescribed in that notice for such period as the Commissioner deems appropriate.

(Source: P.A. 92-483, eff. 8-23-01.)

(205 ILCS 5/52) (from Ch. 17, par. 364)

Sec. 52. Capital impairment, etc.; emergency. If, in addition to a finding as provided in Section 51, the Commissioner shall be of the opinion and shall find that an emergency exists which may result in the inability of the bank to continue in its operations, meet the demands of its depositors, or pay its obligations in the normal course of business ~~serious losses to the depositors~~, he may, in his discretion, without having given the notice provided for in Section 51, and whether or not proceedings under Section 51 have been instituted or are then pending, forthwith take possession and control of the bank and its assets for the purpose of examination, reorganization or liquidation through receivership. For purposes of this Section, an emergency includes, but is not limited to, when the bank is in an unsafe or unsound condition that precludes continued operations or when the interests of the bank's depositors are prejudiced.

(Source: Laws 1965, p. 2020.)

Section 20. The Illinois Bank Holding Company Act of 1957

is amended by changing Sections 2 and 3.074 as follows:

(205 ILCS 10/2) (from Ch. 17, par. 2502)

Sec. 2. Unless the context requires otherwise:

(a) "Bank" means any national banking association or any bank, banking association or savings bank, whether organized under the laws of Illinois, another state, the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which (1) accepts deposits that the depositor has a legal right to withdraw on demand by check or other negotiable order and (2) engages in the business of making commercial loans. "Bank" does not include any organization operating under Sections 25 or 25 (a) of the Federal Reserve Act, or any organization which does not do business within the United States except as an incident to its activities outside the United States or any foreign bank.

(b) "Bank holding company" means any company that controls or has control over any bank or over any company that is or becomes a bank holding company by virtue of this Act.

(c) "Banking office" means the principal office of a bank, any branch of a bank, or any other office at which a bank accepts deposits, provided, however, that "banking office" shall not mean:

(1) unmanned automatic teller machines, point of sale terminals or other similar unmanned electronic banking

facilities at which deposits may be accepted; or

(2) offices located outside the United States.

(d) "Cause to be chartered", with respect to a specified bank, means the acquisition of control of such bank prior to the time it commences to engage in the banking business.

(e) "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real Estate Act~~, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

(f) "Community" means the contiguous area served by the banking offices of a bank, but need not be limited or expanded to conform to the geographic boundaries of units of local government.

(g) "Company" means any corporation, business trust, voting trust, association, partnership, joint venture, similar organization or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but shall not include (1) an individual or (2) any corporation the majority of the shares of which are owned by the United States or by any state or any corporation or community chest fund, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual and no



substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

(h) A company "controls or has control over" a bank or company if (1) it directly or indirectly owns or controls or has the power to vote, 25% or more of the voting shares of any class of voting securities of such bank or company or (2) it controls in any manner the election of a majority of the directors or trustees of such bank or company or (3) a trustee holds for the benefit of its shareholders, members or employees, 25% or more of the voting shares of such bank or company or (4) it directly or indirectly exercises a controlling influence over the management or policies of such bank or company that is a bank holding company and the Board of Governors of the Federal Reserve System has so determined under the federal Bank Holding Company Act. In determining whether any company controls or has control over a bank or company: (i) shares owned or controlled by any subsidiary of a company shall be deemed to be indirectly owned or controlled by such company; (ii) shares held or controlled, directly or indirectly, by a trustee or trustees for the benefit of a company, the shareholders or members of a company or the employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company; and (iii) shares transferred, directly or indirectly, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) to any transferee that is indebted to the transferor

or that has one or more officers, directors, trustees or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board of Governors of the Federal Reserve System has determined, under the federal Bank Holding Company Act, that the transferor is not in fact capable of controlling the transferee. Notwithstanding the foregoing, no company shall be deemed to have control of or over a bank or bank holding company (A) by virtue of its ownership or control of shares in a fiduciary capacity arising in the ordinary course of its business; (B) by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities which are held only for such period of time as will permit the sale thereof upon a reasonable basis; (C) by virtue of its holding any shares as collateral taken in the ordinary course of securing a debt or other obligation; (D) by virtue of its ownership or control of shares acquired in the ordinary course of collecting a debt or other obligation previously contracted in good faith, until 5 years after the date acquired; or (E) by virtue of its voting rights with respect to shares of any bank or bank holding company acquired in the course of a proxy solicitation in the case of a company formed and operated for the sole purpose of participating in a proxy solicitation.

(h-5) "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

(i) "Federal Bank Holding Company Act" means the federal Bank Holding Company Act of 1956, as now or hereafter amended.

(j) "Foreign bank" means any company organized under the laws of a foreign country which engages in the business of banking or any subsidiary or affiliate of any such company, organized under such laws. "Foreign bank" includes, without limitation, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating.

(k) "Home state" means the home state of a foreign bank as determined pursuant to the federal International Banking Act of 1978.

(l) "Illinois bank" means a bank:

(1) that is organized under the laws of this State or of the United States; and

(2) whose main banking premises is located in Illinois.

(m) "Illinois bank holding company" means a bank holding company:

(1) whose principal place of business is Illinois; and

(2) that is not directly or indirectly controlled by another bank holding company whose principal place of business is a state other than Illinois or by a foreign bank whose Home State is a state other than Illinois.

An out of state bank holding company that acquires control of one or more Illinois banks or Illinois bank holding

companies pursuant to Sections 3.061 or 3.071 shall not be deemed an Illinois bank holding company.

(n) "Main banking premises" means the location that is designated in a bank's charter as its main office and that is within the state in which the total deposits held by all of the banking offices of such bank are the largest, as shown in the most recent reports of condition or similar reports filed by such bank with state or federal regulatory authorities.

(o) "Out of state bank" means a bank:

(1) that is not an Illinois bank; and

(2) whose main banking premises is located in a state other than Illinois.

(p) "Out of state bank holding company" means a bank holding company:

(1) that is not an Illinois bank holding company;

(2) whose principal place of business is a state other than Illinois the laws of which expressly authorize the acquisition by an Illinois bank holding company of a bank or bank holding company in that state under qualifications and conditions which are not unduly restrictive, as determined by the Commissioner, when compared to those imposed by the laws of Illinois.

(q) "Principal place of business" means, with respect to a bank holding company, the state in which the total deposits held by all of the banking offices of all of the bank subsidiaries of such bank holding company are the largest, as

shown in the most recent reports of condition or similar reports filed by the bank holding company's bank subsidiaries with state or federal regulatory authorities.

(r) "State" or "states" when used in this Act means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands.

(s) "Subsidiary", with respect to a specified bank holding company, means any bank or company controlled by such bank holding company.

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

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

Sec. 3.074. Powers; administrative review.

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

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

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

(3) to appoint hearing officers to execute any of the powers granted to the Commissioner under this Section for the purpose of administering this Act or any rule

promulgated in accordance with this Act; ~~and~~

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

(5) to do any other act authorized to the Commissioner under the Division of Banking Act.

(b) Whenever, in the opinion of the Commissioner, any director, officer, employee, or agent of any bank holding company or subsidiary or affiliate of that company shall have violated any law, rule, or order relating to that bank holding company or subsidiary or affiliate of that company, shall have obstructed or impeded any examination or investigation by the Commissioner, shall have engaged in an unsafe or unsound practice in conducting the business of that bank holding company or subsidiary or affiliate of that company, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of

the bank holding company, the Commissioner may issue an order of removal. If, in the opinion of the Commissioner, any former director, officer, employee, or agent of a bank holding company or subsidiary or affiliate of that company, prior to the termination of his or her service with that holding company or subsidiary or affiliate of that company, violated any law, rule, or order relating to that bank holding company or subsidiary or affiliate of that company, obstructed or impeded any examination or investigation by the Commissioner, engaged in an unsafe or unsound practice in conducting the business of that bank holding company or subsidiary or affiliate of that company, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the bank holding company, the Commissioner may issue an order prohibiting that person from further service with a bank holding company or subsidiary or affiliate of that company as a director, officer, employee, or agent.

An order issued pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank holding company affected by registered mail. The person affected by the action may request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be

held by the State Banking Board within 30 days after the request has been received by the State Banking Board. The State Banking Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision. If a hearing is held by the State Banking Board, the State Banking Board shall make its determination within 60 days from the conclusion of the hearing. Any person affected by a decision of the State Banking Board under this subsection may have the decision reviewed only under and in accordance with the Administrative Review Law and the rules adopted pursuant thereto. A copy of the order shall also be served upon the bank holding company of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank holding company.

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

Any person who has been the subject of an order of removal or an order of prohibition issued by the Commissioner under this subsection, subdivision (7) of Section 48 of the Illinois Banking Act, or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any holding company, State bank, or branch of any



out-of-state bank, of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the Commissioner or the Office of Banks and Real Estate unless the Commissioner has granted prior approval in writing.

(c) All final administrative decisions of the Commissioner under this Act shall be subject to judicial review pursuant to provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.

(Source: P.A. 92-483, eff. 8-23-01.)

Section 25. The Illinois Savings and Loan Act of 1985 is amended by changing Sections 1-10.04, 3-7, 7-1, 7-3, 7-4, 7-5, 7-20, 7-22, 10-1, and 11-1 and by adding Sections 1-10.065, 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-45, 10-50, 10-55, 10-60, 10-65, 10-70, 10-75, 10-80, 10-85, 10-90, 10-95, and 10-100 as follows:

(205 ILCS 105/1-10.04) (from Ch. 17, par. 3301-10.04)

Sec. 1-10.04. "Commissioner": the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or some person authorized by the Secretary ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

(205 ILCS 105/1-10.065 new)

Sec. 1-10.065. Division. "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

(205 ILCS 105/3-7) (from Ch. 17, par. 3303-7)

Sec. 3-7. Bonds of officers and employees.

(a) Every person appointed or elected to any position requiring the receipt, payment, management or use of money belonging to an association, or whose duties permit him to have access to or custody of any of its money or securities or whose duties permit him regularly to make entries in the books or other records of the association, before assuming his duties shall become bonded in some trust or company authorized to issue bonds in this state, or in a fidelity insurance company licensed to do business in this State. Each such bond shall be on a form or forms as the Commissioner shall require and in such amount as the board of directors shall fix and approve. Each such bond, payable to the association, shall be an indemnity for any loss the association may sustain in money or other property through any dishonest or criminal act or omission by any person required to be bonded, committed either alone or in concert with others. Such bond shall be in the form and amount prescribed by the Commissioner, who may at any time require one or more additional bonds. ~~A true copy of every~~

~~bond, including all riders and endorsements executed subsequent to the effective date of the bond, shall be filed at all times with the Commissioner.~~ Each bond shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 30 days notice in writing first shall have been given to the Commissioner, unless he shall have approved such cancellation earlier.

(b) Nothing contained herein shall preclude the Commissioner from proceeding against an association as provided in this Act should he believe that it is being conducted in an unsafe manner in that the form or amount of bonds so fixed and approved by the board of directors is inadequate to give reasonable protection to the association.

(Source: P.A. 85-1271.)

(205 ILCS 105/7-1) (from Ch. 17, par. 3307-1)

Sec. 7-1. Office of the Commissioner of Savings and Residential Finance abolished. The Office of the Commissioner of Savings and Residential Finance is abolished and its functions are transferred to the Office of Banks and Real Estate as provided in the Division of Banking ~~Office of Banks and Real Estate~~ Act.

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

(205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

Sec. 7-3. Personnel, records, files, actions and duties,

etc.

(a) The Secretary shall appoint, subject to applicable provisions of the Personnel Code, a supervisor, such examiners, employees, experts and special assistants as may be necessary to carry out effectively this Act. ~~The Secretary shall require each supervisor, examiner, expert and special assistant employed or appointed by him to give bond, with security to be approved by the Secretary, not less in any case than \$15,000, conditioned for the faithful discharge of his duties. The premium on such bond shall be paid by the Secretary from funds appropriated for that purpose. The bond, along with verification of payment of the premium on such bond, shall be filed in the office of the Secretary of State.~~

(b) The Secretary shall have the following duties and powers:

(1) To exercise the rights, powers and duties set forth in this Act or in any other related Act;

(2) To establish such regulations as may be reasonable or necessary to accomplish the purposes of this Act;

(3) To direct and supervise all the administrative and technical activities of this office and create an Advisory Committee which upon request will make recommendations to him;

(4) To make an annual report regarding the work of his office as he may consider desirable to the Governor, or as the Governor may request;

(5) To cause a suit to be filed in his name to enforce any law of this State that applies to an association, subsidiary of an association, or holding company operating under this Act and shall include the enforcement of any obligation of the officers, directors or employees of any association;

(6) To prescribe a uniform manner in which the books and records of every association are to be maintained; and

(7) To establish reasonable and rationally based fee structures for each association and holding company operating under this Act and for their service corporations and subsidiaries, which fees shall include but not be limited to annual fees, application fees, regular and special examination fees, and such other fees as the Secretary establishes and demonstrates to be directly resultant from his responsibilities under this Act and as are directly attributable to individual entities operating under this Act. The Secretary may require payment of the fees under this Act by an electronic transfer of funds or an automatic debit of an account of each of the associations.

(Source: P.A. 95-1047, eff. 4-6-09.)

(205 ILCS 105/7-4) (from Ch. 17, par. 3307-4)

Sec. 7-4. Prohibited activities. The Commissioner, deputy commissioners, and employees of the Office of Banks and Real

Estate shall be subject to the restrictions provided in Section 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~ Act including, without limitation, the restrictions on (i) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

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

(205 ILCS 105/7-5) (from Ch. 17, par. 3307-5)

Sec. 7-5. Examination.

(a) The Commissioner, at least once every 18 months, but more often if he deems it necessary or expedient, with or without previous notice, shall cause an examination to be made of the affairs of every association, including any holding company and subsidiary thereof. If an association or holding company has not been audited at least once in the preceding 12 months in accordance with this Act, the examination shall include an audit by licensed public accountants employed or appointed by the Commissioner. Such examination shall be made by competent examiners appointed for that purpose who are not officers or agents of, or in any manner interested in, any association or holding company which they examine, except that they may be holders of withdrawable capital. Notwithstanding

any other provision of this Act, every eligible association, as defined by regulation, or, if not so defined, to an equivalent extent as would be permitted in the case of a State bank, the Secretary, in lieu of the examination, may accept on an alternating basis the examination made by the appropriate federal banking regulator, or its successor, pursuant to the federal Home Owners' Loan Act, provided the appropriate federal banking regulator, or its successor, has made an examination.

(b) The officers, agents or directors of any such association or holding company shall cause the books of the association or holding company to be opened for inspection by the Commissioner or his examiners and otherwise assist in such examination when requested; and for the purpose of examination, the examiner in charge thereof shall have power to administer oaths and to examine under oath any officers, employees, agents or directors of such association or holding company and such other witnesses as he deems necessary relative to the business of the association or holding company.

(c) The Commissioner shall make a report of each examination to the board of directors of the association or holding company examined, which report shall be read by each director, who will then execute a signed affidavit to be filed and preserved by the association or holding company acknowledging that he has read the Commissioner's report. If the affairs of the association or holding company are not being conducted in accordance with this Act, the Commissioner shall

require the directors, officers or employees to take any necessary corrective action. If the necessary corrective action is not made, the Commissioner may issue a formal order to the directors of the association or holding company delivered either personally or by registered or certified mail, specifying a date which may be immediate or may be at a later date for the performance by the association or holding company of the corrective action. Such order or any part thereof shall be subject to Sections 7-24 through 7-27 of this Act. If the formal order of the Commissioner in whole or in part contains a finding that the business of the association or holding company is being conducted in a fraudulent, illegal or unsafe manner, or that the violation thereof or the continuance by the association or holding company of the practice to be corrected could cause insolvency or substantial dissipation of assets or earnings or the impairment of its capital, such order or part thereof shall be complied with promptly on and after the effective date thereof until modified or withdrawn by the Commissioner, the Board, or modified or terminated by a circuit court. The Commissioner may apply to the circuit court of the county in which the association or holding company is located for enforcement of any such order requiring prompt compliance. If no hearing has been requested within the time specified by this Act, the Commissioner may, at any time within 90 days after the effective date of the order, institute suit in the Circuit Court of Sangamon County or the circuit court of the



county in which the association or holding company is located to compel the directors, officers or employees to make the required corrective action. Such court shall, after due process of law, adjudicate the question and enter the proper order or orders and enforce them. In the interests of the members of the association or holding company, the Commissioner may prepare a statement of the condition of the association or holding company and may mail the statement to the members or may require a single publication thereof.

(Source: P.A. 85-335.)

(205 ILCS 105/7-20) (from Ch. 17, par. 3307-20)

Sec. 7-20. Board of Savings Institutions; appointment. The Savings and Loan Board is hereby redesignated the Board of Savings Institutions. The Board shall be composed of 7 persons appointed by the Governor. Four persons shall represent the public interest. Three persons shall have been engaged actively in savings and loan or savings bank management in this State for at least 5 years immediately prior to appointment. Each member of the Board shall be reimbursed for ordinary and necessary expenses incurred in attending the meetings of the Board ~~receive compensation of \$50 per day for each day actually and necessarily consumed in the performance of the duties of office, plus necessary expenses incurred in the performance of those duties.~~ The members of the Board serving immediately before the effective date of this amendatory Act of 1996 shall

continue to serve for the balance of their respective terms. Members shall be appointed for 4-year terms to expire on the third Monday in January. Except as otherwise provided in this Section, members of the Board shall serve until their respective successors are appointed and qualified. A member who tenders a written resignation shall serve only until the resignation is accepted by the Chairman. A member who fails to attend 3 consecutive Board meetings without an excused absence shall no longer serve as a member. The Governor shall fill any vacancy by the appointment of a member for the unexpired term in the same manner as in the making of original appointments.

(Source: P.A. 89-508, eff. 7-3-96; 89-603, eff. 8-2-96.)

(205 ILCS 105/7-22) (from Ch. 17, par. 3307-22)

Sec. 7-22. Board of Savings Institutions; powers. The Board shall have the following powers:

(a) To advise the Governor and Secretary on all matters relating to the regulation of savings and loan associations and savings banks; ~~consider, hold public or private hearings and act upon appeals from any order, decision or action of the Commissioner by any aggrieved person except as otherwise specifically provided in this Act or the Savings Bank Act;~~

(b) (Blank) ~~To advise the Governor and the Commissioner upon appointments and employment of personnel in connection with the supervision of savings and loan associations and savings banks; and~~

(c) To advise the Governor on legislation proposed to amend this Act, the Savings Bank Act, or any related Act.

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

(205 ILCS 105/10-1) (from Ch. 17, par. 3310-1)

Sec. 10-1. Appointment of a receiver following taking of custody ~~Commissioner to appoint receiver~~. If ~~the Commissioner,~~ after taking custody of an association, the Secretary determines that the appointment of a receiver is appropriate, then the Secretary shall follow the provisions regarding receivership outlined under this Article ~~under the Section of this Act concerning Commissioner's Authority to Take Custody,~~ ~~finds that any one or more of the reasons for taking custody continues to exist through the period of his custody,~~ ~~then he shall appoint any qualified person, firm or corporation as receiver or coreceiver of such association or trust for the purpose of liquidation. In the case of an insured association, he may appoint the insurance corporation or its nominee as such receiver or as a coreceiver; and the insurance corporation may be permitted to serve without bond. The receiver shall take possession of and title to the books, records and assets of every description of the association or trust.~~

(Source: P.A. 84-543.)

(205 ILCS 105/10-15 new)

Sec. 10-15. Secretary's proceedings exclusive. Except by

the authority of the Secretary, represented by the Attorney General, or the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act, no complaint shall be filed or proceedings commenced in any court for the dissolution of, the winding up of the affairs of, or the appointment of a receiver for any association on the grounds that:

(1) it is insolvent;

(2) its capital is impaired or it is otherwise in an unsound condition;

(3) its business is being conducted in an unlawful, fraudulent, or unsafe manner;

(4) it is unable to continue operations; or

(5) its examination has been obstructed or impaired.

(205 ILCS 105/10-20 new)

Sec. 10-20. Capital impairment; correction.

(a) If the Secretary, with respect to an association, finds:

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

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

(3) it is unable to continue operations; or

(4) its examination has been obstructed or impeded;

then the Secretary may give notice to the board of directors of

his or her finding or findings. If the situation so found by the Secretary shall not be corrected to his or her satisfaction within a period of at least 60 but no more than 180 days after receipt of that notice, which period shall be determined by the Secretary and set forth in the notice, then the Secretary, at the termination of that period, may take possession and control of the association and its assets as provided for in this Act provided for the purpose of examination, reorganization or liquidation through receivership.

(b) If the Secretary has given notice to the board of directors of his or her findings, as provided in subsection (a) of this Section, and the time period prescribed in that notice has expired, then the Secretary may extend the time period prescribed in that notice for such period as the Secretary deems appropriate.

(205 ILCS 105/10-25 new)

Sec. 10-25. Capital impairment; emergency. If, in addition to a finding as provided in Section 10-20 of this Act, the Secretary is of the opinion and finds that an emergency exists that may result in serious losses to the depositors or the inability of the association to continue in operations, meet the demands of its depositors, or pay its obligations in the normal course of business, he or she may, in his or her discretion, without having given the notice provided for in Section 10-20 of this Act, and whether or not proceedings under

Section 10-20 of this Act have been instituted or are then pending, take possession and control of the association and its assets for the purpose of examination, reorganization, or liquidation through receivership.

(205 ILCS 105/10-30 new)

Sec. 10-30. Secretary's possession; power. The Secretary may take possession and control of an association and its assets by posting upon the premises a notice reciting that the Secretary is assuming possession pursuant to this Act and the time when his or her possession shall be deemed to commence, which time shall not pre-date the posting of the notice. Promptly after taking possession and control of an association, if the Federal Deposit Insurance Corporation is not appointed as receiver, the Secretary shall file a copy of the notice posted upon the premises in the circuit court in the county in which the association is located, and thereupon the clerk of such court shall note the filing of the notice upon the records of the court, and shall enter such cause as a court action upon the dockets of such court under the name and style of "In the matter of the possession and control of the Secretary of (insert the name of such association)", and thereupon the court wherein such cause is docketed shall be vested with jurisdiction to hear and determine all issues and matters pertaining to or connected with the Secretary's possession and control of such association as provided in this Act, and such

further issues and matters pertaining to or connected with the Secretary's possession and control as may be submitted to such court for its adjudication by the Secretary. When the Secretary has taken possession and control of an association and its assets, he or she shall be vested with the full powers of management and control, including without limitation the following:

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

(2) the power to stop or to limit the payment of its obligations; provided, however, with respect to a qualified financial contract between any party and an association or a branch or agency of which the Secretary has taken possession and control, which party has a perfected security interest in collateral or other valid lien or security interest in collateral enforceable against third parties pursuant to a security arrangement related to that qualified financial contract, the party may retain all of the collateral and upon repudiation or termination of that qualified financial contract in accordance with its terms apply the collateral in satisfaction of any claims secured by the collateral; in no event shall the total amount so applied exceed the global net payment obligation, if any;

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

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

(5) the power to execute any instrument in the name of the association;

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

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

(8) the power, upon the order of the court, to make and to carry out agreements with other associations or with the United States or any agency thereof that shall insure the association's deposits, in whole or in part, for the payment or assumption of the association's liabilities, in whole or in part, and to transfer assets and to make guaranties, in whole or in part, and to transfer assets and to make guaranties in connection therewith;

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

(10) the power to terminate his or her possession and control by restoring the association to its board of directors;

(11) the power to reorganize the association as provided in this Act;



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

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

As soon as practical after taking possession, the Secretary shall make his or her examination of the condition of the association and an inventory of the assets. Unless the time shall be extended by order of the court, and unless the Secretary shall have otherwise settled the affairs of an association pursuant to the provisions of this Act, at the termination of 30 days after the time of taking possession and control of an association for the purpose of examination, reorganization, or liquidation through receivership, the Secretary shall either terminate his or her possession and control by restoring the association to its board of directors or appoint a receiver and order the liquidation of the association as provided in this Act. All necessary and reasonable expenses of the Secretary's possession and control and of its reorganization shall be borne by the association and may be paid by the Secretary from its assets. If the Federal Deposit Insurance Corporation is appointed by the Secretary as

receiver of an association, or the Federal Deposit Insurance Corporation takes possession of the association, then the receivership proceedings and the powers and duties of the Federal Deposit Insurance Corporation shall be governed by the Federal Deposit Insurance Act and regulations promulgated under that Act rather than the provisions of this Act.

(205 ILCS 105/10-35 new)

Sec. 10-35. Secretary's possession; limitation of actions. Except when the Federal Deposit Insurance Corporation has taken possession of the association or is acting as receiver, if the Secretary has taken possession and control of an association and its assets, then there shall be a postponement until 6 months after the commencement of the possession of the date upon which any period of limitation fixed by a statute or agreement would otherwise expire on a claim or right of action of the association, or upon which an appeal must be taken or a pleading or other document must be filed by the association in any pending action or proceeding. No judgment, lien, levy, attachment, or other similar legal process shall be enforced upon or satisfied in whole or in part from any asset of the association while it is in the possession of the Secretary, except upon the order of the court referred to in Section 10-30 entered in due course pursuant to Section 10-90 of this Act. The provisions of this Section shall continue to apply and shall govern notwithstanding the appointment of and the

possession by a receiver pursuant to Section 10-55 of this Act.

(205 ILCS 105/10-40 new)

Sec. 10-40. Reorganization. The Secretary, while in possession and control of an association and its assets, after according a hearing to interested parties as he or she may determine and upon the order of the court, may propose a reorganization plan. Such reorganization plan shall become effective only (1) when the requirements of Section 10-45 are satisfied, and (2) when, after reasonable notice of such reorganization, as the case may require (A) depositors and other creditors of such association representing at least 75% in amount of its total deposits and other liabilities as shown by the books of the association, (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the association, or (C) both depositors and other creditors representing at least 75% in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the association, shall have consented in writing to the plan of reorganization; provided, however, that claims of depositors or other creditors that will be satisfied in full on demand under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the association in determining the 75% required under this Section. When such reorganization becomes effective, all

books, records, and assets of the association shall be disposed of in accordance with the provisions of the plan, and the affairs of the association shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions, and limitations prescribed by the Secretary. In any reorganization approved and effective as provided in this Section, all depositors and other creditors and stockholders of the association, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they have consented to the plan of reorganization. A department, agency, or political subdivision of this State holding a claim that will not be paid in full is authorized to participate in a plan of reorganization as any other creditor and shall be subject to and bound by its provisions as any other creditor.

(205 ILCS 105/10-45 new)

Sec. 10-45. Requirements of reorganization plan. A plan of reorganization for an association shall not be proposed under this Act unless:

(1) the plan is feasible and fair to all classes of depositors, creditors and stockholders;

(2) the face amount of the interest accorded to any class of depositors, creditors, and stockholders under the

plan does not exceed the value of the assets upon liquidation less the full amount of the claims of all prior classes, subject, however, to any fair adjustment for new capital that any class will pay in under the plan;

(3) the plan assures the removal of any director, officer, or employee responsible for any unsound or unlawful action or the existence of an unsound condition;

(4) any merger or consolidation provided by the plan conforms to the requirements of this Act; and

(5) any reorganized association provided by the plan conforms to the requirements of this Act for the organization of an association.

(205 ILCS 105/10-50 new)

Sec. 10-50. Reorganization; emergency. Whenever, in the course of reorganization, supervening conditions render the plan of reorganization unfair or its execution impractical, the Secretary may modify the plan, provided the modification is with the written consent of the depositors and other creditors representing at least 75% in amount of the total deposits and other liabilities that are impaired or lessened by the modification, or may, provided the Federal Deposit Insurance has not been appointed, appoint a receiver for liquidation as provided in this Act.

(205 ILCS 105/10-55 new)

Sec. 10-55. Appointment of receiver; court proceeding.

(a) If the Secretary determines, which determination may be made at the time of or any time subsequent to his or her taking possession and control of an association and its assets, that no practical possibility exists to reorganize the association after reasonable efforts have been made and that it should be liquidated through receivership, then the Secretary shall appoint a receiver and require of the receiver a bond and security as the Secretary deems proper, and the Secretary, represented by the Attorney General, shall, if the Federal Deposit Insurance Corporation is not acting as receiver, file a complaint for the dissolution or winding up of the affairs of an association in the circuit court of the county where such association is located.

(b) Unless the Federal Deposit Insurance Corporation is acting as receiver for the association, the Secretary, upon taking possession and control of an association and its assets, may and, if he or she has not previously done so, shall, immediately upon filing a complaint for dissolution, make an examination of the affairs of the trust department of the association or appoint a corporate fiduciary or other suitable person to make the examination as the Secretary's agent. The examination shall be conducted in accordance with and pursuant to the authority granted under Section 5-2 of the Corporate Fiduciary Act and the corporate fiduciary or other suitable person conducting the examination shall have and may exercise

on behalf of the Secretary all of the powers and authority granted to the Secretary. The report of examination shall, to the extent reasonably possible, identify those governing instruments with specific instructions concerning the appointment of a successor fiduciary. A copy of the report shall be filed in any dissolution proceeding filed by the Secretary. The reasonable fees and necessary expenses of the examining corporate fiduciary or other suitable person, as approved by the Secretary or as recommended by the Secretary and approved by the court if a dissolution proceeding has been filed, shall be borne by the subject association and shall have the same priority for payment as the reasonable and necessary expenses of the Secretary in conducting an examination.

As soon as reasonably can be done, the Secretary, if he or she deems it advisable, shall seek the advice and instruction of the court concerning the removal of the corporate fiduciary as to all of its fiduciary accounts and the appointment of a successor fiduciary, which may be the examining corporate fiduciary, to take over and administer all of the fiduciary accounts being administered by the trust department of the association. The corporate fiduciary or other suitable person appointed to make the examination shall make a proper accounting, in the manner and scope as determined by the Secretary to be practical and advisable under the circumstances, on behalf of the trust department of the association and no guardian ad litem need be appointed to

review the accounting.

(205 ILCS 105/10-60 new)

Sec. 10-60. Notice of receivership. Upon appointing a receiver, other than the Federal Deposit Insurance Corporation, and upon the filing of a complaint for the dissolution or winding up of the affairs of an association, the Secretary shall cause notice to be given in that newspaper as he or she directs once each week for 12 consecutive weeks calling on all persons who may have claims against such association to present the same to such receiver and to make legal proof thereof and notifying all such persons and all to whom it may concern of the filing of a complaint for the dissolution or winding up of the affairs of the association and stating the name and location of the court. All persons who may have claims against the association and the receiver to whom the persons have presented their claims may present them to the clerk of the court, and the allowance or disallowance of the claims by the court in connection with the proceedings shall be deemed an adjudication in a court of competent jurisdiction.

(205 ILCS 105/10-65 new)

Sec. 10-65. Receiver's powers; duties. Other than the Federal Deposit Insurance Corporation, which shall derive its powers and perform its duties pursuant to the Federal Deposit Insurance Act and regulations promulgated thereunder, the



receiver for an association, under the direction of the Secretary, shall have the power and authority and is charged with the duties and responsibilities as follows:

(1) He or she shall take possession of and, for the purpose of the receivership, the title to the books, records, and assets of every description of the association.

(2) He or she shall proceed to collect all debts, dues, and claims belonging to the association.

(3) He or she shall file with the Secretary a copy of each report that he or she makes to the court, together with other reports and records as the Secretary may require.

(4) He or she shall have authority to sue and defend in his or her own name with respect to the affairs, assets, claims, debts, and choses in action of the association.

(5) He or she shall have authority, and it shall be his or her duty, to surrender to the customers of such association their private papers and valuables left with the association for safekeeping, upon satisfactory proof of ownership.

(6) He or she shall have authority to redeem or take down collateral hypothecated by the association to secure its notes or other evidence of indebtedness whenever the Secretary deems it to the best interest of the creditors of the association to do so.

(7) Whenever he or she finds it necessary in his or her opinion to use and employ money of the association in order to protect fully and benefit the association, by the purchase or redemption of any property, real or personal, in which the association may have any rights by reason of any bond, mortgage, assignment, or other claim thereto, he or she may certify the facts together with his or her opinions as to the value of the property involved, and the value of the equity the association may have in the property to the Secretary, together with a request for the right and authority to use and employ so much of the money of the association as may be necessary to purchase the property, or to redeem the same from a sale if there was a sale, and if such request is granted, the receiver may use so much of the money of the association as the Secretary may have authorized to purchase the property at such sale.

(8) He or she shall deposit daily all moneys collected by him or her in any state or national association selected by the Secretary, who may require of (and the association so selected may furnish) the depository satisfactory securities or satisfactory surety bond for the safekeeping and prompt payment of the money so deposited. The deposits shall be made in the name of the Secretary in trust for the association and be subject to withdrawal upon his or her order or upon the order of persons as the Secretary may designate. The moneys may be deposited without interest,

unless otherwise agreed. However, if any interest was paid by such depository, it shall accrue to the benefit of the particular trust to which the deposit belongs.

(9) He or she shall do such things and take steps from time to time under the direction and approval of the Secretary as may reasonably appear to be necessary to conserve the association's assets and secure the best interests of the creditors of the association.

(10) He or she shall record any judgment of dissolution entered in a dissolution proceeding and then deliver to the Secretary a certified copy thereof, together with all books of accounts and ledgers of the association for preservation.

(205 ILCS 105/10-70 new)

Sec. 10-70. Receiver's powers; court directions. Upon the order of the court where the Secretary's complaint for the dissolution or winding up of the affairs of the association was filed, the receiver for the association shall have the power and authority and is charged with the duties and responsibilities as follows:

(1) He or she may sell and compound all bad and doubtful debts on such terms as the court shall direct.

(2) He or she may sell the real and personal property of the association on such terms as the court shall direct.

(3) He or she may petition the court for the authority

to borrow money, and to pledge the assets of the association as security therefor, whereupon the practice and procedure shall be as follows:

(A) Upon the filing of the petition, the court shall set a date for the hearing of the petition and shall prescribe the form and manner of the notice to be given to the officers, stockholders, creditors, or other persons interested in such association.

(B) Upon a hearing, any officer, stockholder, creditor, or person interested shall have the right to be heard.

(C) If the court grants such authority, then the receiver may borrow money and issue evidences of indebtedness therefor and may secure the payment of such loan by the mortgage, pledge, transfer in trust, or hypothecation of any or all property and assets of such association, whether real, personal, or mixed, superior to any charge thereon for the expenses of liquidation.

(D) Loans may be obtained in such amounts upon such terms and conditions and with provisions for repayment as may be deemed necessary or expedient.

(E) Loans may be obtained for the purpose of facilitating liquidation, protecting or preserving the assets, expediting the making of distributions to depositors and other creditors, providing for the

expenses of administration and liquidation, and in aiding in the reopening or reorganization of such association or its merger or consolidation with another association, or in the sale of its assets.

(F) The receiver shall be under no personal obligation to repay any such loan and shall have authority to take any action necessary or proper to consummate such loan and to provide for the repayment thereof, and may, when required, give bond for the faithful performance of all undertakings in connection therewith.

(G) Prior to petitioning the court for authority to make any loan, the receiver may make application for or negotiate any loan subject to obtaining an order of the court approving the same.

(4) He or she may make and carry out agreements with other associations or with the United States or any agency thereof that has insured the association's deposits, in whole or in part, for the payment or assumption of the association's liabilities, in whole or in part, and he or she may transfer assets and make guaranties in connection therewith.

(5) After the expiration of 12 weeks after the first publication of the Secretary's notice as provided in Section 10-60, he or she shall file with the court a correct list of all creditors of the association, as shown

by its books, who have not presented their claims and the amount of their respective claims after allowing all just credits, deductions and set-offs as shown by the books of the association. Claims filed shall be deemed proven, unless objections are filed thereto by a party or parties interested therein within the time fixed by the court.

(6) At the termination of his or her administration, he or she shall petition the court for the entry of a judgment of dissolution. After a hearing upon notice as the court may prescribe, the court may enter a judgment of dissolution whereupon the association's charter is terminated.

The provisions of this Section do not apply to the Federal Deposit Insurance Corporation as receiver, which shall derive its powers and perform its duties pursuant to the Federal Deposit Insurance Act.

(205 ILCS 105/10-75 new)

Sec. 10-75. Change of receiver. At any time after a receiver, other than the Federal Deposit Insurance Corporation, is appointed by the Secretary, whenever two-thirds of the creditors of an association petition the Secretary for the appointment of any person nominated by them as receiver, who is a reputable person and a resident of the county in which such association is located, it shall be the duty of the Secretary to make such appointment and all rights

and duties of his or her predecessor shall at once devolve upon such appointee. The Secretary may remove any receiver appointed by him or her, except the Federal Deposit Insurance Corporation or such receiver as shall have been appointed through nomination by the creditors. Such a receiver may be removed by the court upon a petition for his or her removal filed by the Secretary after hearing had upon such notice as the court may prescribe. Upon the death, inability to act, resignation, or removal of a receiver, the Secretary may appoint his or her successor and, upon such appointment, all rights and duties of his predecessor shall at once devolve upon such appointee.

(205 ILCS 105/10-80 new)

Sec. 10-80. Insured deposits; subrogation. The right of an agency of the United States insuring deposits to be subrogated to the rights of depositors upon payment of their claim shall not be less extensive than the law of the United States requires as a condition of the authority to issue insurance or make the payment.

(205 ILCS 105/10-85 new)

Sec. 10-85. Expenses and fees. All expenses of a receivership, including reasonable receiver's and attorney's fees, approved by the Secretary shall be paid out of the assets of the association. All expenses of any preliminary or other examination into the condition of any such association or

receivership and all expenses incident to and in connection with the possession and control of the association and its assets for the purpose of examination, reorganization, or liquidation through receivership shall be paid out of the assets of that association. The payment authorized under this Section may be made by the Secretary with moneys and property of the association in his or her possession and control and shall have priority over all claims.

(205 ILCS 105/10-90 new)

Sec. 10-90. Dividends; dissolution. From time to time during a receivership other than a receivership conducted by the Federal Deposit Insurance Corporation, the Secretary shall make and pay from moneys of the association a ratable dividend on all claims as may be proved to his or her satisfaction or adjudicated by the court. Claims so proven or adjudicated shall bear interest at the rate of 3% per annum from the date of the appointment of the receiver to the date of payment, but all dividends on a claim shall be applied first to principal. In computing the amount of any dividend to be paid, if the Secretary deems it desirable in the interests of economy of administration and to the interest of the association and its creditors, he or she may pay up to the amount of \$10 of each claim or unpaid portion thereof in full. As the proceeds of the assets of the association are collected in the course of liquidation, the Secretary shall make and pay further dividends



on all claims previously proven or adjudicated. After one year from the entry of a judgment of dissolution, all unclaimed dividends shall be remitted to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act, together with a list of all unpaid claimants, their last known addresses, and the amounts unpaid.

(205 ILCS 105/10-95 new)

Sec. 10-95. Validation of dividends; destruction of records. In all cases where the Secretary, prior to this Section taking effect, has made ratable dividends of money on claims that have been proven to the satisfaction of the Secretary or adjudicated in any court of this State, the dividends are hereby ratified and confirmed and made valid and legal in all respects. All records of receiverships heretofore and hereafter received by the Secretary or by a receiver appointed by the Secretary shall be held by the Secretary or such receiver for the period of 2 years after the close of the receivership and, at the termination of the 2-year period, may then be destroyed.

(205 ILCS 105/10-100 new)

Sec. 10-100. Judicial review. Whenever the Secretary shall have taken possession and control of an association and its assets for the purpose of examination, reorganization, or liquidation through receivership, or whenever the Secretary

shall have appointed a receiver for an association, other than the Federal Deposit Insurance Corporation, and filed a complaint for the dissolution or for the winding up of the affairs of an association, and the association denies the grounds for such actions, it may, at any time within 10 days, apply to the Circuit Court of Sangamon County, Illinois, to enjoin further proceedings in the premises; and such court shall cite the Secretary to show cause why further proceedings should not be enjoined, and if the court shall find that such grounds do not exist, the court shall make an order enjoining the Secretary and any receiver acting under his or her direction from all further proceedings on account of such alleged grounds, provided that neither the 10 days allowed by this Section for judicial review nor the pendency of any proceedings for judicial review shall operate to defer, delay, impede, or prevent the payment or acquisition by the Federal Deposit Insurance Corporation of the deposit liabilities of the association that are insured by the Federal Deposit Insurance Corporation, and during said period allowed for judicial review and during the pendency of any proceedings for judicial review under this Section, the Secretary or, as the case may be, the receiver shall make available to the Federal Deposit Insurance Corporation the facilities in or of the association and books, records, and other relevant data of the association as may be necessary or appropriate to enable the Federal Deposit Insurance Corporation to pay out or to acquire the insured

deposit liabilities of the association, and said Federal Deposit Insurance Corporation and its directors, officers, agents, and employees, and the Secretary and his agents and employees, including the receiver, if any, shall be free from any liability to the association and its stockholders and creditors for or on account of any matter or thing in this proviso referred to or provided for.

(205 ILCS 105/11-1) (from Ch. 17, par. 3311-1)

Sec. 11-1. Offenses and penalties. Any person who violates the provisions of Sections 3-9, 3-10, 5-11 or 5-12 (b) of this Act is guilty of a Business Offense.

The Commissioner, in addition to any other powers granted in this Act, shall have the power and authority to impose civil penalties of up to \$100,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action that in the Commissioner's discretion is an unsafe or unsound banking practice.

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

Section 30. The Savings Bank Act is amended by changing Sections 1003, 1007.30, 4009, 9001, 9002, 9003, 9004, and 11006 by changing the heading to Article 10, and by adding Sections 1007.57, 10011, 10015, 10020, 10025, 10030, 10035, 10040, 10045, 10050, 10055, 10060, 10065, 10070, 10075, 10080, 10085,

10090, 10095, and 10100 as follows:

(205 ILCS 205/1003) (from Ch. 17, par. 7301-3)

Sec. 1003. Administration. This Act shall be administered by the Commissioner ~~of Banks and Real Estate~~ as provided in the Division of Banking ~~Office of Banks and Real Estate Act~~.

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

(205 ILCS 205/1007.30) (from Ch. 17, par. 7301-7.30)

Sec. 1007.30. "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary Commissioner, the Division of Banking ~~Office of Banks and Real Estate Act~~, or this Act to act in the Secretary's Commissioner's stead.

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

(205 ILCS 205/1007.57 new)

Sec. 1007.57. Division. "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

(205 ILCS 205/4009) (from Ch. 17, par. 7304-9)

Sec. 4009. Bonds of officers and directors.

(a) Every person appointed or elected to any position requiring the receipt, payment, management, or use of money

belonging to a savings bank or whose duties permit or require access to or custody of any of the savings bank's money or securities or whose duties permit the regular making of entries in the books or other records of the savings bank shall become bonded in some trust or company authorized to issue bonds in this State or in a fidelity insurance company licensed to do business in this State before assuming any duties. Each bond shall be on a form or forms as the Commissioner shall require and in the amount as the board of directors shall fix and approve. Each bond, payable to the savings bank, shall be an indemnity for any loss the savings bank may sustain in money or other property through any dishonest or criminal act or omission by any person required to be bonded, committed either alone or in concert with others. The bond shall be in the form and amount prescribed by the Commissioner, who may at any time require one or more additional bonds. ~~A true copy of every bond, including all riders and endorsements executed subsequent to the effective date of the bond, shall be filed at all times with the Commissioner.~~ Each bond shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 30 days notice in writing first shall have been given to the Commissioner, unless he shall have approved the cancellation earlier.

(b) Nothing contained in this Section shall preclude the Commissioner from proceeding against a savings bank as provided in this Act should he believe that it is being conducted in an

unsafe manner in that the form or amount of bonds so fixed and approved by the board of directors is inadequate to give reasonable protection to the savings bank.

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

(205 ILCS 205/9001) (from Ch. 17, par. 7309-1)

Sec. 9001. Personnel, records, files, actions, and duties.

The Commissioner shall appoint, subject to applicable provisions of the Personnel Code, a supervisor, examiners, employees, experts, and special assistants as may be necessary to effectively carry out this Act. ~~The Commissioner shall require each supervisor, examiner, expert, and special assistant employed or appointed by him to give bond, with security to be approved by the Commissioner, not in any case less than \$15,000, conditioned upon the faithful discharge of their duties. The premium on the bond shall be paid by the Commissioner from funds appropriated for that purpose. The bond, along with verification of payment of the premium on the bond, shall be filed in the office of the Secretary of State.~~

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

(205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

Sec. 9002. Powers of Secretary. The Secretary shall have the following powers and duties:

(1) To exercise the rights, powers, and duties set forth in this Act or in any related Act.

(2) To establish regulations as may be reasonable or necessary to accomplish the purposes of this Act.

(3) To make an annual report regarding the work of his office under this Act as he may consider desirable to the Governor, or as the Governor may request.

(4) To cause a suit to be filed in his name to enforce any law of this State that applies to savings banks, their service corporations, subsidiaries, affiliates, or holding companies operating under this Act, including the enforcement of any obligation of the officers, directors, agents, or employees of any savings bank.

(5) To prescribe a uniform manner in which the books and records of every savings bank are to be maintained.

(6) To establish a reasonable fee structure for savings banks and holding companies operating under this Act and for their service corporations and subsidiaries. The fees shall include, but not be limited to, annual fees, application fees, regular and special examination fees, and other fees as the Secretary establishes and demonstrates to be directly resultant from the Secretary's responsibilities under this Act and as are directly attributable to individual entities operating under this Act. The aggregate of all fees collected by the Secretary on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the Savings and Residential Finance Regulatory Fund subject to the provisions

of Section 7-19.1 of the Illinois Savings and Loan Act of 1985 including without limitation the provision for credits against regulatory fees. The amounts deposited into the Fund shall be used for the ordinary and contingent expenses of the Office of Banks and Real Estate. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund. The Secretary may require payment of the fees under this Act by an electronic transfer of funds or an automatic debit of an account of each of the savings banks.

(Source: P.A. 95-1047, eff. 4-6-09.)

(205 ILCS 205/9003) (from Ch. 17, par. 7309-3)

Sec. 9003. Prohibited activities. The Commissioner, deputy commissioners, and employees of the Office of Banks and Real Estate shall be subject to the restrictions provided in Section 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~ Act including, without limitation, the restrictions on (i) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

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



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

Sec. 9004. Examination.

(a) At least once every 18 months or more often if it is deemed necessary or expedient, the Commissioner shall examine the books, records, operations, and affairs of each savings bank operating under this Act. In the course of the examination, the Commissioner shall also examine in the same manner all entities, companies, and individuals which or whom the Commissioner determines may have a relationship with the savings bank or any subsidiary or entity affiliated with it, if the relationship may adversely affect the affairs, activities, and safety and soundness of the savings bank, including: (i) companies controlled by the savings bank; (ii) entities, including companies controlled by the company, individual, or individuals that control the savings bank; and (iii) the company or other entity which controls or owns the savings bank. For purposes of this subsection, the Commissioner shall deem it necessary or expedient to conduct an examination more often than every 18 months if a required report from a savings bank indicates a material change in financial condition or a material violation of a law or regulation. In that event, the Commissioner shall initiate an examination within 30 days of receipt of that information. In the event that the condition is grounds for taking custody of the savings bank under Section 10001 of this Act, the examination shall be initiated

immediately. Notwithstanding any other provision of this Act, every savings bank, as defined by rule, or, if not defined, to the same extent as would be permitted in the case of a State bank, the Secretary, in lieu of the examination, may accept on an alternating basis the examination made by the eligible savings bank's appropriate federal banking agency pursuant to Section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991, provided the appropriate federal banking agency has made an examination.

(b) The Commissioner shall examine to determine:

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

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

(3) Quality of management policies.

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

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

(c) The Commissioner shall promulgate regulations to implement and administer this Section.

(d) If a savings bank, its holding company, or any of its corporate subsidiaries has not been audited at least once in the 12 months prior to the Commissioner's examination, the Commissioner shall cause an audit of the savings bank's books

and records to be made by an independent licensed public accountant selected by the Commissioner from a list composed of certified public accountants who have experience in savings bank audits. The cost of the audit shall be paid for by the entity being audited.

(e) The Commissioner or the Commissioner's examiners or other formally designated agents are authorized to administer oaths and to examine and to take and preserve testimony under oath as to anything in the affairs or ownership of any savings bank or institution or affiliate thereof.

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

(205 ILCS 205/Art. 10 heading)

ARTICLE 10. Involuntary Liquidation ~~Custody and~~  
~~Conservatorship~~

(205 ILCS 205/10011 new)

Sec. 10011. Appointment of a receiver following taking of custody. If, following the taking of custody of a savings bank, the Secretary determines that the appointment of a receiver is appropriate, then the provisions of this Article shall apply.

(205 ILCS 205/10015 new)

Sec. 10015. Secretary's proceedings exclusive. Except by the authority of the Secretary, represented by the Attorney General, or the Federal Deposit Insurance Corporation pursuant

to the Federal Deposit Insurance Act, no complaint shall be filed or proceedings commenced in any court for the dissolution of, the winding up of the affairs of, or the appointment of a receiver for any savings bank on the grounds that:

(1) it is insolvent;

(2) its capital is impaired or it is otherwise in an unsound condition;

(3) its business is being conducted in an unlawful, fraudulent or unsafe manner;

(4) it is unable to continue operations; or

(5) its examination has been obstructed or impaired.

(205 ILCS 205/10020 new)

Sec. 10020. Capital impairment; correction.

(a) If the Secretary, with respect to a savings bank, shall find:

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

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

(3) it is unable to continue operations; or

(4) its examination has been obstructed or impeded;

then the Secretary may give notice to the board of directors of his or her finding or findings. If the situation so found by

the Secretary shall not be corrected to his or her satisfaction within a period of at least 60 but no more than 180 days after receipt of the notice, which period shall be determined by the Secretary and set forth in the notice, then the Secretary, at the termination of that period, may take possession and control of the savings bank and its assets as provided for in this Act for the purpose of examination, reorganization, or liquidation through receivership.

(b) If the Secretary has given notice to the board of directors of his or her findings, as provided in subsection (a), and the time period prescribed in that notice has expired, the Secretary may extend the time period prescribed in that notice for such period as the Secretary deems appropriate.

(205 ILCS 205/10025 new)

Sec. 10025. Capital impairment; emergency. If, in addition to a finding as provided in Section 10020 of this Act, the Secretary is of the opinion and finds that an emergency exists that may result in serious losses to the depositors or the inability of the savings bank to continue in operations, meet the demands of its depositors, or pay its obligations in the normal course of business, he or she may, in his or her discretion, without having given the notice provided for in Section 10020, and whether or not proceedings under Section 10020 have been instituted or are then pending, take possession and control of the savings bank and its assets for the purpose

of examination, reorganization, or liquidation through receivership.

(205 ILCS 205/10030 new)

Sec. 10030. Secretary's possession; power. The Secretary may take possession and control of a savings bank and its assets by posting upon the premises a notice reciting that the Secretary is assuming possession pursuant to this Act and the time when his or her possession shall be deemed to commence, which time shall not pre-date the posting of the notice. Promptly after taking possession and control of a savings bank, if the Federal Deposit Insurance Corporation is not appointed as receiver, the Secretary shall file a copy of the notice posted upon the premises in the circuit court in the county in which the savings bank is located, and thereupon the clerk of such court shall note the filing of the notice upon the records of the court, and shall enter such cause as a court action upon the dockets of such court under the name and style of "In the matter of the possession and control of the Secretary of (insert the name of such savings bank)", and thereupon the court wherein the cause is docketed shall be vested with jurisdiction to hear and determine all issues and matters pertaining to or connected with the Secretary's possession and control of the savings bank as provided in this Act, and such further issues and matters pertaining to or connected with the Secretary's possession and control as may be submitted to the

court for its adjudication by the Secretary. When the Secretary has taken possession and control of a savings bank and its assets, then he or she shall be vested with the full powers of management and control, including without limitation the following:

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

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

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

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

(5) the power to execute any instrument in the name of

the savings bank;

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

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

(8) the power, upon the order of the court, to make and to carry out agreements with other savings banks or with the United States or any agency thereof that shall insure the savings bank's deposits, in whole or in part, for the payment or assumption of the savings bank's liabilities, in whole or in part, and to transfer assets and to make guaranties, in whole or in part, and to transfer assets and to make guaranties in connection therewith;

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

(10) the power to terminate his or her possession and control by restoring the savings bank to its board of directors;

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

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



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

As soon as practical after taking possession, the Secretary shall make his or her examination of the condition of the savings bank and an inventory of the assets. Unless the time shall be extended by order of the court, and unless the Secretary shall have otherwise settled the affairs of a savings bank pursuant to the provisions of this Act, at the termination of 30 days from the time of taking possession and control of a savings bank for the purpose of examination, reorganization or liquidation through receivership, the Secretary shall either terminate his or her possession and control by restoring the savings bank to its board of directors or appoint a receiver and order the liquidation of the savings bank as provided in this Act. All necessary and reasonable expenses of the Secretary's possession and control and of its reorganization shall be borne by the savings bank and may be paid by the Secretary from its assets. If the Federal Deposit Insurance Corporation is appointed by the Secretary as receiver of a savings bank, or the Federal Deposit Insurance Corporation takes possession of the savings bank, the receivership

proceedings and the powers and duties of the Federal Deposit Insurance Corporation shall be governed by the Federal Deposit Insurance Act and regulations promulgated under that Act rather than the provisions of this Act.

(205 ILCS 205/10035 new)

Sec. 10035. Secretary's possession; limitation of actions. Except when the Federal Deposit Insurance Corporation has taken possession of the savings bank or is acting as receiver, if the Secretary has taken possession and control of a savings bank and its assets, there shall be a postponement until 6 months after the commencement of the possession of the date upon which any period of limitation fixed by a statute or agreement would otherwise expire on a claim or right of action of the savings bank, or upon which an appeal must be taken or a pleading or other document must be filed by the savings bank in any pending action or proceeding. No judgment, lien, levy, attachment, or other similar legal process shall be enforced upon or satisfied in whole or in part from any asset of the savings bank while it is in the possession of the Secretary, except upon the order of the court referred to in Section 10030 entered in due course pursuant to Section 10090 of this Act. The provisions of this Section shall continue to apply and shall govern notwithstanding the appointment of and the possession by a receiver pursuant to Section 10055 of this Act.

(205 ILCS 205/10040 new)

Sec. 10040. Reorganization. The Secretary, while in possession and control of a savings bank and its assets, after according a hearing to interested parties as he or she may determine and upon the order of the court, may propose a reorganization plan. The reorganization plan shall become effective only (1) when the requirements of Section 10045 are satisfied, and (2) when, after reasonable notice of such reorganization, as the case may require (A) depositors and other creditors of such savings bank representing at least 75% in amount of its total deposits and other liabilities as shown by the books of the savings bank, (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the savings bank, or (C) both depositors and other creditors representing at least 75% in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the savings bank, shall have consented in writing to the plan of reorganization; provided, however, that claims of depositors or other creditors that will be satisfied in full on demand under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the savings bank in determining the 75% required under this Section. When such reorganization becomes effective, all books, records, and assets of the savings bank shall be disposed of in accordance with the provisions of the plan and

the affairs of the savings bank shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions, and limitations prescribed by the Secretary. In any reorganization approved and effective as provided in this Section, all depositors and other creditors and stockholders of the savings bank, whether or not they shall have consented to the plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they have consented to the plan of reorganization. A department, agency, or political subdivision of this State holding a claim that will not be paid in full is authorized to participate in a plan of reorganization as any other creditor and shall be subject to and bound by its provisions as any other creditor.

(205 ILCS 205/10045 new)

Sec. 10045. Requirements of reorganization plan. A plan of reorganization for a savings bank shall not be proposed under this Act unless all of the following are met:

(1) the plan is feasible and fair to all classes of depositors, creditors and stockholders;

(2) the face amount of the interest accorded to any class of depositors, creditors and stockholders under the plan does not exceed the value of the assets upon liquidation less the full amount of the claims of all prior

classes, subject, however, to any fair adjustment for new capital that any class will pay in under the plan;

(3) the plan assures the removal of any director, officer, or employee responsible for any unsound or unlawful action or the existence of an unsound condition;

(4) any merger or consolidation provided by the plan conforms to the requirements of this Act; and

(5) any reorganized savings bank provided by the plan conforms to the requirements of this Act for the organization of a savings bank.

(205 ILCS 205/10050 new)

Sec. 10050. Reorganization; emergency. Whenever, in the course of reorganization, supervening conditions render the plan of reorganization unfair or its execution impractical, the Secretary may modify the plan, provided the modification is with the written consent of the depositors and other creditors representing at least 75% in amount of the total deposits and other liabilities which are impaired or lessened by the modification, or may, provided the Federal Deposit Insurance has not been appointed, appoint a receiver for liquidation as provided in this Act.

(205 ILCS 205/10055 new)

Sec. 10055. Appointment of receiver; court proceeding.

(a) If the Secretary determines, which determination may be

made at the time of or any time subsequent to his or her taking possession and control of a savings bank and its assets, that no practical possibility exists to reorganize the savings bank after reasonable efforts have been made and that it should be liquidated through receivership, then the Secretary shall appoint a receiver and require of the receiver the bond and security as the Secretary deems proper, and the Secretary, represented by the Attorney General, shall, if the Federal Deposit Insurance Corporation is not acting as receiver, file a complaint for the dissolution or winding up of the affairs of the savings bank in the circuit court of the county where such savings bank is located.

(b) Unless the Federal Deposit Insurance Corporation is acting as receiver for the savings bank, the Secretary, upon taking possession and control of a savings bank and its assets, may and, if he or she has not previously done so, shall, immediately upon filing a complaint for dissolution, make an examination of the affairs of the trust department of the savings bank or appoint a corporate fiduciary or other suitable person to make the examination as the Secretary's agent. The examination shall be conducted in accordance with and pursuant to the authority granted under Section 5-2 of the Corporate Fiduciary Act, as now or hereafter amended, and the corporate fiduciary or other suitable person conducting the examination shall have and may exercise on behalf of the Secretary all of the powers and authority granted to the Secretary thereunder.

The report of examination shall, to the extent reasonably possible, identify those governing instruments with specific instructions concerning the appointment of a successor fiduciary. A copy of the report shall be filed in any dissolution proceeding filed by the Secretary. The reasonable fees and necessary expenses of the examining corporate fiduciary or other suitable person, as approved by the Secretary or as recommended by the Secretary and approved by the court if a dissolution proceeding has been filed, shall be borne by the subject savings bank and shall have the same priority for payment as the reasonable and necessary expenses of the Secretary in conducting an examination.

As soon as reasonably can be done, the Secretary, if he or she deems it advisable, shall seek the advice and instruction of the court concerning the removal of the corporate fiduciary as to all of its fiduciary accounts and the appointment of a successor fiduciary, which may be the examining corporate fiduciary, to take over and administer all of the fiduciary accounts being administered by the trust department of the savings bank. The corporate fiduciary or other suitable person appointed to make the examination shall make a proper accounting, in the manner and scope as determined by the Secretary to be practical and advisable under the circumstances, on behalf of the trust department of the savings bank and no guardian ad litem need be appointed to review the accounting.

(205 ILCS 205/10060 new)

Sec. 10060. Notice of receivership. Upon appointing a receiver, other than the Federal Deposit Insurance Corporation, and upon the filing of a complaint for the dissolution or winding up of the affairs of a savings bank, the Secretary shall cause notice to be given in such newspaper as he or she directs once each week for twelve consecutive weeks calling on all persons who may have claims against such savings bank to present the same to the receiver and to make legal proof thereof and notifying all such persons and all to whom it may concern of the filing of a complaint for the dissolution or winding up of the affairs of the savings bank and stating the name and location of said court. All persons who may have claims against such savings bank and the receiver to whom the persons have presented their claims may present them to the clerk of the court, and the allowance or disallowance of the claims by the court in connection with such proceedings shall be deemed an adjudication in a court of competent jurisdiction.

(205 ILCS 205/10065 new)

Sec. 10065. Receiver's powers; duties. Other than the Federal Deposit Insurance Corporation, which shall derive its powers and perform its duties pursuant to the Federal Deposit Insurance Act and regulations promulgated thereunder, the receiver for a savings bank, under the direction of the



Secretary, shall have the power and authority and is charged with the duties and responsibilities as follows:

(1) He or she shall take possession of and, for the purpose of the receivership, the title to the books, records, and assets of every description of the savings bank.

(2) He or she shall proceed to collect all debts, dues and claims belonging to the savings bank.

(3) He or she shall file with the Secretary a copy of each report that he or she makes to the court, together with such other reports and records as the Secretary may require.

(4) He or she shall have authority to sue and defend in his or her own name with respect to the affairs, assets, claims, debts, and choses in action of the savings bank.

(5) He or she shall have authority, and it shall be his or her duty, to surrender to the customers of such savings bank their private papers and valuables left with the savings bank for safekeeping, upon satisfactory proof of ownership.

(6) He or she shall have authority to redeem or take down collateral hypothecated by the savings bank to secure its notes or other evidence of indebtedness whenever the Secretary deems it to the best interest of the creditors of the savings bank to do so.

(7) Whenever he or she finds it necessary in his or her

opinion to use and employ money of the savings bank, in order to protect fully and benefit the savings bank, by the purchase or redemption of any property, real or personal, in which the savings bank may have any rights by reason of any bond, mortgage, assignment, or other claim thereto, he or she may certify the facts together with his or her opinions as to the value of the property involved, and the value of the equity the savings bank may have in the property to the Secretary, together with a request for the right and authority to use and employ so much of the money of the savings bank as may be necessary to purchase the property, or to redeem the same from a sale if there was a sale, and if the request is granted, the receiver may use so much of the money of the savings bank as the Secretary may have authorized to purchase the property at such sale.

(8) He or she shall deposit daily all monies collected by him or her in any savings bank selected by the Secretary, who may require of (and the savings bank so selected may furnish) such depository satisfactory securities or satisfactory surety bond for the safekeeping and prompt payment of the money so deposited. The deposits shall be made in the name of the Secretary in trust for the savings bank and be subject to withdrawal upon his or her order or upon the order of such persons as the Secretary may designate. Such monies may be deposited without interest, unless otherwise agreed. However, if any

interest was paid by such depository, it shall accrue to the benefit of the particular trust to which the deposit belongs.

(9) He or she shall do things and take such steps from time to time under the direction and approval of the Secretary as may reasonably appear to be necessary to conserve the savings bank's assets and secure the best interests of the creditors of the savings bank.

(10) He or she shall record any judgment of dissolution entered in a dissolution proceeding and thereupon deliver to the Secretary a certified copy thereof, together with all books of accounts and ledgers of the savings bank for preservation.

(205 ILCS 205/10070 new)

Sec. 10070. Receiver's powers; court directions. Upon the order of the court wherein the Secretary's complaint for the dissolution or winding up of the affairs of the savings bank was filed, the receiver for the savings bank shall have the power and authority and is charged with the duties and responsibilities as follows:

(1) He or she may sell and compound all bad and doubtful debts on terms as the court shall direct.

(2) He or she may sell the real and personal property of the savings bank on such terms as the court shall direct.

(3) He or she may petition the court for the authority to borrow money, and to pledge the assets of the savings bank as security therefor, whereupon the practice and procedure shall be as follows:

(A) Upon the filing of the petition, the court shall set a date for the hearing of the petition and shall prescribe the form and manner of the notice to be given to the officers, stockholders, creditors, or other persons interested in such savings bank.

(B) Upon such hearing, any officer, stockholder, creditor, or person interested shall have the right to be heard.

(C) If the court grants such authority, then the receiver may borrow money and issue evidences of indebtedness therefor and may secure the payment of such loan by the mortgage, pledge, transfer in trust, or hypothecation of any or all property and assets of such savings bank, whether real, personal, or mixed, superior to any charge thereon for the expenses of liquidation.

(D) The loan may be obtained in such amounts upon such terms and conditions, and with provisions for repayment as may be deemed necessary or expedient.

(E) The loan may be obtained for the purpose of facilitating liquidation, protecting or preserving the assets, expediting the making of distributions to

depositors and other creditors, providing for the expenses of administration and liquidation, and aiding in the reopening or reorganization of such savings bank or its merger or consolidation with another savings bank, or in the sale of its assets.

(F) The receiver shall be under no personal obligation to repay any such loan and shall have authority to take any action necessary or proper to consummate such loan and to provide for the repayment thereof, and may, when required, give bond for the faithful performance of all undertakings in connection therewith.

(G) Prior to petitioning the court for authority to make any such loan, the receiver may make application for or negotiate any loan subject to obtaining an order of the court approving the same.

(4) He or she may make and carry out agreements with other savings banks or with the United States or any agency thereof that has insured the savings bank's deposits, in whole or in part, for the payment or assumption of the savings bank's liabilities, in whole or in part, and he or she may transfer assets and make guaranties in connection therewith.

(5) After the expiration of 12 weeks after the first publication of the Secretary's notice as provided in Section 10060, he or she shall file with the court a

correct list of all creditors of the savings bank, as shown by its books, who have not presented their claims and the amount of their respective claims after allowing all just credits, deductions and set-offs as shown by the books of the savings bank. Claims that are filed shall be deemed proven, unless objections are filed thereto by a party or parties interested therein within such time as is fixed by the court.

(6) At the termination of his or her administration, he or she shall petition the court for the entry of a judgment of dissolution. After a hearing upon such notice as the court may prescribe, the court may enter a judgment of dissolution whereupon the savings bank's charter is terminated. The provisions of this Section do not apply to the Federal Deposit Insurance Corporation as receiver, which shall derive its powers and perform its duties pursuant to the Federal Deposit Insurance Act.

(205 ILCS 205/10075 new)

Sec. 10075. Change of receiver. At any time after a receiver, other than the Federal Deposit Insurance Corporation, is appointed by the Secretary, whenever two-thirds of the creditors of a savings bank petition the Secretary for the appointment of any person nominated by them as receiver, who is a reputable person and a resident of the county in which such savings bank is located, it shall be the

duty of the Secretary to make such appointment and all rights and duties of his or her predecessor shall at once devolve upon such appointee. The Secretary may remove any receiver appointed by him or her, except the Federal Deposit Insurance Corporation or such receiver as shall have been appointed through nomination by the creditors. Such a receiver may be removed by the court upon a petition for his or her removal filed by the Secretary after hearing had upon such notice as the court may prescribe. Upon the death, inability to act, resignation, or removal of a receiver the Secretary may appoint his or her successor and, upon the appointment, all rights and duties of his or her predecessor shall at once devolve upon such appointee.

(205 ILCS 205/10080 new)

Sec. 10080. Insured deposits; subrogation. The right of an agency of the United States insuring deposits to be subrogated to the rights of depositors upon payment of their claim shall not be less extensive than the law of the United States requires as a condition of the authority to issue such insurance or make such payment.

(205 ILCS 205/10085 new)

Sec. 10085. Expenses and fees. All expenses of a receivership, including reasonable receiver's and attorney's fees approved by the Secretary shall be paid out of the assets

of the savings bank. All expenses of any preliminary or other examination into the condition of any such savings bank or receivership and all expenses incident to and in connection with the possession and control of the bank and its assets for the purpose of examination, reorganization, or liquidation through receivership shall be paid out of the assets of the savings bank. The payment authorized under this Section may be made by the Secretary with moneys and property of the bank in his or her possession and control and shall have priority over all claims.

(205 ILCS 205/10090 new)

Sec. 10090. Dividends; dissolution. From time to time during a receivership other than a receivership conducted by the Federal Deposit Insurance Corporation, the Secretary shall make and pay from moneys of the savings bank a ratable dividend on all claims as may be proved to his or her satisfaction or adjudicated by the court. Claims so proven or adjudicated shall bear interest at the rate of 3% per annum from the date of the appointment of the receiver to the date of payment, but all dividends on a claim shall be applied first to principal. In computing the amount of any dividend to be paid, if the Secretary deems it desirable in the interests of economy of administration and to the interest of the savings bank and its creditors, he or she may pay up to the amount of \$10 of each claim or unpaid portion thereof in full. As the proceeds of the



assets of the savings bank are collected in the course of liquidation, the Secretary shall make and pay further dividends on all claims previously proven or adjudicated. After one year from the entry of a judgment of dissolution, all unclaimed dividends shall be remitted to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act, as now or hereafter amended, together with a list of all unpaid claimants, their last known addresses and the amounts unpaid.

(205 ILCS 205/10095 new)

Sec. 10095. Validation of dividends; destruction of records. In all cases where the Secretary, prior to this Section taking effect, has made ratable dividends of money on claims that have been proven to the satisfaction of the Secretary or adjudicated in any court of this State, such dividends are hereby ratified and confirmed and made valid and legal in all respects. All records of receiverships heretofore and hereafter received by the Secretary or by a receiver appointed by the Secretary shall be held by the Secretary or the receiver for the period of 2 years after the close of the receivership and, at the termination of the 2-year period, may then be destroyed.

(205 ILCS 205/10100 new)

Sec. 10100. Judicial review. Whenever the Secretary shall

have taken possession and control of a savings bank and its assets for the purpose of examination, reorganization, or liquidation through receivership, or whenever the Secretary shall have appointed a receiver for a savings bank, other than the Federal Deposit Insurance Corporation, and filed a complaint for the dissolution or for the winding up of the affairs of a savings bank, and the savings bank denies the grounds for such actions, it may, at any time within 10 days, apply to the Circuit Court of Sangamon County, Illinois, to enjoin further proceedings in the premises; and such court shall cite the Secretary to show cause why further proceedings should not be enjoined, and if the court shall find that the grounds do not exist, the court shall make an order enjoining the Secretary and any receiver acting under his or her direction from all further proceedings on account of such alleged grounds, provided that neither the 10 days allowed by this Section 10100 for judicial review nor the pendency of any proceedings for judicial review shall operate to defer, delay, impede, or prevent the payment or acquisition by the Federal Deposit Insurance Corporation of the deposit liabilities of the savings bank that are insured by the Federal Deposit Insurance Corporation, and during the period allowed for judicial review and during the pendency of any proceedings for judicial review under this Section 10100, the Secretary or, as the case may be, the receiver shall make available to the Federal Deposit Insurance Corporation such facilities in or of the savings bank

and the books, records, and other relevant data of the savings bank as may be necessary or appropriate to enable the Federal Deposit Insurance Corporation to pay out or to acquire the insured deposit liabilities of the savings bank, and said Federal Deposit Insurance Corporation and its directors, officers, agents, and employees, and the Secretary and his agents and employees, including the receiver, if any, shall be free from any liability to the savings bank and its stockholders and creditors for or on account of any matter or thing in this proviso referred to or provided for.

(205 ILCS 205/11006) (from Ch. 17, par. 7311-6)

Sec. 11006. Civil penalties. The Commissioner, in addition to any other powers granted in this Act, shall have the power and authority to:

(1) Impose civil penalties of up to \$100,000 ~~\$10,000~~ against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action that in the Commissioner's discretion, is an unsafe or unsound banking practice.

(2) Impose civil penalties of up to \$100 against any person for the first failure to comply with reporting requirements set forth in the report of examination of the bank and up to \$200 for the second and subsequent failures to comply with those reporting requirements.

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

Section 35. The Pawnbroker Regulation Act is amended by changing Sections 0.05 and 1 and by adding Sections 5.5 and 12 as follows:

(205 ILCS 510/0.05)

Sec. 0.05. Administration of Act.

(a) This Act shall be administered by the Commissioner of Banks and Real Estate, except that beginning on the effective date of this amendatory Act of the 96th General Assembly, all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, who shall have all of the following powers and duties in administering this Act:

(1) To promulgate reasonable rules for the purpose of administering the provisions of this Act.

(2) To issue orders for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act.

(2.5) To order restitution to consumers suffering damages resulting from violations of this Act, rules promulgated in accordance with this Act, or other laws or regulations related to the operation of a pawnshop.

(3) To appoint hearing officers and to hire employees

or to contract with appropriate persons to execute any of the powers granted to the Commissioner under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act.

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

(5) To conduct hearings.

(6) To impose civil penalties graduated up to \$1,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, or any order of the Commissioner based upon the seriousness of the violation.

(6.5) To initiate, through the Attorney General, injunction proceedings whenever it appears to the Commissioner that any person, whether licensed under this Act or not, is engaged or about to engage in an act or practice that constitutes or will constitute a violation of this Act or any rule prescribed under the authority of this Act. The Commissioner may, in his or her discretion,

through the Attorney General, apply for an injunction, and upon a proper showing, any circuit court may enter a permanent or preliminary injunction or a temporary restraining order without bond to enforce this Act in addition to the penalties and other remedies provided for in this Act.

(7) To issue a cease and desist order and, for violations of this Act, any order issued by the Commissioner pursuant to this Act, any rule promulgated in accordance with this Act, or any other applicable law in connection with the operation of a pawnshop, to suspend a license issued under this Act for up to 30 days.

(8) To determine compliance with applicable law and rules related to the operation of pawnshops and to verify the accuracy of reports filed with the Commissioner, the Commissioner, not more than one time every 2 years, may, but is not required to, conduct a routine examination of a pawnshop, and in addition, the Commissioner may examine the affairs of any pawnshop at any time if the Commissioner has reasonable cause to believe that unlawful or fraudulent activity is occurring, or has occurred, therein.

(9) In response to a complaint, to address any inquiries to any pawnshop in relation to its affairs, and it shall be the duty of the pawnshop to promptly reply in writing to such inquiries. The Commissioner may also require reports or information from any pawnshop at any

time the Commissioner may deem desirable.

(10) To revoke a license issued under this Act if the Commissioner determines that (a) a licensee has been convicted of a felony in connection with the operations of a pawnshop; (b) a licensee knowingly, recklessly, or continuously violated this Act or State or federal law or regulation, a rule promulgated in accordance with this Act, or any order of the Commissioner; (c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; ~~or~~ (d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the Commissioner or any other party; or (e) the licensee is unable or ceases to continue to operate the pawnshop.

(10.2) To remove or prohibit the employment of any officer, director, employee, or agent of the pawnshop who engages in or has engaged in unlawful activities that relate to the operation of a pawnshop.

(10.7) To prohibit the hiring of employees who have been convicted of a financial crime or any crime involving breach of trust who do not meet exceptions as established by rule of the Secretary.

(11) Following license revocation, to take possession and control of a pawnshop for the purpose of examination, reorganization, or liquidation through receivership and to

appoint a receiver, which may be the Commissioner, a pawnshop, or another suitable person.

(b) After consultation with local law enforcement officers, the Attorney General, and the industry, the Commissioner may by rule require that pawnbrokers operate video camera surveillance systems to record photographic representations of customers and retain the tapes produced for up to 30 days.

(c) Pursuant to rule, the Commissioner shall issue licenses on an annual or multi-year basis for operating a pawnshop. Any person currently operating or who has operated a pawnshop in this State during the 2 years preceding the effective date of this amendatory Act of 1997 shall be issued a license upon payment of the fee required under this Act. New applicants shall meet standards for a license as established by the Commissioner. Except with the prior written consent of the Commissioner, no individual, either a new applicant or a person currently operating a pawnshop, may be issued a license to operate a pawnshop if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop. The Commissioner shall establish license fees. The fees shall not exceed the amount reasonably required for administration of this Act. It shall be unlawful to operate a pawnshop without a license issued by the Commissioner.

(d) In addition to license fees, the Commissioner may, by



rule, establish fees in connection with a review, approval, or provision of a service, and levy a reasonable charge to recover the cost of the review, approval, or service (such as a change in control, change in location, or renewal of a license). The Commissioner may also levy a reasonable charge to recover the cost of an examination if the Commissioner determines that unlawful or fraudulent activity has occurred. The Commissioner may require payment of the fees and charges provided in this Act by certified check, money order, an electronic transfer of funds, or an automatic debit of an account.

(e) The Pawnbroker Regulation Fund is established as a special fund in the State treasury. Moneys collected under this Act shall be deposited into the Fund and used for the administration of this Act. In the event that General Revenue Funds are appropriated to the Office of the Commissioner of Banks and Real Estate for the initial implementation of this Act, the Governor may direct the repayment from the Pawnbroker Regulation Fund to the General Revenue Fund of such advance in an amount not to exceed \$30,000. The Governor may direct this interfund transfer at such time as he deems appropriate by giving appropriate written notice. Moneys in the Pawnbroker Regulation Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(f) The Commissioner may, by rule, require all pawnshops to

provide for the expenses that would arise from the administration of the receivership of a pawnshop under this Act through the assessment of fees, the requirement to pledge surety bonds, or such other methods as determined by the Commissioner.

(g) All final administrative decisions of the Commissioner under this Act shall be subject to judicial review pursuant to the provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.

(Source: P.A. 94-91, eff. 7-1-05.)

(205 ILCS 510/1) (from Ch. 17, par. 4651)

Sec. 1. (a) Every individual or business entity which lends money on the deposit or pledge of physically delivered personal property, other than property the ownership of which is subject to a legal dispute, securities, printed evidence of indebtedness or printed evidence of ownership of the personal property, or who deals in the purchase of such property on the condition of selling the property back again at a stipulated price, shall be held and is hereby declared and defined to be a pawnbroker. The business of a pawnbroker does not include the lending of money on deposit or pledge of title to property.

(b) The Secretary may require employees of pawnshops who have the authority to act in a managerial capacity to obtain a license from the Department. For the purposes of this Section,

"managerial capacity" shall mean the ability to direct the operations or activities of the pawnshop. If the Secretary determines a pawnshop employee's duties and responsibilities or other factors amount to acting in a managerial capacity, the Secretary may require licensing. The license shall be valid for 2 years. The Secretary may by rule specify the form of the application for licensure, fees to be imposed and conditions for licensure. The licensed employees shall report their places of employment to the Secretary.

(Source: P.A. 90-602, eff. 7-1-98.)

(205 ILCS 510/5.5 new)

Sec. 5.5. Replacement of articles or property; insurance. In the event that any articles or property pledged are lost or rendered inoperable, the pawnbroker shall replace the articles or property with identical articles or property, except that if the pawnbroker cannot reasonably obtain identical articles or property, the pawnbroker shall replace the articles or property with like articles or property.

No pawnbroker shall conduct business in this State, unless the pawnbroker maintains insurance coverage covering all hazards equal to at least 2 times the aggregate value of the outstanding loans for items held in pawn. Such insurance shall be obtained from an insurance company authorized to do business in Illinois.

The pawnbroker shall file a copy of proof of insurance

coverage with the Secretary. A pawnbroker or an insurance company shall not cancel the insurance coverage except upon notice to the Secretary by certified mail, return receipt requested. The cancellation is not effective prior to 30 days after the Secretary receives the notice.

(205 ILCS 510/12 new)

Sec. 12. Hold order.

(a) For the purposes of this Section, "hold order" means a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, ordering the pawnbroker to retain physical possession of pledged goods in the possession of the pawnbroker or property purchased by and in the possession of the pawnbroker and not to return, sell, or otherwise dispose of such property as such property is believed to be misappropriated goods.

(b) Upon written notice from a law enforcement officer indicating that property in the possession of a pawnbroker and subject to a hold order is needed for the purpose of furthering a criminal investigation and prosecution, the pawnbroker shall release the property subject to the hold order to the custody of the law enforcement officer for such purpose and the officer shall provide a written acknowledgment that the property has been released to the officer. The release of the property to

the custody of the law enforcement officer shall not be considered a waiver or release of the pawnbroker's property rights or interest in the property. Upon completion of the criminal investigation, the property shall be returned to the pawnbroker who consented to its release; except that, if the law enforcement officer has not completed the criminal investigation within 120 days after its release, the officer shall immediately return the property to the pawnbroker or obtain and furnish to the pawnbroker a warrant for the continued custody of the property.

The pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period of the hold order, including all extensions.

In cases where criminal charges have been filed and the property may be needed as evidence, the prosecuting attorney shall notify the pawnbroker in writing. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the prosecuting attorney. The prosecuting attorney shall notify the pawnbroker and claimant in writing within 15 days after the disposition of the case.

Section 40. The Banking Emergencies Act is amended by changing Sections 1 and 2 as follows:

(205 ILCS 610/1) (from Ch. 17, par. 1001)

Sec. 1. Definitions. As used in this Act, unless the context otherwise requires:

(1) "Commissioner" means the officer of this State designated by law to exercise supervision over banks and trust companies, and any other person lawfully exercising such powers, except that beginning on the effective date of this amendatory Act of the 96th General Assembly, all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(2) "Bank" includes commercial banks, savings banks, savings and loan associations, trust companies, and any branch thereof lawfully carrying on the business of banking and, to the extent that the provisions hereof are not inconsistent with and do not infringe upon paramount Federal law, also includes national banks and federal savings banks.

(3) "Officers" means the person or persons designated by the board of directors, to act for the bank in carrying out the provisions of this Act or, in the absence of any such designation or of the officer or officers so designated, the president or any other officer currently in charge of the bank or of the office or offices in question.

(4) "Office" means any place at which a bank transacts its business or conducts operations related to its business.

(5) "Emergency" means any condition or occurrence which may

interfere physically with the conduct of normal business operations at one or more or all of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both at one or more or all of the offices of a bank. Without limiting the generality of the foregoing, an emergency may arise as a result of any one or more of the following: natural disasters; civil strife; power failures; computer failures; interruption of communication facilities; robbery or attempted robbery.

(6) "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

(Source: P.A. 92-483, eff. 8-23-01; 92-651, eff. 7-11-02.)

(205 ILCS 610/2) (from Ch. 17, par. 1002)

Sec. 2. Power of Commissioner.

(a) Whenever the Commissioner is notified by any officer of a bank or by any other means becomes aware that an emergency exists, or is impending, he may, by proclamation, authorize all banks in the State of Illinois to close or alter the hours at any or all of their offices, or if only a bank or banks, or offices thereof, in a particular area or areas of the State of Illinois are affected by the emergency or impending emergency, the Commissioner may authorize only the affected bank, banks, or offices thereof, to close. The office or offices so closed may remain closed until the Commissioner declares, by further proclamation, that the emergency or impending emergency has

ended. The Commissioner during an emergency or while an impending emergency exists, which affects, or may affect, a particular bank or banks, or a particular office or offices thereof, but not banks located in the area generally of the said county or municipality, may authorize the particular bank or banks, or office or offices so affected, to close. The office or offices so closed shall remain closed until the Commissioner is notified by a bank officer of the closed bank that the emergency has ended. The Commissioner shall notify, at such time, the officers of the bank that one or more offices, heretofore closed because of the emergency, should reopen and, in either event, for such further time thereafter as may reasonably be required to reopen.

(b) Whenever the Secretary ~~Commissioner~~ becomes aware that an emergency exists, or is impending, he or she may, by proclamation, waive any requirements to the notices, applications, or reports required to be filed and authorize any bank organized under the laws of this State, of another state, or of the United States, to open and operate offices in this State, notwithstanding any other laws of this State to the contrary. Any office or offices opened in accordance with this subsection may remain open until the Commissioner declares, by further proclamation, that the emergency or impending emergency has ended. The Department of Financial and Professional Regulation may ~~shall~~ adopt rules to implement this subsection (b).



(Source: P.A. 95-77, eff. 8-13-07.)

Section 45. The Electronic Fund Transfer Act is amended by changing Section 10 as follows:

(205 ILCS 616/10)

Sec. 10. Definitions. For purposes of this Act, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise. Whenever the terms "network" and "switch" are used, they shall be deemed interchangeable unless, from the context and facts, the intention is plain to apply only to one type of entity.

"Access device" means a card, code, or other means of access to an account, or any combination thereof, that may be used by a customer to initiate an electronic fund transfer at a terminal.

"Account" means a demand deposit, savings deposit, share, member, or other customer asset account held by a financial institution.

An "affiliate" of, or a person "affiliated" with, a specified person, means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the person specified.

"Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner~~, the

Division of Banking ~~Office of Banks and Real Estate Act~~, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

"Division" means the Division of Banking within the Department of Financial and Professional Regulation.

"Electronic fund transfer" means a transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

"Financial institution" means a bank established under the laws of this or any other state or established under the laws of the United States, a savings and loan association or savings bank established under the laws of this or any other state or established under the laws of the United States, a credit union established under the laws of this or any other state or established under the laws of the United States, or a licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act.

"Interchange transaction" means an electronic fund transfer that results in exchange of data and settlement of funds between 2 or more unaffiliated financial institutions.

"Network" means an electronic information communication and processing system that processes interchange transactions.

"Person" means a natural person, corporation, unit of government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

"Seller of goods and services" means a business entity other than a financial institution.

"Switch" means an electronic information and communication processing facility that processes interchange transactions on behalf of a network. This term does not include an electronic information and communication processing company (1) that is owned by a bank holding company or an affiliate of a bank holding company and used solely for transmissions among affiliates of the bank holding company or (2) to the extent that the facility, by virtue of a contractual relationship, is used solely for transmissions among affiliates of a bank holding company, regardless of whether the facility is an affiliate of the bank holding company or operates as a switch with respect to one or more networks under an independent contractual relationship.

"Terminal" means an electronic device through which a consumer may initiate an interchange transaction. This term does not include (1) a telephone, (2) an electronic device located in a personal residence, (3) a personal computer or other electronic device used primarily for personal, family, or household purposes, (4) an electronic device owned or operated by a seller of goods and services unless the device is connected either directly or indirectly to a financial institution and is operated in a manner that provides access to an account by means of a personal and confidential code or other security mechanism (other than signature), (5) an

electronic device that is not accessible to persons other than employees of a financial institution or affiliate of a financial institution, or (6) an electronic device that is established by a financial institution on a proprietary basis that is identified as such and that cannot be accessed by customers of other financial institutions. The Commissioner may issue a written rule that excludes additional electronic devices from the definition of the term "terminal".

(Source: P.A. 89-310, eff. 1-1-96; 89-508, eff. 7-3-96.)

Section 50. The Corporate Fiduciary Act is amended by changing Sections 1-5.03, 5-1, and 5-10 and by adding Section 1-5.075 as follows:

(205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

Sec. 1-5.03. "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

(205 ILCS 620/1-5.075 new)

Sec. 1-5.075. Division. "Division" means the Division of Banking within the Department of Financial and Professional

Regulation.

(205 ILCS 620/5-1) (from Ch. 17, par. 1555-1)

Sec. 5-1. Commissioner's powers. The Commissioner of Banks and Real Estate shall have the following powers and authority and is charged with the duties and responsibilities designated in this Act:

(a) To promulgate, in accordance with the Illinois Administrative Procedure Act, reasonable rules for the purpose of administering the provisions of this Act and for the purpose of incorporating by reference rules promulgated by the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or their successors that pertain to corporate fiduciaries, including, but not limited to, standards for the operation and conduct of the affairs of corporate fiduciaries;

(b) To issue orders for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act;

(c) To appoint hearing officers to conduct hearings held pursuant to any of the powers granted to the Commissioner under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act;

(d) To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to

require the production of any relevant books, papers, accounts and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Commissioner in respect of any matter relating to the duties imposed upon, or the powers vested in, the Commissioner under the provisions of this Act, or any rule or regulation promulgated in accordance with this Act;

(e) To conduct hearings;

(f) To promulgate the form and content of any applications required under this Act;

(g) To impose civil penalties of up to \$100,000 ~~\$10,000~~ against any person or corporate fiduciary for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner or any other action which, in the Commissioner's discretion, is a detriment or impediment to accepting or executing trusts; and

(h) To address any inquiries to any corporate fiduciary, or the officers thereof, in relation to its doings and conditions, or any other matter connected with its affairs, and it shall be the duty of any corporate fiduciary or person so addressed, to promptly reply in writing to such inquiries. The Commissioner may also require reports from any corporate fiduciary at any time he may deem desirable.

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

Sec. 5-10. Fees; receivership account.

(a) There shall be paid to the Commissioner by every corporate fiduciary including each trust company, bank, savings and loan association, and savings bank to which this Act shall apply, reasonable fees that the Commissioner shall assess to recover the costs of administration, certification, examination and supervision of trusts authorized under this Act.

(b) In addition to the fees authorized in subsection (a) of this Section the Commissioner shall assess reasonable receivership fees and establish a Non-insured Institutions Receivership ~~Corporate Fiduciary Receivership~~ account in the Bank and Trust Company Fund to provide for the expenses that arise from the administration of the receivership of a corporate fiduciary under this Act. The aggregate of such assessments shall be paid into the Non-insured Institutions Receivership ~~Corporate Fiduciary Receivership~~ account in the Bank and Trust Company Fund. The assessments for this account shall be levied until the sum of \$4,000,000 has been deposited into the account from assessments authorized herein, whereupon the Non-insured Institutions Receivership ~~Corporate Fiduciary Receivership~~ account assessment shall be abated. If a receivership of a corporate fiduciary under this Act requires expenditures from this account, assessments may be reinstated until the balance in the Non-insured Institutions Receivership ~~Corporate Fiduciary Receivership~~ account arising

from assessments is restored to \$4,000,000.

(c) The Commissioner may, by rule, establish a reasonable manner of assessing the receivership assessments under this Section.

(Source: P.A. 92-485, eff. 8-23-01.)

Section 55. The Residential Mortgage License Act of 1987 is amended by changing Section 4-2 as follows:

(205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

Sec. 4-2. Examination; prohibited activities.

(a) The business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Commissioner deems necessary and proper. The Commissioner shall promulgate rules with respect to the frequency and manner of examination. The Commissioner shall appoint a suitable person to perform such examination. The Commissioner and his appointees may examine the entire books, records, documents, and operations of each licensee and its subsidiary, affiliate, or agent, and may examine any of the licensee's or its subsidiary's, affiliate's, or agent's officers, directors, employees and agents under oath. For purposes of this Section, "agent" includes service providers such as accountants, closing services providers, providers of outsourced services such as call centers, marketing consultants, and loan processors, even if exempt from licensure under this Act. This



Section does not apply to an attorney's privileged work product or communications.

(b) The Commissioner shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of such report to each licensee's principals, officers, or directors and shall take appropriate steps to ensure correction of violations of this Act.

(c) Affiliates of a licensee shall be subject to examination by the Commissioner on the same terms as the licensee, but only when reports from, or examination of a licensee provides for documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting or deriving from the activities regulated by this Act.

(d) The expenses of any examination of the licensee and affiliates shall be borne by the licensee and assessed by the Commissioner as established by regulation.

(e) Upon completion of the examination, the Commissioner shall issue a report to the licensee. All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Commissioner's office and may not be disclosed to anyone other than the licensee, law enforcement officials or other regulatory agencies that have an appropriate regulatory interest as determined by the Commissioner, or to a party presenting a lawful subpoena to the Office of the Commissioner. The Commissioner may immediately appeal to the court of

jurisdiction the disclosure of such confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Commissioner under this Act and results of examinations performed by the Commissioner under this Act shall be the property of only the Commissioner, but may be shared with the licensee. Access under this Act to the books and records of each licensee shall be limited to the Commissioner and his agents as provided in this Act and to the licensee and its authorized agents and designees. No other person shall have access to the books and records of a licensee under this Act. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Commissioner of the demand, at which time the Commissioner is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Commissioner may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Commissioner, no person obtaining access to confidential supervisory information may make a copy of the confidential supervisory information. The Commissioner may

condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Commissioner, the Commissioner may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Commissioner may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Commissioner may impose on either or both parties. The requestor shall promptly notify other parties to a case of the release of confidential supervisory information obtained and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(f) The Commissioner, deputy commissioners, and employees of the Office of Banks and Real Estate shall be subject to the restrictions provided in Section 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~ Act including, without limitation, the restrictions on (i) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act; (ii) being an officer, director, employee, or agent of an entity regulated under this

Act; and (iii) obtaining a loan or accepting a gratuity from an entity regulated under this Act.

(g) After the initial examination for those licensees whose only mortgage activity is servicing fewer than 1,000 Illinois residential loans, the examination required in subsection (a) may be waived upon submission of a letter from the licensee's independent certified auditor that the licensee serviced fewer than 1,000 Illinois residential loans during the year in which the audit was performed.

(Source: P.A. 96-112, eff. 7-31-09.)

Section 60. The Foreign Banking Office Act is amended by changing Sections 2.01 and 17 and by adding Section 2.08 as follows:

(205 ILCS 645/2.01) (from Ch. 17, par. 2703)

Sec. 2.01. "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

(205 ILCS 645/2.08 new)

Sec. 2.08. Division. "Division" means the Division of Banking within the Department of Financial and Professional

Regulation.

(205 ILCS 645/17) (from Ch. 17, par. 2724)

Sec. 17. Fees; examination; receivership. Upon applying for a certificate of authority to open and maintain a banking office, a foreign banking corporation shall pay to the Commissioner an application fee equivalent to the reasonable expenses of examination for a charter payable by a State bank under Section 13 of the Illinois Banking Act.

In addition, a foreign banking corporation holding a certificate of authority and maintaining a banking office shall be subject to examination and other fees (comparable to those payable by a State bank) imposed by the Commissioner pursuant to Section 48 of the Illinois Banking Act based on the assets of such foreign banking corporation located in the State of Illinois.

(b) In addition to the fees authorized in subsection (a) of this Section, the Secretary shall assess reasonable receivership fees and establish a Non-insured Institutions Receivership account in the Bank and Trust Company Fund to provide for the expenses that arise from the administration of the receivership of a foreign banking corporation under this Act. The aggregate of such assessments shall be paid into the Non-insured Institutions Receivership account in the Bank and Trust Company Fund. The assessments for this account shall be levied until the sum of \$4,000,000 has been deposited into the

account from assessments authorized herein, whereupon the Non-insured Institutions Receivership account assessment shall be abated. If a receivership of a non-insured institution under this Act requires expenditures from this account, then assessments may be reinstated until the balance in the Non-insured Institutions Receivership account arising from assessments is restored to \$4,000,000.

(c) The Secretary may by rule establish a reasonable manner of assessing the receivership assessments under this Section.

(Source: P.A. 88-271; 89-208, eff. 6-1-97.)

Section 65. The Foreign Bank Representative Office Act is amended by changing Section 2 as follows:

(205 ILCS 650/2) (from Ch. 17, par. 2852)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

(b) "Foreign bank" means (1) a bank or trust company which is organized under the laws of any state or territory of the United States, including the District of Columbia, other than the State of Illinois; (2) a national bank having its principal

place of business in any state or territory of the United States, including the District of Columbia, other than the State of Illinois; or (3) a bank or trust company organized and operating under the laws of a country other than the United States of America.

(c) "Representative office" means an office in the State of Illinois at which a foreign bank engages in representational functions but does not conduct a commercial banking business.

(d) "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

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

Section 70. The Financial Institution Activity Reporting Act is amended by changing Section 10.25 and by adding Section 10.33 as follows:

(205 ILCS 680/10.25) (from Ch. 17, par. 7401-10.25)

Sec. 10.25. Commissioner. "Commissioner" means the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ or a person authorized by the Secretary Commissioner, the Division of Banking ~~Office of Banks and Real Estate~~ Act, or this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

(205 ILCS 680/10.33 new)

Sec. 10.33. Division. "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

Section 75. The Real Estate Regulation Transfer Act is amended by changing Sections 5, 10, and 15 as follows:

(225 ILCS 456/5)

Sec. 5. Transfer of powers.

(a) On July 1, 1995, All the rights, powers, and duties vested by the Real Estate License Act of 1983, the Land Sales Registration Act of 1989, and the Illinois Real Estate Time-Share Act in the Department of Professional Regulation shall be transferred to the Office of the Commissioner of Savings and Residential Finance to be hereafter known as the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance. Wherever, in the Real Estate License Act of 1983, the Land Sales Registration Act of 1989, or the Illinois Real Estate Time-Share Act, there is a reference to the Department of Professional Regulation or to an officer, employee, or agent of the Illinois Department of Professional Regulation, that reference, beginning July 1, 1995, means the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance or an officer, employee, or agent of the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance.



(b) All books, records, property (real and personal), pending business, and funds pertaining to the rights, powers, and duties transferred from the Department of Professional Regulation under this Act and in the custody of the Department of Professional Regulation on July 1, 1995 shall be delivered and transferred to the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance. All officers and employees of the Department of Professional Regulation on July 1, 1995 who devoted substantially all of their time to tasks performed in connection with the Real Estate License Act of 1983, the Land Sales Registration Act of 1989, or the Illinois Real Estate Time-Share Act shall on that date become officers and employees of the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance. Notwithstanding the preceding sentence, no rights of State employees under the Personnel Code, the Illinois Pension Code or any pension, retirement, or annuity plan, or any collective bargaining agreement or other contract or agreement are affected by the transfer of rights, powers, and duties under this Act.

(c) The provisions of subsections (a) and (b) of this Section are superseded by the applicable transfer and savings provisions of the Division of Banking ~~Office of Banks and Real Estate~~ Act.

(Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

Sec. 10. Savings provisions.

(a) Beginning July 1, 1995, the rights, powers, and duties transferred by this Act to the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance shall be vested in and shall be exercised by the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance subject to the provisions of this Act. Each act done in exercise of those rights, powers, and the duties shall have the same legal effect as if done by the Department of Professional Regulation.

(b) Beginning July 1, 1995, every person, corporation, or other entity shall be subject to the same obligations and duties and any penalties, civil or criminal, arising from those obligations and duties, and shall have the same rights arising from the exercise of rights, powers, and duties by the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance as if those rights, powers, and duties have been exercised by the Department of Professional Regulation or an officer, employee, or agent of the Department of Professional Regulation.

(c) Beginning July 1, 1995, every officer and employee of the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer or employee of the Department of Professional

Regulation whose powers or duties were transferred under this Act.

(d) Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Department of Professional Regulation in relation to the powers or duties transferred by this Act, those reports or notices shall, on and after July 1, 1995, be made, given, furnished, or served in the same manner to or upon the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance.

(e) This Act does not affect any act done, ratified, or cancelled, or any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause before July 1, 1995, by the Department of Professional Regulation under the Real Estate License Act of 1983, the Land Sales Registration Act of 1989, or the Illinois Real Estate Time-Share Act, and those actions or proceedings may be prosecuted and continued by the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance.

(f) This Act does affect any license, certificate, permit, or other form of licensure or authorization issued by the Department of Professional Regulation in the exercise of a right, power, or duty that has been transferred to the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance under this Act and all such licenses,

certificates, permits, or other form of licensure or authorization shall continue to be valid under the terms and conditions of the Acts under which they were issued or granted and shall become those of the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance.

(g) The rules adopted by the Department of Professional Regulation relating to the powers and or duties transferred to the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance under this Act are not affected by this Act, except that on July 1, 1995, those rules become the rules of the Office of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance.

(h) The provisions of subsections (a) through (g) of this Section are superseded by the applicable transfer and savings provisions of the Division of Banking ~~Office of Banks and Real Estate~~ Act.

(Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

(225 ILCS 456/15)

Sec. 15. Transfer of appropriations. Appropriations to the Department of Professional Regulation from the Real Estate License Administration Fund and the Real Estate Appraisal Administration Fund for State fiscal year 1996 for the purpose of administering and enforcing the Real Estate License Act of 1983, the Land Sales Registration Act of 1989, and the Illinois Real Estate Time-Share Act shall be transferred to the Office

of the Commissioner of Savings, Real Estate Professions, and Mortgage Finance to be used to conduct those same activities for that fiscal year.

The other provisions of this Section are superseded by the applicable transfer provisions of the Division of Banking ~~Office of Banks and Real Estate~~ Act.

(Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

(205 ILCS 105/10-2 rep.)

(205 ILCS 105/10-3 rep.)

(205 ILCS 105/10-4 rep.)

(205 ILCS 105/10-5 rep.)

(205 ILCS 105/10-6 rep.)

(205 ILCS 105/10-7 rep.)

Section 90. The Illinois Savings and Loan Act of 1985 is amended by repealing Sections 10-2, 10-3, 10-4, 10-5, 10-6, and 10-7.

(205 ILCS 205/9005 rep.)

(205 ILCS 205/9007 rep.)

(205 ILCS 205/10001 rep.)

(205 ILCS 205/10002 rep.)

(205 ILCS 205/10003 rep.)

(205 ILCS 205/10004 rep.)

(205 ILCS 205/10005 rep.)

(205 ILCS 205/10006 rep.)

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(205 ILCS 205/10007 rep.)

(205 ILCS 205/10008 rep.)

Section 95. The Savings Bank Act is amended by repealing Sections 9005, 9007, 10001, 10002, 10003, 10004, 10005, 10006, 10007, and 10008.

(205 ILCS 680/Act rep.)

Section 100. The Financial Institution Activity Reporting Act is repealed.

Section 999. Effective date. This Act takes effect upon becoming law.