



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2581

Introduced 1/21/2010, by Sen. Jacqueline Y. Collins

#### SYNOPSIS AS INTRODUCED:

See Index

Amends various Acts to provide that references to the Commissioner of Banks and Real Estate now refer to the Secretary of Financial and Professional Regulation and that references to the Office of Banks and Real Estate are now references to the Division of Banking of the Department of Financial and Professional Regulation. Amends the Illinois Bank Examiners' Education Foundation Act. Provides that the purpose of the Illinois Bank Examiners' Education Foundation is to further continuing education for employees of the Division. Provides that references to "Board" in the Act refer to the State Banking Board of Illinois and that the Foundation shall be governed by the State Banking Board of Illinois (instead of the Board of Trustees). Changes provisions concerning liability. Amends the Illinois Banking Act. Changes provisions concerning the powers of the Secretary. Changes provisions concerning the membership composition and terms of office of members of the State Banking Board of Illinois. Changes provisions concerning the powers of the Board, including powers related to fund transfers, investment of funds, and continuing education programs. Amends the Illinois Bank Holding Company Act of 1957. Provides that the specified powers apply to the Secretary (instead of the Commissioner). In provisions concerning removal orders, deletes language referring to certain procedures in front of the Board. Amends the Corporate Fiduciary Act. Provides that provisions concerning removal orders apply to the Secretary (instead of the Commissioner). In provisions concerning removal orders, deletes language referring to certain procedures in front of the Board. Provides that language concerning all final administrative decisions apply to the Secretary (instead of the Commissioner or, under specified circumstances, the Board).

LRB096 16851 MJR 32162 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning financial regulation.

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

4 Section 5. The Illinois Bank Examiners' Education  
5 Foundation Act is amended by changing Sections 1, 3.01, 4, 5,  
6 and 8 and by adding Section 3.07 as follows:

7 (20 ILCS 3210/1) (from Ch. 17, par. 401)

8 Sec. 1. The Illinois Bank Examiners' Education Foundation  
9 is hereby created for the purpose of providing a means through  
10 which funds may be raised, invested and disbursed for  
11 continuing education and professional training activity for  
12 the examination employees of the Division of Banking whose  
13 responsibilities include the supervision and regulation of  
14 commercial banks, foreign banking offices, trust companies,  
15 and their information technology service providers  
16 ~~Commissioner's office.~~

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

18 (20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

19 Sec. 3.01. "Board" means the State Banking Board of  
20 Illinois ~~Board of Trustees of the Illinois Bank Examiners'~~  
21 ~~Education Foundation~~ created by the Illinois Banking Act ~~this~~  
22 ~~Act.~~

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

2 (20 ILCS 3210/3.07 new)

3 Sec. 3.07. Division of Banking. "Division of Banking" means  
4 the Division of Banking of the Department of Financial and  
5 Professional Regulation.

6 (20 ILCS 3210/4) (from Ch. 17, par. 404)

7 Sec. 4. The Foundation shall establish an endowment fund  
8 with the monies in the Illinois Bank Examiners' Education Fund.  
9 The income from such Fund shall be used to pay for continuing  
10 education and professional training activity for the  
11 examination employees of the Division of Banking whose  
12 responsibilities include the supervision and regulation of  
13 commercial banks, foreign banking offices, trust companies,  
14 and their information technology service providers  
15 ~~Commissioner's office authorized by the Board of the Illinois~~  
16 ~~Bank Examiners' Education Program~~ and to pay for reasonable  
17 expenses incurred by the Board in the course of its official  
18 duties. The continuing education and professional training  
19 activity to be funded by the Foundation shall be a supplement  
20 to the education and training expenditures regularly being made  
21 from the Bank & Trust Company Fund for such purposes.

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

23 (20 ILCS 3210/5) (from Ch. 17, par. 405)

1           Sec. 5. The Foundation shall be governed by the State  
2 Banking Board of Illinois ~~a Board of Trustees. The Board shall~~  
3 ~~consist of the following trustees: the Commissioner, who shall~~  
4 ~~be its chairman; one Class A member and three Class B members~~  
5 ~~from the State Banking Board of Illinois, appointed by the~~  
6 ~~Governor.~~

7           ~~The terms of the trustees of the Foundation who are members~~  
8 ~~of the State Banking Board of Illinois are to be coextensive~~  
9 ~~with their terms on the State Banking Board of Illinois. An~~  
10 ~~appointment to fill a vacancy shall be for the unexpired term~~  
11 ~~of the trustee whose term is being filled. Trustees shall~~  
12 ~~receive no compensation for service on the Board, but shall be~~  
13 ~~reimbursed for all reasonable and necessary expenditures~~  
14 ~~incurred in the performance of their official duties.~~

15           (Source: P.A. 84-1127.)

16           (20 ILCS 3210/8) (from Ch. 17, par. 408)

17           Sec. 8. No ~~Neither the Commissioner nor any~~ member of the  
18 Board shall be subject to any civil liability or penalty,  
19 whether for damages or otherwise, on account of or for any  
20 action taken or omitted to be taken in their respective  
21 official capacities, except when such acts or omissions to act  
22 are corrupt or malicious or unless such action is taken or  
23 omitted to be taken not in good faith and without reasonable  
24 grounds.

25           (Source: P.A. 84-1127.)

1 Section 10. The Illinois Banking Act is amended by changing  
2 Sections 2, 48, 78, 79, 80, and 82 as follows:

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

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

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

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

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

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

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

23 A "banking house", "branch", "branch bank" or "branch  
24 office" shall mean any place of business of a bank at which

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

25 "Branch of an out-of-state bank" means a branch established  
26 or maintained in Illinois by an out-of-state bank as a result

1 of a merger between an Illinois bank and the out-of-state bank  
2 that occurs on or after May 31, 1997, or any branch established  
3 by the out-of-state bank following the merger.

4 "Bylaws" means the bylaws of a bank that are adopted by the  
5 bank's board of directors or shareholders for the regulation  
6 and management of the bank's affairs. If the bank operates as a  
7 limited liability company, however, "bylaws" means the  
8 operating agreement of the bank.

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

12 "Capital" includes the aggregate of outstanding capital  
13 stock and preferred stock.

14 "Cash flow reserve account" means the account within the  
15 books and records of the Commissioner of Banks and Real Estate  
16 used to record funds designated to maintain a reasonable Bank  
17 and Trust Company Fund operating balance to meet agency  
18 obligations on a timely basis.

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

21 "Commissioner" means the Commissioner of Banks and Real  
22 Estate, except that beginning on April 6, 2009 (the effective  
23 date of Public Act 95-1047) ~~this amendatory Act of the 95th~~  
24 ~~General Assembly~~, all references in this Act to the  
25 Commissioner of Banks and Real Estate are deemed, in  
26 appropriate contexts, to be references to the Secretary of

1 Financial and Professional Regulation.

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

8 "Community" means a city, village, or incorporated town and  
9 also includes the area served by the banking offices of a bank,  
10 but need not be limited or expanded to conform to the  
11 geographic boundaries of units of local government.

12 "Company" means a corporation, limited liability company,  
13 partnership, business trust, association, or similar  
14 organization and, unless specifically excluded, includes a  
15 "State bank" and a "bank".

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

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

22 "Continuing bank" means a merging bank, the charter of  
23 which becomes the charter of the resulting bank.

24 "Converting bank" means a State bank converting to become a  
25 national bank, or a national bank converting to become a State  
26 bank.



1 "Converting trust company" means a trust company  
2 converting to become a State bank.

3 "Court" means a court of competent jurisdiction.

4 "Director" means a member of the board of directors of a  
5 bank. In the case of a manager-managed limited liability  
6 company, however, "director" means a manager of the bank and,  
7 in the case of a member-managed limited liability company,  
8 "director" means a member of the bank. The term "director" does  
9 not include an advisory director, honorary director, director  
10 emeritus, or similar person, unless the person is otherwise  
11 performing functions similar to those of a member of the board  
12 of directors.

13 "Director of Banking" means the Director of the Division of  
14 Banking of the Department of Financial and Professional  
15 Regulation.

16 "Eligible depository institution" means an insured savings  
17 association that is in default, an insured savings association  
18 that is in danger of default, a State or national bank that is  
19 in default or a State or national bank that is in danger of  
20 default, as those terms are defined in this Section, or a new  
21 bank as that term defined in Section 11(m) of the Federal  
22 Deposit Insurance Act or a bridge bank as that term is defined  
23 in Section 11(n) of the Federal Deposit Insurance Act or a new  
24 federal savings association authorized under Section  
25 11(d) (2) (f) of the Federal Deposit Insurance Act.

26 "Fiduciary" means trustee, agent, executor, administrator,

1 committee, guardian for a minor or for a person under legal  
2 disability, receiver, trustee in bankruptcy, assignee for  
3 creditors, or any holder of similar position of trust.

4 "Financial institution" means a bank, savings bank,  
5 savings and loan association, credit union, or any licensee  
6 under the Consumer Installment Loan Act or the Sales Finance  
7 Agency Act and, for purposes of Section 48.3, any proprietary  
8 network, funds transfer corporation, or other entity providing  
9 electronic funds transfer services, or any corporate  
10 fiduciary, its subsidiaries, affiliates, parent company, or  
11 contractual service provider that is examined by the  
12 Commissioner. For purposes of Section 5c and subsection (b) of  
13 Section 13 of this Act, "financial institution" includes any  
14 proprietary network, funds transfer corporation, or other  
15 entity providing electronic funds transfer services, and any  
16 corporate fiduciary.

17 "Foundation" means the Illinois Bank Examiners' Education  
18 Foundation.

19 "General obligation" means a bond, note, debenture,  
20 security, or other instrument evidencing an obligation of the  
21 government entity that is the issuer that is supported by the  
22 full available resources of the issuer, the principal and  
23 interest of which is payable in whole or in part by taxation.

24 "Guarantee" means an undertaking or promise to answer for  
25 payment of another's debt or performance of another's duty,  
26 liability, or obligation whether "payment guaranteed" or

1 "collection guaranteed".

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

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

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

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

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

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

25 (B) there is no reasonable prospect that the  
26 capital of the State or national bank or insured

1 savings association will be replenished without  
2 federal assistance.

3 "In default" means, with respect to a State or national  
4 bank or an insured savings association, any adjudication or  
5 other official determination by any court of competent  
6 jurisdiction, the Commissioner, the appropriate federal  
7 banking agency, or other public authority pursuant to which a  
8 conservator, receiver, or other legal custodian is appointed  
9 for a State or national bank or an insured savings association.

10 "Insured savings association" means any federal savings  
11 association chartered under Section 5 of the federal Home  
12 Owners' Loan Act and any State savings association chartered  
13 under the Illinois Savings and Loan Act of 1985 or a  
14 predecessor Illinois statute, the deposits of which are insured  
15 by the Federal Deposit Insurance Corporation. The term also  
16 includes a savings bank organized or operating under the  
17 Savings Bank Act.

18 "Insured savings association in recovery" means an insured  
19 savings association that is not an eligible depository  
20 institution and that does not meet the minimum capital  
21 requirements applicable with respect to the insured savings  
22 association.

23 "Issuer" means for purposes of Section 33 every person who  
24 shall have issued or proposed to issue any security; except  
25 that (1) with respect to certificates of deposit, voting trust  
26 certificates, collateral-trust certificates, and certificates

1 of interest or shares in an unincorporated investment trust not  
2 having a board of directors (or persons performing similar  
3 functions), "issuer" means the person or persons performing the  
4 acts and assuming the duties of depositor or manager pursuant  
5 to the provisions of the trust, agreement, or instrument under  
6 which the securities are issued; (2) with respect to trusts  
7 other than those specified in clause (1) above, where the  
8 trustee is a corporation authorized to accept and execute  
9 trusts, "issuer" means the entrusters, depositors, or creators  
10 of the trust and any manager or committee charged with the  
11 general direction of the affairs of the trust pursuant to the  
12 provisions of the agreement or instrument creating the trust;  
13 and (3) with respect to equipment trust certificates or like  
14 securities, "issuer" means the person to whom the equipment or  
15 property is or is to be leased or conditionally sold.

16 "Letter of credit" and "customer" shall have the meanings  
17 ascribed to those terms in Section 5-102 of the Uniform  
18 Commercial Code.

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

21 "Maker or obligor" means for purposes of Section 33 the  
22 issuer of a security, the promisor in a debenture or other debt  
23 security, or the mortgagor or grantor of a trust deed or  
24 similar conveyance of a security interest in real or personal  
25 property.

26 "Merged bank" means a merging bank that is not the

1 continuing, resulting, or surviving bank in a consolidation or  
2 merger.

3 "Merger" includes consolidation.

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

5 "Merging trust company" means a trust company party to a  
6 merger with a State bank.

7 "Mid-tier bank holding company" means a corporation that  
8 (a) owns 100% of the issued and outstanding shares of each  
9 class of stock of a State bank, (b) has no other subsidiaries,  
10 and (c) 100% of the issued and outstanding shares of the  
11 corporation are owned by a parent bank holding company.

12 "Municipality" means any municipality, political  
13 subdivision, school district, taxing district, or agency.

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

17 "Out-of-state bank" means a bank chartered under the laws  
18 of a state other than Illinois, a territory of the United  
19 States, or the District of Columbia.

20 "Parent bank holding company" means a corporation that is a  
21 bank holding company as that term is defined in the Illinois  
22 Bank Holding Company Act of 1957 and owns 100% of the issued  
23 and outstanding shares of a mid-tier bank holding company.

24 "Person" means an individual, corporation, limited  
25 liability company, partnership, joint venture, trust, estate,  
26 or unincorporated association.

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

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

22 "Published" means, unless the context requires otherwise,  
23 the publishing of the notice or instrument referred to in some  
24 newspaper of general circulation in the community in which the  
25 bank is located at least once each week for 3 successive weeks.  
26 Publishing shall be accomplished by, and at the expense of, the

1 bank required to publish. Where publishing is required, the  
2 bank shall submit to the Commissioner that evidence of the  
3 publication as the Commissioner shall deem appropriate.

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

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

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

21 "Secretary" means the Secretary of Financial and  
22 Professional Regulation, or a person authorized by the  
23 Secretary or by this Act to act in the Secretary's stead.

24 "Securities" means stocks, bonds, debentures, notes, or  
25 other similar obligations.

26 "Stand-by letter of credit" means a letter of credit under



1 which drafts are payable upon the condition the customer has  
2 defaulted in performance of a duty, liability, or obligation.

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

5 "State Banking Board" means the State Banking Board of  
6 Illinois.

7 "Subsidiary" with respect to a specified company means a  
8 company that is controlled by the specified company. For  
9 purposes of paragraphs (8) and (12) of Section 5 of this Act,  
10 "control" means the exercise of operational or managerial  
11 control of a corporation by the bank, either alone or together  
12 with other affiliates of the bank.

13 "Surplus" means the aggregate of (i) amounts paid in excess  
14 of the par value of capital stock and preferred stock; (ii)  
15 amounts contributed other than for capital stock and preferred  
16 stock and allocated to the surplus account; and (iii) amounts  
17 transferred from undivided profits.

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

22 "Trust company" means a limited liability company or  
23 corporation incorporated in this State for the purpose of  
24 accepting and executing trusts.

25 "Undivided profits" means undistributed earnings less  
26 discretionary transfers to surplus.

1 "Unimpaired capital and unimpaired surplus", for the  
2 purposes of paragraph (21) of Section 5 and Sections 32, 33,  
3 34, 35.1, 35.2, and 47 of this Act means the sum of the state  
4 bank's Tier 1 Capital and Tier 2 Capital plus such other  
5 shareholder equity as may be included by regulation of the  
6 Commissioner. Unimpaired capital and unimpaired surplus shall  
7 be calculated on the basis of the date of the last quarterly  
8 call report filed with the Commissioner preceding the date of  
9 the transaction for which the calculation is made, provided  
10 that: (i) when a material event occurs after the date of the  
11 last quarterly call report filed with the Commissioner that  
12 reduces or increases the bank's unimpaired capital and  
13 unimpaired surplus by 10% or more, then the unimpaired capital  
14 and unimpaired surplus shall be calculated from the date of the  
15 material event for a transaction conducted after the date of  
16 the material event; and (ii) if the Commissioner determines for  
17 safety and soundness reasons that a state bank should calculate  
18 unimpaired capital and unimpaired surplus more frequently than  
19 provided by this paragraph, the Commissioner may by written  
20 notice direct the bank to calculate unimpaired capital and  
21 unimpaired surplus at a more frequent interval. In the case of  
22 a state bank newly chartered under Section 13 or a state bank  
23 resulting from a merger, consolidation, or conversion under  
24 Sections 21 through 26 for which no preceding quarterly call  
25 report has been filed with the Commissioner, unimpaired capital  
26 and unimpaired surplus shall be calculated for the first

1 calendar quarter on the basis of the effective date of the  
2 charter, merger, consolidation, or conversion.

3 (Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09;  
4 revised 4-14-09.)

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

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

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

18 (2) (a) The Commissioner, as often as the Commissioner  
19 shall deem necessary or proper, and no less frequently than 18  
20 months following the preceding examination, shall appoint a  
21 suitable person or persons to make an examination of the  
22 affairs of every State bank, except that for every eligible  
23 State bank, as defined by regulation, the Commissioner in lieu  
24 of the examination may accept on an alternating basis the  
25 examination made by the eligible State bank's appropriate

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

1 other state regulatory authorities may be compensated for  
2 examinations prepared for and submitted to the Commissioner.

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

13 (2.5) Whenever any State bank, any subsidiary or affiliate  
14 of a State bank, or after May 31, 1997, any branch of an  
15 out-of-state bank causes to be performed, by contract or  
16 otherwise, any bank services for itself, whether on or off its  
17 premises:

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

22 (b) the bank or, after May 31, 1997, branch of the  
23 out-of-state bank shall notify the Commissioner of the  
24 existence of a service relationship. The notification  
25 shall be submitted with the first statement of condition  
26 (as required by Section 47 of this Act) due after the

1 making of the service contract or the performance of the  
2 service, whichever occurs first. The Commissioner shall be  
3 notified of each subsequent contract in the same manner.

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

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

18 (a) Each bank shall pay to the Secretary a Call Report  
19 Fee which shall be paid in quarterly installments equal to  
20 one-fourth of the sum of the annual fixed fee of \$800, plus  
21 a variable fee based on the assets shown on the quarterly  
22 statement of condition delivered to the Secretary in  
23 accordance with Section 47 for the preceding quarter  
24 according to the following schedule: 16¢ per \$1,000 of the  
25 first \$5,000,000 of total assets, 15¢ per \$1,000 of the  
26 next \$20,000,000 of total assets, 13¢ per \$1,000 of the

1 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next  
2 \$400,000,000 of total assets, 7¢ per \$1,000 of the next  
3 \$500,000,000 of total assets, and 5¢ per \$1,000 of all  
4 assets in excess of \$1,000,000,000, of the State bank. The  
5 Call Report Fee shall be calculated by the Secretary and  
6 billed to the banks for remittance at the time of the  
7 quarterly statements of condition provided for in Section  
8 47. The Secretary may require payment of the fees provided  
9 in this Section by an electronic transfer of funds or an  
10 automatic debit of an account of each of the State banks.  
11 In case more than one examination of any bank is deemed by  
12 the Secretary to be necessary in any examination frequency  
13 cycle specified in subsection 2(a) of this Section, and is  
14 performed at his direction, the Secretary may assess a  
15 reasonable additional fee to recover the cost of the  
16 additional examination; provided, however, that an  
17 examination conducted at the request of the State Treasurer  
18 pursuant to the Uniform Disposition of Unclaimed Property  
19 Act shall not be deemed to be an additional examination  
20 under this Section. In lieu of the method and amounts set  
21 forth in this paragraph (a) for the calculation of the Call  
22 Report Fee, the Secretary may specify by rule that the Call  
23 Report Fees provided by this Section may be assessed  
24 semiannually or some other period and may provide in the  
25 rule the formula to be used for calculating and assessing  
26 the periodic Call Report Fees to be paid by State banks.

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

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

21           (a-3) After May 31, 1997, the reasonable and necessary  
22 expenses of the Commissioner during examination of the  
23 performance of electronic data processing services under  
24 subsection (2.5) at or on behalf of branches of  
25 out-of-state banks shall be borne by the out-of-state  
26 banks, unless those expenses are borne by the state



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

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

1 foreign banking corporations, respectively, in the same  
2 proportion that the fee of each under paragraph (a) of  
3 subsection (3), respectively, for that year bears to the  
4 aggregate for that year of the fees collected under  
5 paragraph (a) of subsection (3). The aggregate amount of  
6 the contingent fee, and the portion thereof to be assessed  
7 upon each State bank and foreign banking corporation,  
8 respectively, shall be determined by the Commissioner and  
9 shall be paid by each, respectively, within 120 days of the  
10 close of the period for which the contingent fee is  
11 computed and is payable, and the Commissioner shall give 20  
12 days advance notice of the amount of the contingent fee  
13 payable by the State bank and of the date fixed by the  
14 Commissioner for payment of the fee.

15 (c) The "administration expenses" for any fiscal year  
16 shall mean the ordinary and contingent expenses for that  
17 year incident to making the examinations provided for by,  
18 and for otherwise administering, this Act, the Corporate  
19 Fiduciary Act, excluding the expenses paid from the  
20 Corporate Fiduciary Receivership account in the Bank and  
21 Trust Company Fund, the Foreign Banking Office Act, the  
22 Electronic Fund Transfer Act, and the Illinois Bank  
23 Examiners' Education Foundation Act, including all  
24 salaries and other compensation paid for personal services  
25 rendered for the State by officers or employees of the  
26 State, including the Commissioner and the Deputy

1           Commissioners, all expenditures for telephone and  
2           telegraph charges, postage and postal charges, office  
3           stationery, supplies and services, and office furniture  
4           and equipment, including typewriters and copying and  
5           duplicating machines and filing equipment, surety bond  
6           premiums, and travel expenses of those officers and  
7           employees, employees, expenditures or charges for the  
8           acquisition, enlargement or improvement of, or for the use  
9           of, any office space, building, or structure, or  
10          expenditures for the maintenance thereof or for furnishing  
11          heat, light, or power with respect thereto, all to the  
12          extent that those expenditures are directly incidental to  
13          such examinations or administration. The Commissioner  
14          shall not be required by paragraphs (c) or (d-1) of this  
15          subsection (3) to maintain in any fiscal year's budget  
16          appropriated reserves for accrued vacation and accrued  
17          sick leave that is required to be paid to employees of the  
18          Commissioner upon termination of their service with the  
19          Commissioner in an amount that is more than is reasonably  
20          anticipated to be necessary for any anticipated turnover in  
21          employees, whether due to normal attrition or due to  
22          layoffs, terminations, or resignations.

23                 (d) The aggregate of all fees collected by the  
24                 Secretary under this Act, the Corporate Fiduciary Act, or  
25                 the Foreign Banking Office Act on and after July 1, 1979,  
26                 shall be paid promptly after receipt of the same,

1 accompanied by a detailed statement thereof, into the State  
2 treasury and shall be set apart in a special fund to be  
3 known as the "Bank and Trust Company Fund", except as  
4 provided in paragraph (c) of subsection (11) of this  
5 Section. All earnings received from investments of funds in  
6 the Bank and Trust Company Fund shall be deposited in the  
7 Bank and Trust Company Fund and may be used for the same  
8 purposes as fees deposited in that Fund. The amount from  
9 time to time deposited into the Bank and Trust Company Fund  
10 shall be used: (i) to offset the ordinary administrative  
11 expenses of the Secretary as defined in this Section or  
12 (ii) as a credit against fees under paragraph (d-1) of this  
13 subsection (3). Nothing in this amendatory Act of 1979  
14 shall prevent continuing the practice of paying expenses  
15 involving salaries, retirement, social security, and  
16 State-paid insurance premiums of State officers by  
17 appropriations from the General Revenue Fund. However, the  
18 General Revenue Fund shall be reimbursed for those payments  
19 made on and after July 1, 1979, by an annual transfer of  
20 funds from the Bank and Trust Company Fund. Moneys in the  
21 Bank and Trust Company Fund may be transferred to the  
22 Professions Indirect Cost Fund, as authorized under  
23 Section 2105-300 of the Department of Professional  
24 Regulation Law of the Civil Administrative Code of  
25 Illinois.

26 Notwithstanding provisions in the State Finance Act,

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

7 Notwithstanding provisions in the State Finance Act,  
8 as now or hereafter amended, or any other law to the  
9 contrary, the Governor may, during any fiscal year through  
10 January 10, 2011, from time to time direct the State  
11 Treasurer and Comptroller to transfer a specified sum not  
12 exceeding 10% of the revenues to be deposited into the Bank  
13 and Trust Company Fund during that fiscal year from that  
14 Fund to the General Revenue Fund in order to help defray  
15 the State's operating costs for the fiscal year.  
16 Notwithstanding provisions in the State Finance Act, as now  
17 or hereafter amended, or any other law to the contrary, the  
18 total sum transferred during any fiscal year through  
19 January 10, 2011, from the Bank and Trust Company Fund to  
20 the General Revenue Fund pursuant to this provision shall  
21 not exceed during any fiscal year 10% of the revenues to be  
22 deposited into the Bank and Trust Company Fund during that  
23 fiscal year. The State Treasurer and Comptroller shall  
24 transfer the amounts designated under this Section as soon  
25 as may be practicable after receiving the direction to  
26 transfer from the Governor.

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

1           respectively, for the year bear to the total Call Report  
2           Fees collected for the year. The additional amounts  
3           assessed shall be transferred into the Cash Flow Reserve  
4           Account. For purposes of this paragraph (d-1), the  
5           calculation of the fees collected by the Commissioner shall  
6           exclude the receivership fees provided for in Section 5-10  
7           of the Corporate Fiduciary Act.

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

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

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

23          (5) The nature and condition of the assets in or investment  
24          of any bonus, pension, or profit sharing plan for officers or  
25          employees of every State bank or, after May 31, 1997, branch of  
26          an out-of-state bank shall be deemed to be included in the

1 affairs of that State bank or branch of an out-of-state bank  
2 subject to examination by the Commissioner under the provisions  
3 of subsection (2) of this Section, and if the Commissioner  
4 shall find from an examination that the condition of or  
5 operation of the investments or assets of the plan is unlawful,  
6 fraudulent, or unsafe, or that any trustee has abused his  
7 trust, the Commissioner shall, if the situation so found by the  
8 Commissioner shall not be corrected to his satisfaction within  
9 60 days after the Commissioner has given notice to the board of  
10 directors of the State bank or out-of-state bank of his  
11 findings, report the facts to the Attorney General who shall  
12 thereupon institute proceedings against the State bank or  
13 out-of-state bank, the board of directors thereof, or the  
14 trustees under such plan as the nature of the case may require.

15 (6) The Commissioner shall have the power:

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

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

23 (b) To issue orders against any person, if the  
24 Commissioner has reasonable cause to believe that an unsafe  
25 or unsound banking practice has occurred, is occurring, or  
26 is about to occur, if any person has violated, is



1           violating, or is about to violate any law, rule, or written  
2           agreement with the Commissioner, or for the purpose of  
3           administering the provisions of this Act and any rule  
4           promulgated in accordance with this Act.

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

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

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

24          (e) To conduct hearings.

25          (7) Whenever, in the opinion of the Secretary ~~Commissioner~~,  
26          any director, officer, employee, or agent of a State bank or

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

1 participated in any unsafe or unsound practice in connection  
2 with any financial institution or other business entity such  
3 that the character and fitness of the director, officer,  
4 employee, or agent would not have assured reasonable promise of  
5 safe and sound operation of the State bank, the Secretary  
6 ~~Commissioner~~ may issue an order prohibiting that person from  
7 further service with a bank or any subsidiary or bank holding  
8 company of the bank as a director, officer, employee, or agent.  
9 An order issued pursuant to this subsection shall be served  
10 upon the director, officer, employee, or agent. A copy of the  
11 order shall be sent to each director of the bank affected by  
12 registered mail. ~~The person affected by the action may request~~  
13 ~~a hearing before the State Banking Board within 10 days after~~  
14 ~~receipt of the order. The hearing shall be held by the Board~~  
15 ~~within 30 days after the request has been received by the~~  
16 ~~Board. The Board shall make a determination approving,~~  
17 ~~modifying, or disapproving the order of the Commissioner as its~~  
18 ~~final administrative decision. If a hearing is held by the~~  
19 ~~Board, the Board shall make its determination within 60 days~~  
20 ~~from the conclusion of the hearing. Any person affected by a~~  
21 ~~decision of the Board under this subsection (7) of Section 48~~  
22 ~~of this Act may have the decision reviewed only under and in~~  
23 ~~accordance with the Administrative Review Law and the rules~~  
24 ~~adopted pursuant thereto.~~ A copy of the order shall also be  
25 served upon the bank of which he is a director, officer,  
26 employee, or agent, whereupon he shall cease to be a director,

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

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

22 (8) The Commissioner may impose civil penalties of up to  
23 \$10,000 against any person for each violation of any provision  
24 of this Act, any rule promulgated in accordance with this Act,  
25 any order of the Commissioner, or any other action which in the  
26 Commissioner's discretion is an unsafe or unsound banking

1 practice.

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

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

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

14 (a) (Blank).

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

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

26 (i) promptly paid after receipt of the same, accompanied by

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

15 (12) (Blank).

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

17 (205 ILCS 5/78) (from Ch. 17, par. 390)

18 Sec. 78. Board of banks and trust companies; creation,  
19 members, appointment. There is created a Board which shall be  
20 known as the State Banking Board of Illinois which shall  
21 consist of the Director of Banking ~~Commissioner~~, who shall be  
22 its chairman, and 11 ~~16~~ additional members. The Board shall be  
23 comprised of individuals interested in the banking industry.  
24 Two members shall be from State banks having total assets of  
25 not more than \$75,000,000 at the time of their appointment; 2

1 members shall be from State banks having total assets of more  
2 than \$75,000,000, but not more than \$150,000,000 at the time of  
3 their appointment; 2 members shall be from State banks having  
4 total assets of more than \$150,000,000, but not more than  
5 \$500,000,000 at the time of their appointment; 2 members shall  
6 be from State banks having total assets of more than  
7 \$500,000,000, but not more than \$2,000,000,000 at the time of  
8 their appointment, and one member shall be from a State bank  
9 having total assets of more than \$2,000,000,000 at the time of  
10 his or her appointment. There shall be 2 public members,  
11 neither of whom shall be an officer or director of or owner,  
12 whether directly or indirectly, of more than 5% of the  
13 outstanding capital stock of any bank. ~~divided into 3 classes~~  
14 ~~designated Class A members, Class B members, and Class C~~  
15 ~~members who are appointed by the Governor by and with the~~  
16 ~~advice and consent of the Senate and made up as follows:~~

17 Class A shall consist of 4 persons, none of whom shall be  
18 an officer or director of or owner, whether direct or indirect,  
19 of more than 5% of the outstanding capital stock of any bank.

20 Class B shall consist of 10 persons who at the time of  
21 their respective appointments shall have had not less than 10  
22 years banking experience. Of the 10 Class B members, 2 shall be  
23 from State banks having total assets of not more than  
24 \$20,000,000 at the time of their appointment, 2 shall be from  
25 State banks having total assets of more than \$20,000,000 but  
26 not more than \$50,000,000 at the time of their appointment, 2

1 ~~shall be from State banks having total assets of more than~~  
2 ~~\$50,000,000, but not more than \$125,000,000 at the time of~~  
3 ~~their appointment, one shall be from a State bank having total~~  
4 ~~assets of more than \$125,000,000 but not more than \$250,000,000~~  
5 ~~at the time of appointment, one shall be from a State bank~~  
6 ~~having total assets of more than \$250,000,000 but not more than~~  
7 ~~\$1,000,000,000 at the time of appointment, one shall be from a~~  
8 ~~State bank having total assets of more than \$1,000,000,000 at~~  
9 ~~the time of appointment and one shall be from a foreign banking~~  
10 ~~corporation certificated pursuant to the Foreign Banking~~  
11 ~~Office Act.~~

12 ~~Class C shall consist of 2 persons who shall be at large~~  
13 ~~members representing the banking industry generally.~~

14 (Source: P.A. 91-798, eff. 7-9-00.)

15 (205 ILCS 5/79) (from Ch. 17, par. 391)

16 Sec. 79. Board, terms of office. The terms of office of the  
17 Class A and Class B members of the State Banking Board of  
18 Illinois shall be 4 years, except that the initial Board  
19 appointments shall be staggered with the Governor initially  
20 appointing, with advice and consent of the Senate, 3 members to  
21 serve 2-year terms, 4 members to serve 3-year terms, and 4  
22 members to serve 4-year terms. Members shall continue to serve  
23 on the Board until their replacement is appointed and  
24 qualified. Vacancies shall be filled by appointment by the  
25 Governor with advice and consent of the Senate. Board of Banks



1 ~~and Trust Companies who are in office on the effective date of~~  
2 ~~this Amendatory Act of 1985 shall expire on December 31, 1985.~~  
3 ~~The terms of office of Class A, Class B, and Class C members of~~  
4 ~~the State Banking Board shall be as follows:~~

5 ~~(a) The terms of office of all Class A and Class B members~~  
6 ~~of the State Banking Board shall begin on January 1, 1986.~~

7 ~~(b) The persons first appointed as the Class A members of~~  
8 ~~the State Banking Board shall have the following terms as~~  
9 ~~designated by the Governor; one person for a term of one year,~~  
10 ~~one person for a term of 2 years, one person for a term of 3~~  
11 ~~years and one person for a term of 4 years. Thereafter, the~~  
12 ~~term of office of each Class A member shall be 4 years, except~~  
13 ~~that an appointment to fill a vacancy shall be for the~~  
14 ~~unexpired term of the member whose term is being filled.~~

15 ~~(c) The persons first appointed as Class B members of the~~  
16 ~~State Banking Board shall have the following terms as~~  
17 ~~designated by the Governor; one member for a term of one year,~~  
18 ~~3 members for a term of 2 years, 3 members for a term of 3~~  
19 ~~years, and 3 members for a term of 4 years. Thereafter, the~~  
20 ~~term of office of each Class B member shall be 4 years, except~~  
21 ~~that an appointment to fill a vacancy shall be for the~~  
22 ~~unexpired term of the member whose term is being filled.~~

23 ~~(c-5) The initial term of office of each Class C member of~~  
24 ~~the State Banking Board appointed pursuant to this amendatory~~  
25 ~~Act of the 91st General Assembly shall expire on January 1,~~  
26 ~~2004. Thereafter, the term of office of each Class C member~~

1 ~~shall be 4 years, except that an appointment to fill a vacancy~~  
2 ~~shall be for the unexpired term of the member whose term is~~  
3 ~~being filled.~~

4 (d) ~~No Class A, Class B, or Class C State Banking Board~~  
5 ~~member shall serve more than 2 full 4-year terms of office.~~

6 ~~(e) The term of office of a State Banking Board member~~  
7 ~~shall terminate automatically when the member no longer meets~~  
8 ~~the qualifications for the member's appointment to the Board~~  
9 ~~provided that an increase or decrease in the asset size of the~~  
10 ~~member's bank during the member's term of office on the State~~  
11 ~~Banking Board shall not result in the termination of the~~  
12 ~~member's term of office.~~

13 (Source: P.A. 90-301, eff. 8-1-97; 91-798, eff. 7-9-00.)

14 (205 ILCS 5/80) (from Ch. 17, par. 392)

15 Sec. 80. Board; powers. The Board shall have the following  
16 powers in addition to any others that may be granted to it by  
17 law:

18 (a) (Blank). ~~To make, alter, and amend rules and~~  
19 ~~regulations proposed for adoption by the Commissioner with~~  
20 ~~respect to the following matters:~~

21 ~~(i) The scope and nature of showings to be furnished~~  
22 ~~and evidence to be presented in connection with the~~  
23 ~~granting of charters of new banks, and in connection with~~  
24 ~~the approval by the Commissioner of mergers, conversions,~~  
25 ~~consolidations and changes of location, and the forms upon~~

1 ~~which any of such showings may be made.~~

2 ~~(ii) The steps to be taken and the showings to be~~  
3 ~~furnished in connection with voluntary dissolutions under~~  
4 ~~Sections 68 to 74, inclusive, of this Act, and the forms~~  
5 ~~upon which such showing are to be made.~~

6 ~~(iii) The form, content and nature of the reports to be~~  
7 ~~furnished to the Commissioner under Section 47 of this Act,~~  
8 ~~and the definition of the scope of examinations and the~~  
9 ~~data to be furnished in connection with examinations by the~~  
10 ~~Commissioner under subsection (2) and subsection (5) of~~  
11 ~~Section 48 of this Act.~~

12 (b) To review, consider, and make recommendations to the  
13 Director of Banking ~~Commissioner~~ upon any banking matters.

14 (c) (Blank). ~~To require the Commissioner to report~~  
15 ~~periodically to the Board on any banking matters, including the~~  
16 ~~following:~~

17 ~~(i) Data with respect to banks whose condition or~~  
18 ~~practices are being critically considered or reviewed by~~  
19 ~~the Commissioner pursuant to Section 51 of this Act, and~~  
20 ~~data with respect to banks to which any notice has been~~  
21 ~~given by the Commissioner pursuant to said Section 51; and~~

22 ~~(ii) The extent and nature of all disciplinary action~~  
23 ~~taken by the Commissioner against any bank or any officer~~  
24 ~~or director thereof, and information with respect to the~~  
25 ~~manner or extent of the remedial action, if any, taken by~~  
26 ~~the criticized bank or director or officer; and~~

1           ~~(iii) The extent and nature of all action taken by the~~  
2           ~~Commissioner under or pursuant to Section 52 of this Act;~~

3           ~~and~~

4           ~~(iv) The extent and nature of all action taken by the~~  
5           ~~Commissioner under or pursuant to Section 31 of this Act.~~

6           (d) (Blank). ~~To require the Commissioner to furnish the~~  
7           ~~Board reports in respect of the granting or of the denial of~~  
8           ~~new charters, mergers, changes of location, conversions or~~  
9           ~~consolidations, including the findings made and the basis for~~  
10           ~~the action taken by the Commissioner in connection therewith.~~

11           (e) To review, consider, and submit to the Director of  
12           Banking Commissioner and to the Governor proposals for  
13           amendments to this Act or for changes in or additions to the  
14           administration thereof which in the opinion of the Board are  
15           necessary or desirable in order to assure the safe and sound  
16           conduct of the banking business.

17           (f) (Blank). ~~To require the Commissioner to furnish the~~  
18           ~~Board space for meetings to be held by the Board as well as to~~  
19           ~~require the Commissioner to provide such clerical and technical~~  
20           ~~assistance as the Board may require.~~

21           (g) To adopt its own by-laws with respect to Board meetings  
22           and procedures. Such by-laws shall provide that:

23                 (i) A majority of the whole Board constitutes a quorum.

24                 (ii) A majority of the quorum shall constitute  
25           effective action except that a vote of a majority of the  
26           whole Board shall be necessary for ~~the approval of rules~~

1 ~~and regulations proposed for adoption by the Commissioner~~  
2 ~~under Section 80(a), (i), (ii) and (iii) of this Act and~~  
3 ~~shall be necessary for~~ recommendations made to the Director  
4 ~~of Banking Commissioner~~ and to the Governor with regard to  
5 proposed amendments to this Act or to the administrative  
6 practices hereunder.

7 (iii) The Board shall meet at least once in each  
8 calendar year and upon the call of the Director of Banking  
9 ~~Commissioner~~ or a majority of the Board. The Director of  
10 Banking Commissioner or a majority of the Board may call  
11 such special or additional meetings as may be deemed  
12 necessary or desirable.

13 (h) (Blank). ~~To make rules to regulate the method of~~  
14 ~~selecting candidates for consideration by the Governor to fill~~  
15 ~~a vacancy in the Office of the Commissioner and the deputy~~  
16 ~~commissioners.~~

17 (i) (Blank). ~~To make rules to regulate the method of~~  
18 ~~selecting candidates for consideration by the Governor to fill~~  
19 ~~a vacancy in the office of any of the 10 Class B members of the~~  
20 ~~Board.~~

21 (j) (Blank). ~~To make rules to regulate the conduct of~~  
22 ~~hearings under subsection (7) of Section 48 of this Act.~~

23 (k) (Blank). ~~To subpoena witnesses, to compel their~~  
24 ~~attendance, to administer an oath, to examine any person under~~  
25 ~~oath and to require the production of any relevant books,~~  
26 ~~papers, accounts and documents in the course of and pursuant to~~

1 ~~any hearing being conducted under subsection (7) of Section 48~~  
2 ~~of this Act.~~

3 (l) (Blank). ~~To appoint hearing officers to conduct~~  
4 ~~hearings under subsection (7) of Section 48 of this Act.~~

5 (m) To authorize the transfer of funds from the Illinois  
6 Bank Examiners' Education Fund to the Bank and Trust Company  
7 Fund. Any amount transferred shall be retransferred to the  
8 Illinois Bank Examiners' Education Fund from the Bank and Trust  
9 Company Fund within 3 years.

10 (n) To maintain and direct the investments of the Illinois  
11 Bank Examiners' Education Fund.

12 (o) To evaluate various courses, programs, curricula, and  
13 schools of continuing education and professional training that  
14 are available from within the United States for State banking  
15 department examination personnel and develop a program known as  
16 the Illinois Bank Examiners' Education Program. The Board shall  
17 determine which courses, programs, curricula, and schools will  
18 be included in the Program to be funded by the Foundation.

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

20 (205 ILCS 5/82) (from Ch. 17, par. 394)

21 Sec. 82. Commissioner, board; civil liability. Neither the  
22 Secretary, Director of Banking, Commissioner, any deputy  
23 commissioner, any member of the Board of Banks and Trust  
24 Companies, any member of the State Banking Board of Illinois,  
25 nor any examiner, assistant examiner or other employee of the

1 Division of Banking ~~Commissioner's office~~ shall be subject to  
2 any civil liability or penalty, whether for damages or  
3 otherwise, on account of or for any action taken or omitted to  
4 be taken in their respective official capacities, except when  
5 such acts or omissions to act are corrupt or malicious or  
6 unless such action is taken or omitted to be taken not in good  
7 faith and without reasonable grounds.

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

9 Section 15. The Illinois Bank Holding Company Act of 1957  
10 is amended by changing Sections 2 and 3.074 as follows:

11 (205 ILCS 10/2) (from Ch. 17, par. 2502)

12 Sec. 2. Unless the context requires otherwise:

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

1 bank.

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

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

9 (1) unmanned automatic teller machines, point of sale  
10 terminals or other similar unmanned electronic banking  
11 facilities at which deposits may be accepted; or

12 (2) offices located outside the United States.

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

16 (e) "Commissioner" means the Commissioner of Banks and Real  
17 Estate or a person authorized by the Commissioner, the Office  
18 of Banks and Real Estate Act, or this Act to act in the  
19 Commissioner's stead, except that beginning on the effective  
20 date of this amendatory Act of the 96th General Assembly, all  
21 references in this Act to the Commissioner of Banks and Real  
22 Estate are deemed, in appropriate contexts, to be references to  
23 the Secretary of Financial and Professional Regulation.

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



1 government.

2 (g) "Company" means any corporation, business trust,  
3 voting trust, association, partnership, joint venture, similar  
4 organization or any other trust unless by its terms it must  
5 terminate within 25 years or not later than 21 years and 10  
6 months after the death of individuals living on the effective  
7 date of the trust, but shall not include (1) an individual or  
8 (2) any corporation the majority of the shares of which are  
9 owned by the United States or by any state or any corporation  
10 or community chest fund, organized and operated exclusively for  
11 religious, charitable, scientific, literary or educational  
12 purposes, no part of the net earnings of which inure to the  
13 benefit of any private shareholder or individual and no  
14 substantial part of the activities of which is carrying on  
15 propaganda or otherwise attempting to influence legislation.

16 (h) A company "controls or has control over" a bank or  
17 company if (1) it directly or indirectly owns or controls or  
18 has the power to vote, 25% or more of the voting shares of any  
19 class of voting securities of such bank or company or (2) it  
20 controls in any manner the election of a majority of the  
21 directors or trustees of such bank or company or (3) a trustee  
22 holds for the benefit of its shareholders, members or  
23 employees, 25% or more of the voting shares of such bank or  
24 company or (4) it directly or indirectly exercises a  
25 controlling influence over the management or policies of such  
26 bank or company that is a bank holding company and the Board of

1     Governors of the Federal Reserve System has so determined under  
2     the federal Bank Holding Company Act. In determining whether  
3     any company controls or has control over a bank or company: (i)  
4     shares owned or controlled by any subsidiary of a company shall  
5     be deemed to be indirectly owned or controlled by such company;  
6     (ii) shares held or controlled, directly or indirectly, by a  
7     trustee or trustees for the benefit of a company, the  
8     shareholders or members of a company or the employees (whether  
9     exclusively or not) of a company, shall be deemed to be  
10    controlled by such company; and (iii) shares transferred,  
11    directly or indirectly, by any bank holding company (or by any  
12    company which, but for such transfer, would be a bank holding  
13    company) to any transferee that is indebted to the transferor  
14    or that has one or more officers, directors, trustees or  
15    beneficiaries in common with or subject to control by the  
16    transferor, shall be deemed to be indirectly owned or  
17    controlled by the transferor unless the Board of Governors of  
18    the Federal Reserve System has determined, under the federal  
19    Bank Holding Company Act, that the transferor is not in fact  
20    capable of controlling the transferee. Notwithstanding the  
21    foregoing, no company shall be deemed to have control of or  
22    over a bank or bank holding company (A) by virtue of its  
23    ownership or control of shares in a fiduciary capacity arising  
24    in the ordinary course of its business; (B) by virtue of its  
25    ownership or control of shares acquired by it in connection  
26    with its underwriting of securities which are held only for

1 such period of time as will permit the sale thereof upon a  
2 reasonable basis; (C) by virtue of its holding any shares as  
3 collateral taken in the ordinary course of securing a debt or  
4 other obligation; (D) by virtue of its ownership or control of  
5 shares acquired in the ordinary course of collecting a debt or  
6 other obligation previously contracted in good faith, until 5  
7 years after the date acquired; or (E) by virtue of its voting  
8 rights with respect to shares of any bank or bank holding  
9 company acquired in the course of a proxy solicitation in the  
10 case of a company formed and operated for the sole purpose of  
11 participating in a proxy solicitation.

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

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

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

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

1 1978.

2 (1) "Illinois bank" means a bank:

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

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

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

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

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

13 An out of state bank holding company that acquires control  
14 of one or more Illinois banks or Illinois bank holding  
15 companies pursuant to Sections 3.061 or 3.071 shall not be  
16 deemed an Illinois bank holding company.

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

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

24 (1) that is not an Illinois bank; and

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

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

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

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

11 (q) "Principal place of business" means, with respect to a  
12 bank holding company, the state in which the total deposits  
13 held by all of the banking offices of all of the bank  
14 subsidiaries of such bank holding company are the largest, as  
15 shown in the most recent reports of condition or similar  
16 reports filed by the bank holding company's bank subsidiaries  
17 with state or federal regulatory authorities.

18 (q-5) "Secretary" means the Secretary of Financial and  
19 Professional Regulation, or a person authorized by the  
20 Secretary or by this Act to act in the Secretary's stead.

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

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

1 holding company.

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

3 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

4 Sec. 3.074. Powers; administrative review.

5 (a) The Secretary ~~Commissioner~~ shall have the power and  
6 authority:

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

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

15 (3) to appoint hearing officers to execute any of the  
16 powers granted to the Secretary ~~Commissioner~~ under this  
17 Section for the purpose of administering this Act or any  
18 rule promulgated in accordance with this Act; and

19 (4) to subpoena witnesses, to compel their attendance,  
20 to administer an oath, to examine any person under oath and  
21 to require the production of any relevant books, papers,  
22 accounts and documents in the course of and pursuant to any  
23 investigation or hearing being conducted or any action  
24 being taken by the Secretary ~~Commissioner~~ in respect to any  
25 matter relating to the duties imposed upon or the powers

1           vested in the Secretary ~~Commissioner~~ under the provisions  
2           of this Act or any rule promulgated in accordance with this  
3           Act.

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

1 Secretary Commissioner, engaged in an unsafe or unsound  
2 practice in conducting the business of that bank holding  
3 company or subsidiary or affiliate of that company, or violated  
4 any law or engaged or participated in any unsafe or unsound  
5 practice in connection with any financial institution or other  
6 business entity such that the character and fitness of the  
7 director, officer, employee, or agent would not have assured  
8 reasonable promise of safe and sound operation of the bank  
9 holding company, the Secretary Commissioner may issue an order  
10 prohibiting that person from further service with a bank  
11 holding company or subsidiary or affiliate of that company as a  
12 director, officer, employee, or agent.

13 An order issued pursuant to this subsection shall be served  
14 upon the director, officer, employee, or agent. A copy of the  
15 order shall be sent to each director of the bank holding  
16 company affected by registered mail. ~~The person affected by the~~  
17 ~~action may request a hearing before the State Banking Board~~  
18 ~~within 10 days after receipt of the order. The hearing shall be~~  
19 ~~held by the State Banking Board within 30 days after the~~  
20 ~~request has been received by the State Banking Board. The State~~  
21 ~~Banking Board shall make a determination approving, modifying,~~  
22 ~~or disapproving the order of the Commissioner as its final~~  
23 ~~administrative decision. If a hearing is held by the State~~  
24 ~~Banking Board, the State Banking Board shall make its~~  
25 ~~determination within 60 days from the conclusion of the~~  
26 ~~hearing. Any person affected by a decision of the State Banking~~



1 ~~Board under this subsection may have the decision reviewed only~~  
2 ~~under and in accordance with the Administrative Review Law and~~  
3 ~~the rules adopted pursuant thereto.~~ A copy of the order shall  
4 also be served upon the bank holding company of which he is a  
5 director, officer, employee, or agent, whereupon he shall cease  
6 to be a director, officer, employee, or agent of that bank  
7 holding company.

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

13 Any person who has been the subject of an order of removal  
14 or an order of prohibition issued by the Secretary ~~Commissioner~~  
15 under this subsection, subdivision (7) of Section 48 of the  
16 Illinois Banking Act, or Section 5-6 of the Corporate Fiduciary  
17 Act may not thereafter serve as director, officer, employee, or  
18 agent of any holding company, State bank, or branch of any  
19 out-of-state bank, of any corporate fiduciary, as defined in  
20 Section 1-5.05 of the Corporate Fiduciary Act, or of any other  
21 entity that is subject to licensure or regulation by the  
22 Division of Banking ~~Commissioner or the Office of Banks and~~  
23 ~~Real Estate~~ unless the Secretary ~~Commissioner~~ has granted prior  
24 approval in writing.

25 (c) All final administrative decisions of the Secretary  
26 ~~Commissioner~~ under this Act shall be subject to judicial review

1 pursuant to provisions of the Administrative Review Law. For  
2 matters involving administrative review, venue shall be in  
3 either Sangamon County or Cook County.

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

5 Section 20. The Corporate Fiduciary Act is amended by  
6 changing Sections 1-5.03, 5-6, and 5-8 and by adding Sections  
7 1-5.07a and 1-5.09a as follows:

8 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

9 Sec. 1-5.03. "Commissioner" means the Commissioner of  
10 Banks and Real Estate or a person authorized by the  
11 Commissioner, the Office of Banks and Real Estate Act, or this  
12 Act to act in the Commissioner's stead, except that beginning  
13 on the effective date of this amendatory Act of the 96th  
14 General Assembly, all references in this Act to the  
15 Commissioner of Banks and Real Estate are deemed, in  
16 appropriate contexts, to be references to the Secretary of  
17 Financial and Professional Regulation.

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

19 (205 ILCS 620/1-5.07a new)

20 Sec. 1-5.07a. Division of Banking. "Division of Banking"  
21 means the Division of Banking of the Department of Financial  
22 and Professional Regulation.

1 (205 ILCS 620/1-5.09a new)

2 Sec. 1-5.09a. Secretary. "Secretary" means the Secretary  
3 of Financial and Professional Regulation, or a person  
4 authorized by the Secretary or by this Act to act in the  
5 Secretary's stead.

6 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

7 Sec. 5-6. Removal orders. Whenever, in the opinion of the  
8 Secretary ~~Commissioner~~, any director, officer, employee, or  
9 agent of a corporate fiduciary or subsidiary or corporate  
10 parent of the corporate fiduciary shall have violated any law,  
11 rule, or order relating to the corporate fiduciary or  
12 subsidiary or corporate parent of the corporate fiduciary,  
13 shall have engaged in an unsafe or unsound practice in  
14 conducting the business of the corporate fiduciary or  
15 subsidiary or corporate parent of the corporate fiduciary, or  
16 shall have violated any law or engaged or participated in any  
17 unsafe or unsound practice in connection with any financial  
18 institution or other business entity such that the character  
19 and fitness of the director, officer, employee, or agent does  
20 not assure reasonable promise of safe and sound operation of  
21 the corporate fiduciary or subsidiary or corporate parent of  
22 the corporate fiduciary, the Secretary ~~Commissioner~~ may issue  
23 an order of removal. If in the opinion of the Secretary  
24 ~~Commissioner~~, any former director, officer, employee, or agent  
25 of a corporate fiduciary or subsidiary or corporate parent of

1 the corporate fiduciary, prior to the termination of his or her  
2 service with the corporate fiduciary or subsidiary or corporate  
3 parent of the corporate fiduciary, violated any law, rule, or  
4 order relating to the corporate fiduciary or subsidiary or  
5 corporate parent of the corporate fiduciary or engaged in an  
6 unsafe or unsound practice in conducting the business of the  
7 corporate fiduciary or subsidiary or corporate parent of the  
8 corporate fiduciary or violated any law or engaged or  
9 participated in any unsafe or unsound practice in connection  
10 with any financial institution or other business entity such  
11 that the character and fitness of the director, officer,  
12 employee, or agent would not have assured reasonable promise of  
13 safe and sound operation of the corporate fiduciary or  
14 subsidiary or corporate parent of the corporate fiduciary, the  
15 Secretary ~~Commissioner~~ may issue an order prohibiting that  
16 person from further service with a corporate fiduciary or  
17 subsidiary or corporate parent of the corporate fiduciary as a  
18 director, officer, employee, or agent. An order issued pursuant  
19 to this Section shall be served upon the director, officer,  
20 employee, or agent. A copy of the order shall be sent to each  
21 director of the corporate fiduciary affected by personal  
22 service, certified mail return receipt requested, or any other  
23 method that provides proof of service and receipt. ~~The person~~  
24 ~~affected by the action may request a hearing before the State~~  
25 ~~Banking Board of Illinois, hereafter "the Board", within 10~~  
26 ~~days after receipt of the order of removal or prohibition. The~~

1 ~~hearing shall be held by the Board according to the same~~  
2 ~~procedures used pursuant to Section 48 of the Illinois Banking~~  
3 ~~Act, and the hearing shall be held within 30 days after the~~  
4 ~~request has been received by the Board. After concluding the~~  
5 ~~hearing, the Board shall make a determination approving,~~  
6 ~~modifying, or disapproving the order of the Commissioner as its~~  
7 ~~final administrative decision.~~ A copy of the order shall be  
8 served upon the corporate fiduciary of which the person is a  
9 director, officer, employee, or agent, whereupon the person  
10 shall cease to be a director, officer, employee, or agent of  
11 the corporate fiduciary. Any person who has been removed or  
12 prohibited by an order of the Secretary Commissioner under this  
13 Section or subsection (7) of Section 48 of the Illinois Banking  
14 Act may not thereafter serve as director, officer, employee, or  
15 agent of any State bank or corporate fiduciary, or of any other  
16 entity that is subject to licensure or regulation by the  
17 Division of Banking Commissioner ~~or the Office of Banks and~~  
18 ~~Real Estate~~ unless the Secretary Commissioner has granted prior  
19 approval in writing. The Secretary Commissioner may institute a  
20 civil action against the director, officer, employee, or agent  
21 subject to an order issued under this Section and against the  
22 corporate fiduciary to enforce compliance with or to enjoin any  
23 violation of the terms of the order.

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

25 (205 ILCS 620/5-8) (from Ch. 17, par. 1555-8)

1           Sec. 5-8. All final administrative decisions of the  
2 Secretary Commissioner, ~~or of the State Banking Board of~~  
3 ~~Illinois where this Act provides a hearing before such Board to~~  
4 ~~review a decision of the Commissioner,~~ shall be subject to  
5 review pursuant to the provisions of the Administrative Review  
6 Law, as now or hereafter amended, and the rules adopted  
7 pursuant thereto. For matters involving administrative review,  
8 venue shall be in either Sangamon County or Cook County.  
9 (Source: P.A. 86-754.)

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 3210/1	from Ch. 17, par. 401
4	20 ILCS 3210/3.01	from Ch. 17, par. 403.1
5	20 ILCS 3210/3.07 new	
6	20 ILCS 3210/4	from Ch. 17, par. 404
7	20 ILCS 3210/5	from Ch. 17, par. 405
8	20 ILCS 3210/8	from Ch. 17, par. 408
9	205 ILCS 5/2	from Ch. 17, par. 302
10	205 ILCS 5/48	from Ch. 17, par. 359
11	205 ILCS 5/78	from Ch. 17, par. 390
12	205 ILCS 5/79	from Ch. 17, par. 391
13	205 ILCS 5/80	from Ch. 17, par. 392
14	205 ILCS 5/82	from Ch. 17, par. 394
15	205 ILCS 10/2	from Ch. 17, par. 2502
16	205 ILCS 10/3.074	from Ch. 17, par. 2510.04
17	205 ILCS 620/1-5.03	from Ch. 17, par. 1551-5.03
18	205 ILCS 620/1-5.07a new	
19	205 ILCS 620/1-5.09a new	
20	205 ILCS 620/5-6	from Ch. 17, par. 1555-6
21	205 ILCS 620/5-8	from Ch. 17, par. 1555-8