

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing
5 Section 48 as follows:

6 (205 ILCS 5/48)

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

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

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

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

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

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

16 (2.1) Pursuant to paragraph (a) of subsection (6) of this
17 Section, the Secretary shall adopt rules that ensure
18 consistency and due process in the examination process. The
19 Secretary may also establish guidelines that (i) define the
20 scope of the examination process and (ii) clarify examination
21 items to be resolved. The rules, formal guidance, interpretive
22 letters, or opinions furnished to State banks by the Secretary
23 may be relied upon by the State banks.

24 (2.5) Whenever any State bank, any subsidiary or affiliate
25 of a State bank, or after May 31, 1997, any branch of an
26 out-of-state bank causes to be performed, by contract or

1 otherwise, any bank services for itself, whether on or off its
2 premises:

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

7 (b) the bank or, after May 31, 1997, branch of the
8 out-of-state bank shall notify the Commissioner of the
9 existence of a service relationship. The notification
10 shall be submitted with the first statement of condition
11 (as required by Section 47 of this Act) due after the
12 making of the service contract or the performance of the
13 service, whichever occurs first. The Commissioner shall be
14 notified of each subsequent contract in the same manner.

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

23 (3) The expense of administering this Act, including the
24 expense of the examinations of State banks as provided in this
25 Act, shall to the extent of the amounts resulting from the fees
26 provided for in paragraphs (a), (a-2), and (b) of this

1 subsection (3) be assessed against and borne by the State
2 banks:

3 (a) Each bank shall pay to the Secretary a Call Report
4 Fee which shall be paid in quarterly installments equal to
5 one-fourth of the sum of the annual fixed fee of \$800, plus
6 a variable fee based on the assets shown on the quarterly
7 statement of condition delivered to the Secretary in
8 accordance with Section 47 for the preceding quarter
9 according to the following schedule: 16¢ per \$1,000 of the
10 first \$5,000,000 of total assets, 15¢ per \$1,000 of the
11 next \$20,000,000 of total assets, 13¢ per \$1,000 of the
12 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next
13 \$400,000,000 of total assets, 7¢ per \$1,000 of the next
14 \$500,000,000 of total assets, and 5¢ per \$1,000 of all
15 assets in excess of \$1,000,000,000, of the State bank. The
16 Call Report Fee shall be calculated by the Secretary and
17 billed to the banks for remittance at the time of the
18 quarterly statements of condition provided for in Section
19 47. The Secretary may require payment of the fees provided
20 in this Section by an electronic transfer of funds or an
21 automatic debit of an account of each of the State banks.
22 In case more than one examination of any bank is deemed by
23 the Secretary to be necessary in any examination frequency
24 cycle specified in subsection 2(a) of this Section, and is
25 performed at his direction, the Secretary may assess a
26 reasonable additional fee to recover the cost of the

1 additional examination; provided, however, that an
2 examination conducted at the request of the State Treasurer
3 pursuant to the Uniform Disposition of Unclaimed Property
4 Act shall not be deemed to be an additional examination
5 under this Section. In lieu of the method and amounts set
6 forth in this paragraph (a) for the calculation of the Call
7 Report Fee, the Secretary may specify by rule that the Call
8 Report Fees provided by this Section may be assessed
9 semiannually or some other period and may provide in the
10 rule the formula to be used for calculating and assessing
11 the periodic Call Report Fees to be paid by State banks.

12 (a-1) If in the opinion of the Commissioner an
13 emergency exists or appears likely, the Commissioner may
14 assign an examiner or examiners to monitor the affairs of a
15 State bank with whatever frequency he deems appropriate,
16 including but not limited to a daily basis. The reasonable
17 and necessary expenses of the Commissioner during the
18 period of the monitoring shall be borne by the subject
19 bank. The Commissioner shall furnish the State bank a
20 statement of time and expenses if requested to do so within
21 30 days of the conclusion of the monitoring period.

22 (a-2) On and after January 1, 1990, the reasonable and
23 necessary expenses of the Commissioner during examination
24 of the performance of electronic data processing services
25 under subsection (2.5) shall be borne by the banks for
26 which the services are provided. An amount, based upon a

1 fee structure prescribed by the Commissioner, shall be paid
2 by the banks or, after May 31, 1997, branches of
3 out-of-state banks receiving the electronic data
4 processing services along with the Call Report Fee assessed
5 under paragraph (a) of this subsection (3).

6 (a-3) After May 31, 1997, the reasonable and necessary
7 expenses of the Commissioner during examination of the
8 performance of electronic data processing services under
9 subsection (2.5) at or on behalf of branches of
10 out-of-state banks shall be borne by the out-of-state
11 banks, unless those expenses are borne by the state
12 regulatory authorities that chartered the out-of-state
13 banks, as determined by cooperative agreements between the
14 Commissioner and the state regulatory authorities that
15 chartered the out-of-state banks.

16 (b) "Fiscal year" for purposes of this Section 48 is
17 defined as a period beginning July 1 of any year and ending
18 June 30 of the next year. The Commissioner shall receive
19 for each fiscal year, commencing with the fiscal year
20 ending June 30, 1987, a contingent fee equal to the lesser
21 of the aggregate of the fees paid by all State banks under
22 paragraph (a) of subsection (3) for that year, or the
23 amount, if any, whereby the aggregate of the administration
24 expenses, as defined in paragraph (c), for that fiscal year
25 exceeds the sum of the aggregate of the fees payable by all
26 State banks for that year under paragraph (a) of subsection

1 (3), plus any amounts transferred into the Bank and Trust
2 Company Fund from the State Pensions Fund for that year,
3 plus all other amounts collected by the Commissioner for
4 that year under any other provision of this Act, plus the
5 aggregate of all fees collected for that year by the
6 Commissioner under the Corporate Fiduciary Act, excluding
7 the receivership fees provided for in Section 5-10 of the
8 Corporate Fiduciary Act, and the Foreign Banking Office
9 Act. The aggregate amount of the contingent fee thus
10 arrived at for any fiscal year shall be apportioned
11 amongst, assessed upon, and paid by the State banks and
12 foreign banking corporations, respectively, in the same
13 proportion that the fee of each under paragraph (a) of
14 subsection (3), respectively, for that year bears to the
15 aggregate for that year of the fees collected under
16 paragraph (a) of subsection (3). The aggregate amount of
17 the contingent fee, and the portion thereof to be assessed
18 upon each State bank and foreign banking corporation,
19 respectively, shall be determined by the Commissioner and
20 shall be paid by each, respectively, within 120 days of the
21 close of the period for which the contingent fee is
22 computed and is payable, and the Commissioner shall give 20
23 days advance notice of the amount of the contingent fee
24 payable by the State bank and of the date fixed by the
25 Commissioner for payment of the fee.

26 (c) The "administration expenses" for any fiscal year

1 shall mean the ordinary and contingent expenses for that
2 year incident to making the examinations provided for by,
3 and for otherwise administering, this Act, the Corporate
4 Fiduciary Act, excluding the expenses paid from the
5 Corporate Fiduciary Receivership account in the Bank and
6 Trust Company Fund, the Foreign Banking Office Act, the
7 Electronic Fund Transfer Act, and the Illinois Bank
8 Examiners' Education Foundation Act, including all
9 salaries and other compensation paid for personal services
10 rendered for the State by officers or employees of the
11 State, including the Commissioner and the Deputy
12 Commissioners, communication equipment and services,
13 office furnishings, surety bond premiums, and travel
14 expenses of those officers and employees, employees,
15 expenditures or charges for the acquisition, enlargement
16 or improvement of, or for the use of, any office space,
17 building, or structure, or expenditures for the
18 maintenance thereof or for furnishing heat, light, or power
19 with respect thereto, all to the extent that those
20 expenditures are directly incidental to such examinations
21 or administration. The Commissioner shall not be required
22 by paragraphs (c) or (d-1) of this subsection (3) to
23 maintain in any fiscal year's budget appropriated reserves
24 for accrued vacation and accrued sick leave that is
25 required to be paid to employees of the Commissioner upon
26 termination of their service with the Commissioner in an

1 amount that is more than is reasonably anticipated to be
2 necessary for any anticipated turnover in employees,
3 whether due to normal attrition or due to layoffs,
4 terminations, or resignations.

5 (d) The aggregate of all fees collected by the
6 Secretary under this Act, the Corporate Fiduciary Act, or
7 the Foreign Banking Office Act on and after July 1, 1979,
8 shall be paid promptly after receipt of the same,
9 accompanied by a detailed statement thereof, into the State
10 treasury and shall be set apart in a special fund to be
11 known as the "Bank and Trust Company Fund", except as
12 provided in paragraph (c) of subsection (11) of this
13 Section. All earnings received from investments of funds in
14 the Bank and Trust Company Fund shall be deposited in the
15 Bank and Trust Company Fund and may be used for the same
16 purposes as fees deposited in that Fund. The amount from
17 time to time deposited into the Bank and Trust Company Fund
18 shall be used: (i) to offset the ordinary administrative
19 expenses of the Secretary as defined in this Section or
20 (ii) as a credit against fees under paragraph (d-1) of this
21 subsection (3). Nothing in this amendatory Act of 1979
22 shall prevent continuing the practice of paying expenses
23 involving salaries, retirement, social security, and
24 State-paid insurance premiums of State officers by
25 appropriations from the General Revenue Fund. However, the
26 General Revenue Fund shall be reimbursed for those payments

1 made on and after July 1, 1979, by an annual transfer of
2 funds from the Bank and Trust Company Fund. Moneys in the
3 Bank and Trust Company Fund may be transferred to the
4 Professions Indirect Cost Fund, as authorized under
5 Section 2105-300 of the Department of Professional
6 Regulation Law of the Civil Administrative Code of
7 Illinois.

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

15 Notwithstanding provisions in the State Finance Act,
16 as now or hereafter amended, or any other law to the
17 contrary, the Governor may, during any fiscal year through
18 January 10, 2011, from time to time direct the State
19 Treasurer and Comptroller to transfer a specified sum not
20 exceeding 10% of the revenues to be deposited into the Bank
21 and Trust Company Fund during that fiscal year from that
22 Fund to the General Revenue Fund in order to help defray
23 the State's operating costs for the fiscal year.
24 Notwithstanding provisions in the State Finance Act, as now
25 or hereafter amended, or any other law to the contrary, the
26 total sum transferred during any fiscal year through

1 January 10, 2011, from the Bank and Trust Company Fund to
2 the General Revenue Fund pursuant to this provision shall
3 not exceed during any fiscal year 10% of the revenues to be
4 deposited into the Bank and Trust Company Fund during that
5 fiscal year. The State Treasurer and Comptroller shall
6 transfer the amounts designated under this Section as soon
7 as may be practicable after receiving the direction to
8 transfer from the Governor.

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

1 Cash Flow Reserve Account is less than one-fourth of the
2 total initial appropriations for the subsequent year and
3 the amount transferred is less than 5% of the total Call
4 Report Fees for the year, additional amounts needed to make
5 the transfer equal to 5% of the total Call Report Fees for
6 the year shall be apportioned amongst, assessed upon, and
7 paid by the State banks and foreign banking corporations in
8 the same proportion that the Call Report Fees of each,
9 respectively, for the year bear to the total Call Report
10 Fees collected for the year. The additional amounts
11 assessed shall be transferred into the Cash Flow Reserve
12 Account. For purposes of this paragraph (d-1), the
13 calculation of the fees collected by the Commissioner shall
14 exclude the receivership fees provided for in Section 5-10
15 of the Corporate Fiduciary Act.

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

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

25 (4) Nothing contained in this Act shall be construed to
26 limit the obligation relative to examinations and reports of

1 any State bank, deposits in which are to any extent insured by
2 the United States or any agency thereof, nor to limit in any
3 way the powers of the Commissioner with reference to
4 examinations and reports of that bank.

5 (5) The nature and condition of the assets in or investment
6 of any bonus, pension, or profit sharing plan for officers or
7 employees of every State bank or, after May 31, 1997, branch of
8 an out-of-state bank shall be deemed to be included in the
9 affairs of that State bank or branch of an out-of-state bank
10 subject to examination by the Commissioner under the provisions
11 of subsection (2) of this Section, and if the Commissioner
12 shall find from an examination that the condition of or
13 operation of the investments or assets of the plan is unlawful,
14 fraudulent, or unsafe, or that any trustee has abused his
15 trust, the Commissioner shall, if the situation so found by the
16 Commissioner shall not be corrected to his satisfaction within
17 60 days after the Commissioner has given notice to the board of
18 directors of the State bank or out-of-state bank of his
19 findings, report the facts to the Attorney General who shall
20 thereupon institute proceedings against the State bank or
21 out-of-state bank, the board of directors thereof, or the
22 trustees under such plan as the nature of the case may require.

23 (6) The Commissioner shall have the power:

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

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

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

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

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

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

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

1 pursuant to any investigation being conducted, or any
2 action being taken, by the Commissioner in respect of any
3 matter relating to the duties imposed upon, or the powers
4 vested in, the Commissioner under the provisions of this
5 Act or any rule promulgated in accordance with this Act.

6 (e) To conduct hearings.

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

1 her service with that bank or any subsidiary or bank holding
2 company of the bank, violated any law, rule, or order relating
3 to that State bank or any subsidiary or bank holding company of
4 the bank, obstructed or impeded any examination or
5 investigation by the Secretary, engaged in an unsafe or unsound
6 practice in conducting the business of that bank or any
7 subsidiary or bank holding company of the bank, or violated any
8 law or engaged or participated in any unsafe or unsound
9 practice in connection with any financial institution or other
10 business entity such that the character and fitness of the
11 director, officer, employee, or agent would not have assured
12 reasonable promise of safe and sound operation of the State
13 bank, the Secretary may issue an order prohibiting that person
14 from further service with a bank or any subsidiary or bank
15 holding company of the bank as a director, officer, employee,
16 or agent. An order issued pursuant to this subsection shall be
17 served upon the director, officer, employee, or agent. A copy
18 of the order shall be sent to each director of the bank
19 affected by registered mail. A copy of the order shall also be
20 served upon the bank of which he is a director, officer,
21 employee, or agent, whereupon he shall cease to be a director,
22 officer, employee, or agent of that bank. The Secretary may
23 institute a civil action against the director, officer, or
24 agent of the State bank or, after May 31, 1997, of the branch
25 of the out-of-state bank against whom any order provided for by
26 this subsection (7) of this Section 48 has been issued, and

1 against the State bank or, after May 31, 1997, out-of-state
2 bank, to enforce compliance with or to enjoin any violation of
3 the terms of the order. Any person who has been the subject of
4 an order of removal or an order of prohibition issued by the
5 Secretary under this subsection or Section 5-6 of the Corporate
6 Fiduciary Act may not thereafter serve as director, officer,
7 employee, or agent of any State bank or of any branch of any
8 out-of-state bank, or of any corporate fiduciary, as defined in
9 Section 1-5.05 of the Corporate Fiduciary Act, or of any other
10 entity that is subject to licensure or regulation by the
11 Division of Banking unless the Secretary has granted prior
12 approval in writing.

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

16 (8) The Commissioner may impose civil penalties of up to
17 \$100,000 against any person for each violation of any provision
18 of this Act, any rule promulgated in accordance with this Act,
19 any order of the Commissioner, or any other action which in the
20 Commissioner's discretion is an unsafe or unsound banking
21 practice.

22 (9) The Commissioner may impose civil penalties of up to
23 \$100 against any person for the first failure to comply with
24 reporting requirements set forth in the report of examination
25 of the bank and up to \$200 for the second and subsequent
26 failures to comply with those reporting requirements.

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

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

8 (a) (Blank).

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

15 (c) The aggregate of all special educational fees
16 collected by the Secretary and property received by the
17 Secretary on behalf of the Illinois Bank Examiners'
18 Education Foundation under this subsection (11) on or after
19 June 30, 1986, shall be either (i) promptly paid after
20 receipt of the same, accompanied by a detailed statement
21 thereof, into the State Treasury and shall be set apart in
22 a special fund to be known as "The Illinois Bank Examiners'
23 Education Fund" to be invested by either the Treasurer of
24 the State of Illinois in the Public Treasurers' Investment
25 Pool or in any other investment he is authorized to make or
26 by the Illinois State Board of Investment as the State

1 Banking Board of Illinois may direct or (ii) deposited into
2 an account maintained in a commercial bank or corporate
3 fiduciary in the name of the Illinois Bank Examiners'
4 Education Foundation pursuant to the order and direction of
5 the Board of Trustees of the Illinois Bank Examiners'
6 Education Foundation.

7 (12) (Blank).

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

16 (Source: P.A. 96-1163, eff. 1-1-11; 96-1365, eff. 7-28-10;
17 97-333, eff. 8-12-11.)

18 Section 10. The Savings Bank Act is amended by changing
19 Section 9004 as follows:

20 (205 ILCS 205/9004) (from Ch. 17, par. 7309-4)

21 Sec. 9004. Examination.

22 (a) At least once every 18 months or more often if it is
23 deemed necessary or expedient, the Secretary shall examine the
24 books, records, operations, and affairs of each savings bank

1 operating under this Act. In the course of the examination, the
2 Secretary may also examine in the same manner all entities,
3 companies, and individuals which or whom the Secretary
4 determines may have a relationship with the savings bank or any
5 subsidiary or entity affiliated with it, if the relationship
6 may adversely affect the affairs, activities, and safety and
7 soundness of the savings bank, including: (i) companies
8 controlled by the savings bank; (ii) entities, including
9 companies controlled by the company, individual, or
10 individuals that control the savings bank; and (iii) the
11 company or other entity which controls or owns the savings
12 bank. Notwithstanding any other provision of this Act, every
13 savings bank, as defined by rule, or, if not defined, to the
14 same extent as would be permitted in the case of a State bank,
15 the Secretary, in lieu of the examination, may accept on an
16 alternating basis the examination made by the eligible savings
17 bank's appropriate federal banking agency pursuant to Section
18 111 of the Federal Deposit Insurance Corporation Improvement
19 Act of 1991, provided the appropriate federal banking agency
20 has made an examination.

21 (b) The Secretary shall examine to determine:

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

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

26 (3) Quality of management policies.

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

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

6 (c) The Secretary may promulgate regulations to implement
7 and administer this Section.

8 (d) If a savings bank, its holding company, or any of its
9 corporate subsidiaries has not been audited at least once in
10 the 12 months prior to the Secretary's examination, the
11 Secretary may cause an audit of the savings bank's books and
12 records to be made by an independent licensed public
13 accountant. The cost of the audit shall be paid for by the
14 entity being audited.

15 (e) The Secretary or his or her examiners or other formally
16 designated agents are authorized to administer oaths and to
17 examine and to take and preserve testimony under oath as to
18 anything in the affairs or ownership of any savings bank or
19 institution or affiliate thereof.

20 (f) Pursuant to subsection (c) of this Section, the
21 Secretary shall adopt rules that ensure consistency and due
22 process in the examination process. The Secretary may also
23 establish guidelines that (i) define the scope of the
24 examination process and (ii) clarify examination items to be
25 resolved. The rules, formal guidance, interpretive letters, or
26 opinions furnished to savings banks by the Secretary may be

1 relied upon by the savings banks.

2 (Source: P.A. 96-1365, eff. 7-28-10; 97-492, eff. 1-1-12.)