

AN ACT concerning financial regulation.

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

Section 1. Short title. This Act may be cited as the High Risk Home Loan Act.

Section 5. Purpose and construction. The purpose of this Act is to protect borrowers who enter into high risk home loans from abuse that occurs in the credit marketplace when creditors and brokers are not sufficiently regulated in Illinois. This Act is to be construed as a borrower protection statute for all purposes. This Act shall be liberally construed to effectuate its purpose.

Section 10. Definitions. As used in this Act:

"Approved credit counselor" means a credit counselor approved by the Director of Financial Institutions.

"Borrower" means a natural person who seeks or obtains a high risk home loan.

"Commissioner" means the Commissioner of the Office of Banks and Real Estate.

"Department" means the Department of Financial Institutions.

"Director" means the Director of Financial Institutions.

"Good faith" means honesty in fact in the conduct or transaction concerned.

"High risk home loan" means a home equity loan in which (i) at the time of origination, the annual percentage rate exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan

maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender or (ii) the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor. "High risk home loan" does not include a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Lender" means a natural or artificial person who transfers, deals in, offers, or makes a high risk home loan. "Lender" includes, but is not limited to, creditors and brokers who transfer, deal in, offer, or make high risk home loans. "Lender" does not include purchasers, assignees, or subsequent holders of high risk home loans.

"Office" means the Office of Banks and Real Estate.

"Points and fees" means all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included); the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan; and compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table-funded transaction, not otherwise included in 12 CFR 226.4.

"Reasonable" means fair, proper, just, or prudent under

the circumstances.

"Servicer" means any entity chartered under the Illinois Banking Act, the Savings Bank Act, the Illinois Credit Union Act, or the Illinois Savings and Loan Act of 1985 and any person or entity licensed under the Residential Mortgage License Act of 1987, the Consumer Installment Loan Act, or the Sales Finance Agency Act who is responsible for the collection or remittance for, or has the right or obligation to collect or remit for, any lender, note owner, or note holder or for a licensee's own account, of payments, interest, principal, and trust items (such as hazard insurance and taxes on a residential mortgage loan) in accordance with the terms of the residential mortgage loan, including loan payment follow-up, delinquency loan follow-up, loan analysis, and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" has the same meaning as that term is given in 12 CFR 226.32 and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

Section 15. Ability to repay. A creditor or broker shall not transfer, deal in, offer, or make a high risk home loan if the creditor or broker does not believe at the time the loan is consummated that the borrower will be able to make the scheduled payments to repay the obligation based upon a consideration of his or her current and expected income, current obligations, employment status, and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment, in the case of a lower introductory interest

rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance, and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

Section 20. Verification of ability to repay loan. The lender shall verify the borrower's ability to repay the loan in the case of a high risk home loan. The verification shall require, at a minimum, the following:

(1) That the borrower prepare and submit to the lender a personal income and expense statement in a form prescribed by the Commissioner or the Director, who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, D.C. 20016-2892, and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, P.O. Box 37347, Washington, D.C. 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, D.C. 20016-2892, and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, P.O. Box 37347, Washington, D.C. 20077-0001, no subsequent amendments or editions).

(2) That the borrower's income is verified by means of tax returns, pay stubs, accounting statements, or other prudent means.

(3) That a credit report is obtained regarding the borrower.

Section 25. Good faith dealings; fraudulent or deceptive practices. A lender must act in good faith in all relations

with a borrower, including but not limited to, transferring, dealing in, offering, or making a high risk home loan.

No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan, including deceptive marketing and sales efforts.

Section 30. Prepayment penalty. For any loan that is subject to the provisions of this Act and is not subject to the provisions of the Home Ownership and Equity Protection Act of 1994, no lender shall make a high risk home loan that includes a penalty provision for payment made: (i) after the expiration of the 36-month period following the date the loan was made; or (ii) that is more than:

(1) 3% of the total loan amount if the prepayment is made within the first 12-month period following the date the loan was made;

(2) 2% of the total loan amount if the prepayment is made within the second 12-month period following the date the loan was made; or

(3) 1% of the total loan amount if the prepayment is made within the third 12-month period following the date the loan was made.

Section 40. Pre-paid insurance products and warranties. No lender shall transfer, deal in, offer, or make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance calculated and paid on a monthly basis shall not be considered to be financed by the lender.

Section 45. Refinancing prohibited in certain cases. No lender shall refinance any high risk home loan where such refinancing charges additional points and fees within a

12-month period after the original loan agreement was signed, unless the refinancing results in a tangible net benefit to the borrower.

Section 55. Financing of points and fees. No lender shall transfer, deal in, offer, or make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.

Section 60. Payments to contractors. No lender shall make a payment of any proceeds of a high risk home loan directly to a contractor under a home improvement contract other than:

(1) by instrument payable to the borrower or payable jointly to the borrower and contractor; or

(2) at the election of the borrower, by a third-party escrow agent in accordance with the terms established in a written agreement that is signed by the borrower, the lender, and the contractor before the date of payment.

Section 65. Negative amortization. No lender shall transfer, deal in, offer, or make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

Section 70. Negative equity. No lender shall transfer, deal in, offer, or make a high risk home loan where the loan amount exceeds the value of the property securing the loan.

Section 80. Late payment fee. A lender shall not transfer, deal in, offer, or make a high risk home loan that provides for a late payment fee, except under the following conditions:

(1) the late payment fee shall not be in excess of 5% of the amount of the payment past due;

(2) the late payment fee shall only be assessed for a payment past due for 15 days or more;

(3) the late payment fee shall not be imposed more than once with respect to a single late payment;

(4) a late payment fee that the lender has collected shall be reimbursed if the borrower presents proof of having made a timely payment; and

(5) a lender shall treat each payment as posted on the same business day as it was received by the lender, servicer, or lender's agent or at the address provided to the borrower by the lender, servicer, or lender's agent for making payments.

Section 85. Payment compounding. No lender shall transfer, deal in, offer, or make a high risk home loan that includes terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

Section 90. Call provision. No lender shall transfer, deal in, offer, or make a high risk home loan that contains a provision that permits the lender, in its sole discretion, to accelerate the indebtedness, provided that this provision does not prohibit acceleration of a loan in good faith due to a borrower's failure to abide by the material terms of the loan.

Section 95. Disclosure prior to making a high risk home

loan. A lender shall not transfer, deal in, offer, or make a high risk home loan unless the lender has given the following notice or a substantially similar notice in writing, to the borrower, acknowledged in writing and signed by the borrower not later than the time the notice is required under the notice provision contained in 12 CFR 226.31(c):

NOTICE TO BORROWER

YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES. LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED, AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. IF YOU ACCEPT THE TERMS OF THIS LOAN, THE LENDER WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN. YOU SHOULD CONSULT AN ATTORNEY-AT-LAW AND AN APPROVED CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES, AND PROVISIONS OF THIS LOAN BEFORE YOU PROCEED. A LIST OF APPROVED CREDIT COUNSELORS IS AVAILABLE BY CONTACTING EITHER THE ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS OR THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE. YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION. ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING LENDERS.

Section 100. Counseling prior to perfecting foreclosure proceedings.

(a) If a high risk home loan becomes delinquent by more

than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek approved credit counseling.

(b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM EITHER THE ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS OR THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

(c) If, within 15 days after mailing the notice provided for under subsection (b), a lender, servicer, or lender's agent is notified in writing by an approved credit counselor and the approved credit counselor advises the lender, servicer, or lender's agent that the borrower is seeking approved credit counseling, then the lender, servicer, or lender's agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days after the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

(d) If, within the 30-day period provided under subsection (c), the lender, servicer, or lender's agent, the approved credit counselor, and the borrower agree to a debt management plan, then the lender, servicer, or lender's agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for as long as the debt management plan is complied with by the borrower.

The agreed debt management plan must be in writing and signed by the lender, servicer, or lender's agent, the approved credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender, servicer, or lender's agent, the approved credit counselor, and the borrower.

Upon written notice to the lender, servicer, or lender's agent, the borrower may change approved credit counselors.

(e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Section shall be construed to impair the legal right of the lender, servicer, or lender's agent to enforce the contract.

Section 105. Right to cure.

(a) Before an action is filed to foreclose or collect money due pursuant to a high risk home loan or before other action is taken to seize or transfer ownership of property subject to a high risk home loan, the lender or lender's assignee of the loan shall deliver to the borrower a notice of the right to cure the default, informing the borrower of all of the following:

(1) The nature of the default.

(2) The borrower's right to cure the default by paying the sum of money required, provided that a lender or assignee shall accept any partial payment made or tendered in response to the notice. If the amount necessary to cure the default will change within 30 days of the notice due to the application of a daily interest rate or the addition of late fees, as allowed by the Act, the notice shall give sufficient information to enable the borrower to calculate the amount at any point within the 30-day period.

(3) The date by which the borrower may cure the default to avoid a court action, acceleration and initiation of foreclosure, or other action to seize the property, which date shall not be less than 30 days after the date the notice is delivered, and the name, address, and telephone number of a person to whom the payment or tender shall be made.

(4) That if the borrower does not cure the default

by the date specified, the lender or assignee may file an action for money due or take steps to terminate the borrower's ownership in the property by requiring payment in full of the high risk home loan and commencing a foreclosure proceeding or other action to seize the property.

(5) The name, address, and telephone number of a person whom the borrower may contact if the borrower disagrees with the assertion that a default has occurred or the correctness of the calculation of the amount required to cure the default.

(b) If a lender or assignee asserts that grounds for acceleration exist and requires the payment in full of all sums secured by the high risk home loan, the borrower or anyone authorized to act on the borrower's behalf may, at any time before the title is transferred by means of foreclosure, by judicial proceeding and sale, or other means, cure the default, and reinstate the high risk home loan. Cure of the default shall reinstate the borrower to the same position as if the default had not occurred and shall nullify, as of the date of the cure, an acceleration of any obligation under the high risk home loan arising from the default.

(c) To cure a default under this Section, a borrower shall not be required to pay any charge, fee, or penalty attributable to the exercise of the right to cure a default, other than the fees specifically allowed by this subsection. The borrower shall not be liable for any attorney fees relating to the default that are incurred by the lender or assignee prior to or during the 30-day period set forth in subsection (a) of this Section, nor for any such fees in excess of \$100 that are incurred by the lender or assignee after the expiration of the 30-day period but before the lender or assignee files a foreclosure or other judicial action or takes other action to seize or transfer ownership

of the real estate. After the lender or assignee files a foreclosure or other judicial action or takes other action to seize or transfer ownership of the real estate, the borrower shall only be liable for attorney fees that are reasonable and actually incurred by the lender or assignee, based on a reasonable hourly rate and a reasonable number of hours.

(d) If a default is cured prior to the initiation of any action to foreclose or to seize the residence, the lender or assignee shall not institute a proceeding or other action for that default. If a default is cured after the initiation of any action, the lender or assignee shall take such steps as are necessary to terminate the action.

(e) A lender or a lender's assignee of a high risk home loan that has the legal right to foreclose shall use the judicial foreclosure procedures provided by law. In such a proceeding, the borrower may assert the nonexistence of a default and any other claim or defense to acceleration and foreclosure, including any claim or defense based on a violation of the Act, though no such claim or defense shall be deemed a compulsory counterclaim.

Section 110. Mortgage Awareness Program.

(a) The Mortgage Awareness Program is a counseling and educational component that must be provided by the Director and the Commissioner.

(b) The core curriculum of the Mortgage Awareness Program shall include all of the following:

- (1) Explanation of the amount financed.
- (2) Explanation of the finance charge.
- (3) Explanation of the annual percentage rate.
- (4) Explanation of the total payments.
- (5) Explanation of the loan costs, including broker's fees, finance charges, points, and origination fees.

(6) Explanation of the right of rescission.

(7) Explanation of foreclosure procedures.

(8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence.

(9) Explanation of adjustable rate mortgage.

(10) Explanation of balloon payments.

(11) Explanation of credit options.

(12) Explanation of each item that appears on a good faith estimate.

(13) Explanation of pre-payment penalties.

(c) Counseling session attendees must complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Commissioner or the Director.

(d) Prior to signing a certificate of completion, approved credit counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating, and provide a third party review to establish the affordability of the loan.

(e) Counseling session attendees must be given a brochure that contains information covered by the Mortgage Awareness Program.

(f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.

(g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in the Mortgage Awareness Program.

(h) Except as prohibited elsewhere in this Section, the borrower may waive participation in the program, provided that the waiver occurs no less than 2 business days after the day that the borrower receives the notice required by subsection (f) of this Section and that the waiver is in

writing in a form approved by the Commissioner and the Director.

Section 115. Report of default and foreclosure rates on conventional loans.

(a) On or before October 1 and April 1 of each year, each servicer of Illinois residential mortgage loans shall report to the Commissioner or the Director the default and foreclosure data of conventional loans for the 6-month periods ending June 30 and December 31, respectively.

(b) Each servicer shall report the following information:

(1) The average quarterly dollar amount of conventional one to 4 family mortgage loans secured by Illinois real estate.

(2) The average quarterly number of conventional one to 4 family mortgage loans secured by Illinois real estate.

(3) The average quarterly dollar amount of conventional one to 4 family mortgage loans secured by Illinois real estate that are in default over 90 days.

(4) The average quarterly number of conventional one to 4 family mortgage loans secured by Illinois real estate that are in default over 90 days.

(5) The dollar amount of foreclosures on one to 4 family conventional loans completed during the reporting period.

(6) The number of foreclosures on one to 4 family conventional loans completed during the reporting period.

(7) Whether any of the loans where a foreclosure was completed were originated less than 18 months before the completed foreclosure.

(8) Whether any of the loans where a foreclosure was completed had a note rate greater than 10% for first

lien mortgage loans or greater than 12% in the case of a junior lien.

(c) An officer of the servicer shall sign the form.

Section 120. Review and analysis.

(a) The Commissioner or Director shall review and analyze the default and foreclosure rate data reports submitted under Section 115.

(b) The reports and their analyses may be used for the following purposes:

(1) In setting the scope of a regularly scheduled examination.

(2) In setting the scope of a special examination.

(3) In comparing the reported information of a servicer.

(c) The Commissioner or the Director may correspond with a servicer to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

Section 125. Third party review of high risk home loans.

(a) In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Office or the Department of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Office or the Department specifically for this Section.

(b) The Office or the Department shall inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget.

(c) The Office or the Department shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the

borrower of such items.

(d) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so notify the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

Section 130. Circumstances voiding mandatory arbitration provisions. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, a mandatory arbitration provision of a high risk home loan agreement that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of the borrower is void.

Section 135. Remedies, enforcement, and limitations of liability.

(a) The remedies provided in this Act are cumulative and apply to persons or entities subject to this Act.

(b) Any knowing violation of this Act constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act.

(c) If any provision of an agreement for a high risk home loan violates this Act, then that provision is unenforceable against the borrower.

(d)(1) Any natural or artificial person who purchases or otherwise is assigned or subsequently holds a high risk home loan shall be subject to all affirmative claims and defenses with respect to the loan that the borrower could assert against the lender or broker of the loan, provided that this item (d)(1) shall not apply if the purchaser, assignee or holder demonstrates by a preponderance of the evidence that it:

(A) has in place, at the time of the purchase,

assignment or transfer of the loans, policies that expressly prohibit its purchase, acceptance of assignment or holding of any high risk home loans;

(B) requires by contract that a seller, assignor or transferor of high risk home loans to the purchaser, assignee or transferee represents and warrants to the purchaser, assignee or transferee that either (i) the seller, assignor or transferor will not sell, assign or transfer any high risk home loans to the purchaser, assignee or transferee, or (ii) the seller, assignor or transferor is a beneficiary of a representation and warranty from a previous seller, assignor or transferor to that effect; and

(C) exercises reasonable due diligence at the time of the purchase, assignment or transfer of high risk home loans, or within a reasonable period of time after the purchase, assignment or transfer of such home loans, which is intended by the purchaser, assignee or transferee to prevent the purchaser, assignee or transferee from purchasing or taking assignment or otherwise holding any high risk home loans, provided that this reasonable due diligence requirement may be met by sampling and need not require loan-by-loan review.

(2) Limited to the amount required to reduce or extinguish the borrower's liability under the high cost home loan plus the amount required to recover costs, including reasonable attorney fees, a borrower acting only in an individual capacity may assert claims that the borrower could assert against a lender of the home loan against a subsequent holder or assignee of the home loan as follows:

(A) within 5 years of the closing date of a high risk home loan, a violation of this Act in connection with the loan as an original action; and

(B) at any time during the term of a high risk home

loan, after an action to collect on the home loan or to foreclose on the collateral securing the home loan has been initiated, or the debt arising from the home loan has been accelerated, or the home loan has become 60 days in default, any defense, claim, counterclaim or action to enjoin foreclosure or preserve or obtain possession of the home that secures the loan.

(e) In addition to the limitation of liability afforded to subsequent purchasers, assignees, or holders under subsection (d) of this Section, a lender and a subsequent purchaser, assignee, or holder of the high risk home loan is not liable for a violation of this Act if:

(1) within 30 days of the loan closing and prior to receiving any notice from the borrower of the violation, the lender has made appropriate restitution to the borrower and appropriate adjustments are made to the loan; or

(2) the violation was not intentional and resulted from a bona fide error in fact, notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within 60 days of the discovery of the violation and prior to receiving any notice from the borrower of the violation, the borrower is notified of the violation, appropriate restitution is made to the borrower, and appropriate adjustments are made to the loan.

Section 145. Subterfuge prohibited. No lender, with the intent to avoid the application or provisions of this Act, shall (i) divide a loan transaction into separate parts or (ii) perform any other subterfuge.

Section 150. Preemption of administrative rules. Any relevant administrative rule promulgated before the effective

date of this Act by the Department or the Office is preempted.

Section 153. Reporting of violations. The Office and the Department must report to the Attorney General all violations of this Act of which they become aware.

Section 155. Rulemaking. The Office and the Department may adopt reasonable rules to implement and administer this Act.

Section 160. Judicial review. All final administrative decisions under this Act are subject to judicial review pursuant to the provisions of the Administrative Review Law and any rules adopted pursuant thereto.

Section 165. Waiver prohibited. There shall be no waiver of any provision of this Act, except as explicitly provided in subsection (h) of Section 110.

Section 170. Superiority of Act. To the extent this Act conflicts with any other Illinois State financial regulation laws, except the Interest Act, this Act is superior and supersedes those laws for the purposes of regulating high risk home loans in Illinois.

Section 175. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 800. The Deposit of State Moneys Act is amended by changing Sections 11 and 11.1 as follows:

(15 ILCS 520/11) (from Ch. 130, par. 30)

Sec. 11. Protection of public deposits; eligible

collateral.

(a) For deposits not insured by an agency of the federal government, the State Treasurer, in his or her discretion, may accept as collateral any of the following classes of securities, provided there has been no default in the payment of principal or interest thereon:

(1) Bonds, notes, or other securities constituting direct and general obligations of the United States, the bonds, notes, or other securities constituting the direct and general obligation of any agency or instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States, and bonds, notes, or other securities or evidence of indebtedness constituting the obligation of a U.S. agency or instrumentality.

(2) Direct and general obligation bonds of the State of Illinois or of any other state of the United States.

(3) Revenue bonds of this State or any authority, board, commission, or similar agency thereof.

(4) Direct and general obligation bonds of any city, town, county, school district, or other taxing body of any state, the debt service of which is payable from general ad valorem taxes.

(5) Revenue bonds of any city, town, county, or school district of the State of Illinois.

(6) Obligations issued, assumed, or guaranteed by the International Finance Corporation, the principal of which is not amortized during the life of the obligation, but no such obligation shall be accepted at more than 90% of its market value.

(7) Illinois Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act.

(8) In an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer: (i) securities, (ii) mortgages, (iii) letters of credit issued by a Federal Home Loan Bank, or (iv) loans covered by a State Guaranty under the Illinois Farm Development Act.

(b) The State Treasurer may establish a system to aggregate permissible securities received as collateral from financial institutions in a collateral pool to secure State deposits of the institutions that have pledged securities to the pool.

(c) The Treasurer may at any time declare any particular security ineligible to qualify as collateral when, in the Treasurer's judgment, it is deemed desirable to do so.

(d) Notwithstanding any other provision of this Section, as security the State Treasurer may, in his discretion, accept a bond, executed by a company authorized to transact the kinds of business described in clause (g) of Section 4 of the Illinois Insurance Code, in an amount not less than the amount of the deposits required by this Section to be secured, payable to the State Treasurer for the benefit of the People of the State of Illinois, in a form that is acceptable to the State Treasurer.

(Source: P.A. 87-510; 87-575; 87-895; 88-93.)

(15 ILCS 520/11.1) (from Ch. 130, par. 30.1)

Sec. 11.1. The State Treasurer may, in his or her discretion, accept as security for State deposits insured certificates of deposit or share certificates issued to the depository institution pledging them as security and may require security in the amount of 125% of the value of the State deposit. Such certificate of deposit or share

certificate shall:

(1) be fully insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund or issued by a depository institution which is rated within the 3 highest classifications established by at least one of the 2 standard rating services;

(2) be issued by a financial institution having assets of \$15,000,000 ~~\$30,000,000~~ or more; and

(3) be issued by either a savings and loan association having a capital to asset ratio of at least 2%, by a bank having a capital to asset ratio of at least 6% or by a credit union having a capital to asset ratio of at least 4%.

The depository institution shall effect the assignment of the certificate of deposit or share certificate to the State Treasurer and shall agree, that in the event the issuer of the certificate fails to maintain the capital to asset ratio required by this Section, such certificate of deposit or share certificate shall be replaced by additional suitable security.

(Source: P.A. 85-803.)

Section 805. The Public Funds Deposit Act is amended by changing Section 1 as follows:

(30 ILCS 225/1) (from Ch. 102, par. 34)

Sec. 1. Deposits. Any treasurer or other custodian of public funds may deposit such funds in a savings and loan association, savings bank, or State or national bank in this State. When such deposits become collected funds and are not needed for immediate disbursement, they shall be invested within 2 working days at prevailing rates or better. The treasurer or other custodian of public funds may require such bank, savings bank, or savings and loan association to

deposit with him or her securities guaranteed by agencies and instrumentalities of the federal government equal in market value to the amount by which the funds deposited exceed the federally insured amount. Any treasurer or other custodian of public funds may accept as security for public funds deposited in such bank, savings bank, or savings and loan association any securities or other eligible collateral authorized by Sections 11 and 11.1 of the Deposit of State Moneys Act (15 ILCS 520/11 and 11.1) or Section 6 of the Public Funds Investment Act (30 ILCS 235/6). Such treasurer or other custodian is authorized to enter into an agreement with any such bank, savings bank, or savings and loan association, with any federally insured financial institution or trust company, or with any agency of the U.S. government relating to the deposit of such securities. Any such treasurer or other custodian shall be discharged from responsibility for any funds for which securities are so deposited with him or her, and the funds for which securities are so deposited shall not be subject to any otherwise applicable limitation as to amount.

No bank, savings bank, or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of the Public Funds Investment Act.

(Source: P.A. 91-211, eff. 7-20-99.)

Section 810. The State Officers and Employees Money Disposition Act is amended by changing Section 2c as follows:

(30 ILCS 230/2c) (from Ch. 127, par. 173a)

Sec. 2c. Every such officer, board, commission, commissioner, department, institution, arm or agency is authorized to demand and receive a bond and securities in amount and kind satisfactory to him from any bank or savings

and loan association in which moneys held by such officer, board, commission, commissioner, department, institution, arm or agency for or on behalf of the State of Illinois, may be on deposit, such securities to be held by the officer, board, commission, commissioner, department, institution, arm or agency for the period that such moneys are so on deposit and then returned together with interest, dividends and other accruals to the bank or savings and loan association. The bond or undertaking and such securities shall be conditioned for the return of the moneys deposited in conformity with the terms of the deposit.

Whenever funds deposited with a bank or savings and loan association exceed the amount of federal deposit insurance coverage, a bond, ~~or~~ pledged securities, or other eligible collateral shall be obtained. Only the types of securities or other eligible collateral which the State Treasurer may, in his or her discretion, accept for amounts not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation under Section 11 of "An Act in relation to State moneys", approved June 28, 1919, as amended, may be accepted as pledged securities. The market value of the bond or pledged securities shall at all times be equal to or greater than the uninsured portion of the deposit unless the funds deposited are collateralized pursuant to a system established by the State Treasurer to aggregate permissible securities received as collateral from financial institutions in a collateral pool to secure State deposits of the institution that have pledged securities to the pool.

All securities deposited by a bank or savings and loan association under the provisions of this Section shall remain the property of the depository and may be stamped by the depository so as to indicate that such securities are deposited as collateral. Should the bank or savings and loan association fail or refuse to pay over the moneys, or any

part thereof, deposited with it, the officer, board, commission, commissioner, department, institution, arm or agency may sell such securities upon giving 5 days notice to the depository of his intention to so sell such securities. Such sale shall transfer absolute ownership of the securities so sold to the vendee thereof. The surplus, if any, over the amount due to the State and the expenses of the sale shall be paid to the bank or savings and loan association. Actions may be brought in the name of the People of the State of Illinois to enforce the claims of the State with respect to any securities deposited by a bank or savings and loan association.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

(Source: P.A. 85-257.)

Section 815. The Public Funds Investment Act is amended by changing Section 6 as follows:

(30 ILCS 235/6) (from Ch. 85, par. 906)

Sec. 6. Report of financial institutions.

(a) No bank shall receive any public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last two sworn statements of resources and liabilities which the bank is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency. Each bank designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources

and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency; provided, that if such funds or moneys are deposited in a bank, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the capital stock and surplus of such bank, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any bank in excess of such limitation.

(b) No savings bank or savings and loan association shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last 2 sworn statements of resources and liabilities which the savings bank or savings and loan association is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation. Each savings bank or savings and loan association designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation; provided, that if such funds or moneys are deposited in a savings bank or savings and loan association, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the net worth of such savings bank or savings and loan association as defined by the Federal Deposit Insurance Corporation, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any savings bank or savings and loan association in excess of such limitation.

(c) No credit union shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a share deposit with copies of the last two reports of examination prepared by or submitted to the Illinois Department of Financial Institutions or the National Credit Union Administration. Each credit union designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all reports of examination prepared by or furnished to the Illinois Department of Financial Institutions or the National Credit Union Administration; provided that if such funds or moneys are invested in a credit union account, the amount of all such investments not collateralized or insured by an agency of the federal government or other approved share insurer shall not exceed 50% of the unimpaired capital and surplus of such credit union, which shall include shares, reserves and undivided earnings and the corporate authorities of a public agency making an investment shall not be discharged from responsibility for any funds or moneys invested in a credit union in excess of such limitation.

(d) Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer to be collateralized by any of the following classes of securities, provided there has been no default in the payment of principal or interest thereon:

(1) Bonds, notes, or other securities constituting direct and general obligations of the United States, the bonds, notes, or other securities constituting the direct and general obligation of any agency or instrumentality of the United States, the interest and principal of which

is unconditionally guaranteed by the United States, and bonds, notes, or other securities or evidence of indebtedness constituting the obligation of a U.S. agency or instrumentality.

(2) Direct and general obligation bonds of the State of Illinois or of any other state of the United States.

(3) Revenue bonds of this State or any authority, board, commission, or similar agency thereof.

(4) Direct and general obligation bonds of any city, town, county, school district, or other taxing body of any state, the debt service of which is payable from general ad valorem taxes.

(5) Revenue bonds of any city, town, county, or school district of the State of Illinois.

(6) Obligations issued, assumed, or guaranteed by the International Finance Corporation, the principal of which is not amortized during the life of the obligation, but no such obligation shall be accepted at more than 90% of its market value.

(7) Illinois Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act.

(8) In an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer: (i) securities, (ii) mortgages, (iii) letters of credit issued by a Federal Home Loan Bank, or (iv) loans covered by a State Guaranty under the Illinois Farm Development Act.

(9) Certificates of deposit or share certificates issued to the depository institution pledging them as security. The public agency may require security in the

amount of 125% of the value of the public agency deposit.

Such certificate of deposit or share certificate shall:

(i) be fully insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Share Insurance Fund or issued by a depository institution which is rated within the 3 highest classifications established by at least one of the 2 standard rating services;

(ii) be issued by a financial institution having assets of \$15,000,000 or more; and

(iii) be issued by either a savings and loan association having a capital to asset ratio of at least 2%, by a bank having a capital to asset ratio of at least 6% or by a credit union having a capital to asset ratio of at least 4%.

The depository institution shall effect the assignment of the certificate of deposit or share certificate to the public agency and shall agree that, in the event the issuer of the certificate fails to maintain the capital to asset ratio required by this Section, such certificate of deposit or share certificate shall be replaced by additional suitable security.

(e) The public agency may accept a system established by the State Treasurer to aggregate permissible securities received as collateral from financial institutions in a collateral pool to secure public deposits of the institutions that have pledged securities to the pool.

(f) The public agency may at any time declare any particular security ineligible to qualify as collateral when, in the public agency's judgment, it is deemed desirable to do so.

(g) Notwithstanding any other provision of this Section, as security a public agency may, at its discretion, accept a

bond, executed by a company authorized to transact the kinds of business described in clause (g) of Section 4 of the Illinois Insurance Code, in an amount not less than the amount of the deposits required by this Section to be secured, payable to the public agency for the benefit of the People of the unit of government, in a form that is acceptable to the public agency securities,--mortgages, letters-of-credit-issued-by-a--Federal--Home--Loan--Bank,--or loans--covered--by--a--State-Guaranty-under-the-Illinois-Farm Development-Act-in-an-amount-equal-to-at-least--market--value of--that--amount--of--funds-deposited-exceeding-the-insurance limitation--provided--by--the---Federal---Deposit---Insurance Corporation--or--the--National-Credit-Union-Administration-or other-approved-share-insurer.

(h) (e) Paragraphs (a), (b), (c), and (d), (e), (f), and (g) of this Section do not apply to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Cooperative Computer Center and public community colleges.

(Source: P.A. 91-324, eff. 1-1-00; 91-773, eff. 6-9-00.)

Section 820. The Illinois Banking Act is amended by changing Sections 2, 5, and 17 and by adding Section 13.6 as follows:

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

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

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

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

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

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

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

A "banking house", "branch", "branch bank" or "branch office" shall mean any place of business of a bank at which deposits are received, checks paid, or loans made, but shall not include any place at which only records thereof are made, posted, or kept. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office if the place of business is adjacent to and connected with the main banking premises, or if it is separated from the main banking premises by not more than an alley; provided always that (i) if the place of business is separated by an alley from the main banking premises there is a connection between the two by public or private way or by subterranean or overhead passage, and (ii) if the place of business is in a building not wholly occupied by the bank, the place of business shall not be within any office or room in which any other business or service of any kind or nature other than the business of the bank is conducted or carried on. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office

(i) of any bank if the place is a terminal established and maintained in accordance with paragraph (17) of Section 5 of this Act, or (ii) of a commonly owned bank by virtue of transactions conducted at that place on behalf of the other commonly owned bank under paragraph (23) of Section 5 of this Act if the place is an affiliate facility with respect to the other bank.

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

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

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

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

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

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

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

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

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

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

"Consolidating bank" means a party to a consolidation.

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

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

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

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

"Court" means a court of competent jurisdiction.

"Director" means a member of the board of directors of a bank. In the case of a manager-managed limited liability company, however, "director" means a manager of the bank and, in the case of a member-managed limited liability company, "director" means a member of the bank. The term "director" does not include an advisory director, honorary director,

director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a member of the board of directors.

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

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

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

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

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

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

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

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

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

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

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

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

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

"In default" means, with respect to a State or national bank or an insured savings association, any adjudication or other official determination by any court of competent

jurisdiction, the Commissioner, the appropriate federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a State or national bank or an insured savings association.

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

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

"Issuer" means for purposes of Section 33 every person who shall have issued or proposed to issue any security; except that (1) with respect to certificates of deposit, voting trust certificates, collateral-trust certificates, and certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions), "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust, agreement, or instrument under which the securities are issued; (2) with respect to trusts other than those specified in clause (1) above, where the trustee is a corporation authorized to accept and execute trusts, "issuer" means the entrusters, depositors, or creators of the trust and any manager or committee charged with the general direction of the affairs of the trust pursuant to the provisions of the

agreement or instrument creating the trust; and (3) with respect to equipment trust certificates or like securities, "issuer" means the person to whom the equipment or property is or is to be leased or conditionally sold.

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

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

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

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

"Merger" includes consolidation.

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

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

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

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

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

"Out-of-state bank" means a bank chartered under the laws of a state other than Illinois, a territory of the United

States, or the District of Columbia.

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

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

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

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

"Published" means, unless the context requires otherwise, the publishing of the notice or instrument referred to in some newspaper of general circulation in the community in

which the bank is located at least once each week for 3 successive weeks. Publishing shall be accomplished by, and at the expense of, the bank required to publish. Where publishing is required, the bank shall submit to the Commissioner that evidence of the publication as the Commissioner shall deem appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

"Unimpaired capital and unimpaired surplus", for the purposes of paragraph (21) of Section 5 and Sections 32, 33, 34, 35.1, 35.2, and 47 of this Act means the sum of the state bank's Tier 1 Capital and Tier 2 Capital plus such other shareholder equity as may be included by regulation of the Commissioner. Unimpaired capital and unimpaired surplus shall be calculated on the basis of the date of the last quarterly call report filed with the Commissioner preceding the date of the transaction for which the calculation is made, provided that: (i) when a material event occurs after the date of the last quarterly call report filed with the Commissioner that reduces or increases the bank's unimpaired capital and unimpaired surplus by 10% or more, then the unimpaired capital and unimpaired surplus shall be calculated

from the date of the material event for a transaction conducted after the date of the material event; and (ii) if the Commissioner determines for safety and soundness reasons that a state bank should calculate unimpaired capital and unimpaired surplus more frequently than provided by this paragraph, the Commissioner may by written notice direct the bank to calculate unimpaired capital and unimpaired surplus at a more frequent interval. In the case of a state bank newly chartered under Section 13 or a state bank resulting from a merger, consolidation, or conversion under Sections 21 through 26 for which no preceding quarterly call report has been filed with the Commissioner, unimpaired capital and unimpaired surplus shall be calculated for the first calendar quarter on the basis of the effective date of the charter, merger, consolidation, or conversion.

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

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

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

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

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

(3) To make, alter, amend, and repeal bylaws, not inconsistent with its charter or with law, for the

administration of the affairs of the bank. If this Act does not provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act of 1983 may be used if so provided in the bylaws, and if the bank is a limited liability company, the provisions of the Limited Liability Company Act shall be used.

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

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

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

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

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

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

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

(c) to secure deposits of public money of the

United States, whenever required by the laws of the United States, including without being limited to, revenues and funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees and Postal Savings funds;

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

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

(f) (blank); and

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

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

(9) To own, possess, and carry as assets other real estate to which it may obtain title in the collection of its debts or that was formerly used as a part of the bank premises, but title to any real estate except as herein permitted shall not be retained by the bank, either directly

or by or through a subsidiary, as permitted by subsection (12) of this Section for a total period of more than 10 years after acquiring title, either directly or indirectly.

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

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

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

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

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

(c) carrying on or administering any of the activities excepting the receipt of deposits or the

payment of checks or other orders for the payment of money in which a bank may engage in carrying on its general banking business; provided, however, that nothing contained in this paragraph (c) shall be deemed to permit a bank organized under this Act or subject hereto to do, either directly or indirectly through any subsidiary, any act, including the making of any loan or investment, or to own, possess, or carry as assets any property that if done by or owned, possessed, or carried by the State bank would be in violation of or prohibited by any provision of this Act.

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

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

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

(14) To own and lease personal property acquired by the bank at the request of a prospective lessee and upon the agreement of that person to lease the personal property provided that the lease, the agreement with respect thereto,

and the amount of the investment of the bank in the property comply with Section 35.1 of this Act.

(15) (a) To establish and maintain, in addition to the main banking premises, branches offering any banking services permitted at the main banking premises of a State bank.

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

(16) (Blank).

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

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

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

(20) To own, possess, and carry as assets stock of, or be or become a member of, any corporation, mutual company, association, trust, or other entity formed exclusively for the purpose of providing directors' and officers' liability and bankers' blanket bond insurance or reinsurance to and for the benefit of the stockholders, members, or beneficiaries, or their assets or businesses, or their officers, directors,

employees, or agents, and not to or for the benefit of any other person or entity or the public generally.

(21) To make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all of these corporations and in all of these projects does not exceed 10% of the unimpaired capital and unimpaired surplus of the bank and provided that this limitation shall not apply to creditworthy loans by the bank to those corporations or projects. Upon written application to the Commissioner, a bank may make an investment that would, when aggregated with all other such investments, exceed 10% of the unimpaired capital and unimpaired surplus of the bank. The Commissioner may approve the investment if he is of the opinion and finds that the proposed investment will not have a material adverse effect on the safety and soundness of the bank.

(22) To own, possess, and carry as assets the stock of a corporation engaged in the ownership or operation of a travel agency or to operate a travel agency as a part of its business.

(23) With respect to affiliate facilities:

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

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

Any bank intending to conduct or to authorize a commonly owned bank to conduct at an affiliate facility any of the transactions specified in this paragraph (23) shall give written notice to the Commissioner at least 30 days before

any such transaction is conducted at the affiliate facility.

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

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

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

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

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

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

Not less than 30 days before engaging in any activity under the authority of this subsection, a bank shall provide written notice to the Commissioner of its intent to engage in

the activity. The notice shall indicate the specific federal or state law, rule, regulation, or interpretation the bank intends to use as authority to engage in the activity.

(Source: P.A. 91-330, eff. 7-29-99; 91-849, eff. 6-22-00; 92-483, eff. 8-23-01; 92-811, eff. 8-21-02.)

(205 ILCS 5/13.6 new)

Sec. 13.6. Banks as limited liability companies.

(a) A bank may be organized as a limited liability company, may convert to a limited liability company, or may merge with and into a limited liability company under the applicable laws of this State and of the United States, including any rules promulgated thereunder. A bank organized as a limited liability company shall be subject to the provisions of the Limited Liability Company Act in addition to this Act, provided that if a provision of the Limited Liability Company Act conflicts with a provision of this Act or with any rule of the Commissioner, the provision of this Act or the rule of the Commissioner shall apply.

(b) Any filing required to be made under the Limited Liability Company Act shall be made exclusively with the Commissioner, and the Commissioner shall possess the exclusive authority to regulate the bank as provided in this Act.

(c) Any organization as, conversion to, and merger with or into a limited liability company shall be subject to the prior approval of the Commissioner.

(d) A bank that is a limited liability company shall be subject to all of the provisions of this Act in the same manner as a bank that is organized in stock form.

(e) The Commissioner may promulgate rules to ensure that a bank that is a limited liability company (i) is operating in a safe and sound manner and (ii) is subject to the Commissioner's authority in the same manner as a bank that is

organized in stock form.

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

Sec. 17. Changes in charter.

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

(1) (blank);

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

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

(4) authorize preferred stock, or increase, decrease or change the preferences, qualifications, limitations, restrictions or special or relative rights of its preferred stock, whether issued or unissued, or delegate authority to its board of directors as provided in subsection (d), provided that in no case shall the capital be diminished to the prejudice of its creditors;

(5) increase, decrease or change the par value of its shares of its capital stock or preferred stock, whether issued or unissued, or delegate authority to its board of directors as provided in subsection (d);

(6) (blank);

(7) eliminate cumulative voting rights under all or specified circumstances, or eliminate voting rights entirely, as to any class or classes or series of stock of the bank pursuant to paragraph (3) of Section 15, provided that one class of shares or series thereof shall always have voting in respect to all matters in the bank, and provided further that the proposal to eliminate such

voting rights receives the approval of the holders of 70% of the outstanding shares of stock entitled to vote as provided in paragraph (7) of subsection (b) of this Section 17;

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

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

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

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

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

(3) At such special meeting, a vote of the stockholders entitled to vote shall be taken on the proposed amendment. Except as provided in paragraph (7) of this subsection (b), the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of stock entitled to vote at such meeting, unless holders of preferred stock are entitled to vote as a class in respect thereof, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of

the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class in respect thereof and of the total outstanding shares entitled to vote at such meeting. Any number of amendments may be submitted to the stockholders and voted upon by them at one meeting. A certificate of the amendment, or amendments, verified by the president, or a vice-president, or the cashier, shall be filed immediately in the office of the Commissioner.

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

(5) If an amendment or amendments shall be approved

in writing by the Commissioner, the amendment or amendments so adopted and so approved shall be accomplished in accordance with the vote of the stockholders. The Commissioner may impose such terms and conditions on the approval of the amendment or amendments as he deems necessary or appropriate. The Commissioner shall revoke such approval in the event such amendment or amendments are not effected within one year from the date of the issuance of the Commissioner's certificate and written approval except for transactions permitted under subsection (5) of Section 14 of this Act.

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

(7) A proposal to amend the charter to eliminate cumulative voting rights under all or specified circumstances, or to eliminate voting rights entirely, as to any class or classes or series or stock of a bank, pursuant to paragraph (3) of Section 15 and paragraph (7) of subsection (a) of this Section 17, shall be adopted only upon such proposal receiving the approval of the holders of 70% of the outstanding shares of stock entitled to vote at the meeting where the proposal is presented for approval, unless holders of preferred stock are entitled to vote as a class in respect thereof, in which event the proposed amendment shall be adopted upon receiving the approval of the holders of 70% of the outstanding shares of each class of shares entitled to vote as a class in respect thereof and of the total outstanding shares entitled to vote at the meeting where the proposal is presented for approval. The proposal to amend the charter pursuant to this paragraph (7) may be

voted upon at the annual meeting or a special meeting.

(8) Written or printed notice of a stockholders' meeting to vote on a proposal to increase, decrease or change the capital stock or preferred stock pursuant to paragraph (8) of subsection (a) of this Section 17 and to eliminate fractional shares or avoid the issuance of fractional shares shall be given to each stockholder of record entitled to vote at the meeting at least 30 days before the meeting and in the manner provided in this Act for the giving of notice of meetings of stockholders, and shall include all of the following information:

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

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

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

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

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

(F) A statement that objecting stockholders will be entitled to the fair value of those shares

that are voted against the charter amendment, if a proper demand is made on the bank and the requirements are satisfied as specified in this Section.

If a stockholder shall file with the bank, prior to or at the meeting of stockholders at which the proposed charter amendment is submitted to a vote, a written objection to the proposed charter amendment and shall not vote in favor thereof, and if the stockholder, within 20 days after receiving written notice of the date the charter amendment was accomplished pursuant to paragraph (5) of subsection (a) of this Section 17, shall make written demand on the bank for payment of the fair value of the stockholder's shares as of the day prior to the date on which the vote was taken approving the charter amendment, the bank shall pay to the stockholder, upon surrender of the certificate or certificates representing the stock, the fair value thereof. The demand shall state the number of shares owned by the objecting stockholder. The bank shall provide written notice of the date on which the charter amendment was accomplished to all stockholders who have filed written objections in order that the objecting stockholders may know when they must file written demand if they choose to do so. Any stockholder failing to make demand within the 20-day period shall be conclusively presumed to have consented to the charter amendment and shall be bound by the terms thereof. If within 30 days after the date on which a charter amendment was accomplished the value of the shares is agreed upon between the objecting stockholders and the bank, payment therefor shall be made within 90 days after the date on which the charter amendment was accomplished, upon the surrender of the stockholder's certificate or certificates representing the shares. Upon payment of the agreed value the objecting stockholder shall cease to have any interest in the shares or

in the bank. If within such period of 30 days the stockholder and the bank do not so agree, then the objecting stockholder may, within 60 days after the expiration of the 30-day period, file a complaint in the circuit court asking for a finding and determination of the fair value of the shares, and shall be entitled to judgment against the bank for the amount of the fair value as of the day prior to the date on which the vote was taken approving the charter amendment with interest thereon to the date of the judgment. The practice, procedure and judgment shall be governed by the Civil Practice Law. The judgment shall be payable only upon and simultaneously with the surrender to the bank of the certificate or certificates representing the shares. Upon payment of the judgment, the objecting stockholder shall cease to have any interest in the shares or the bank. The shares may be held and disposed of by the bank. Unless the objecting stockholder shall file such complaint within the time herein limited, the stockholder and all persons claiming under the stockholder shall be conclusively presumed to have approved and ratified the charter amendment, and shall be bound by the terms thereof. The right of an objecting stockholder to be paid the fair value of the stockholder's shares of stock as herein provided shall cease if and when the bank shall abandon the charter amendment.

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

(d) A State bank may amend its charter for the purpose of authorizing its board of directors to issue preferred stock; to increase, decrease, or change the par value of shares of its preferred stock, whether issued or unissued; or to increase, decrease, or change the preferences,

qualifications, limitations, restrictions, or special or relative rights of its preferred stock, whether issued or unissued; provided that in no case shall the capital be diminished to the prejudice of the bank's creditors. An amendment to the bank's charter granting such authority shall establish ranges, limits, or restrictions that must be observed when the board exercises the discretion authorized by the amendment.

Once such an amendment is adopted and approved as provided in this subsection, and without further action by the bank's stockholders, the board may exercise its delegated authority by adopting a resolution specifying the actions that it is taking with respect to the preferred stock. The board may fully exercise its delegated authority through one resolution or it may exercise its delegated authority through a series of resolutions, provided that the board's actions remain at all times within the ranges, limitations, and restrictions specified in the amendment to the bank's charter.

A resolution adopted by the board under this authority shall be submitted to the Commissioner for approval. The Commissioner shall approve the resolution, or state any objections to the resolution, within 30 days after the receipt of the resolution adopted by the board. If no objections are specified by the Commissioner within that time frame, the resolution will be deemed to be approved by the Commissioner. Once approved, the resolution shall be incorporated as an addendum to the bank's charter and the board may proceed to effect the changes set forth in the resolution.

(Source: P.A. 91-322, eff. 1-1-00; 92-483, eff. 8-23-01.)

Section 825. The Savings Bank Act is amended by changing Sections 1007.55 and 1008 and by adding Section 1007.125 as

follows:

(205 ILCS 205/1007.55) (from Ch. 17, par. 7301-7.55)

Sec. 1007.55. "Director" means any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. In the case of a manager-managed limited liability company, however, "director" means a manager of the savings bank, and in the case of a member-managed limited liability company, "director" means a member of the savings bank. The term "director" does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

(205 ILCS 205/1007.125 new)

Sec. 1007.125. "Bylaws" means the bylaws of a savings bank that are adopted by the savings bank's board of directors or shareholders for the regulation and management of the savings bank's affairs. If the savings bank operates as a limited liability company, however, "bylaws" means the operating agreement of the savings bank.

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

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

Sec. 1008. General corporate powers.

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

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

(2) To obtain and maintain insurance by a deposit

insurance corporation as defined in this Act.

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

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

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

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

(7) To reject any application for membership; to retire deposit accounts by enforced retirement as provided in this Act and the bylaws; and to limit the issuance of, or payments on, deposit accounts, subject, however, to contractual obligations.

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

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

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

(11) (Blank).

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

(13) To pledge its assets:

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

(B) to secure deposits;

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

(D) (blank); and

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

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

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

(16) To establish temporary service booths at any International Fair in this State that is approved by the United States Department of Commerce for the duration of

the international fair for the purpose of providing a convenient place for foreign trade customers to exchange their home countries' currency into United States currency or the converse. To provide temporary periodic service to persons residing in a bona fide nursing home, senior citizens' retirement home, or long-term care facility. These powers shall not be construed as establishing a new place or change of location for the savings bank providing the service booth.

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

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

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

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

(21) Subject to the regulations of the Commissioner, to issue credit cards, extend credit therewith, and otherwise engage in or participate in credit card operations.

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

(23) With respect to affiliate facilities:

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

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

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

(24) Subject to Article XLIV of the Illinois Insurance Code, to act as the agent for any fire, life, or other insurance company authorized by the State of Illinois, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said savings bank and the insurance company for which it may act as agent; provided, however, that no such savings bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its

agency by its principal; and provided further, that the savings bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

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

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

(b) If this Act or the regulations adopted under this Act fail to provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act of 1983 may be used, or if the savings bank is a limited liability company, the provisions of the Limited Liability Company shall be used.

(c) A savings bank may be organized as a limited liability company, may convert to a limited liability company, or may merge with and into a limited liability company, under the applicable laws of this State and of the United States, including any rules promulgated thereunder. A savings bank organized as a limited liability company shall be subject to the provisions of the Limited Liability Company Act in addition to this Act, provided that if a provision of the Limited Liability Company Act conflicts with a provision of this Act or with any rule of the Commissioner, the provision of this Act or the rule of the Commissioner shall apply.

Any filing required to be made under the Limited Liability Company Act shall be made exclusively with the Commissioner, and the Commissioner shall possess the exclusive authority to regulate the savings bank as provided in this Act.

Any organization as, conversion to, and merger with or into a limited liability company shall be subject to the prior approval of the Commissioner.

A savings bank that is a limited liability company shall be subject to all of the provisions of this Act in the same manner as a savings bank that is organized in stock form.

The Commissioner may promulgate rules to ensure that a savings bank that is a limited liability company (i) is operating in a safe and sound manner and (ii) is subject to the Commissioner's authority in the same manner as a savings bank that is organized in stock form.

(Source: P.A. 91-97, eff. 7-9-99; 91-357, eff. 7-29-99; 92-483, eff. 8-23-01.)

Section 830. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-4, 2-4, 2-6, 3-2, 3-5, and 4-5 and by adding Sections 4-8.1, 4-8.2, and Article 7 as follows:

(205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

Sec. 1-4. Definitions.

(a) "Residential real property" or "residential real estate" shall mean real property located in this State improved by a one-to-four family dwelling used or occupied, wholly or partly, as the home or residence of one or more persons and may refer, subject to regulations of the Commissioner, to unimproved real property upon which those kinds dwellings are to be constructed.

(b) "Making a residential mortgage loan" or "funding a

residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, advancing funds or making a commitment to advance funds to a loan applicant for a residential mortgage loan.

(c) "Soliciting, processing, placing, or negotiating a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, including a closing in the name of a broker.

(d) "Exempt person or entity" shall mean the following:

(1) (i) Any banking organization or foreign banking corporation licensed by the Illinois Commissioner of Banks and Real Estate or the United States Comptroller of the Currency to transact business in this State; (ii) any national bank, federally chartered savings and loan association, federal savings bank, federal credit union; (iii) any pension trust, bank trust, or bank trust company; (iv) any savings and loan association, savings bank, or credit union organized under the laws of this or any other state; (v) any Illinois Consumer Installment Loan Act licensee; (vi) any insurance company authorized to transact business in this State; (vii) any entity engaged solely in commercial mortgage lending; (viii) any service corporation of a savings and loan association or savings bank organized under the laws of this State or the service corporation of a federally chartered savings and loan association or savings bank having its principal

place of business in this State, other than a service corporation licensed or entitled to reciprocity under the Real Estate License Act of 2000; or (ix) any first tier subsidiary of a bank, the charter of which is issued under the Illinois Banking Act by the Illinois Commissioner of Banks and Real Estate, or the first tier subsidiary of a bank chartered by the United States Comptroller of the Currency and that has its principal place of business in this State, provided that the first tier subsidiary is regularly examined by the Illinois Commissioner of Banks and Real Estate or the Comptroller of the Currency, or a consumer compliance examination is regularly conducted by the Federal Reserve Board.

(1.5) Any employee of a person or entity mentioned in item (1) of this subsection.

(2) Any person or entity that ~~either-(i)-has-a physical-presence-in-Illinois-or-(ii)~~ does not originate mortgage loans in the ordinary course of business making or acquiring residential mortgage loans with his or her or its own funds for his or her or its own investment without intent to make, acquire, or resell more than 10 residential mortgage loans in any one calendar year.

(3) Any person employed by a licensee to assist in the performance of the activities regulated by this Act who is compensated in any manner by only one licensee.

(4) Any person licensed pursuant to the Real Estate License Act of 2000, who engages only in the taking of applications and credit and appraisal information to forward to a licensee or an exempt entity under this Act and who is compensated by either a licensee or an exempt entity under this Act, but is not compensated by either the buyer (applicant) or the seller.

(5) Any individual, corporation, partnership, or other entity that originates, services, or brokers

residential mortgage loans, as these activities are defined in this Act, and who or which receives no compensation for those activities, subject to the Commissioner's regulations with regard to the nature and amount of compensation.

(6) A person who prepares supporting documentation for a residential mortgage loan application taken by a licensee and performs ministerial functions pursuant to specific instructions of the licensee who neither requires nor permits the preparer to exercise his or her discretion or judgment; provided that this activity is engaged in pursuant to a binding, written agreement between the licensee and the preparer that:

(A) holds the licensee fully accountable for the preparer's action; and

(B) otherwise meets the requirements of this Section and this Act, does not undermine the purposes of this Act, and is approved by the Commissioner.

(e) "Licensee" or "residential mortgage licensee" shall mean a person, partnership, association, corporation, or any other entity who or which is licensed pursuant to this Act to engage in the activities regulated by this Act.

(f) "Mortgage loan" "residential mortgage loan" or "home mortgage loan" shall mean a loan to or for the benefit of any natural person made primarily for personal, family, or household use, primarily secured by either a mortgage on residential real property or certificates of stock or other evidence of ownership interests in and proprietary leases from, corporations, partnerships, or limited liability companies formed for the purpose of cooperative ownership of residential real property, all located in Illinois.

(g) "Lender" shall mean any person, partnership, association, corporation, or any other entity who either

lends or invests money in residential mortgage loans.

(h) "Ultimate equitable owner" shall mean a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(i) "Residential mortgage financing transaction" shall mean the negotiation, acquisition, sale, or arrangement for or the offer to negotiate, acquire, sell, or arrange for, a residential mortgage loan or residential mortgage loan commitment.

(j) "Personal residence address" shall mean a street address and shall not include a post office box number.

(k) "Residential mortgage loan commitment" shall mean a contract for residential mortgage loan financing.

(l) "Party to a residential mortgage financing transaction" shall mean a borrower, lender, or loan broker in a residential mortgage financing transaction.

(m) "Payments" shall mean payment of all or any of the following: principal, interest and escrow reserves for taxes, insurance and other related reserves, and reimbursement for lender advances.

(n) "Commissioner" shall mean the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead.

(o) "Loan brokering", "brokering", or "brokerage service" shall mean the act of helping to obtain from another entity, for a borrower, a loan secured by residential real

estate situated in Illinois or assisting a borrower in obtaining a loan secured by residential real estate situated in Illinois in return for consideration to be paid by either the borrower or the lender including, but not limited to, contracting for the delivery of residential mortgage loans to a third party lender and soliciting, processing, placing, or negotiating residential mortgage loans.

(p) "Loan broker" or "broker" shall mean a person, partnership, association, corporation, or limited liability company, other than those persons, partnerships, associations, corporations, or limited liability companies exempted from licensing pursuant to Section 1-4, subsection (d), of this Act, who performs the activities described in subsections (c) and (o) of this Section.

(q) "Servicing" shall mean the collection or remittance for or the right or obligation to collect or remit for any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

(r) "Full service office" shall mean office and staff in Illinois reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for, or an existing home mortgage secured by residential real estate situated in Illinois with respect to which the licensee is brokering, funding originating, purchasing, or servicing. The management and operation of each full service office must include observance of good business practices such as adequate, organized, and accurate books and records; ample phone lines, hours of business,

staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The Commissioner shall issue regulations with regard to these requirements and shall include an evaluation of compliance with this Section in his or her periodic examination of each licensee.

(s) "Purchasing" shall mean the purchase of conventional or government-insured mortgage loans secured by residential real estate situated in Illinois from either the lender or from the secondary market.

(t) "Borrower" shall mean the person or persons who seek the services of a loan broker, originator, or lender.

(u) "Originating" shall mean the issuing of commitments for and funding of residential mortgage loans.

(v) "Loan brokerage agreement" shall mean a written agreement in which a broker or loan broker agrees to do either of the following:

(1) obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(2) consider making a residential mortgage loan to the borrower.

(w) "Advertisement" shall mean the attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to enter into a residential mortgage loan agreement or residential mortgage loan brokerage agreement relative to a mortgage secured by residential real estate situated in Illinois.

(x) "Residential Mortgage Board" shall mean the Residential Mortgage Board created in Section 1-5 of this Act.

(y) "Government-insured mortgage loan" shall mean any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or

Farmers Home Loan Administration, or guaranteed by the Veterans Administration.

(z) "Annual audit" shall mean a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(aa) "Financial institution" shall mean a savings and loan association, savings bank, credit union, or a bank organized under the laws of Illinois or a savings and loan association, savings bank, credit union or a bank organized under the laws of the United States and headquartered in Illinois.

(bb) "Escrow agent" shall mean a third party, individual or entity charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan.

(cc) "Net worth" shall have the meaning ascribed thereto in Section 3-5 of this Act.

(dd) "Affiliate" shall mean:

(1) any entity that directly controls or is controlled by the licensee and any other company that is directly affecting activities regulated by this Act that is controlled by the company that controls the licensee;

(2) any entity:

(A) that is controlled, directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

(B) a majority of the directors or trustees of which constitute a majority of the persons holding

any such office with the licensee or any company that controls the licensee;

(3) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee.

The Commissioner may define by rule and regulation any terms used in this Act for the efficient and clear administration of this Act.

(ee) "First tier subsidiary" shall be defined by regulation incorporating the comparable definitions used by the Office of the Comptroller of the Currency and the Illinois Commissioner of Banks and Real Estate.

(ff) "Gross delinquency rate" means the quotient determined by dividing (1) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by a licensee in the preceding calendar year that are delinquent and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year that are delinquent by (2) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by the licensee in the preceding calendar year and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year.

(gg) "Delinquency rate factor" means the factor set by rule of the Commissioner that is multiplied by the average gross delinquency rate of licensees, determined annually for the immediately preceding calendar year, for the purpose of determining which licensees shall be examined by the Commissioner pursuant to subsection (b) of Section 4-8 of this Act.

(hh) "Loan originator" means any natural person who, for compensation or in the expectation of compensation, either

directly or indirectly makes, offers to make, solicits, places, or negotiates a residential mortgage loan.

(Source: P.A. 90-772, eff. 1-1-99; 91-245, eff. 12-31-99.)

(205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

Sec. 2-4. Averments of Licensee. Each application for license or for the renewal of a license shall be accompanied by the following averments stating that the applicant:

(a) Will maintain at least one full service office within the State of Illinois pursuant to Section 3-4 of this Act;

(b) Will maintain staff reasonably adequate to meet the requirements of Section 3-4 of this Act;

(c) Will keep and maintain for 36 months the same written records as required by the federal Equal Credit Opportunity Act, and any other information required by regulations of the Commissioner regarding any home mortgage in the course of the conduct of its residential mortgage business;

(d) Will file with the Commissioner, when due, any report or reports which it is required to file under any of the provisions of this Act;

(e) Will not engage, whether as principal or agent, in the practice of rejecting residential mortgage applications without reasonable cause, or varying terms or application procedures without reasonable cause, for home mortgages on real estate within any specific geographic area from the terms or procedures generally provided by the licensee within other geographic areas of the State;

(f) Will not engage in fraudulent home mortgage underwriting practices;

(g) Will not make payment, whether directly or indirectly, of any kind to any in house or fee appraiser of any government or private money lending agency with which an

application for a home mortgage has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by such home mortgage;

(h) Has filed tax returns (State and Federal) for the past 3 years or filed with the Commissioner an accountant's or attorney's statement as to why no return was filed;

(i) Will not engage in any discrimination or redlining activities prohibited by Section 3-8 of this Act;

(j) Will not knowingly make any false promises likely to influence or persuade, or pursue a course of misrepresentation and false promises through agents, solicitors, advertising or otherwise;

(k) Will not knowingly misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a transaction to which it is a party to the injury of another party thereto;

(l) Will disburse funds in accordance with its agreements;

(m) Has not committed a crime against the law of this State, any other state or of the United States, involving moral turpitude, fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation or deceit which has not been previously reported to the Commissioner;

(n) Will account or deliver to any person any personal property such as money, fund, deposit, check, draft, mortgage, other document or thing of value, which has come into its possession, and which is not its property, or which it is not in law or equity entitled to retain under the circumstances, at the time which has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to such accounting and

delivery;

(o) Has not engaged in any conduct which would be cause for denial of a license;

(p) Has not become insolvent;

(q) Has not submitted an application for a license under this Act which contains a material misstatement;

(r) Has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;

(s) Will advise the Commissioner in writing of any changes to the information submitted on the most recent application for license within 30 days of said change. The written notice must be signed in the same form as the application for license being amended;

(t) Will comply with the provisions of this Act, or with any lawful order, rule or regulation made or issued under the provisions of this Act;

(u) Will submit to periodic examination by the Commissioner as required by this Act;

(v) Will advise the Commissioner in writing of judgments entered against, and bankruptcy petitions by, the license applicant within 5 days of occurrence;

(w) Will advise the Commissioner in writing within 30 days when the license applicant requests a licensee under this Act to repurchase a loan, and the circumstances therefor; and

(x) Will advise the Commissioner in writing within 30 days when the license applicant is requested by another entity to repurchase a loan, and the circumstances therefor.

(y) Will at all times act in a manner consistent with subsections (a) and (b) of Section 1-2 of this Act.

(x) Will not knowingly hire or employ a loan originator who is not registered with the Commissioner as required under Section 7-1 of this Act.

A licensee who fails to fulfill obligations of an averment, to comply with averments made, or otherwise violates any of the averments made under this Section shall be subject to the penalties in Section 4-5 of this Act.

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

(205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

Sec. 2-6. License issuance and renewal; fee.

(a) Beginning May 1, 1992, licenses issued before January 1, 1988, shall be renewed every 2 years on May 1. Beginning May 1, 1992, licenses issued on or after January 1, 1988, shall be renewed every 2 years on the anniversary of the date of the issuance of the original license. Licenses issued for first time applicants on or after May 1, 1992, shall be renewed on the first anniversary of their issuance and every 2 years thereafter. Properly completed renewal application forms and filing fees must be received by the Commissioner 60 45 days prior to the renewal date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license; failure of the licensee to receive renewal forms absent a request sent by certified mail for such forms will not waive said responsibility. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Commissioner, will result in the assessment of additional fees, as follows:

(1) A fee of \$500 will be assessed to the licensee 30 days after the proper renewal date and \$1,000 each month thereafter, until the license is either renewed or expires pursuant to Section 2-6, subsections (c) and (d), of this Act.

(2) Such fee will be assessed without prior notice to the licensee, but will be assessed only in cases wherein the Commissioner has in his or her possession

documentation of the licensee's continuing activity for which the unexpired license was issued.

(c) A license which is not renewed by the date required in this Section shall automatically become inactive. No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by filing a completed reactivation application with the Commissioner, payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

(d) A license which is not renewed within one year of becoming inactive shall expire.

(e) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall so inform the Commissioner in writing and, at the same time, convey the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business. Upon receipt of such written notice, the Commissioner shall issue a certified statement canceling the license.

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

(205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

Sec. 3-2. Annual audit.

(a) At the licensee's fiscal year-end, but in no case more than 12 months after the last audit conducted pursuant to this Section, except as otherwise provided in this Section, it shall be mandatory for each residential mortgage licensee to cause its books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all licensees under this Act shall be maintained on an accrual basis. The audit must be sufficiently comprehensive in scope to permit the expression

of an opinion on the financial statements, which must be prepared in accordance with generally accepted accounting principles, and must be performed in accordance with generally accepted auditing standards. Notwithstanding the requirements of this subsection, a licensee that is a first tier subsidiary may submit audited consolidated financial statements of its parent as long as the consolidated statements are supported by consolidating statements. The licensee's chief financial officer shall attest to the licensee's financial statements disclosed in the consolidating statements.

(b) As used herein, the term "expression of opinion" includes either (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion.

(c) If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefore must be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

(d) The most recent audit report shall be filed with the Commissioner within 90 days after the end of the licensee's fiscal year ~~at the time of the annual license renewal payment~~. The report filed with the Commissioner shall be certified by the certified public accountant conducting the audit. The Commissioner may promulgate rules regarding late audit reports.

(e) If any licensee required to make an audit shall fail to cause an audit to be made, the Commissioner shall cause the same to be made by a certified public accountant at the licensee's expense. The Commissioner shall select such certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by regulation.

(f) In lieu of the audit required by this Section, the

Commissioner may accept any audit made in conformance with the audit requirements of the U.S. Department of Housing and Urban Development.

(g) With respect to licensees who solely broker residential mortgage loans as defined in subsection (o) of Section 1-4, instead of the audit required by this Section, the Commissioner may accept compilation financial statements prepared at least every 12 months, and the compilation financial statement must be prepared by an independent certified public accountant licensed under the Illinois Public Accounting Act with full disclosure in accordance with generally accepted accounting principals and must ~~shall~~ be submitted within 90 days after the end of the licensee's fiscal year at--the--time--of--the--annual--license--renewal payment. If a licensee under this Section fails to file a compilation as required, the Commissioner shall cause an audit of the licensee's books and accounts to be made by a certified public accountant at the licensee's expense. The Commissioner shall select the certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by rule. A licensee who files false or misleading compilation financial statements is guilty of a business offense and shall be fined not less than \$5,000.

(h) The workpapers of the certified public accountants employed by each licensee for purposes of this Section are to be made available to the Commissioner or the Commissioner's designee upon request and may be reproduced by the Commissioner or the Commissioner's designee to enable to the Commissioner to carry out the purposes of this Act.

(i) Notwithstanding any other provision of this Section, if a licensee relying on subsection (g) of this Section causes its books to be audited at any other time or causes its financial statements to be reviewed, a complete copy of

the audited or reviewed financial statements shall be delivered to the Commissioner at the time of the annual license renewal payment following receipt by the licensee of the audited or reviewed financial statements. All workpapers shall be made available to the Commissioner upon request. The financial statements and workpapers may be reproduced by the Commissioner or the Commissioner's designee to carry out the purposes of this Act.

(Source: P.A. 89-74, eff. 6-30-95; 89-355, eff. 8-17-95; 90-772, eff. 1-1-99.)

(205 ILCS 635/3-5) (from Ch. 17, par. 2323-5)

Sec. 3-5. Net worth requirement. A licensee that holds a license on the effective date of this amendatory Act of the 93rd General Assembly Every-licensee shall have and maintain a net worth of not less than \$100,000; however, no later than 2 years after the effective date of this amendatory Act of the 93rd General Assembly, the licensee must maintain a net worth of not less than \$150,000. A licensee that first obtains a license after the effective date of this amendatory Act of the 93rd General Assembly must have and maintain a net worth of not less than \$150,000. Notwithstanding other requirements of this Section, the net worth requirement for a residential mortgage licensee licensees whose only licensable activity is that of brokering residential mortgage loans and that holds a license on the effective date of this amendatory Act of the 93rd General Assembly shall be \$35,000; however, no later than 2 years after the effective date of this amendatory Act of the 93rd General Assembly, the licensee must maintain a net worth of not less than \$50,000. Such a licensee that first obtains a license after the effective date of this amendatory Act of the 93rd General Assembly must have and maintain a net worth of not less than \$50,000. Net worth shall be evidenced by a balance sheet prepared by a

certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards or by the compilation financial statements authorized under subsection (g) of Section 3-2. The Commissioner may promulgate rules with respect to net worth definitions and requirements for residential mortgage licensees as necessary to accomplish the purposes of this Act. In lieu of the net worth requirement established by this Section, the Commissioner may accept evidence of conformance by the licensee with the net worth requirements of the United States Department of Housing and Urban Development.

(Source: P.A. 89-355, eff. 8-17-95; 89-508, eff. 7-3-96.)

(205 ILCS 635/4-5) (from Ch. 17, par. 2324-5)

Sec. 4-5. Suspension, revocation of licenses; fines.

(a) Upon written notice to a licensee, the Commissioner may suspend or revoke any license issued pursuant to this Act if he or she shall make a finding of one or more of the following in the notice that:

(1) Through separate acts or an act or a course of conduct, the licensee has violated any provisions of this Act, any rule or regulation promulgated by the Commissioner or of any other law, rule or regulation of this State or the United States.

(2) Any fact or condition exists which, if it had existed at the time of the original application for such license would have warranted the Commissioner in refusing originally to issue such license.

(3) If a licensee is other than an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has so acted or failed to act as would be cause for suspending or revoking a license to that party

as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in Section 4-12 of this Act.

(c) The Commissioner, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation. Upon a showing that a licensee has failed to meet the experience or educational requirements of Section 2-2 or the requirements of subsection (g) of Section 3-2, the Commissioner shall suspend, prior to hearing as provided in Section 4-12, the license until those requirements have been met.

(d) The provisions of subsection (e) of Section 2-6 of this Act shall not affect a licensee's civil or criminal liability for acts committed prior to surrender of a license.

(e) No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

(f) Every license issued under this Act shall remain in force and effect until the same shall have expired without renewal, have been surrendered, revoked or suspended in accordance with the provisions of this Act, but the Commissioner shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license shall have been revoked if no fact or condition then exists which would have warranted the Commissioner in refusing originally to issue such license under this Act.

(g) Whenever the Commissioner shall revoke or suspend a license issued pursuant to this Act or fine a licensee under this Act, he or she shall forthwith execute in duplicate a written order to that effect. The Commissioner shall publish notice of such order in the Illinois Register and a newspaper

of general circulation in the county in which the license is located and shall forthwith serve a copy of such order upon the licensee. Any such order may be reviewed in the manner provided by Section 4-12 of this Act.

(h) When the Commissioner finds any person in violation of the grounds set forth in subsection (i), he or she may enter an order imposing one or more of the following penalties:

(1) Revocation of license;

(2) Suspension of a license subject to reinstatement upon satisfying all reasonable conditions the Commissioner may specify;

(3) Placement of the licensee or applicant on probation for a period of time and subject to all reasonable conditions as the Commissioner may specify;

(4) Issuance of a reprimand;

(5) Imposition of a fine not to exceed \$25,000 ~~\$10,000~~ for each count of separate offense; and

(6) Denial of a license.

(i) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (h) above may be taken:

(1) Being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction which involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) Fraud, misrepresentation, deceit or negligence in any mortgage financing transaction;

(3) A material or intentional misstatement of fact on an initial or renewal application;

(4) Failure to follow the Commissioner's regulations with respect to placement of funds in escrow accounts;

(5) Insolvency or filing under any provision of the

Bankruptcy Code as a debtor;

(6) Failure to account or deliver to any person any property such as any money, fund, deposit, check, draft, mortgage, or other document or thing of value, which has come into his or her hands and which is not his or her property or which he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(7) Failure to disburse funds in accordance with agreements;

(8) Any misuse, misapplication, or misappropriation of trust funds or escrow funds;

(9) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory or country for fraud, dishonest dealing or any other act of moral turpitude;

(10) Failure to issue a satisfaction of mortgage when the residential mortgage has been executed and proceeds were not disbursed to the benefit of the mortgagor and when the mortgagor has fully paid licensee's costs and commission;

(11) Failure to comply with any order of the Commissioner or rule made or issued under the provisions of this Act;

(12) Engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(13) Failure to pay in a timely manner any fee, charge or fine under this Act;

(14) Failure to maintain, preserve, and keep

available for examination, all books, accounts or other documents required by the provisions of this Act and the rules of the Commissioner;

(15) Refusal to permit an investigation or examination of the licensee's or its affiliates' books and records or refusal to comply with the Commissioner's subpoena or subpoena duces tecum;

(16) A pattern of substantially underestimating the maximum closing costs;

(17) Failure to comply with or violation of any provision of this Act.

(j) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (i) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(k) Such licensee shall be subject to suspension or revocation for employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations.

(l) Procedure for surrender of license:

(1) The Commissioner may, after 10 days notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds therefor and the date, time and place of a hearing thereon, and after providing the licensee with a reasonable opportunity to be heard prior to such action, fine such licensee an amount not exceeding \$10,000 per violation, or revoke or suspend any license issued hereunder if he or she finds that:

(i) The licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation or direction of the Commissioner lawfully made pursuant to the authority

of this Act; or

(ii) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Commissioner in refusing to issue the license.

(2) Any licensee may surrender a license by delivering to the Commissioner written notice that he or she thereby surrenders such license, but surrender shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

(Source: P.A. 89-355, eff. 8-17-95.)

(205 ILCS 635/4-8.1 new)

Sec. 4-8.1. Confidential information. In hearings conducted under this Act, information presented into evidence that was acquired by the licensee when serving any individual in connection with a residential mortgage, including all financial information of the individual, shall be deemed strictly confidential and shall be made available only as part of the record of a hearing under this Act or otherwise (i) when the record is required, in its entirety, for purposes of judicial review or (ii) upon the express written consent of the individual served, or in the case of his or her death or disability, the consent of his or her personal representative.

(205 ILCS 635/4-8.2 new)

Sec. 4-8.2. Reports of violations. Any person licensed under this Act or any other person may report to the Commissioner any information to show that a person subject to this Act is or may be in violation of this Act.

(205 ILCS 635/Art. VII heading new)

ARTICLE VII. REGISTRATION OF LOAN ORIGINATORS

(205 ILCS 635/7-1 new)

Sec. 7-1. Registration required; rules and regulations. Beginning 6 months after the effective date of this amendatory Act of the 93rd General Assembly, it is unlawful for any natural person to act or assume to act as a loan originator, as defined in subsection (hh) of Section 1-4, without being registered with the Commissioner unless the natural person is exempt under items (1) and (1.5) of subsection (d) of Section 1-4 of this Act. The Commissioner shall promulgate rules prescribing the criteria for the registration and regulation of loan originators, including but not limited to, qualifications, fees, examination, education, supervision, and enforcement.

Section 835. The Limited Liability Company Act is amended by changing Sections 1-25, 5-5, 5-55, 37-5, and 37-35 as follows:

(805 ILCS 180/1-25)

Sec. 1-25. Nature of business. A limited liability company may be formed for any lawful purpose or business except:

(1) (Blank) banking~~7--exclusive---of---fiduciaries organized--for--the--purpose--of--accepting-and-executing trusts;~~

(2) insurance unless, for the purpose of carrying on business as a member of a group including incorporated and individual unincorporated underwriters, the Director of Insurance finds that the group meets the requirements of subsection (3) of Section 86 of the Illinois Insurance Code and the limited liability company, if insolvent, is subject to liquidation by the Director of Insurance under

Article XIII of the Illinois Insurance Code;

(3) the practice of dentistry unless all the members and managers are licensed as dentists under the Illinois Dental Practice Act; or

(4) the practice of medicine unless all the managers, if any, are licensed to practice medicine under the Medical Practice Act of 1987 and any of the following conditions apply:

(A) the member or members are licensed to practice medicine under the Medical Practice Act of 1987; or

(B) the member or members are a registered medical corporation or corporations organized pursuant to the Medical Corporation Act; or

(C) the member or members are a professional corporation organized pursuant to the Professional Service Corporation Act of physicians licensed to practice medicine in all its branches; or

(D) the member or members are a medical limited liability company or companies.

(Source: P.A. 91-593, eff. 8-14-99; 92-144, eff. 7-24-01.)

(805 ILCS 180/5-5)

Sec. 5-5. Articles of organization.

(a) The articles of organization shall set forth all of the following:

(1) The name of the limited liability company and the address of its principal place of business which may, but need not be a place of business in this State.

(2) The purposes for which the limited liability company is organized, which may be stated to be, or to include, the transaction of any or all lawful businesses for which limited liability companies may be organized under this Act.

(3) The name of its registered agent and the address of its registered office.

(4) If the limited liability company is to be managed by a manager or managers, the names and business addresses of the initial manager or managers.

(5) If management of the limited liability company is to be vested in the members under Section 15-1, then the names and addresses of the initial member or members.

(6) The latest date, if any, upon which the limited liability company is to dissolve and other events of dissolution, if any, that may be agreed upon by the members under Section 35-1 hereof.

(7) The name and address of each organizer.

(8) Any other provision, not inconsistent with law, that the members elect to set out in the articles of organization for the regulation of the internal affairs of the limited liability company, including any provisions that, under this Act, are required or permitted to be set out in the operating agreement of the limited liability company.

(b) A limited liability company is organized at the time articles of organization are filed by the Secretary of State or at any later time, not more than 60 days after the filing of the articles of organization, specified in the articles of organization.

(c) Articles of organization for the organization of a limited liability company for the purpose of accepting and executing trusts shall not be filed by the Secretary of State until there is delivered to him or her a statement executed by the Commissioner of the Office of Banks and Real Estate that the organizers of the limited liability company have made arrangements with the Commissioner of the Office of Banks and Real Estate to comply with the Corporate Fiduciary Act.

(d) Articles of organization for the organization of a limited liability company as a bank or a savings bank must be filed with the Commissioner of Banks and Real Estate or, if the bank or savings bank will be organized under federal law, with the appropriate federal banking regulator.

(Source: P.A. 90-424, eff. 1-1-98.)

(805 ILCS 180/5-55)

Sec. 5-55. Filing in Office of Secretary of State.

(a) Whenever any provision of this Act requires a limited liability company to file any document with the Office of the Secretary of State, the requirement means that:

(1) the original document, executed as described in Section 5-45, and, if required by this Act to be filed in duplicate, one copy (which may be a signed carbon or photocopy) shall be delivered to the Office of the Secretary of State;

(2) all fees and charges authorized by law to be collected by the Secretary of State in connection with the filing of the document shall be tendered to the Secretary of State; and

(3) unless the Secretary of State finds that the document does not conform to law, he or she shall, when all fees have been paid:

(A) endorse on the original and on the copy the word "Filed" and the month, day, and year of the filing thereof;

(B) file in his or her office the original of the document; and

(C) return the copy to the person who filed it or to that person's representative.

(b) If another Section of this Act specifically prescribes a manner of filing or signing a specified document that differs from the corresponding provisions of this

Section, then the provisions of the other Section shall govern.

(c) Whenever any provision of this Act requires a limited liability company that is a bank or a savings bank to file any document, that requirement means that the filing shall be made exclusively with the Commissioner of Banks and Real Estate or, if the bank or savings bank is organized under federal law, with the appropriate federal banking regulator at such times and in such manner as required by the Commissioner or federal regulator.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 180/37-5)

Sec. 37-5. Definitions. In this Article:

"Corporation" means (i) a corporation under the Business Corporation Act of 1983, a predecessor law, or comparable law of another jurisdiction or (ii) a bank or savings bank.

"General partner" means a partner in a partnership and a general partner in a limited partnership.

"Limited partner" means a limited partner in a limited partnership.

"Limited partnership" means a limited partnership created under the Revised Uniform Limited Partnership Act, a predecessor law, or comparable law of another jurisdiction.

"Partner" includes a general partner and a limited partner.

"Partnership" means a general partnership under the Uniform Partnership Act, a predecessor law, or comparable law of another jurisdiction.

"Partnership agreement" means an agreement among the partners concerning the partnership or limited partnership.

"Shareholder" means a shareholder in a corporation.

(Source: P.A. 90-424, eff. 1-1-98.)

(805 ILCS 180/37-35)

Sec. 37-35. Article not exclusive. This Article does not preclude an entity from being converted or merged under other law. A bank or savings bank that converts to or merges with and into a limited liability company shall be subject to the provisions of this Article or to other applicable law to the extent that those provisions do not conflict with the State or federal law pursuant to which the conversion or merger of the bank or savings bank is authorized.

(Source: P.A. 90-424, eff. 1-1-98.)

Section 840. The Illinois Fairness in Lending Act is amended by changing Sections 2, 3, and 5 as follows:

(815 ILCS 120/2) (from Ch. 17, par. 852)

Sec. 2. As used in this Act:

(a) "Financial Institution" means any bank, credit union, insurance company, mortgage banking company, savings bank, or savings and loan association, or other residential mortgage lender which operates or has a place of business in this State.

(b) "Person" means any natural person.

(c) "Varying the terms of a loan" includes, but is not limited to the following practices:

(1) Requiring a greater than average down payment than is usual for the particular type of a loan involved.

(2) Requiring a shorter period of amortization than is usual for the particular type of loan involved.

(3) Charging a higher interest rate than is usual for the particular type of loan involved.

(4) An underappraisal of real estate or other item of property offered as security.

(d) "Equity stripping" means to assist a person in obtaining a loan secured by the person's principal residence

for the primary purpose of receiving fees related to the financing when (i) the loan decreased the person's equity in the principal residence and (ii) at the time the loan is made, the financial institution does not reasonably believe that the person will be able to make the scheduled payments to repay the loan. "Equity stripping" does not include reverse mortgages as defined in Section 5a of the Illinois Banking Act, Section 1-6a of the Illinois Savings and Loan Act of 1985, or subsection (3) of Section 46 of the Illinois Credit Union Act.

(e) "Loan flipping" means to assist a person in refinancing a loan secured by the person's principal residence for the primary purpose of receiving fees related to the refinancing when (i) the refinancing of the loan results in no tangible benefit to the person and (ii) at the time the loan is made, the financial institution does not reasonably believe that the refinancing of the loan will result in a tangible benefit to the person.

(f) "Principal residence" means a person's primary residence that is a dwelling consisting of 4 or fewer family units or that is in a dwelling consisting of condominium or cooperative units.

(Source: P.A. 81-1391.)

(815 ILCS 120/3) (from Ch. 17, par. 853)

Sec. 3. No financial institution, in connection with or in contemplation of any loan to any person, may:

(a) Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area.

(b) Deny or vary the terms of a loan without having considered all of the regular and dependable income of each person who would be liable for repayment of the loan.

(c) Deny or vary the terms of a loan on the sole basis

of the childbearing capacity of an applicant or an applicant's spouse.

(d) Utilize lending standards that have no economic basis and which are discriminatory in effect.

(e) Engage in equity stripping or loan flipping.

(Source: P.A. 81-1391.)

(815 ILCS 120/5) (from Ch. 17, par. 855)

Sec. 5. (a) Subject to the limitation imposed by subsection (b), any person who has been aggrieved as a result of a violation of this Act may bring an individual action in the circuit court of the county in which the particular financial institution involved is located or doing business.

Upon a finding that a financial institution has committed a violation of this Act, the court may award actual damages, and may in its discretion award court costs.

(b) If the same events or circumstances would constitute the basis for an action under this Act or an action under any other Act, the aggrieved person may elect between the remedies proposed by the two Acts but may not bring actions, either administrative or judicial, under more than one of the two Acts in relation to those same events or circumstances.

(c) An action to enjoin any person subject to this Act from engaging in activity in violation of this Act may be maintained in the name of the people of the State of Illinois by the Attorney General or by the State's Attorney of the county in which the action is brought. This remedy shall be in addition to other remedies provided for any violation of this Act.

(Source: P.A. 81-1391.)

Section 845. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z as follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, or paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code commits an unlawful practice within the meaning of this Act.

(Source: P.A. 91-164, eff. 7-16-99; 91-230, eff. 1-1-00; 91-233, eff. 1-1-00; 91-810, eff. 6-13-00; 92-426, eff. 1-1-02.)

Section 900. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.