



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4474

Introduced 1/20/2026, by Rep. Hoan Huynh

SYNOPSIS AS INTRODUCED:

205 ILCS 5/48	
205 ILCS 205/9002	from Ch. 17, par. 7309-2
205 ILCS 305/8	from Ch. 17, par. 4409
720 ILCS 5/17-1b	
810 ILCS 5/3-806 rep.	
815 ILCS 205/4.1a	from Ch. 17, par. 6406

Amends the Illinois Banking Act, the Savings Bank Act, and the Illinois Credit Union Act. Directs the Secretary of Financial and Professional Regulation to adopt and enforce administrative rules that prohibit the imposition by a bank, savings bank, or credit union of charges in connection with (i) a check drawn or other written order upon, or electronic transfer sought to be effectuated against, insufficient funds or uncollected balances in a consumer account, whether or not the financial institution pays such check, written order, or electronic transfer or (ii) a check or other written order received by such an institution for deposit or collection drawn against a consumer account and subsequently dishonored and returned for any reason by the drawee. Amends the Uniform Commercial Code. Repeals a provision that authorizes the imposition of overdraft fees. Amends the Criminal Code of 2012 and the Interest Act to make conforming changes.

LRB104 14113 SPS 27245 b

1 AN ACT concerning financial regulation.

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

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

6 (205 ILCS 5/48)

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

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

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

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

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

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

20 (2.1) Pursuant to paragraph (a) of subsection (6) of
21 this Section, the Secretary shall adopt rules that ensure
22 consistency and due process in the examination process.
23 The Secretary may also establish guidelines that (i)
24 define the scope of the examination process and (ii)
25 clarify examination items to be resolved. The rules,
26 formal guidance, interpretive letters, or opinions

1 furnished to State banks by the Secretary may be relied
2 upon by the State banks.

3 (2.5) Whenever any State bank, any subsidiary or
4 affiliate of a State bank, or after May 31, 1997, any
5 branch of an out-of-state bank causes to be performed, by
6 contract or otherwise, any bank services for itself,
7 whether on or off its premises:

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

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

22 For purposes of this subsection (2.5), the term "bank
23 services" means services such as sorting and posting of
24 checks and deposits, computation and posting of interest
25 and other credits and charges, preparation and mailing of
26 checks, statements, notices, and similar items, or any

1 other clerical, bookkeeping, accounting, statistical, or
2 similar functions performed for a State bank, including,
3 but not limited to, electronic data processing related to
4 those bank services.

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

11 (a) Each bank shall pay to the Secretary a Call
12 Report Fee which shall be paid in quarterly
13 installments equal to one-fourth of the sum of the
14 annual fixed fee of \$800, plus a variable fee based on
15 the assets shown on the quarterly statement of
16 condition delivered to the Secretary in accordance
17 with Section 47 for the preceding quarter according to
18 the following schedule: 16¢ per \$1,000 of the first
19 \$5,000,000 of total assets, 15¢ per \$1,000 of the next
20 \$20,000,000 of total assets, 13¢ per \$1,000 of the
21 next \$75,000,000 of total assets, 9¢ per \$1,000 of the
22 next \$400,000,000 of total assets, 7¢ per \$1,000 of
23 the next \$500,000,000 of total assets, and 5¢ per
24 \$1,000 of all assets in excess of \$1,000,000,000, of
25 the State bank. The Call Report Fee shall be
26 calculated by the Secretary and billed to the banks

1 for remittance at the time of the quarterly statements
2 of condition provided for in Section 47. The Secretary
3 may require payment of the fees provided in this
4 Section by an electronic transfer of funds or an
5 automatic debit of an account of each of the State
6 banks. In case more than one examination of any bank is
7 deemed by the Secretary to be necessary in any
8 examination frequency cycle specified in subsection
9 2(a) of this Section, and is performed at his
10 direction, the Secretary may assess a reasonable
11 additional fee to recover the cost of the additional
12 examination. In lieu of the method and amounts set
13 forth in this paragraph (a) for the calculation of the
14 Call Report Fee, the Secretary may specify by rule
15 that the Call Report Fees provided by this Section may
16 be assessed semiannually or some other period and may
17 provide in the rule the formula to be used for
18 calculating and assessing the periodic Call Report
19 Fees to be paid by State banks.

20 (a-1) If in the opinion of the Commissioner an
21 emergency exists or appears likely, the Commissioner
22 may assign an examiner or examiners to monitor the
23 affairs of a State bank with whatever frequency he
24 deems appropriate, including, but not limited to, a
25 daily basis. The reasonable and necessary expenses of
26 the Commissioner during the period of the monitoring

1 shall be borne by the subject bank. The Commissioner
2 shall furnish the State bank a statement of time and
3 expenses if requested to do so within 30 days of the
4 conclusion of the monitoring period.

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

16 (a-3) After May 31, 1997, the reasonable and
17 necessary expenses of the Commissioner during
18 examination of the performance of electronic data
19 processing services under subsection (2.5) at or on
20 behalf of branches of out-of-state banks shall be
21 borne by the out-of-state banks, unless those expenses
22 are borne by the state regulatory authorities that
23 chartered the out-of-state banks, as determined by
24 cooperative agreements between the Commissioner and
25 the state regulatory authorities that chartered the
26 out-of-state banks.

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

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

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

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

21 (d) The aggregate of all fees collected by the
22 Secretary under this Act, the Corporate Fiduciary Act,
23 or the Foreign Banking Office Act on and after July 1,
24 1979, shall be paid promptly after receipt of the
25 same, accompanied by a detailed statement thereof,
26 into the State treasury and shall be set apart in a

1 special fund to be known as the Bank and Trust Company
2 Fund, except as provided in paragraph (c) of
3 subsection (11) of this Section. All earnings received
4 from investments of funds in the Bank and Trust
5 Company Fund shall be deposited into the Bank and
6 Trust Company Fund and may be used for the same
7 purposes as fees deposited into that Fund. The amount
8 from time to time deposited into the Bank and Trust
9 Company Fund shall be used: (i) to offset the ordinary
10 administrative expenses of the Secretary as defined in
11 this Section or (ii) as a credit against fees under
12 paragraph (d-1) of this subsection (3). Nothing in
13 Public Act 81-131 shall prevent continuing the
14 practice of paying expenses involving salaries,
15 retirement, social security, and State-paid insurance
16 premiums of State officers by appropriations from the
17 General Revenue Fund. However, the General Revenue
18 Fund shall be reimbursed for those payments made on
19 and after July 1, 1979, by an annual transfer of funds
20 from the Bank and Trust Company Fund. Moneys in the
21 Bank and Trust Company Fund may be transferred to the
22 Professions Indirect Cost Fund, as authorized under
23 Section 2105-300 of the Department of Professional
24 Regulation Law of the Civil Administrative Code of
25 Illinois.

26 Notwithstanding provisions in the State Finance

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

21 (d-1) Adequate funds shall be available in the
22 Bank and Trust Company Fund to permit the timely
23 payment of administration expenses. In each fiscal
24 year the total administration expenses shall be
25 deducted from the total fees collected by the
26 Commissioner and the remainder transferred into the

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

1 this paragraph (d-1), the calculation of the fees
2 collected by the Commissioner shall exclude the
3 receivership fees provided for in Section 5-10 of the
4 Corporate Fiduciary Act.

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

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

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

20 (5) The nature and condition of the assets in or
21 investment of any bonus, pension, or profit sharing plan
22 for officers or employees of every State bank or, after
23 May 31, 1997, branch of an out-of-state bank shall be
24 deemed to be included in the affairs of that State bank or
25 branch of an out-of-state bank subject to examination by
26 the Commissioner under the provisions of subsection (2) of

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

14 (6) The Commissioner shall have the power:

15 (a) To adopt and enforce ~~promulgate~~ reasonable
16 rules for the purpose of administering the provisions
17 of this Act.

18 (a-2) To adopt and enforce rules that prohibit the
19 imposition by a bank of charges in connection with (i)
20 a check drawn or other written order upon, or
21 electronic transfer sought to be effectuated against,
22 insufficient funds or uncollected balances in a
23 consumer account, whether or not the bank pays such
24 check, written order, or electronic transfer or (ii) a
25 check or other written order received by a bank for
26 deposit or collection drawn against a consumer account

1 and subsequently dishonored and returned for any
2 reason by the drawee.

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

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

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

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

1 exercise his powers under this Act.

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

12 (e) To conduct hearings.

13 (7) Whenever, in the opinion of the Secretary, any
14 director, officer, employee, or agent of a State bank or
15 any subsidiary or bank holding company of the bank or,
16 after May 31, 1997, of any branch of an out-of-state bank
17 or any subsidiary or bank holding company of the bank
18 shall have violated any law, rule, or order relating to
19 that bank or any subsidiary or bank holding company of the
20 bank, shall have obstructed or impeded any examination or
21 investigation by the Secretary, shall have engaged in an
22 unsafe or unsound practice in conducting the business of
23 that bank or any subsidiary or bank holding company of the
24 bank, or shall have violated any law or engaged or
25 participated in any unsafe or unsound practice in
26 connection with any financial institution or other

1 business entity such that the character and fitness of the
2 director, officer, employee, or agent does not assure
3 reasonable promise of safe and sound operation of the
4 State bank, the Secretary may issue an order of removal.
5 If, in the opinion of the Secretary, any former director,
6 officer, employee, or agent of a State bank or any
7 subsidiary or bank holding company of the bank, prior to
8 the termination of his or her service with that bank or any
9 subsidiary or bank holding company of the bank, violated
10 any law, rule, or order relating to that State bank or any
11 subsidiary or bank holding company of the bank, obstructed
12 or impeded any examination or investigation by the
13 Secretary, engaged in an unsafe or unsound practice in
14 conducting the business of that bank or any subsidiary or
15 bank holding company of the bank, or violated any law or
16 engaged or participated in any unsafe or unsound practice
17 in connection with any financial institution or other
18 business entity such that the character and fitness of the
19 director, officer, employee, or agent would not have
20 assured reasonable promise of safe and sound operation of
21 the State bank, the Secretary may issue an order
22 prohibiting that person from further service with a bank
23 or any subsidiary or bank holding company of the bank as a
24 director, officer, employee, or agent. An order issued
25 pursuant to this subsection shall be served upon the
26 director, officer, employee, or agent. A copy of the order

1 shall be sent to each director of the bank affected by
2 registered mail. A copy of the order shall also be served
3 upon the bank of which he is a director, officer,
4 employee, or agent, whereupon he shall cease to be a
5 director, officer, employee, or agent of that bank. The
6 Secretary may institute a civil action against the
7 director, officer, or agent of the State bank or, after
8 May 31, 1997, of the branch of the out-of-state bank
9 against whom any order provided for by this subsection (7)
10 of this Section 48 has been issued, and against the State
11 bank or, after May 31, 1997, out-of-state bank, to enforce
12 compliance with or to enjoin any violation of the terms of
13 the order. Any person who has been the subject of an order
14 of removal or an order of prohibition issued by the
15 Secretary under this subsection or Section 5-6 of the
16 Corporate Fiduciary Act may not thereafter serve as
17 director, officer, employee, or agent of any State bank or
18 of any branch of any out-of-state bank, or of any
19 corporate fiduciary, as defined in Section 1-5.05 of the
20 Corporate Fiduciary Act, or of any other entity that is
21 subject to licensure or regulation by the Division of
22 Banking unless the Secretary has granted prior approval in
23 writing.

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

1 (7.5) Notwithstanding the provisions of this Section,
2 the Secretary shall not:

3 (1) issue an order against a State bank or any
4 subsidiary organized under this Act for unsafe or
5 unsound banking practices solely because the entity
6 provides or has provided financial services to a
7 cannabis-related legitimate business;

8 (2) prohibit, penalize, or otherwise discourage a
9 State bank or any subsidiary from providing financial
10 services to a cannabis-related legitimate business
11 solely because the entity provides or has provided
12 financial services to a cannabis-related legitimate
13 business;

14 (3) recommend, incentivize, or encourage a State
15 bank or any subsidiary not to offer financial services
16 to an account holder or to downgrade or cancel the
17 financial services offered to an account holder solely
18 because:

19 (A) the account holder is a manufacturer or
20 producer, or is the owner, operator, or employee
21 of a cannabis-related legitimate business;

22 (B) the account holder later becomes an owner
23 or operator of a cannabis-related legitimate
24 business; or

25 (C) the State bank or any subsidiary was not
26 aware that the account holder is the owner or

1 operator of a cannabis-related legitimate
2 business; and

3 (4) take any adverse or corrective supervisory
4 action on a loan made to an owner or operator of:

5 (A) a cannabis-related legitimate business
6 solely because the owner or operator owns or
7 operates a cannabis-related legitimate business;
8 or

9 (B) real estate or equipment that is leased to
10 a cannabis-related legitimate business solely
11 because the owner or operator of the real estate
12 or equipment leased the equipment or real estate
13 to a cannabis-related legitimate business.

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

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

26 (10) All final administrative decisions of the

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

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

8 (a) (Blank).

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

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

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

8 (12) (Blank).

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

17 (14) In addition to the fees authorized in this Act,
18 the Secretary may assess reasonable receivership fees
19 against any State bank that does not maintain insurance
20 with the Federal Deposit Insurance Corporation. All fees
21 collected under this subsection (14) shall be paid into
22 the Non-insured Institutions Receivership account in the
23 Bank and Trust Company Fund, as established by the
24 Secretary. The fees assessed under this subsection (14)
25 shall provide for the expenses that arise from the
26 administration of the receivership of any such institution

1 required to pay into the Non-insured Institutions
2 Receivership account, whether pursuant to this Act, the
3 Corporate Fiduciary Act, the Foreign Banking Office Act,
4 or any other Act that requires payments into the
5 Non-insured Institutions Receivership account. The
6 Secretary may establish by rule a reasonable manner of
7 assessing fees under this subsection (14).

8 (Source: P.A. 102-558, eff. 8-20-21; 103-154, eff. 6-30-23.)

9 Section 10. The Savings Bank Act is amended by changing
10 Section 9002 as follows:

11 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

12 Sec. 9002. Powers of Secretary.

13 (a) The Secretary shall have the following powers and
14 duties:

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

17 (2) To adopt and enforce rules ~~establish regulations~~
18 as may be reasonable or necessary to accomplish the
19 purposes of this Act.

20 (2.5) To adopt and enforce rules that prohibit the
21 imposition by a savings bank of charges in connection with
22 (i) a check drawn or other written order upon, or
23 electronic transfer sought to be effectuated against,
24 insufficient funds or uncollected balances in a consumer

1 account, whether or not the savings bank pays such check,
2 written order, or electronic transfer or (ii) a check or
3 other written order received by a savings bank for deposit
4 or collection drawn against a consumer account and
5 subsequently dishonored and returned for any reason by the
6 drawee.

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

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

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

19 (6) To establish a reasonable fee structure for
20 savings banks and holding companies operating under this
21 Act and for their service corporations and subsidiaries.
22 The fees shall include, but not be limited to, annual
23 fees, application fees, regular and special examination
24 fees, and other fees as the Secretary establishes and
25 demonstrates to be directly resultant from the Secretary's
26 responsibilities under this Act and as are directly

1 attributable to individual entities operating under this
2 Act. The aggregate of all moneys collected by the
3 Secretary on and after the effective date of this Act
4 shall be paid promptly after receipt of the same,
5 accompanied by a detailed statement thereof, into the
6 Savings Bank Regulatory Fund established under Section
7 9002.1 of this Act. Nothing in this Act shall prevent
8 continuing the practice of paying expenses involving
9 salaries, retirement, social security, and State-paid
10 insurance of State officers by appropriation from the
11 General Revenue Fund. The Secretary may require payment of
12 the fees under this Act by an electronic transfer of funds
13 or an automatic debit of an account of each of the savings
14 banks.

15 (b) Notwithstanding the provisions of subsection (a), the
16 Secretary shall not:

17 (1) issue an order against a savings bank or holding
18 company organized under this Act for unsafe or unsound
19 banking practices solely because the entity provides or
20 has provided financial services to a cannabis-related
21 legitimate business;

22 (2) prohibit, penalize, or otherwise discourage a
23 savings bank or holding company organized under this Act
24 from providing financial services to a cannabis-related
25 legitimate business solely because the entity provides or
26 has provided financial services to a cannabis-related

1 legitimate business;

2 (3) recommend, incentivize, or encourage a savings
3 bank or holding company organized under this Act not to
4 offer financial services to an account holder or to
5 downgrade or cancel the financial services offered to an
6 account holder solely because:

7 (A) the account holder is a manufacturer or
8 producer, or is the owner, operator, or employee of, a
9 cannabis-related legitimate business;

10 (B) the account holder later becomes an owner or
11 operator of a cannabis-related legitimate business; or

12 (C) the savings bank or holding company organized
13 under this Act was not aware that the account holder is
14 the owner or operator of a cannabis-related legitimate
15 business; or

16 (4) take any adverse or corrective supervisory action
17 on a loan made to an owner or operator of:

18 (A) a cannabis-related legitimate business solely
19 because the owner or operator owns or operates a
20 cannabis-related legitimate business; or

21 (B) real estate or equipment that is leased to a
22 cannabis-related legitimate business solely because
23 the owner or operator of the real estate or equipment
24 leased the equipment or real estate to a
25 cannabis-related legitimate business.

26 (Source: P.A. 101-593, eff. 12-4-19.)

1 Section 15. The Illinois Credit Union Act is amended by
2 changing Section 8 as follows:

3 (205 ILCS 305/8) (from Ch. 17, par. 4409)

4 Sec. 8. Secretary's powers and duties. Credit unions are
5 regulated by the Department. The Secretary in executing the
6 powers and discharging the duties vested by law in the
7 Department has the following powers and duties:

8 (1) To exercise the rights, powers, and duties set
9 forth in this Act or any related Act. The Director shall
10 oversee the functions of the Division and report to the
11 Secretary, with respect to the Director's exercise of any
12 of the rights, powers, and duties vested by law in the
13 Secretary under this Act. All references in this Act to
14 the Secretary shall be deemed to include the Director, as
15 a person authorized by the Secretary or this Act to assume
16 responsibility for the oversight of the functions of the
17 Department relating to the regulatory supervision of
18 credit unions under this Act.

19 (2) To adopt and enforce rules for the administration
20 of this Act. The provisions of the Illinois Administrative
21 Procedure Act are hereby expressly adopted and
22 incorporated herein as though a part of this Act, and
23 shall apply to all administrative rules and procedures of
24 the Department under this Act. Rules adopted by the

1 Secretary shall be within the statutory authority upon
2 which they are based. If there is a conflict,
3 inconsistency, or variation between the terms of this Act
4 and the provisions in a rule adopted by the Secretary, the
5 terms of this Act shall control. A conflict,
6 inconsistency, or variation may not be deemed to exist if
7 the Act specifically delegates authority to the Secretary
8 to adopt by rule standards or limitations on a particular
9 matter, provided the rule is within the statutory
10 authority upon which it is based.

11 (2.5) To adopt and enforce rules that prohibit the
12 imposition by a credit union of charges in connection with
13 (i) a check drawn or other written order upon, or
14 electronic transfer sought to be effectuated against,
15 insufficient funds or uncollected balances in a consumer
16 account, whether or not the credit union pays such check,
17 written order, or electronic transfer or (ii) a check or
18 other written order received by a credit union for deposit
19 or collection drawn against a consumer account and
20 subsequently dishonored and returned for any reason by the
21 drawee.

22 (3) To direct and supervise all the administrative and
23 technical activities of the Department including the
24 employment of a Credit Union Supervisor who shall have
25 knowledge in the theory and practice of, or experience in,
26 the operations or supervision of financial institutions,

1 preferably credit unions, and such other persons as are
2 necessary to carry out his functions. The Secretary shall
3 ensure that all examiners appointed or assigned to examine
4 the affairs of State-chartered credit unions possess the
5 necessary training and continuing education to effectively
6 execute their jobs.

7 (4) To issue cease and desist orders when in the
8 opinion of the Secretary, a credit union is engaged or has
9 engaged, or the Secretary has reasonable cause to believe
10 the credit union is about to engage, in an unsafe or
11 unsound practice, or is violating or has violated or the
12 Secretary has reasonable cause to believe is about to
13 violate a law, rule, or regulation or any condition
14 imposed in writing by the Department.

15 (5) To suspend from office and to prohibit from
16 further participation in any manner in the conduct of the
17 affairs of any credit union any director, officer, or
18 committee member who has committed any violation of a law,
19 rule, or regulation or of a cease and desist order or who
20 has engaged or participated in any unsafe or unsound
21 practice in connection with the credit union or who has
22 committed or engaged in any act, omission, or practice
23 which constitutes a breach of his fiduciary duty as such
24 director, officer, or committee member, when the Secretary
25 has determined that such action or actions have resulted
26 or will result in substantial financial loss or other

1 damage that seriously prejudices the interests of the
2 members.

3 (6) To assess a civil penalty against a credit union
4 provided that:

5 (A) the Secretary reasonably determines, based on
6 objective facts and an accurate assessment of
7 applicable legal standards, that the credit union has:

8 (i) committed a violation of this Act, any
9 rule adopted in accordance with this Act, or any
10 order of the Secretary issued pursuant to his or
11 her authority under this Act; or

12 (ii) engaged or participated in any unsafe or
13 unsound practice;

14 (B) before a civil penalty is assessed under this
15 item (6), the Secretary must make the further
16 reasonable determination, based on objective facts and
17 an accurate assessment of applicable legal standards,
18 that the credit union's action constituting a
19 violation under subparagraph (i) of paragraph (A) of
20 this item (6) or an unsafe and unsound practice under
21 subparagraph (ii) of paragraph (A) of this item (6):

22 (i) directly resulted in a substantial and
23 material financial loss or created a reasonable
24 probability that a substantial and material
25 financial loss will directly result; or

26 (ii) constituted willful misconduct or a

1 material breach of fiduciary duty of any director,
2 officer, or committee member of the credit union;

3 Material financial loss, as referenced in this
4 paragraph (B), shall be assessed in light of
5 surrounding circumstances and the relative size and
6 nature of the financial loss or probable financial
7 loss. Certain benchmarks shall be used in determining
8 whether financial loss is material, such as a
9 percentage of total assets or total gross income for
10 the immediately preceding 12-month period. Absent
11 compelling and extraordinary circumstances, no civil
12 penalty shall be assessed, unless the financial loss
13 or probable financial loss is equal to or greater than
14 either 1% of the credit union's total assets for the
15 immediately preceding 12-month period, or 1% of the
16 credit union's total gross income for the immediately
17 preceding 12-month period, whichever is less;

18 (C) before a civil penalty is assessed under this
19 item (6), the credit union must be expressly advised
20 in writing of the:

21 (i) specific violation that could subject it
22 to a penalty under this item (6); and

23 (ii) specific remedial action to be taken
24 within a specific and reasonable time frame to
25 avoid imposition of the penalty;

26 (D) civil penalties assessed under this item (6)

1 shall be remedial, not punitive, and reasonably
 2 tailored to ensure future compliance by the credit
 3 union with the provisions of this Act and any rules
 4 adopted pursuant to this Act;

5 (E) a credit union's failure to take timely
 6 remedial action with respect to the specific violation
 7 may result in the issuance of an order assessing a
 8 civil penalty up to the following maximum amount,
 9 based upon the total assets of the credit union:

10 (i) Credit unions with assets of less than \$10
 11 million..... \$1,000

12 (ii) Credit unions with assets of at least \$10
 13 million and less than \$50 million \$2,500

14 (iii) Credit unions with assets of at least
 15 \$50 million and less than \$100 million \$5,000

16 (iv) Credit unions with assets of at least
 17 \$100 million and less than \$500 million .. \$10,000

18 (v) Credit unions with assets of at least \$500
 19 million and less than \$1 billion \$25,000

20 (vi) Credit unions with assets of \$1 billion
 21 and greater..... \$50,000; and

22 (F) an order assessing a civil penalty under this
 23 item (6) shall take effect upon service of the order,
 24 unless the credit union makes a written request for a
 25 hearing under 38 Ill. Adm. Code 190.20 of the
 26 Department's rules for credit unions within 90 days

1 after issuance of the order; in that event, the order
2 shall be stayed until a final administrative order is
3 entered.

4 This item (6) shall not apply to violations separately
5 addressed in rules as authorized under item (7) of this
6 Section.

7 (7) Except for the fees established in this Act, to
8 prescribe, by rule and regulation, fees and penalties for
9 preparing, approving, and filing reports and other
10 documents; furnishing transcripts; holding hearings;
11 investigating applications for permission to organize,
12 merge, or convert; failure to maintain accurate books and
13 records to enable the Department to conduct an
14 examination; and taking supervisory actions.

15 (8) To destroy, in his discretion, any or all books
16 and records of any credit union in his possession or under
17 his control after the expiration of three years from the
18 date of cancellation of the charter of such credit unions.

19 (9) To make investigations and to conduct research and
20 studies and to publish some of the problems of persons in
21 obtaining credit at reasonable rates of interest and of
22 the methods and benefits of cooperative saving and lending
23 for such persons.

24 (10) To authorize, foster, or establish experimental,
25 developmental, demonstration, or pilot projects by public
26 or private organizations including credit unions which:

1 (a) promote more effective operation of credit
2 unions so as to provide members an opportunity to use
3 and control their own money to improve their economic
4 and social conditions; or

5 (b) are in the best interests of credit unions,
6 their members and the people of the State of Illinois.

7 (11) To cooperate in studies, training, or other
8 administrative activities with, but not limited to, the
9 NCUA, other state credit union regulatory agencies and
10 industry trade associations in order to promote more
11 effective and efficient supervision of Illinois chartered
12 credit unions.

13 (12) Notwithstanding the provisions of this Section,
14 the Secretary shall not:

15 (1) issue an order against a credit union
16 organized under this Act for unsafe or unsound banking
17 practices solely because the entity provides or has
18 provided financial services to a cannabis-related
19 legitimate business;

20 (2) prohibit, penalize, or otherwise discourage a
21 credit union from providing financial services to a
22 cannabis-related legitimate business solely because
23 the entity provides or has provided financial services
24 to a cannabis-related legitimate business;

25 (3) recommend, incentivize, or encourage a credit
26 union not to offer financial services to an account

1 holder or to downgrade or cancel the financial
2 services offered to an account holder solely because:

3 (A) the account holder is a manufacturer or
4 producer, or is the owner, operator, or employee
5 of a cannabis-related legitimate business;

6 (B) the account holder later becomes an owner
7 or operator of a cannabis-related legitimate
8 business; or

9 (C) the credit union was not aware that the
10 account holder is the owner or operator of a
11 cannabis-related legitimate business; and

12 (4) take any adverse or corrective supervisory
13 action on a loan made to an owner or operator of:

14 (A) a cannabis-related legitimate business
15 solely because the owner or operator owns or
16 operates a cannabis-related legitimate business;
17 or

18 (B) real estate or equipment that is leased to
19 a cannabis-related legitimate business solely
20 because the owner or operator of the real estate
21 or equipment leased the equipment or real estate
22 to a cannabis-related legitimate business.

23 (Source: P.A. 102-858, eff. 5-13-22; 103-154, eff. 6-30-23;
24 103-1034, eff. 8-9-24.)

25 Section 20. The Criminal Code of 2012 is amended by

1 changing Section 17-1b as follows:

2 (720 ILCS 5/17-1b)

3 Sec. 17-1b. State's Attorney's bad check diversion
4 program.

5 (a) In this Section:

6 "Offender" means a person charged with, or for whom
7 probable cause exists to charge the person with, deceptive
8 practices.

9 "Pretrial diversion" means the decision of a prosecutor to
10 refer an offender to a diversion program on condition that the
11 criminal charges against the offender will be dismissed after
12 a specified period of time, or the case will not be charged, if
13 the offender successfully completes the program.

14 "Restitution" means all amounts payable to a victim of
15 deceptive practices under the bad check diversion program
16 created under this Section, including the amount of the check
17 and any transaction fees payable to a victim as set forth in
18 subsection (g) but does not include amounts recoverable under
19 ~~Section 3-806 of the Uniform Commercial Code and~~ subsection
20 (E) of Section 17-1 of this Code.

21 (b) A State's Attorney may create within his or her office
22 a bad check diversion program for offenders who agree to
23 voluntarily participate in the program instead of undergoing
24 prosecution. The program may be conducted by the State's
25 Attorney or by a private entity under contract with the

1 State's Attorney. If the State's Attorney contracts with a
2 private entity to perform any services in operating the
3 program, the entity shall operate under the supervision,
4 direction, and control of the State's Attorney. Any private
5 entity providing services under this Section is not a
6 "collection agency" as that term is defined under the
7 Collection Agency Act.

8 (c) If an offender is referred to the State's Attorney,
9 the State's Attorney may determine whether the offender is
10 appropriate for acceptance in the program. The State's
11 Attorney may consider, but shall not be limited to
12 consideration of, the following factors:

- 13 (1) the amount of the check that was drawn or passed;
- 14 (2) prior referrals of the offender to the program;
- 15 (3) whether other charges of deceptive practices are
16 pending against the offender;
- 17 (4) the evidence presented to the State's Attorney
18 regarding the facts and circumstances of the incident;
- 19 (5) the offender's criminal history; and
- 20 (6) the reason the check was dishonored by the
21 financial institution.

22 (d) The bad check diversion program may require an
23 offender to do one or more of the following:

- 24 (i) pay for, at his or her own expense, and
25 successfully complete an educational class held by the
26 State's Attorney or a private entity under contract with

1 the State's Attorney;

2 (ii) make full restitution for the offense;

3 (iii) pay a per-check administrative fee as set forth
4 in this Section.

5 (e) If an offender is diverted to the program, the State's
6 Attorney shall agree in writing not to prosecute the offender
7 upon the offender's successful completion of the program
8 conditions. The State's Attorney's agreement to divert the
9 offender shall specify the offenses that will not be
10 prosecuted by identifying the checks involved in the
11 transactions.

12 (f) The State's Attorney, or private entity under contract
13 with the State's Attorney, may collect a fee from an offender
14 diverted to the State's Attorney's bad check diversion
15 program. This fee may be deposited in a bank account
16 maintained by the State's Attorney for the purpose of
17 depositing fees and paying the expenses of the program or for
18 use in the enforcement and prosecution of criminal laws. The
19 State's Attorney may require that the fee be paid directly to a
20 private entity that administers the program under a contract
21 with the State's Attorney. The amount of the administrative
22 fees collected by the State's Attorney under the program may
23 not exceed \$35 per check. The county board may, however, by
24 ordinance, increase the fees allowed by this Section if the
25 increase is justified by an acceptable cost study showing that
26 the fees allowed by this Section are not sufficient to cover

1 the cost of providing the service.

2 (g) (1) The private entity shall be required to maintain
3 adequate general liability insurance of \$1,000,000 per
4 occurrence as well as adequate coverage for potential loss
5 resulting from employee dishonesty. The State's Attorney
6 may require a surety bond payable to the State's Attorney
7 if in the State's Attorney's opinion it is determined that
8 the private entity is not adequately insured or funded.

9 (2) (A) Each private entity that has a contract with
10 the State's Attorney to conduct a bad check diversion
11 program shall at all times maintain a separate bank
12 account in which all moneys received from the
13 offenders participating in the program shall be
14 deposited, referred to as a "trust account", except
15 that negotiable instruments received may be forwarded
16 directly to a victim of the deceptive practice
17 committed by the offender if that procedure is
18 provided for by a writing executed by the victim.
19 Moneys received shall be so deposited within 5
20 business days after posting to the private entity's
21 books of account. There shall be sufficient funds in
22 the trust account at all times to pay the victims the
23 amount due them.

24 (B) The trust account shall be established in a
25 financial institution which is federally or State
26 insured or otherwise secured as defined by rule. If

1 the account is interest bearing, the private entity
2 shall pay to the victim interest earned on funds on
3 deposit after the 60th day.

4 (C) Each private entity shall keep on file the
5 name of the financial institution in which each trust
6 account is maintained, the name of each trust account,
7 and the names of the persons authorized to withdraw
8 funds from each account. The private entity, within 30
9 days of the time of a change of depository or person
10 authorized to make withdrawal, shall update its files
11 to reflect that change. An examination and audit of a
12 private entity's trust accounts may be made by the
13 State's Attorney as the State's Attorney deems
14 appropriate. A trust account financial report shall be
15 submitted annually on forms acceptable to the State's
16 Attorney.

17 (3) The State's Attorney may cancel a contract entered
18 into with a private entity under this Section for any one
19 or any combination of the following causes:

20 (A) Conviction of the private entity or the
21 principals of the private entity of any crime under
22 the laws of any U.S. jurisdiction which is a felony, a
23 misdemeanor an essential element of which is
24 dishonesty, or of any crime which directly relates to
25 the practice of the profession.

26 (B) A determination that the private entity has

1 engaged in conduct prohibited in item (4).

2 (4) The State's Attorney may determine whether the
3 private entity has engaged in the following prohibited
4 conduct:

5 (A) Using or threatening to use force or violence
6 to cause physical harm to an offender, his or her
7 family, or his or her property.

8 (B) Threatening the seizure, attachment, or sale
9 of an offender's property where such action can only
10 be taken pursuant to court order without disclosing
11 that prior court proceedings are required.

12 (C) Disclosing or threatening to disclose
13 information adversely affecting an offender's
14 reputation for creditworthiness with knowledge the
15 information is false.

16 (D) Initiating or threatening to initiate
17 communication with an offender's employer unless there
18 has been a default of the payment of the obligation for
19 at least 30 days and at least 5 days prior written
20 notice, to the last known address of the offender, of
21 the intention to communicate with the employer has
22 been given to the employee, except as expressly
23 permitted by law or court order.

24 (E) Communicating with the offender or any member
25 of the offender's family at such a time of day or night
26 and with such frequency as to constitute harassment of

1 the offender or any member of the offender's family.
2 For purposes of this clause (E) the following conduct
3 shall constitute harassment:

4 (i) Communicating with the offender or any
5 member of his or her family at any unusual time or
6 place or a time or place known or which should be
7 known to be inconvenient to the offender. In the
8 absence of knowledge of circumstances to the
9 contrary, a private entity shall assume that the
10 convenient time for communicating with a consumer
11 is after 8 o'clock a.m. and before 9 o'clock p.m.
12 local time at the offender's residence.

13 (ii) The threat of publication or publication
14 of a list of offenders who allegedly refuse to pay
15 restitution, except by the State's Attorney.

16 (iii) The threat of advertisement or
17 advertisement for sale of any restitution to
18 coerce payment of the restitution.

19 (iv) Causing a telephone to ring or engaging
20 any person in telephone conversation repeatedly or
21 continuously with intent to annoy, abuse, or
22 harass any person at the called number.

23 (v) Using profane, obscene or abusive language
24 in communicating with an offender, his or her
25 family, or others.

26 (vi) Disclosing or threatening to disclose

1 information relating to a offender's case to any
2 other person except the victim and appropriate law
3 enforcement personnel.

4 (vii) Disclosing or threatening to disclose
5 information concerning the alleged criminal act
6 which the private entity knows to be reasonably
7 disputed by the offender without disclosing the
8 fact that the offender disputes the accusation.

9 (viii) Engaging in any conduct which the
10 State's Attorney finds was intended to cause and
11 did cause mental or physical illness to the
12 offender or his or her family.

13 (ix) Attempting or threatening to enforce a
14 right or remedy with knowledge or reason to know
15 that the right or remedy does not exist.

16 (x) Except as authorized by the State's
17 Attorney, using any form of communication which
18 simulates legal or judicial process or which gives
19 the appearance of being authorized, issued or
20 approved by a governmental agency or official or
21 by an attorney at law when it is not.

22 (xi) Using any badge, uniform, or other
23 indicia of any governmental agency or official,
24 except as authorized by law or by the State's
25 Attorney.

26 (xii) Except as authorized by the State's

1 Attorney, conducting business under any name or in
2 any manner which suggests or implies that the
3 private entity is bonded if such private entity is
4 or is a branch of or is affiliated with any
5 governmental agency or court if such private
6 entity is not.

7 (xiii) Misrepresenting the amount of the
8 restitution alleged to be owed.

9 (xiv) Except as authorized by the State's
10 Attorney, representing that an existing
11 restitution amount may be increased by the
12 addition of attorney's fees, investigation fees,
13 or any other fees or charges when those fees or
14 charges may not legally be added to the existing
15 restitution.

16 (xv) Except as authorized by the State's
17 Attorney, representing that the private entity is
18 an attorney at law or an agent for an attorney if
19 the entity is not.

20 (xvi) Collecting or attempting to collect any
21 interest or other charge or fee in excess of the
22 actual restitution or claim unless the interest or
23 other charge or fee is expressly authorized by the
24 State's Attorney, who shall determine what
25 constitutes a reasonable collection fee.

26 (xvii) Communicating or threatening to

1 communicate with an offender when the private
2 entity is informed in writing by an attorney that
3 the attorney represents the offender concerning
4 the claim, unless authorized by the attorney. If
5 the attorney fails to respond within a reasonable
6 period of time, the private entity may communicate
7 with the offender. The private entity may
8 communicate with the offender when the attorney
9 gives his consent.

10 (xviii) Engaging in dishonorable, unethical,
11 or unprofessional conduct of a character likely to
12 deceive, defraud, or harm the public.

13 (5) The State's Attorney shall audit the accounts of
14 the bad check diversion program after notice in writing to
15 the private entity.

16 (6) Any information obtained by a private entity that
17 has a contract with the State's Attorney to conduct a bad
18 check diversion program is confidential information
19 between the State's Attorney and the private entity and
20 may not be sold or used for any other purpose but may be
21 shared with other authorized law enforcement agencies as
22 determined by the State's Attorney.

23 (h) The State's Attorney, or private entity under contract
24 with the State's Attorney, shall recover, in addition to the
25 face amount of the dishonored check or draft, a transaction
26 fee to defray the costs and expenses incurred by a victim who

1 received a dishonored check that was made or delivered by the
2 offender. The face amount of the dishonored check or draft and
3 the transaction fee shall be paid by the State's Attorney or
4 private entity under contract with the State's Attorney to the
5 victim as restitution for the offense. The amount of the
6 transaction fee must not exceed: \$25 if the face amount of the
7 check or draft does not exceed \$100; \$30 if the face amount of
8 the check or draft is greater than \$100 but does not exceed
9 \$250; \$35 if the face amount of the check or draft is greater
10 than \$250 but does not exceed \$500; \$40 if the face amount of
11 the check or draft is greater than \$500 but does not exceed
12 \$1,000; and \$50 if the face amount of the check or draft is
13 greater than \$1,000.

14 (i) The offender, if aggrieved by an action of the private
15 entity contracted to operate a bad check diversion program,
16 may submit a grievance to the State's Attorney who may then
17 resolve the grievance. The private entity must give notice to
18 the offender that the grievance procedure is available. The
19 grievance procedure shall be established by the State's
20 Attorney.

21 (Source: P.A. 95-41, eff. 1-1-08; 96-1551, eff. 7-1-11.)

22 (810 ILCS 5/3-806 rep.)

23 Section 25. The Uniform Commercial Code is amended by
24 repealing Section 3-806.

1 Section 30. The Interest Act is amended by changing
2 Section 4.1a as follows:

3 (815 ILCS 205/4.1a) (from Ch. 17, par. 6406)

4 Sec. 4.1a. Charges for and cost of the following items
5 paid or incurred by any lender in connection with any loan
6 shall not be deemed to be charges for or in connection with any
7 loan of money referred to in Section 6 of this Act, or charges
8 by the lender as a consideration for the loan referred to in
9 this Section:

10 (a) hazard, mortgage or life insurance premiums,
11 survey, credit report, title insurance, abstract and
12 attorneys' fees, recording charges, escrow and appraisal
13 fees, and similar charges.

14 (b) in the case of construction loans, in addition to
15 the matters referred to in clause (a) above, the actual
16 cost incurred by the lender for services for making
17 physical inspections, processing payouts, examining and
18 reviewing contractors' and subcontractors' sworn
19 statements and waivers of lien and the like.

20 (c) in the case of any loan made pursuant to the
21 provisions of the Emergency Home Purchase Assistance Act
22 of 1974 (Section 313 of the National Housing Act, Chapter
23 B of Title 12 of the United States Code), in addition to
24 the matters referred to in paragraphs (a) and (b) of this
25 Section all charges required or allowed by the Government

1 National Mortgage Association, whether designated as
2 processing fees, commitment fees, loss reserve and
3 marketing fees, discounts, origination fees or otherwise
4 designated.

5 (d) in the case of a single payment loan, made for a
6 period of 6 months or less, a regulated financial
7 institution or licensed lender may contract for and
8 receive a maximum charge of \$15 in lieu of interest. Such
9 charge may be collected when the loan is made, but only one
10 such charge may be contracted for, received, or collected
11 for any such loan, including any extension or renewal
12 thereof.

13 (e) (blank). ~~if the agreement governing the loan so~~
14 ~~provides, a charge not to exceed the rate permitted under~~
15 ~~Section 3-806 of the Uniform Commercial Code Commercial~~
16 ~~Paper for any check, draft or order for the payment of~~
17 ~~money submitted in accordance with said agreement which is~~
18 ~~unpaid or not honored by a bank or other depository~~
19 ~~institution.~~

20 (f) if the agreement governing the loan so provides,
21 for each loan installment in default for a period of not
22 less than 10 days, a charge in an amount not in excess of
23 5% of such loan installment. Only one delinquency charge
24 may be collected on any such loan installment regardless
25 of the period during which it remains in default. Payments
26 timely received by the lender under a written extension or

1 deferral agreement shall not be subject to any delinquency
2 charge.

3 Notwithstanding items (k) and (l) of subsection (1) of
4 Section 4 of this Act, the lender, in the case of any nonexempt
5 residential mortgage loan, as defined in Section 1-4 of the
6 Residential Mortgage License Act of 1987, other than a high
7 risk home loan as defined in Section 10 of the High Risk Home
8 Loan Act, shall have the right to include a prepayment penalty
9 that extends no longer than the fixed rate period of a variable
10 rate mortgage provided that, if a prepayment is made during
11 the fixed rate period and not in connection with the sale or
12 destruction of the dwelling securing the loan, the lender
13 shall receive an amount that is no more than:

14 (1) 3% of the total loan amount if the prepayment is
15 made within the first 12-month period following the date
16 the loan was made;

17 (2) 2% of the total loan amount if the prepayment is
18 made within the second 12-month period following the date
19 the loan was made; or

20 (3) 1% of the total loan amount if the prepayment is
21 made within the third 12-month period following the date
22 the loan was made, if the fixed rate period extends 3
23 years.

24 This Section applies to loans made, refinanced, renewed,
25 extended, or modified on or after the effective date of this
26 amendatory Act of the 95th General Assembly.

1 Where there is a charge in addition to the stated rate of
2 interest payable directly or indirectly by the borrower and
3 imposed directly or indirectly by the lender as a
4 consideration for the loan, or for or in connection with the
5 loan of money, whether paid or payable by the borrower, the
6 seller, or any other person on behalf of the borrower to the
7 lender or to a third party, or for or in connection with the
8 loan of money, other than as hereinabove in this Section
9 provided, whether denominated "points," "service charge,"
10 "discount," "commission," or otherwise, and without regard to
11 declining balances of principal which would result from any
12 required or optional amortization of the principal of the
13 loan, the rate of interest shall be calculated in the
14 following manner:

15 The percentage of the principal amount of the loan
16 represented by all of such charges shall first be computed,
17 which in the case of a loan with an interest rate in excess of
18 8% per annum secured by residential real estate, other than
19 loans described in paragraphs (e) and (f) of Section 4, shall
20 not exceed 3% of such principal amount. Said percentage shall
21 then be divided by the number of years and fractions thereof of
22 the period of the loan according to its stated maturity. The
23 percentage thus obtained shall then be added to the percentage
24 of the stated annual rate of interest.

25 (Source: P.A. 97-849, eff. 1-10-14 (see Section 10 of P.A.
26 97-1159, 78 Fed. Reg. 6855, 6857, 78 Fed. Reg. 10695, 10696,

1 and 78 Fed. Reg. 44685, 44686).)