

# SB2318



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

SB2318

Introduced 2/7/2025, by Sen. Laura Ellman

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/46

from Ch. 17, par. 357

Amends the Illinois Banking Act. In provisions concerning the penalty for misleading practices and names, changes the civil penalty that may be imposed to the maximum amount otherwise permitted under specified provisions, \$100,000 for each violation (rather than \$10,000 for each violation). Provides that the remedies provided in those provisions are in addition to, not to the exclusion of, any other remedies available under the law. Defines terms. Makes other changes.

LRB104 11891 BAB 21982 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing  
5 Section 46 as follows:

6 (205 ILCS 5/46) (from Ch. 17, par. 357)

7 Sec. 46. Misleading practices and names prohibited;  
8 penalty.

9 (a) No person, firm, partnership, or corporation that is  
10 not a bank shall transact business in this State in a manner  
11 which has a substantial likelihood of misleading the public by  
12 implying that the business is a bank, or shall use the word  
13 "bank", "banker", or "banking" in connection with the  
14 business. Any person, firm, partnership or corporation  
15 violating this Section shall be deemed guilty of a Class A  
16 misdemeanor, and the Attorney General or State's Attorney of  
17 the county in which any such violation occurs may restrain  
18 such violation by a complaint for injunctive relief.

19 (b) If the Commissioner is of the opinion and finds that a  
20 person, firm, partnership, or corporation that is not a bank  
21 has transacted or intends to transact business in this State  
22 in a manner which has a substantial likelihood of misleading  
23 the public by implying that the business is a bank, or has used

1 or intends to use the word "bank", "banker", or "banking" in  
2 connection with the business, then the Commissioner may direct  
3 that person, firm, partnership, or corporation to cease and  
4 desist from transacting the business or using the word "bank",  
5 "banker", or "banking". If that person, firm, partnership, or  
6 corporation persists in transacting the business or using the  
7 word "bank", "banker", or "banking", then the Commissioner may  
8 impose a civil penalty of up to the maximum amount permitted  
9 under paragraph (8) of Section 48 of this Act ~~\$10,000~~ for each  
10 violation. Each day that the person, firm, partnership, or  
11 corporation continues transacting the business or using the  
12 word "bank", "banker", or "banking" in connection with the  
13 business shall constitute a separate violation of these  
14 provisions.

15 (c) A person, firm, partnership, or corporation that is  
16 not a bank, and is not transacting or intending to transact  
17 business in this State in a manner that has a substantial  
18 likelihood of misleading the public by implying that such  
19 business is a bank, may apply to the Commissioner for  
20 permission to use the word "bank", "banker", or "banking" in  
21 connection with the business. If the Commissioner determines  
22 that there is no substantial likelihood of misleading the  
23 public, and upon such conditions as the Commissioner may  
24 impose to prevent the person, firm, partnership, or  
25 corporation from holding itself out in a misleading manner,  
26 then such person, firm, partnership, or corporation may use

1 the word "bank", "banker", or "banking".

2 (d) (1) Unless otherwise expressly permitted by law, no  
3 person, firm, partnership, or corporation may use the name of  
4 an existing bank when marketing to or soliciting business from  
5 customers or prospective customers if the reference to the  
6 existing bank is made without the consent of the existing  
7 bank.

8 (1.5) Unless otherwise expressly permitted by law, no  
9 person, firm, partnership, or corporation may use a name  
10 similar to that of an existing bank when marketing to or  
11 soliciting business from customers or prospective customers if  
12 the similar name is used in a manner that could cause a  
13 reasonable person to believe that the marketing material or  
14 solicitation originated from or is endorsed by the existing  
15 bank or that the existing bank is in any other way responsible  
16 for the marketing material or solicitation.

17 (2) An existing State bank may, ~~in addition to any other~~  
18 ~~remedies available under the law,~~ report an alleged violation  
19 of this subsection (d) to the Commissioner. If the  
20 Commissioner finds the marketing material or solicitation in  
21 question to be in violation of this subsection, the  
22 Commissioner may direct the person, firm, partnership, or  
23 corporation to cease and desist from using that marketing  
24 material or solicitation in Illinois. If that person, firm,  
25 partnership, or corporation persists in the use of the  
26 marketing material or solicitation, then the Commissioner may

1 impose a civil penalty of up to the maximum amount permitted  
2 under paragraph (8) of Section 48 of this Act ~~\$10,000~~ for each  
3 violation. Each instance in which the marketing material or  
4 solicitation is sent to a customer or prospective customer  
5 shall constitute a separate violation of these provisions. ~~The~~  
6 ~~Commissioner is authorized to promulgate rules to administer~~  
7 ~~these provisions.~~

8 (3) (Blank).

9 (e) The Commissioner is authorized to adopt rules to  
10 implement these provisions.

11 (f) The remedies provided in this Section are in addition  
12 to, not to the exclusion of, any other remedies available  
13 under the law.

14 (g) For purposes of this Section, the following words and  
15 phrases shall have the following meanings:

16 (1) "bank" means a State bank or an entity of which a  
17 substantial portion of its operations is the business of  
18 accepting deposits and which such deposits are insured, to  
19 the applicable limit, by the Federal Deposit Insurance  
20 Corporation or any successors thereto;

21 (2) "State bank" has the meaning stated in Section 2  
22 of this Act; and

23 (3) "transact business in Illinois" means offering or  
24 providing in any manner any product or service to a person  
25 located in Illinois; and

26 (4) "person" has the meaning stated in Section 2 of

1           this Act.

2           (Source: P.A. 92-476, eff. 8-23-01; 92-811, eff. 8-21-02.)