

1 AN ACT concerning regulation.

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

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

6 (205 ILCS 5/48)

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

16 (1) The Commissioner shall call for statements from all
17 State banks as provided in Section 47 at least one time
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 than
21 18 months following the preceding examination, shall
22 appoint a suitable person or persons to make an examination
23 of the affairs of every State bank, except that for every

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

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

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

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

1 State banks.

2 (2.5) Whenever any State bank, any subsidiary or
3 affiliate of a State bank, or after May 31, 1997, any
4 branch of an out-of-state bank causes to be performed, by
5 contract or otherwise, any bank services for itself,
6 whether on or off its premises:

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

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

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

1 similar functions performed for a State bank, including but
2 not limited to electronic data processing related to those
3 bank services.

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

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

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

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

1 if requested to do so within 30 days of the conclusion
2 of the monitoring period.

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

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

25 (b) "Fiscal year" for purposes of this Section 48
26 is defined as a period beginning July 1 of any year and

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

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

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

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

19 (d) The aggregate of all fees collected by the
20 Secretary under this Act, the Corporate Fiduciary Act,
21 or the Foreign Banking Office Act on and after July 1,
22 1979, shall be paid promptly after receipt of the same,
23 accompanied by a detailed statement thereof, into the
24 State treasury and shall be set apart in a special fund
25 to be known as the "Bank and Trust Company Fund",
26 except as provided in paragraph (c) of subsection (11)

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

23 Notwithstanding provisions in the State Finance
24 Act, as now or hereafter amended, or any other law to
25 the contrary, the sum of \$18,788,847 shall be
26 transferred from the Bank and Trust Company Fund to the

1 Financial Institutions Settlement of 2008 Fund on the
2 effective date of this amendatory Act of the 95th
3 General Assembly, or as soon thereafter as practical.

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

25 (d-1) Adequate funds shall be available in the Bank
26 and Trust Company Fund to permit the timely payment of

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

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

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

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

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

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

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

17 (6) The Commissioner shall have the power:

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

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

26 (b) To issue orders against any person, if the

1 Commissioner has reasonable cause to believe that an
2 unsafe or unsound banking practice has occurred, is
3 occurring, or is about to occur, if any person has
4 violated, is violating, or is about to violate any law,
5 rule, or written agreement with the Commissioner, or
6 for the purpose of administering the provisions of this
7 Act and any rule promulgated in accordance with this
8 Act.

9 (b-1) To enter into agreements with a bank
10 establishing a program to correct the condition of the
11 bank or its practices.

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

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

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

3 (e) To conduct hearings.

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

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

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

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

16 (7.5) Notwithstanding the provisions of this Section,
17 the Secretary shall not:

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

23 (2) prohibit, penalize, or otherwise discourage a
24 State bank or any subsidiary from providing financial
25 services to a cannabis-related legitimate business
26 solely because the entity provides or has provided

1 financial services to a cannabis-related legitimate
2 business;

3 (3) recommend, incentivize, or encourage a State
4 bank or any subsidiary not to offer financial services
5 to an account holder or to downgrade or cancel the
6 financial services offered to an account holder solely
7 because:

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

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

14 (C) the State bank or any subsidiary was not
15 aware that the account holder is the owner or
16 operator of a cannabis-related legitimate
17 business; and

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

20 (A) a cannabis-related legitimate business
21 solely because the owner or operator owns or
22 operates a cannabis-related legitimate business;
23 or

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

1 equipment leased the equipment or real estate to a
2 cannabis-related legitimate business.

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

9 (9) The Commissioner may impose civil penalties of up
10 to \$100 against any person for the first failure to comply
11 with reporting requirements set forth in the report of
12 examination of the bank and up to \$200 for the second and
13 subsequent failures to comply with those reporting
14 requirements.

15 (10) All final administrative decisions of the
16 Commissioner hereunder shall be subject to judicial review
17 pursuant to the provisions of the Administrative Review
18 Law. For matters involving administrative review, venue
19 shall be in either Sangamon County or Cook County.

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

23 (a) (Blank).

24 (b) The Foundation is empowered to receive
25 voluntary contributions, gifts, grants, bequests, and
26 donations on behalf of the Illinois Bank Examiners'

1 Education Foundation from national banks and other
2 persons for the purpose of funding the endowment of the
3 Illinois Bank Examiners' Education Foundation.

4 (c) The aggregate of all special educational fees
5 collected by the Secretary and property received by the
6 Secretary on behalf of the Illinois Bank Examiners'
7 Education Foundation under this subsection (11) on or
8 after June 30, 1986, shall be either (i) promptly paid
9 after receipt of the same, accompanied by a detailed
10 statement thereof, into the State Treasury and shall be
11 set apart in a special fund to be known as "The
12 Illinois Bank Examiners' Education Fund" to be
13 invested by either the Treasurer of the State of
14 Illinois in the Public Treasurers' Investment Pool or
15 in any other investment he is authorized to make or by
16 the Illinois State Board of Investment as the State
17 Banking Board of Illinois may direct or (ii) deposited
18 into an account maintained in a commercial bank or
19 corporate fiduciary in the name of the Illinois Bank
20 Examiners' Education Foundation pursuant to the order
21 and direction of the Board of Trustees of the Illinois
22 Bank Examiners' Education Foundation.

23 (12) (Blank).

24 (13) The Secretary may borrow funds from the General
25 Revenue Fund on behalf of the Bank and Trust Company Fund
26 if the Director of Banking certifies to the Governor that

1 there is an economic emergency affecting banking that
2 requires a borrowing to provide additional funds to the
3 Bank and Trust Company Fund. The borrowed funds shall be
4 paid back within 3 years and shall not exceed the total
5 funding appropriated to the Agency in the previous year.

6 (14) In addition to the fees authorized in this Act,
7 the Secretary may assess reasonable receivership fees
8 against any State bank that does not maintain insurance
9 with the Federal Deposit Insurance Corporation. All fees
10 collected under this subsection (14) shall be paid into the
11 Non-insured Institutions Receivership account in the Bank
12 and Trust Company Fund, as established by the Secretary.
13 The fees assessed under this subsection (14) shall provide
14 for the expenses that arise from the administration of the
15 receivership of any such institution required to pay into
16 the Non-insured Institutions Receivership account, whether
17 pursuant to this Act, the Corporate Fiduciary Act, the
18 Foreign Banking Office Act, or any other Act that requires
19 payments into the Non-insured Institutions Receivership
20 account. The Secretary may establish by rule a reasonable
21 manner of assessing fees under this subsection (14).

22 (Source: P.A. 99-39, eff. 1-1-16; 100-22, eff. 1-1-18.)

23 Section 10. The Illinois Credit Union Act is amended by
24 changing Section 8 as follows:

1 (205 ILCS 305/8) (from Ch. 17, par. 4409)

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

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

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

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

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

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

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

1 substantial financial loss or other damage that seriously
2 prejudices the interests of the 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 rule
9 adopted in accordance with this Act, or any order
10 of the Secretary issued pursuant to his or her
11 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 item (6) or an unsafe and unsound practice under
21 subparagraph (ii) of paragraph (A) of 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 or
13 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 in
20 writing of the:

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

23 (ii) the 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, based
 9 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 \$50
 15 million and less than \$100 million \$5,000

16 (iv) Credit unions with assets of at least \$100
 17 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 IL. 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 examination;
14 and taking supervisory actions.

15 (8) To destroy, in his discretion, any or all books and
16 records of any credit union in his possession or under his
17 control after the expiration of three years from the date
18 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 the
22 methods and benefits of cooperative saving and lending for
23 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 organized
16 under this Act for unsafe or unsound banking practices
17 solely because the entity provides or has provided
18 financial services to a cannabis-related legitimate
19 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 services
2 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 of
5 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 or
21 equipment leased the equipment or real estate to a
22 cannabis-related legitimate business.

23 (Source: P.A. 97-133, eff. 1-1-12; 98-400, eff. 8-16-13.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.