

1 AN ACT concerning banking.

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  
5 changing Section 17 as follows:

6 (205 ILCS 5/17) (from Ch. 17, par. 324)

7 Sec. 17. Changes in charter.

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

10 (1) (blank);

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

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

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

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

30 (6) (blank);

31 (7) eliminate cumulative voting rights under all or

1 specified circumstances, or eliminate voting rights  
2 entirely, as to any class or classes or series of stock  
3 of the bank pursuant to paragraph (3) of Section 15,  
4 provided that one class of shares or series thereof shall  
5 always have voting in respect to all matters in the bank,  
6 and provided further that the proposal to eliminate such  
7 voting rights receives the approval of the holders of 70%  
8 of the outstanding shares of stock entitled to vote as  
9 provided in paragraph (7) of subsection (b) of this  
10 Section 17;

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

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

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

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

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

31 (3) At such special meeting, a vote of the  
32 stockholders entitled to vote shall be taken on the  
33 proposed amendment. Except as provided in paragraph (7)  
34 of this subsection (b), the proposed amendment shall be

1 adopted upon receiving the affirmative vote of the  
2 holders of at least two-thirds of the outstanding shares  
3 of stock entitled to vote at such meeting, unless holders  
4 of preferred stock are entitled to vote as a class in  
5 respect thereof, in which event the proposed amendment  
6 shall be adopted upon receiving the affirmative vote of  
7 the holders of at least two-thirds of the outstanding  
8 shares of each class of shares entitled to vote as a  
9 class in respect thereof and of the total outstanding  
10 shares entitled to vote at such meeting. Any number of  
11 amendments may be submitted to the stockholders and voted  
12 upon by them at one meeting. A certificate of the  
13 amendment, or amendments, verified by the president, or a  
14 vice-president, or the cashier, shall be filed  
15 immediately in the office of the Commissioner.

16 (4) At any annual meeting without a resolution of  
17 the board of directors and without a notice and prior  
18 publication, as hereinabove provided, a proposition for a  
19 change in the bank's charter as provided for in this  
20 Section 17 may be submitted to a vote of the stockholders  
21 entitled to vote at the annual meeting, except that no  
22 proposition for authorized but unissued capital stock  
23 reserved for issuance for one or more of the purposes  
24 provided for in subsection (5) of Section 14 hereof shall  
25 be submitted without complying with the provisions of  
26 said subsection. The proposed amendment shall be adopted  
27 upon receiving the affirmative vote of the holders of at  
28 least two-thirds of the outstanding shares of stock  
29 entitled to vote at such meeting, unless holders of  
30 preferred stock are entitled to vote as a class in  
31 respect thereof, in which event the proposed amendment  
32 shall be adopted upon receiving the affirmative vote of  
33 the holders of at least two-thirds of the outstanding  
34 shares of each class of shares entitled to vote as a

1 class in respect thereof and the total outstanding shares  
2 entitled to vote at such meeting. A certificate of the  
3 amendment, or amendments, verified by the president, or a  
4 vice-president or cashier, shall be filed immediately in  
5 the office of the Commissioner.

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

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

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

1 receiving the approval of the holders of 70% of the  
2 outstanding shares of each class of shares entitled to  
3 vote as a class in respect thereof and of the total  
4 outstanding shares entitled to vote at the meeting where  
5 the proposal is presented for approval. The proposal to  
6 amend the charter pursuant to this paragraph (7) may be  
7 voted upon at the annual meeting or a special meeting.

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

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

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

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

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

33 (E) A summary of the opinion including the  
34 basis for and the methods of arriving at the

1 findings and any limitation imposed by the bank in  
2 arriving at fair value and a statement making the  
3 opinion available for reviewing or copying by any  
4 stockholder.

5 (F) A statement that objecting stockholders  
6 will be entitled to the fair value of those shares  
7 that are voted against the charter amendment, if a  
8 proper demand is made on the bank and the  
9 requirements are satisfied as specified in this  
10 Section.

11 If a stockholder shall file with the bank, prior to or at the  
12 meeting of stockholders at which the proposed charter  
13 amendment is submitted to a vote, a written objection to the  
14 proposed charter amendment and shall not vote in favor  
15 thereof, and if the stockholder, within 20 days after  
16 receiving written notice of the date the charter amendment  
17 was accomplished pursuant to paragraph (5) of subsection (a)  
18 of this Section 17, shall make written demand on the bank for  
19 payment of the fair value of the stockholder's shares as of  
20 the day prior to the date on which the vote was taken  
21 approving the charter amendment, the bank shall pay to the  
22 stockholder, upon surrender of the certificate or  
23 certificates representing the stock, the fair value thereof.  
24 The demand shall state the number of shares owned by the  
25 objecting stockholder. The bank shall provide written notice  
26 of the date on which the charter amendment was accomplished  
27 to all stockholders who have filed written objections in  
28 order that the objecting stockholders may know when they must  
29 file written demand if they choose to do so. Any stockholder  
30 failing to make demand within the 20-day period shall be  
31 conclusively presumed to have consented to the charter  
32 amendment and shall be bound by the terms thereof. If within  
33 30 days after the date on which a charter amendment was  
34 accomplished the value of the shares is agreed upon between

1 the objecting stockholders and the bank, payment therefor  
2 shall be made within 90 days after the date on which the  
3 charter amendment was accomplished, upon the surrender of the  
4 stockholder's certificate or certificates representing the  
5 shares. Upon payment of the agreed value the objecting  
6 stockholder shall cease to have any interest in the shares or  
7 in the bank. If within such period of 30 days the  
8 stockholder and the bank do not so agree, then the objecting  
9 stockholder may, within 60 days after the expiration of the  
10 30-day period, file a complaint in the circuit court asking  
11 for a finding and determination of the fair value of the  
12 shares, and shall be entitled to judgment against the bank  
13 for the amount of the fair value as of the day prior to the  
14 date on which the vote was taken approving the charter  
15 amendment with interest thereon to the date of the judgment.  
16 The practice, procedure and judgment shall be governed by the  
17 Civil Practice Law. The judgment shall be payable only upon  
18 and simultaneously with the surrender to the bank of the  
19 certificate or certificates representing the shares. Upon  
20 payment of the judgment, the objecting stockholder shall  
21 cease to have any interest in the shares or the bank. The  
22 shares may be held and disposed of by the bank. Unless the  
23 objecting stockholder shall file such complaint within the  
24 time herein limited, the stockholder and all persons claiming  
25 under the stockholder shall be conclusively presumed to have  
26 approved and ratified the charter amendment, and shall be  
27 bound by the terms thereof. The right of an objecting  
28 stockholder to be paid the fair value of the stockholder's  
29 shares of stock as herein provided shall cease if and when  
30 the bank shall abandon the charter amendment.

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

1 capital stock.

2 (d) A State bank may amend its charter for the purpose  
3 of authorizing its board of directors to issue preferred  
4 stock; to increase, decrease, or change the par value of  
5 shares of its preferred stock, whether issued or unissued; or  
6 to increase, decrease, or change the preferences,  
7 qualifications, limitations, restrictions, or special or  
8 relative rights of its preferred stock, whether issued or  
9 unissued; provided that in no case shall the capital be  
10 diminished to the prejudice of the bank's creditors. An  
11 amendment to the bank's charter granting such authority shall  
12 establish ranges, limits, or restrictions that must be  
13 observed when the board exercises the discretion authorized  
14 by the amendment.

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

26 A resolution adopted by the board under this authority  
27 shall be submitted to the Commissioner for approval. The  
28 Commissioner shall approve the resolution, or state any  
29 objections to the resolution, within 30 days after the  
30 receipt of the resolution adopted by the board. If no  
31 objections are specified by the Commissioner within that time  
32 frame, the resolution will be deemed to be approved by the  
33 Commissioner. Once approved, the resolution shall be  
34 incorporated as an addendum to the bank's charter and the



1 board may proceed to effect the changes set forth in the  
2 resolution.

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

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.