

1 AN ACT in relation to 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 adding
5 Section 6.5 as follows:

6 (205 ILCS 5/6.5 new)

7 Sec. 6.5. Reliance on power of attorney; notice to
8 customer.

9 (a) Within 10 days after a bank acts in reliance upon a
10 written power of attorney naming a bank customer as the
11 principal, the bank shall notify the customer in writing of
12 the reliance. The notice shall be mailed to the customer at
13 the customer's address, as set forth in the bank's records,
14 and shall set forth sufficient information to allow the
15 customer to identify the transaction and must include a copy
16 of the power of attorney.

17 (b) The customer must examine the notice to determine
18 whether any transaction was not authorized because of an
19 alteration of the power of attorney or because a purported
20 signature by or on behalf of the customer was not authorized.
21 Within 10 days after receipt of the notice made pursuant to
22 subsection (a), the customer must notify the bank of any
23 unauthorized transaction discovered or that should have been
24 discovered from an examination of the notice.

25 (c) If the bank proves that the customer failed, with
26 respect to a transaction disclosed in a notice, to comply
27 with the duties imposed on the customer by subsection (b),
28 the customer is precluded from asserting a claim against the
29 bank based upon:

30 (1) the customer's unauthorized signature or any
31 alteration of the power of attorney, if the bank also

1 proves that it suffered a loss by reason of the failure;
2 and

3 (2) the customer's unauthorized signature or
4 alteration by the same wrongdoer on any other power of
5 attorney relied on in good faith by the bank if the
6 transaction was consummated before the bank received
7 notice from the customer of the unauthorized signature or
8 alteration.

9 (d) If subsection (c) applies and the customer proves
10 that the bank failed to exercise ordinary care in relying on
11 the power of attorney and that the failure substantially
12 contributed to loss, the loss is allocated between the
13 customer precluded and the bank asserting the preclusion
14 according to the extent to which the failure of the customer
15 to comply with subsection (c) and the failure of the bank to
16 exercise ordinary care contributed to the loss. If the
17 customer proves that the bank did not rely on the power of
18 attorney in good faith, the preclusion under subsection (c)
19 does not apply.