

1 AMENDMENT TO SENATE BILL 1053

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1053 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 17-24 and adding Article 16H as follows:

6 (720 ILCS 5/Art. 16H heading new)

7 ARTICLE 16H. ILLINOIS FINANCIAL CRIME LAW

8 (720 ILCS 5/16H-1 new)

9 Sec. 16H-1. Short title. This Article may be cited as  
10 the Illinois Financial Crime Act.

11 (720 ILCS 5/16H-5 new)

12 Sec. 16H-5. Legislative declaration. It is the public  
13 policy of this State that the substantial burden placed upon  
14 the economy of this State resulting from the rising incidence  
15 of financial crime is a matter of grave concern to the people  
16 of this State who have a right to be protected in their  
17 health, safety and welfare from the effects of this crime.

18 (720 ILCS 5/16H-10 new)

19 Sec. 16-10. Definitions. In this Article unless the

1 context otherwise requires:

2 (a) "Financial crime" means an offense described in this  
3 Article.

4 (b) "Financial institution" means any bank, savings  
5 bank, savings and loan association, credit union, trust  
6 company, or other depository of money, or medium of savings  
7 and collective investment.

8 (720 ILCS 5/16H-15 new)

9 Sec. 16H-15. Misappropriation of financial institution  
10 property. A person commits the offense of misappropriation of  
11 a financial institution's property whenever the person  
12 knowingly misappropriates, embezzles, abstracts, purloins or  
13 willfully misapplies any of the moneys, funds or credits of  
14 such financial institution, or any moneys, funds, assets or  
15 securities entrusted to the custody or care of such financial  
16 institution, or to the custody or care of any agent, officer,  
17 director, or employee of such financial institution.

18 (new 720 ILCS 5/16H-20)

19 Sec. 16H-20. Commercial bribery involving a financial  
20 institution.

21 (a) A person commits the offense of commercial bribery  
22 involving a financial institution when the person confers or  
23 offers or agrees to confer any benefit upon any employee,  
24 agent, or fiduciary without the consent of the latter's  
25 employer or principal, with intent to influence his or her  
26 conduct in relation to his or her employer's or principal's  
27 affairs.

28 (b) An employee, agent, or fiduciary of a financial  
29 institution commits the offense of commercial bribery of a  
30 financial institution when, without the consent of his or her  
31 employer or principal, he or she solicits, accepts, or agrees  
32 to accept any benefit from another person upon an agreement

1 or understanding that such benefit will influence his or her  
2 conduct in relation to his or her employer's or principal's  
3 affairs.

4 (720 ILCS 5/16H-25 new)

5 Sec. 16H-25. Financial institution fraud. A person  
6 commits the offense of financial institution fraud when the  
7 person knowingly executes or attempts to execute a scheme or  
8 artifice:

9 (1) to defraud a financial institution; or

10 (2) to obtain any of the moneys, funds, credits, assets,  
11 securities, or other property owned by or under the custody  
12 or control of a financial institution, by means of pretenses,  
13 representations, or promises he or she knows to be false.

14 For the purposes of this Section, "scheme or artifice to  
15 defraud" includes a scheme or artifice to deprive a financial  
16 institution of the intangible right to honest services.

17 (720 ILCS 5/16H-30 new)

18 Sec. 16H-30. Loan fraud. A person commits the offense of  
19 loan fraud when the person knowingly, with intent to defraud,  
20 makes any false statement or report, or willfully overvalues  
21 any land, property or security, for the purpose of  
22 influencing in any way the action of a financial institution  
23 to act upon any application, advance, discount, purchase,  
24 purchase agreement, repurchase agreement, commitment, or  
25 loan, or any change or extension of any of the same, by  
26 renewal, deferment of action or otherwise, or the acceptance,  
27 release, or substitution of security.

28 (720 ILCS 5/16H-35 new)

29 Sec. 16H-35. Concealment of collateral. A person commits  
30 the offense of concealment of collateral when the person,  
31 with intent to defraud, knowingly conceals, removes, disposes

1 of, or converts to the person's own use or to that of  
2 another, any property mortgaged or pledged to or held by a  
3 financial institution.

4 (720 ILCS 5/16H-40 new)

5 Sec. 16H-40. Financial institution robbery. A person  
6 commits the offense of financial institution robbery when the  
7 person, by force or threat of force, or by intimidation,  
8 takes, or attempts to take, from the person or presence of  
9 another, or obtains or attempts to obtain by extortion, any  
10 property or money or any other thing of value belonging to,  
11 or in the care, custody, control, management, or possession  
12 of, a financial institution.

13 (720 ILCS 5/16H-45 new)

14 Sec. 16H-45. Conspiracy to commit a financial crime.

15 (a) A person commits the offense of a conspiracy to  
16 commit a financial crime when, with the intent that a  
17 violation of this Article be committed, the person agrees  
18 with another person to the commission of that offense.

19 (b) No person may be convicted of conspiracy to commit a  
20 financial crime unless an overt act or acts in furtherance of  
21 the agreement is alleged and proved to have been committed by  
22 that person or by a co-conspirator and the accused is a part  
23 of a common scheme or plan to engage in the unlawful  
24 activity.

25 (c) It shall not be a defense to the offense of a  
26 conspiracy to commit a financial crime that the person or  
27 persons with whom the accused is alleged to have conspired:

- 28 (1) has not been prosecuted or convicted,
- 29 (2) has been convicted of a different offense,
- 30 (3) is not amenable to justice,
- 31 (4) has been acquitted, or
- 32 (5) lacked the capacity to commit the offense.

(720 ILCS 5/16H-50 new)

Sec. 16H-50. Continuing financial crimes enterprise. A person commits the offense of a continuing financial crimes enterprise when the person knowingly, within an 18 month period, commits 3 or more separate offenses under this Article, or, if involving a financial institution, any other felony offenses established under this Code.

(720 ILCS 5/16H-55 new)

Sec. 16H-55. Organizer of a continuing financial crimes enterprise.

(a) A person commits the offense of being an organizer of a continuing financial crimes enterprise when the person:

(1) with the intent to commit an offense under this Article, or, if involving a financial institution, any other felony offense established under this Code, agrees with another person to the commission of that offense on 3 or more separate occasions within an 18 month period, and

(2) with respect to the other persons within the conspiracy, occupies a position of organizer, supervisor, or financier or other position of management.

(b) The person with whom the accused agreed to commit the 3 or more offenses under this Article, or, if involving a financial institution, any other felony offenses established under this Code, need not be the same person or persons for each offense, as long as the accused was a part of the common scheme or plan to engage in each of the 3 or more alleged offenses.

(720 ILCS 5/16H-60 new)

Sec. 16H-60. Sentence.

(a) A financial crime, the full value of which does not exceed \$300, is a Class A misdemeanor.

1       (b) A person who has been convicted of a financial  
2 crime, the full value of which does not exceed \$300, and who  
3 has been previously convicted of a financial crime or any  
4 type of theft, robbery, armed robbery, burglary, residential  
5 burglary, possession of burglary tools, or home invasion, is  
6 guilty of a Class 4 felony. When a person has such prior  
7 conviction, the information or indictment charging that  
8 person shall state such prior conviction so as to give notice  
9 of the State's intention to treat the charge as a felony. The  
10 fact of such prior conviction is not an element of the  
11 offense and may not be disclosed to the jury during trial  
12 unless otherwise permitted by issues properly raised during  
13 such trial.

14       (c) A financial crime, the full value of which exceeds  
15 \$300 but does not exceed \$10,000, is a Class 3 felony. When a  
16 charge of financial crime, the full value of which exceeds  
17 \$300 but does not exceed \$10,000, is brought, the value of  
18 the financial crime involved is an element of the offense to  
19 be resolved by the trier of fact as either exceeding or not  
20 exceeding \$300.

21       (d) A financial crime, the full value of which exceeds  
22 \$10,000 but does not exceed \$100,000, is a Class 2 felony.  
23 When a charge of financial crime, the full value of which  
24 exceeds \$10,000 but does not exceed \$100,000, is brought, the  
25 value of the financial crime involved is an element of the  
26 offense to be resolved by the trier of fact as either  
27 exceeding or not exceeding \$10,000.

28       (e) A financial crime, the full value of which exceeds  
29 \$100,000, is a Class 1 felony. When a charge of financial  
30 crime, the full value of which exceeds \$100,000, is brought,  
31 the value of the financial crime involved is an element of  
32 the offense to be resolved by the trier of fact as either  
33 exceeding or not exceeding \$100,000.

34       (f) A financial crime which is a financial institution

1 robbery is a Class 1 felony.

2 (g) A financial crime which is a continuing financial  
3 crimes enterprise is a Class 1 felony.

4 (h) A financial crime which is the offense of being an  
5 organizer of a continuing financial crimes enterprise is a  
6 Class X felony.

7 (i) Notwithstanding any other provisions of this  
8 Section, a financial crime which is loan fraud in connection  
9 with a loan secured by residential real estate is a Class 4  
10 felony.

11 (720 ILCS 5/16H-65 new)

12 Sec. 16H-65. Period of limitations. The period of  
13 limitations for prosecution of any offense defined in this  
14 Article begins at the time when the last act in furtherance  
15 of the offense is committed.

16 (720 ILCS 5/17-24)

17 Sec. 17-24. Fraudulent schemes and artifices.

18 (a) Fraud by wire, radio, or television.

19 (1) A person commits wire fraud when he or she:

20 (A) devises or intends to devise a scheme or  
21 artifice to defraud or to obtain money or property  
22 by means of false pretenses, representations, or  
23 promises; and

24 (B) (i) transmits or causes to be transmitted  
25 from within this State; or

26 (ii) transmits or causes to be  
27 transmitted so that it is received by a person  
28 within this State; or

29 (iii) transmits or causes to be  
30 transmitted so that it is reasonably  
31 foreseeable that it will be accessed by a  
32 person within this State:

1 any writings, signals, pictures, sounds, or electronic or  
2 electric impulses by means of wire, radio, or television  
3 communications for the purpose of executing the scheme or  
4 artifice.

5 (2) A scheme or artifice to defraud using  
6 electronic transmissions is deemed to occur in the county  
7 from which a transmission is sent, if the transmission is  
8 sent from within this State, the county in which a person  
9 within this State receives the transmission, and the  
10 county in which a person who is within this State is  
11 located when the person accesses a transmission.

12 (3) Wire fraud is a Class 3 felony.

13 (b) Mail fraud.

14 (1) A person commits mail fraud when he or she:

15 (A) devises or intends to devise any scheme or  
16 artifice to defraud or to obtain money or property  
17 by means of false or fraudulent pretenses,  
18 representations or promises, or to sell, dispose of,  
19 loan, exchange, alter, give away, distribute,  
20 supply, or furnish or procure for unlawful use any  
21 counterfeit obligation, security, or other article,  
22 or anything represented to be or intimidated or held  
23 out to be such counterfeit or spurious article; and

24 (B) for the purpose of executing such scheme  
25 or artifice or attempting so to do, places in any  
26 post office or authorized depository for mail matter  
27 within this State, any matter or thing whatever to  
28 be delivered by the Postal Service, or deposits or  
29 causes to be deposited in this State by mail or by  
30 private or commercial carrier according to the  
31 direction on the matter or thing, or at the place at  
32 which it is directed to be delivered by the person  
33 to whom it is addressed, any such matter or thing.

34 (2) A scheme or artifice to defraud using a



1 government or private carrier is deemed to occur in the  
 2 county in which mail or other matter is deposited with  
 3 the Postal Service or a private commercial carrier for  
 4 delivery, if deposited with the Postal Service or a  
 5 private or commercial carrier within this State and the  
 6 county in which a person within this State receives the  
 7 mail or other matter from the Postal Service or a private  
 8 or commercial carrier.

9 (3) Mail fraud is a Class 3 felony.

10 (c) (Blank). ~~Financial-institution-fraud-~~

11 ~~{1}--A-person-is--guilty--of--financial--institution~~  
 12 ~~fraud--who--knowingly--executes--or--attempts--to--execute--a~~  
 13 ~~scheme--or--artifice:~~

14 ~~{i}--to--defraud--a--financial--institution;--or~~

15 ~~{ii}--to--obtain--any--of--the--moneys,--funds,~~  
 16 ~~credits,--assets,--securities,--or--other--property--owned~~  
 17 ~~by,--or--under--the--custody--or--control--of--a--financial~~  
 18 ~~institution,--by--means--of--pretenses,--representations,~~  
 19 ~~or--promises--he--or--she--knows--to--be--false.~~

20 ~~{2}--Financial---institution--fraud--is--a--Class--3~~  
 21 ~~felony.~~

22 (d) The period of limitations for prosecution of any  
 23 offense defined in this Section begins at the time when the  
 24 last act in furtherance of the scheme or artifice is  
 25 committed.

26 (e) In this Section:

27 (1) "Scheme or artifice to defraud" includes a  
 28 scheme or artifice to deprive another of the intangible  
 29 right to honest services.

30 (2) (Blank). ~~"Financial---institution"---has---the~~  
 31 ~~meaning--ascribed--to--it--in--paragraph--(i)--of--subsection--(A)~~  
 32 ~~of--Section--17-1--of--this--Code.~~

33 (Source: P.A. 91-228, eff. 1-1-00; 92-16, eff. 6-28-01.)

1 Section 99. This Act takes effect upon becoming law."