

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 State Finance Act is amended by changing
5 Sections 6z-26, 8h, and 8j as follows:

6 (30 ILCS 105/6z-26)

7 Sec. 6z-26. The Financial Institution Fund. All moneys
8 received by the Department of Financial and Professional
9 Regulation under the Safety Deposit License Act, the Foreign
10 Exchange License Act, the Pawnors Societies Act, the Sale of
11 Exchange Act, the Currency Exchange Act, the Sales Finance
12 Agency Act, the Debt Management Service Act, the Consumer
13 Installment Loan Act, the Illinois Development Credit
14 Corporation Act, the Title Insurance Act, and any other Act
15 administered by the Department of Financial and Professional
16 Regulation as the successor of the Department of Financial
17 Institutions now or in the future, other than the Illinois
18 Credit Union Act, (unless an Act specifically provides
19 otherwise) shall be deposited in the Financial Institution Fund
20 (hereinafter "Fund"), a special fund that is hereby created in
21 the State Treasury.

22 Moneys in the Fund shall be used by the Department, subject
23 to appropriation, for expenses incurred in administering the
24 above named and referenced Acts.

25 The Comptroller and the State Treasurer shall transfer from
26 the General Revenue Fund to the Fund any monies received by the
27 Department after June 30, 1993, under any of the above named
28 and referenced Acts that have been deposited in the General
29 Revenue Fund.

30 As soon as possible after the end of each calendar year,
31 the Comptroller shall compare the balance in the Fund at the
32 end of the calendar year with the amount appropriated from the

1 Fund for the fiscal year beginning on July 1 of that calendar
2 year. If the balance in the Fund exceeds the amount
3 appropriated, the Comptroller and the State Treasurer shall
4 transfer from the Fund to the General Revenue Fund an amount
5 equal to the difference between the balance in the Fund and the
6 amount appropriated.

7 Nothing in this Section shall be construed to prohibit
8 appropriations from the General Revenue Fund for expenses
9 incurred in the administration of the above named and
10 referenced Acts.

11 Moneys in the Fund may be transferred to the Professions
12 Indirect Cost Fund, as authorized under Section 2105-300 of the
13 Department of Professional Regulation Law of the Civil
14 Administrative Code of Illinois.

15 (Source: P.A. 94-91, eff. 7-1-05.)

16 (30 ILCS 105/8h)

17 Sec. 8h. Transfers to General Revenue Fund.

18 (a) Except as provided in subsection (b), notwithstanding
19 any other State law to the contrary, the Governor may, through
20 June 30, 2007, from time to time direct the State Treasurer and
21 Comptroller to transfer a specified sum from any fund held by
22 the State Treasurer to the General Revenue Fund in order to
23 help defray the State's operating costs for the fiscal year.
24 The total transfer under this Section from any fund in any
25 fiscal year shall not exceed the lesser of (i) 8% of the
26 revenues to be deposited into the fund during that fiscal year
27 or (ii) an amount that leaves a remaining fund balance of 25%
28 of the July 1 fund balance of that fiscal year. In fiscal year
29 2005 only, prior to calculating the July 1, 2004 final
30 balances, the Governor may calculate and direct the State
31 Treasurer with the Comptroller to transfer additional amounts
32 determined by applying the formula authorized in Public Act
33 93-839 to the funds balances on July 1, 2003. No transfer may
34 be made from a fund under this Section that would have the
35 effect of reducing the available balance in the fund to an

1 amount less than the amount remaining unexpended and unreserved
2 from the total appropriation from that fund estimated to be
3 expended for that fiscal year. This Section does not apply to
4 any funds that are restricted by federal law to a specific use,
5 to any funds in the Motor Fuel Tax Fund, the Intercity
6 Passenger Rail Fund, the Hospital Provider Fund, the Medicaid
7 Provider Relief Fund, the Teacher Health Insurance Security
8 Fund, the Reviewing Court Alternative Dispute Resolution Fund,
9 ~~or~~ the Voters' Guide Fund, the Foreign Language Interpreter
10 Fund, the Lawyers' Assistance Program Fund, the Supreme Court
11 Federal Projects Fund, the Supreme Court Special State Projects
12 Fund, ~~or~~ the Low-Level Radioactive Waste Facility Development
13 and Operation Fund, or the Hospital Basic Services Preservation
14 Fund, or to any funds to which subsection (f) of Section 20-40
15 of the Nursing and Advanced Practice Nursing Act applies. No
16 transfers may be made under this Section from the Pet
17 Population Control Fund. Notwithstanding any other provision
18 of this Section, for fiscal year 2004, the total transfer under
19 this Section from the Road Fund or the State Construction
20 Account Fund shall not exceed the lesser of (i) 5% of the
21 revenues to be deposited into the fund during that fiscal year
22 or (ii) 25% of the beginning balance in the fund. For fiscal
23 year 2005 through fiscal year 2007, no amounts may be
24 transferred under this Section from the Road Fund, the State
25 Construction Account Fund, the Criminal Justice Information
26 Systems Trust Fund, the Wireless Service Emergency Fund, or the
27 Mandatory Arbitration Fund.

28 In determining the available balance in a fund, the
29 Governor may include receipts, transfers into the fund, and
30 other resources anticipated to be available in the fund in that
31 fiscal year.

32 The State Treasurer and Comptroller shall transfer the
33 amounts designated under this Section as soon as may be
34 practicable after receiving the direction to transfer from the
35 Governor.

36 (b) This Section does not apply to: (i) the Ticket For The

1 Cure Fund; (ii) or to any fund established under the Community
2 Senior Services and Resources Act; (iii) or (ii) on or after
3 January 1, 2006 (the effective date of Public Act 94-511) this
4 ~~amendatory Act of the 94th General Assembly,~~ the Child Labor
5 and Day and Temporary Labor Enforcement Fund; or (iv) any fund
6 established under the Illinois Credit Union Act, the Illinois
7 Banking Act, the Illinois Savings and Loan Act of 1985, or the
8 Savings Bank Act, or the Professions Indirect Cost Fund
9 established under the Department of Professional Regulation
10 Law of the Civil Administrative Code of Illinois, the transfers
11 from and expenditures of such funds being at all times limited
12 to the purposes specified in those Acts.

13 (c) This Section does not apply to the Demutualization
14 Trust Fund established under the Uniform Disposition of
15 Unclaimed Property Act.

16 (d) (e) This Section does not apply to moneys set aside in
17 the Illinois State Podiatric Disciplinary Fund for podiatric
18 scholarships and residency programs under the Podiatric
19 Scholarship and Residency Act.

20 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
21 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
22 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
23 1-15-05; 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff.
24 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645,
25 eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05;
26 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; revised 1-23-06.)

27 (30 ILCS 105/8j)

28 Sec. 8j. Allocation and transfer of fee receipts to General
29 Revenue Fund. Notwithstanding any other law to the contrary,
30 additional amounts generated by the new and increased fees
31 created or authorized by Public Acts 93-22, 93-23, 93-24, and
32 93-32 shall be allocated between the fund otherwise entitled to
33 receive the fee and the General Revenue Fund by the Governor's
34 Office of Management and Budget, except that no allocation and
35 transfer shall be made with respect to or from the Credit Union

1 Fund. In determining the amount of the allocation to the
2 General Revenue Fund, the Director of the Governor's Office of
3 Management and Budget shall calculate whether the available
4 resources in the fund are sufficient to satisfy the unexpended
5 and unreserved appropriations from the fund for the fiscal
6 year.

7 In calculating the available resources in a fund, the
8 Director of the Governor's Office of Management and Budget may
9 include receipts, transfers into the fund, and other resources
10 anticipated to be available in the fund in that fiscal year.

11 Upon determining the amount of an allocation to the General
12 Revenue Fund under this Section, the Director of the Governor's
13 Office of Management and Budget may direct the State Treasurer
14 and Comptroller to transfer the amount of that allocation from
15 the fund in which the fee amounts have been deposited to the
16 General Revenue Fund; provided, however, that the Director
17 shall not direct the transfer of any amount that would have the
18 effect of reducing the available resources in the fund to an
19 amount less than the amount remaining unexpended and unreserved
20 from the total appropriation from that fund for that fiscal
21 year.

22 The State Treasurer and Comptroller shall transfer the
23 amounts designated under this Section as soon as may be
24 practicable after receiving the direction to transfer from the
25 Director of the Governor's Office of Management and Budget.

26 This Section does not apply to the Demutualization Trust
27 Fund established under the Uniform Disposition of Unclaimed
28 Property Act.

29 (Source: P.A. 93-25, eff. 6-20-03; 93-32, eff. 6-20-03; 94-686,
30 eff. 11-2-05.)

31 Section 10. The Illinois Banking Act is amended by changing
32 Section 48 as follows:

33 (205 ILCS 5/48) (from Ch. 17, par. 359)

34 Sec. 48. Commissioner's powers; duties. The Commissioner

1 shall have the powers and authority, and is charged with the
2 duties and responsibilities designated in this Act, and a State
3 bank shall not be subject to any other visitorial power other
4 than as authorized by this Act, except those vested in the
5 courts, or upon prior consultation with the Commissioner, a
6 foreign bank regulator with an appropriate supervisory
7 interest in the parent or affiliate of a state bank. In the
8 performance of the Commissioner's duties:

9 (1) The Commissioner shall call for statements from all
10 State banks as provided in Section 47 at least one time during
11 each calendar quarter.

12 (2) (a) The Commissioner, as often as the Commissioner
13 shall deem necessary or proper, and no less frequently than 18
14 months following the preceding examination, shall appoint a
15 suitable person or persons to make an examination of the
16 affairs of every State bank, except that for every eligible
17 State bank, as defined by regulation, the Commissioner in lieu
18 of the examination may accept on an alternating basis the
19 examination made by the eligible State bank's appropriate
20 federal banking agency pursuant to Section 111 of the Federal
21 Deposit Insurance Corporation Improvement Act of 1991,
22 provided the appropriate federal banking agency has made such
23 an examination. A person so appointed shall not be a
24 stockholder or officer or employee of any bank which that
25 person may be directed to examine, and shall have powers to
26 make a thorough examination into all the affairs of the bank
27 and in so doing to examine any of the officers or agents or
28 employees thereof on oath and shall make a full and detailed
29 report of the condition of the bank to the Commissioner. In
30 making the examination the examiners shall include an
31 examination of the affairs of all the affiliates of the bank,
32 as defined in subsection (b) of Section 35.2 of this Act, or
33 subsidiaries of the bank as shall be necessary to disclose
34 fully the conditions of the subsidiaries or affiliates, the
35 relations between the bank and the subsidiaries or affiliates
36 and the effect of those relations upon the affairs of the bank,

1 and in connection therewith shall have power to examine any of
2 the officers, directors, agents, or employees of the
3 subsidiaries or affiliates on oath. After May 31, 1997, the
4 Commissioner may enter into cooperative agreements with state
5 regulatory authorities of other states to provide for
6 examination of State bank branches in those states, and the
7 Commissioner may accept reports of examinations of State bank
8 branches from those state regulatory authorities. These
9 cooperative agreements may set forth the manner in which the
10 other state regulatory authorities may be compensated for
11 examinations prepared for and submitted to the Commissioner.

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

22 (2.5) Whenever any State bank, any subsidiary or affiliate
23 of a State bank, or after May 31, 1997, any branch of an
24 out-of-state bank causes to be performed, by contract or
25 otherwise, any bank services for itself, whether on or off its
26 premises:

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

31 (b) the bank or, after May 31, 1997, branch of the
32 out-of-state bank shall notify the Commissioner of the
33 existence of a service relationship. The notification
34 shall be submitted with the first statement of condition
35 (as required by Section 47 of this Act) due after the
36 making of the service contract or the performance of the

1 service, whichever occurs first. The Commissioner shall be
2 notified of each subsequent contract in the same manner.

3 For purposes of this subsection (2.5), the term "bank
4 services" means services such as sorting and posting of checks
5 and deposits, computation and posting of interest and other
6 credits and charges, preparation and mailing of checks,
7 statements, notices, and similar items, or any other clerical,
8 bookkeeping, accounting, statistical, or similar functions
9 performed for a State bank, including but not limited to
10 electronic data processing related to those bank services.

11 (3) The expense of administering this Act, including the
12 expense of the examinations of State banks as provided in this
13 Act, shall to the extent of the amounts resulting from the fees
14 provided for in paragraphs (a), (a-2), and (b) of this
15 subsection (3) be assessed against and borne by the State
16 banks:

17 (a) Each bank shall pay to the Commissioner a Call
18 Report Fee which shall be paid in quarterly installments
19 equal to one-fourth of the sum of the annual fixed fee of
20 \$800, plus a variable fee based on the assets shown on the
21 quarterly statement of condition delivered to the
22 Commissioner in accordance with Section 47 for the
23 preceding quarter according to the following schedule: 16¢
24 per \$1,000 of the first \$5,000,000 of total assets, 15¢ per
25 \$1,000 of the next \$20,000,000 of total assets, 13¢ per
26 \$1,000 of the next \$75,000,000 of total assets, 9¢ per
27 \$1,000 of the next \$400,000,000 of total assets, 7¢ per
28 \$1,000 of the next \$500,000,000 of total assets, and 5¢ per
29 \$1,000 of all assets in excess of \$1,000,000,000, of the
30 State bank. The Call Report Fee shall be calculated by the
31 Commissioner and billed to the banks for remittance at the
32 time of the quarterly statements of condition provided for
33 in Section 47. The Commissioner may require payment of the
34 fees provided in this Section by an electronic transfer of
35 funds or an automatic debit of an account of each of the
36 State banks. In case more than one examination of any bank

1 is deemed by the Commissioner to be necessary in any
2 examination frequency cycle specified in subsection 2(a)
3 of this Section, and is performed at his direction, the
4 Commissioner may assess a reasonable additional fee to
5 recover the cost of the additional examination; provided,
6 however, that an examination conducted at the request of
7 the State Treasurer pursuant to the Uniform Disposition of
8 Unclaimed Property Act shall not be deemed to be an
9 additional examination under this Section. In lieu of the
10 method and amounts set forth in this paragraph (a) for the
11 calculation of the Call Report Fee, the Commissioner may
12 specify by rule that the Call Report Fees provided by this
13 Section may be assessed semiannually or some other period
14 and may provide in the rule the formula to be used for
15 calculating and assessing the periodic Call Report Fees to
16 be paid by State banks.

17 (a-1) If in the opinion of the Commissioner an
18 emergency exists or appears likely, the Commissioner may
19 assign an examiner or examiners to monitor the affairs of a
20 State bank with whatever frequency he deems appropriate,
21 including but not limited to a daily basis. The reasonable
22 and necessary expenses of the Commissioner during the
23 period of the monitoring shall be borne by the subject
24 bank. The Commissioner shall furnish the State bank a
25 statement of time and expenses if requested to do so within
26 30 days of the conclusion of the monitoring period.

27 (a-2) On and after January 1, 1990, the reasonable and
28 necessary expenses of the Commissioner during examination
29 of the performance of electronic data processing services
30 under subsection (2.5) shall be borne by the banks for
31 which the services are provided. An amount, based upon a
32 fee structure prescribed by the Commissioner, shall be paid
33 by the banks or, after May 31, 1997, branches of
34 out-of-state banks receiving the electronic data
35 processing services along with the Call Report Fee assessed
36 under paragraph (a) of this subsection (3).

1 (a-3) After May 31, 1997, the reasonable and necessary
2 expenses of the Commissioner during examination of the
3 performance of electronic data processing services under
4 subsection (2.5) at or on behalf of branches of
5 out-of-state banks shall be borne by the out-of-state
6 banks, unless those expenses are borne by the state
7 regulatory authorities that chartered the out-of-state
8 banks, as determined by cooperative agreements between the
9 Commissioner and the state regulatory authorities that
10 chartered the out-of-state banks.

11 (b) "Fiscal year" for purposes of this Section 48 is
12 defined as a period beginning July 1 of any year and ending
13 June 30 of the next year. The Commissioner shall receive
14 for each fiscal year, commencing with the fiscal year
15 ending June 30, 1987, a contingent fee equal to the lesser
16 of the aggregate of the fees paid by all State banks under
17 paragraph (a) of subsection (3) for that year, or the
18 amount, if any, whereby the aggregate of the administration
19 expenses, as defined in paragraph (c), for that fiscal year
20 exceeds the sum of the aggregate of the fees payable by all
21 State banks for that year under paragraph (a) of subsection
22 (3), plus any amounts transferred into the Bank and Trust
23 Company Fund from the State Pensions Fund for that year,
24 plus all other amounts collected by the Commissioner for
25 that year under any other provision of this Act, plus the
26 aggregate of all fees collected for that year by the
27 Commissioner under the Corporate Fiduciary Act, excluding
28 the receivership fees provided for in Section 5-10 of the
29 Corporate Fiduciary Act, and the Foreign Banking Office
30 Act. The aggregate amount of the contingent fee thus
31 arrived at for any fiscal year shall be apportioned
32 amongst, assessed upon, and paid by the State banks and
33 foreign banking corporations, respectively, in the same
34 proportion that the fee of each under paragraph (a) of
35 subsection (3), respectively, for that year bears to the
36 aggregate for that year of the fees collected under

1 paragraph (a) of subsection (3). The aggregate amount of
2 the 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 and
5 shall be paid by each, respectively, within 120 days of the
6 close of the period for which the contingent fee is
7 computed and is payable, and the Commissioner shall give 20
8 days advance notice of the amount of the contingent fee
9 payable by the State bank and of the date fixed by the
10 Commissioner for payment of the fee.

11 (c) The "administration expenses" for any fiscal year
12 shall mean the ordinary and contingent expenses for that
13 year incident to making the examinations provided for by,
14 and for otherwise administering, this Act, the Corporate
15 Fiduciary Act, excluding the expenses paid from the
16 Corporate Fiduciary Receivership account in the Bank and
17 Trust Company Fund, the Foreign Banking Office Act, the
18 Electronic Fund Transfer Act, and the Illinois Bank
19 Examiners' Education Foundation Act, including all
20 salaries and other compensation paid for personal services
21 rendered for the State by officers or employees of the
22 State, including the Commissioner and the Deputy
23 Commissioners, all expenditures for telephone and
24 telegraph charges, postage and postal charges, office
25 stationery, supplies and services, and office furniture
26 and equipment, including typewriters and copying and
27 duplicating machines and filing equipment, surety bond
28 premiums, and travel expenses of those officers and
29 employees, employees, expenditures or charges for the
30 acquisition, enlargement or improvement of, or for the use
31 of, any office space, building, or structure, or
32 expenditures for the maintenance thereof or for furnishing
33 heat, light, or power with respect thereto, all to the
34 extent that those expenditures are directly incidental to
35 such examinations or administration. The Commissioner
36 shall not be required by paragraphs (c) or (d-1) of this

1 subsection (3) to maintain in any fiscal year's budget
2 appropriated reserves for accrued vacation and accrued
3 sick leave that is required to be paid to employees of the
4 Commissioner upon termination of their service with the
5 Commissioner in an amount that is more than is reasonably
6 anticipated to be necessary for any anticipated turnover in
7 employees, whether due to normal attrition or due to
8 layoffs, terminations, or resignations.

9 (d) The aggregate of all fees collected by the
10 Commissioner under this Act, the Corporate Fiduciary Act,
11 or the Foreign Banking Office Act on and after July 1,
12 1979, shall be paid promptly after receipt of the same,
13 accompanied by a detailed statement thereof, into the State
14 treasury and shall be set apart in a special fund to be
15 known as the "Bank and Trust Company Fund", except as
16 provided in paragraph (c) of subsection (11) of this
17 Section. All earnings received from investments of funds in
18 the Bank and Trust Company Fund shall be deposited in the
19 Bank and Trust Company Fund and may only be used for the
20 same purposes as fees deposited in that Fund. The amount
21 from time to time deposited into the Bank and Trust Company
22 Fund shall be used exclusively for the following purposes:
23 (i) to offset the ordinary administrative expenses of the
24 Commissioner of Banks and Real Estate as defined in this
25 Section or (ii) as a credit against fees under paragraph
26 (d-1) of this subsection. No other appropriations shall be
27 made from the Bank and Trust Company Fund. All moneys in
28 the Bank and Trust Company Fund are exempt from assignment
29 or transfer under any other law or executive order, other
30 than for the purposes authorized by the Illinois State
31 Auditing Act. Nothing in this amendatory Act of 1979 shall
32 prevent continuing the practice of paying expenses
33 involving salaries, retirement, social security, and
34 State-paid insurance premiums of State officers by
35 appropriations from the General Revenue Fund. However, the
36 General Revenue Fund shall be reimbursed for those payments

1 made on and after July 1, 1979, by an annual transfer of
2 funds from the Bank and Trust Company Fund. Moneys in the
3 Bank and Trust Company Fund may be transferred to the
4 Professions Indirect Cost Fund, as authorized under
5 Section 2105-300 of the Department of Professional
6 Regulation Law of the Civil Administrative Code of
7 Illinois. Any fees assessed upon and paid by State banks
8 pursuant to this Act must be held in trust to be used
9 exclusively to pay the expenses of administering this Act.
10 The credit to State banks of unexpended funds provided for
11 under paragraph (d-1) of this subsection (3) constitutes a
12 continuing property interest of the State banks in those
13 unexpended funds.

14 (d-1) Adequate funds shall be available in the Bank and
15 Trust Company Fund to permit the timely payment of
16 administration expenses. In each fiscal year the total
17 administration expenses shall be deducted from the total
18 fees collected by the Commissioner and the remainder
19 transferred into the Cash Flow Reserve Account, unless the
20 balance of the Cash Flow Reserve Account prior to the
21 transfer equals or exceeds one-fourth of the total initial
22 appropriations from the Bank and Trust Company Fund for the
23 subsequent year, in which case the remainder shall be
24 credited to State banks and foreign banking corporations
25 and applied against their fees for the subsequent year. The
26 amount credited to each State bank and foreign banking
27 corporation shall be in the same proportion as the Call
28 Report Fees paid by each for the year bear to the total
29 Call Report Fees collected for the year. For the fiscal
30 year beginning July 1, 2007, the Commissioner must adopt
31 rules to adjust regulatory fee rates to those in effect
32 prior to the escalation in rates published in 27 Ill.Reg.
33 16024, Oct. 10, 2003, and as amended at 27 Ill.Reg. 16326,
34 Oct. 24, 2003, unless an audit by the Auditor General of
35 banking regulatory oversight activities requires a
36 different rate to be set to cover the costs of regulatory

1 oversight. Any adjustments made pursuant to an Auditor
2 General's audit must be set forth in the form of a notice
3 to each affected entity 45 days prior to making those
4 adjustments. The notice must contain an explanation that
5 includes a description of the audit results pertaining to
6 the banking industry and a description of each reason why
7 adjustments to the regulatory fee rates are required. If,
8 after a transfer to the Cash Flow Reserve Account is made
9 or if no remainder is available for transfer, the balance
10 of the Cash Flow Reserve Account is less than one-fourth of
11 the total initial appropriations for the subsequent year
12 and the amount transferred is less than 5% of the total
13 Call Report Fees for the year, additional amounts needed to
14 make the transfer equal to 5% of the total Call Report Fees
15 for the year shall be apportioned amongst, assessed upon,
16 and paid by the State banks and foreign banking
17 corporations in the same proportion that the Call Report
18 Fees of each, respectively, for the year bear to the total
19 Call Report Fees collected for the year. The additional
20 amounts assessed shall be transferred into the Cash Flow
21 Reserve Account. For purposes of this paragraph (d-1), the
22 calculation of the fees collected by the Commissioner shall
23 exclude the receivership fees provided for in Section 5-10
24 of the Corporate Fiduciary Act.

25 (e) The Commissioner may upon request certify to any
26 public record in his keeping and shall have authority to
27 levy a reasonable charge for issuing certifications of any
28 public record in his keeping.

29 (f) In addition to fees authorized elsewhere in this
30 Act, the Commissioner may, in connection with a review,
31 approval, or provision of a service, levy a reasonable
32 charge to recover the cost of the review, approval, or
33 service.

34 (4) Nothing contained in this Act shall be construed to
35 limit the obligation relative to examinations and reports of
36 any State bank, deposits in which are to any extent insured by

1 the United States or any agency thereof, nor to limit in any
2 way the powers of the Commissioner with reference to
3 examinations and reports of that bank.

4 (5) The nature and condition of the assets in or investment
5 of any bonus, pension, or profit sharing plan for officers or
6 employees of every State bank or, after May 31, 1997, branch of
7 an out-of-state bank shall be deemed to be included in the
8 affairs of that State bank or branch of an out-of-state bank
9 subject to examination by the Commissioner under the provisions
10 of subsection (2) of this Section, and if the Commissioner
11 shall find from an examination that the condition of or
12 operation of the investments or assets of the plan is unlawful,
13 fraudulent, or unsafe, or that any trustee has abused his
14 trust, the Commissioner shall, if the situation so found by the
15 Commissioner shall not be corrected to his satisfaction within
16 60 days after the Commissioner has given notice to the board of
17 directors of the State bank or out-of-state bank of his
18 findings, report the facts to the Attorney General who shall
19 thereupon institute proceedings against the State bank or
20 out-of-state bank, the board of directors thereof, or the
21 trustees under such plan as the nature of the case may require.

22 (6) The Commissioner shall have the power:

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

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

30 (b) To issue orders against any person, if the
31 Commissioner has reasonable cause to believe that an unsafe
32 or unsound banking practice has occurred, is occurring, or
33 is about to occur, if any person has violated, is
34 violating, or is about to violate any law, rule, or written
35 agreement with the Commissioner, or for the purpose of
36 administering the provisions of this Act and any rule

1 promulgated in accordance with this Act.

2 (b-1) To enter into agreements with a bank establishing
3 a program to correct the condition of the bank or its
4 practices.

5 (c) To appoint hearing officers to execute any of the
6 powers granted to the Commissioner under this Section for
7 the purpose of administering this Act and any rule
8 promulgated in accordance with this Act and otherwise to
9 authorize, in writing, an officer or employee of the Office
10 of Banks and Real Estate to exercise his powers under this
11 Act.

12 (d) To subpoena witnesses, to compel their attendance,
13 to administer an oath, to examine any person under oath,
14 and to require the production of any relevant books,
15 papers, accounts, and documents in the course of and
16 pursuant to any investigation being conducted, or any
17 action being taken, by the Commissioner in respect of any
18 matter relating to the duties imposed upon, or the powers
19 vested in, the Commissioner under the provisions of this
20 Act or any rule promulgated in accordance with this Act.

21 (e) To conduct hearings.

22 (7) Whenever, in the opinion of the Commissioner, any
23 director, officer, employee, or agent of a State bank or any
24 subsidiary or bank holding company of the bank or, after May
25 31, 1997, of any branch of an out-of-state bank or any
26 subsidiary or bank holding company of the bank shall have
27 violated any law, rule, or order relating to that bank or any
28 subsidiary or bank holding company of the bank, shall have
29 obstructed or impeded any examination or investigation by the
30 Commissioner, shall have engaged in an unsafe or unsound
31 practice in conducting the business of that bank or any
32 subsidiary or bank holding company of the bank, or shall have
33 violated any law or engaged or participated in any unsafe or
34 unsound practice in connection with any financial institution
35 or other business entity such that the character and fitness of
36 the director, officer, employee, or agent does not assure

1 reasonable promise of safe and sound operation of the State
2 bank, the Commissioner may issue an order of removal. If, in
3 the opinion of the Commissioner, any former director, officer,
4 employee, or agent of a State bank or any subsidiary or bank
5 holding company of the bank, prior to the termination of his or
6 her service with that bank or any subsidiary or bank holding
7 company of the bank, violated any law, rule, or order relating
8 to that State bank or any subsidiary or bank holding company of
9 the bank, obstructed or impeded any examination or
10 investigation by the Commissioner, engaged in an unsafe or
11 unsound practice in conducting the business of that bank or any
12 subsidiary or bank holding company of the bank, or violated any
13 law or engaged or participated in any unsafe or unsound
14 practice in connection with any financial institution or other
15 business entity such that the character and fitness of the
16 director, officer, employee, or agent would not have assured
17 reasonable promise of safe and sound operation of the State
18 bank, the Commissioner may issue an order prohibiting that
19 person from further service with a bank or any subsidiary or
20 bank holding company of the bank as a director, officer,
21 employee, or agent. An order issued pursuant to this subsection
22 shall be served upon the director, officer, employee, or agent.
23 A copy of the order shall be sent to each director of the bank
24 affected by registered mail. The person affected by the action
25 may request a hearing before the State Banking Board within 10
26 days after receipt of the order. The hearing shall be held by
27 the Board within 30 days after the request has been received by
28 the Board. The Board shall make a determination approving,
29 modifying, or disapproving the order of the Commissioner as its
30 final administrative decision. If a hearing is held by the
31 Board, the Board shall make its determination within 60 days
32 from the conclusion of the hearing. Any person affected by a
33 decision of the Board under this subsection (7) of Section 48
34 of this Act may have the decision reviewed only under and in
35 accordance with the Administrative Review Law and the rules
36 adopted pursuant thereto. A copy of the order shall also be

1 served upon the bank of which he is a director, officer,
2 employee, or agent, whereupon he shall cease to be a director,
3 officer, employee, or agent of that bank. The Commissioner may
4 institute a civil action against the director, officer, or
5 agent of the State bank or, after May 31, 1997, of the branch
6 of the out-of-state bank against whom any order provided for by
7 this subsection (7) of this Section 48 has been issued, and
8 against the State bank or, after May 31, 1997, out-of-state
9 bank, to enforce compliance with or to enjoin any violation of
10 the terms of the order. Any person who has been the subject of
11 an order of removal or an order of prohibition issued by the
12 Commissioner under this subsection or Section 5-6 of the
13 Corporate Fiduciary Act may not thereafter serve as director,
14 officer, employee, or agent of any State bank or of any branch
15 of any out-of-state bank, or of any corporate fiduciary, as
16 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of
17 any other entity that is subject to licensure or regulation by
18 the Commissioner or the Office of Banks and Real Estate unless
19 the Commissioner has granted prior approval in writing.

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

23 (8) The Commissioner may impose civil penalties of up to
24 \$10,000 against any person for each violation of any provision
25 of this Act, any rule promulgated in accordance with this Act,
26 any order of the Commissioner, or any other action which in the
27 Commissioner's discretion is an unsafe or unsound banking
28 practice.

29 (9) The Commissioner may impose civil penalties of up to
30 \$100 against any person for the first failure to comply with
31 reporting requirements set forth in the report of examination
32 of the bank and up to \$200 for the second and subsequent
33 failures to comply with those reporting requirements.

34 (10) All final administrative decisions of the
35 Commissioner hereunder shall be subject to judicial review
36 pursuant to the provisions of the Administrative Review Law.

1 For matters involving administrative review, venue shall be in
2 either Sangamon County or Cook County.

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

5 (a) (Blank).

6 (b) The Foundation is empowered to receive voluntary
7 contributions, gifts, grants, bequests, and donations on
8 behalf of the Illinois Bank Examiners' Education
9 Foundation from national banks and other persons for the
10 purpose of funding the endowment of the Illinois Bank
11 Examiners' Education Foundation.

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

31 (12) (Blank).

32 (Source: P.A. 94-91, eff. 7-1-05.)

33 Section 15. The Illinois Savings and Loan Act of 1985 is
34 amended by changing Sections 7-3 and 7-19.1 as follows:

1 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

2 Sec. 7-3. Personnel, records, files, actions and duties,
3 etc.

4 (a) The Commissioner shall appoint, subject to applicable
5 provisions of the Personnel Code, a supervisor, such examiners,
6 employees, experts and special assistants as may be necessary
7 to carry out effectively this Act. The Commissioner shall
8 require each supervisor, examiner, expert and special
9 assistant employed or appointed by him to give bond, with
10 security to be approved by the Commissioner, not less in any
11 case than \$15,000, conditioned for the faithful discharge of
12 his duties. The premium on such bond shall be paid by the
13 Commissioner from funds appropriated for that purpose. The
14 bond, along with verification of payment of the premium on such
15 bond, shall be filed in the office of the Secretary of State.

16 (b) The Commissioner shall have the following duties and
17 powers:

18 (1) To exercise the rights, powers and duties set forth in
19 this Act or in any other related Act;

20 (2) To establish such regulations as may be reasonable or
21 necessary to accomplish the purposes of this Act;

22 (3) To direct and supervise all the administrative and
23 technical activities of this office and create an Advisory
24 Committee which upon request will make recommendations to him;

25 (4) To make an annual report regarding the work of his
26 office as he may consider desirable to the Governor, or as the
27 Governor may request;

28 (5) To cause a suit to be filed in his name to enforce any
29 law of this State that applies to an association, subsidiary of
30 an association, or holding company operating under this Act and
31 shall include the enforcement of any obligation of the
32 officers, directors or employees of any association;

33 (6) To prescribe a uniform manner in which the books and
34 records of every association are to be maintained; and

35 (7) To establish reasonable and rationally based fee
36 structures for each association and holding company operating

1 under this Act and for their service corporations and
2 subsidiaries, which fees shall include but not be limited to
3 annual fees, application fees, regular and special examination
4 fees, and such other fees as the Commissioner establishes and
5 demonstrates to be directly resultant from his
6 responsibilities under this Act and as are directly
7 attributable to individual entities operating under this Act.
8 For the fiscal year beginning on July 1, 2007, the Commissioner
9 must adopt rules to adjust regulatory fee rates to those in
10 effect prior to the escalation in rates published in 27
11 Ill.Reg. 16024, Oct. 10, 2003, and as amended at 27 Ill.Reg.
12 16326, Oct. 24, 2003, unless an audit by the Auditor General of
13 banking regulatory oversight activities requires a different
14 rate to be set to cover the costs of regulatory oversight. Any
15 adjustments made pursuant to an Auditor General's audit must be
16 set forth in the form of a notice to each affected entity 45
17 days prior to making those adjustments. The notice must contain
18 an explanation that includes a description of the audit results
19 pertaining to the banking industry and a description of each
20 reason why adjustments to the regulatory fee rates are
21 required.

22 (Source: P.A. 85-313.)

23 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

24 Sec. 7-19.1. Savings and Residential Finance Regulatory
25 Fund.

26 (a) The aggregate of all fees collected by the Commissioner
27 under this Act shall be paid promptly after receipt of the
28 same, accompanied by a detailed statement thereof, into the
29 State treasury and shall be set apart in the Savings and
30 Residential Finance Regulatory Fund, a special fund hereby
31 created in the State treasury. The amounts deposited into the
32 Fund shall be solely and exclusively used for the ordinary and
33 contingent expenses of the Commissioner in administering the
34 Illinois Savings and Loan Act of 1985, the Savings Bank Act,
35 and the Residential Mortgage License Act of 1987 ~~Office of~~

1 ~~Banks and Real Estate~~. Nothing in this Act shall prevent
2 continuing the practice of paying expenses involving salaries,
3 retirement, social security, and State-paid insurance of State
4 officers by appropriation from the General Revenue Fund.

5 (b) Except as otherwise provided in subsection (b-5), no
6 moneys in the Savings and Residential Finance Regulatory Fund
7 shall ~~may not~~ be appropriated, assigned, or transferred to
8 another State fund. All moneys in the Fund shall be exempt from
9 assignment or transfer under any other law or executive order,
10 other than for the purposes authorized by the Illinois State
11 Auditing Act. All ~~The~~ moneys in the Fund shall remain the
12 property of and shall be held in trust for the sole benefit and
13 exclusive regulation of ~~be for the sole benefit of~~ the
14 institutions and entities assessed.

15 (b-5) Moneys in the Savings and Residential Finance
16 Regulatory Fund may be transferred to the Professions Indirect
17 Cost Fund, as authorized under Section 2105-300 of the
18 Department of Professional Regulation Law of the Civil
19 Administrative Code of Illinois.

20 (c) All earnings received from investments of funds in the
21 Savings and Residential Finance Regulatory Fund shall be
22 deposited into the Savings and Residential Finance Regulatory
23 Fund and may be used for the same purposes as fees deposited
24 into that Fund.

25 (d) When the amount remaining in the Savings and
26 Residential Finance Regulatory Fund at the end of a fiscal year
27 exceeds 25% of the total actual administrative and operational
28 expenses incurred under the Illinois Savings and Loan Act of
29 1985, the Savings Bank Act, and the Residential Mortgage
30 License Act of 1987 for that fiscal year, the excess must be
31 credited to the appropriate institutions and entities and
32 applied against their regulatory fees for the subsequent fiscal
33 year. The amount credited to the institution or entity must be
34 in the same proportion that the fees paid by the institution or
35 entity for the fiscal year in which the excess is produced
36 bears to the aggregate of the fees collected by the

1 Commissioner under the Illinois Savings and Loan Act of 1985,
2 the Savings Bank Act, and the Residential Mortgage License Act
3 of 1987 for the same fiscal year. For the purpose of this
4 Section, "fiscal year" means the period beginning July 1 of any
5 calendar year and ending June 30 of the next calendar year.

6 (Source: P.A. 94-91, eff. 7-1-05.)

7 Section 20. The Savings Bank Act is amended by changing
8 Section 9002 as follows:

9 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

10 Sec. 9002. Powers of Commissioner. The Commissioner shall
11 have the following powers and duties:

12 (1) To exercise the rights, powers, and duties set forth in
13 this Act or in any related Act.

14 (2) To establish regulations as may be reasonable or
15 necessary to accomplish the purposes of this Act.

16 (3) To make an annual report regarding the work of his
17 office under this Act as he may consider desirable to the
18 Governor, or as the Governor may request.

19 (4) To cause a suit to be filed in his name to enforce any
20 law of this State that applies to savings banks, their service
21 corporations, subsidiaries, affiliates, or holding companies
22 operating under this Act, including the enforcement of any
23 obligation of the officers, directors, agents, or employees of
24 any savings bank.

25 (5) To prescribe a uniform manner in which the books and
26 records of every savings bank are to be maintained.

27 (6) To establish a reasonable fee structure for savings
28 banks and holding companies operating under this Act and for
29 their service corporations and subsidiaries. The fees shall
30 include, but not be limited to, annual fees, application fees,
31 regular and special examination fees, and other fees as the
32 Commissioner establishes and demonstrates to be directly
33 resultant from the Commissioner's responsibilities under this
34 Act and as are directly attributable to individual entities

1 operating under this Act. The aggregate of all fees collected
2 by the Commissioner on and after the effective date of this Act
3 shall be paid promptly after receipt of the same, accompanied
4 by a detailed statement thereof, into the Savings and
5 Residential Finance Regulatory Fund. The amounts deposited
6 into the Fund shall be used for the ordinary and contingent
7 expenses of the Office of Banks and Real Estate. Nothing in
8 this Act shall prevent continuing the practice of paying
9 expenses involving salaries, retirement, social security, and
10 State-paid insurance of State officers by appropriation from
11 the General Revenue Fund. For the fiscal year beginning July 1,
12 2007, the Commissioner must adopt rules to adjust regulatory
13 fee rates to those in effect prior to the escalation in rates
14 published in 27 Ill.Reg. 16024, Oct. 10, 2003, and as amended
15 at 27 Ill.Reg. 16326, Oct. 24, 2003, unless an audit by the
16 Auditor General of banking regulatory oversight activities
17 requires a different rate to be set to cover the costs of
18 regulatory oversight. Any adjustments made pursuant to an
19 Auditor General's audit must be set forth in the form of a
20 notice to each affected entity 45 days prior to making those
21 adjustments. The notice must contain an explanation that
22 includes a description of the audit results pertaining to the
23 banking industry and a description of each reason why
24 adjustments to the regulatory fee rates are required.

25 (Source: P.A. 89-508, eff. 7-3-96.)

26 Section 25. The Illinois Credit Union Act is amended by
27 changing Section 12 as follows:

28 (205 ILCS 305/12) (from Ch. 17, par. 4413)

29 Sec. 12. Regulatory fees.

30 (1) A credit union regulated by the Department shall pay a
31 regulatory fee to the Department pursuant to a regulatory fee
32 schedule based upon the credit union's ~~its~~ total assets as
33 shown by its Year-end Call Report at the following rates or at
34 a lesser rate established in a manner proportionately

1 consistent with the following rates and that would fund the
 2 actual administrative and operational expenses of the Credit
 3 Union Section pursuant to subsection (5):

| TOTAL ASSETS | REGULATORY FEE |
|-----------------------------|--|
| \$25,000 or less | \$100 |
| Over \$25,000 and not over | |
| \$100,000 | \$100 plus \$4 per |
| | \$1,000 of assets in excess of |
| | \$25,000 |
| Over \$100,000 and not over | |
| \$200,000 | \$400 plus \$3 per |
| | \$1,000 of assets in excess of |
| | \$100,000 |
| Over \$200,000 and not over | |
| \$500,000 | \$700 plus \$2 per |
| | \$1,000 of assets in excess of |
| | \$200,000 |
| Over \$500,000 and not over | |
| \$1,000,000 | \$1,300 plus \$1.40 |
| | per \$1,000 of assets in excess |
| | of \$500,000 |
| Over \$1,000,000 and not | |
| over \$5,000,000 | \$2,000 plus \$0.50 |
| | per \$1,000 of assets in |
| | excess of \$1,000,000 |
| Over \$5,000,000 and not | |
| over \$30,000,000 | \$4,000 \$5,000 plus \$0.35 \$0.44 |
| | per \$1,000 assets |
| | in excess of \$5,000,000 |
| Over \$30,000,000 and not | |
| over \$100,000,000 | \$12,750 \$16,192 plus \$0.30 |
| | \$0.38 |
| | per \$1,000 of assets in |
| | excess of \$30,000,000 |
| Over \$100,000,000 and not | |

| | | | | |
|---|--------------------------|--------------------|----------------------|--------------------------|
| 1 | over \$500,000,000 | <u>\$33,750</u> | \$42,862 | plus <u>\$0.15</u> |
| | | \$0.19 | | |
| 2 | | | | per \$1,000 of assets in |
| 3 | | | | excess of \$100,000,000 |
| 4 | Over \$500,000,000 | <u>\$93,750</u> | \$140,625 | plus <u>\$0.05</u> |
| | | \$0.075 | | |
| 5 | | | | per \$1,000 of assets in |
| 6 | | | | excess of \$500,000,000 |

7 (2) The Director shall review the regulatory fee schedule
8 ~~in subsection (1)~~ and the projected earnings on those fees on
9 an annual basis and adjust the fee schedule for the next fiscal
10 year. The fee schedule may be increased by no more than 5%
11 annually if necessary to defray the actual ~~estimated~~
12 administrative and operational expenses of the Credit Union
13 Section, Department as defined in subsection (5). However, the
14 fee schedule shall not be increased if the amount remaining in
15 the Credit Union Fund at the end of the fiscal year is equal to
16 or greater than 25% of the actual administrative and
17 operational expenses for the preceding fiscal year. The
18 regulatory fee for the next fiscal year shall be calculated by
19 the Director based on the credit union's total assets as of
20 December 31 of the preceding calendar year. The Director shall
21 provide credit unions with written notice of any adjustment
22 made in the regulatory fee schedule.

23 (3) Beginning on July 1, 2007, each fiscal year ~~Not later~~
24 ~~than March 1 of each calendar year,~~ a credit union shall pay to
25 the Department a regulatory fee in quarterly installments equal
26 to one-fourth of the regulatory fee due for that fiscal year
27 ~~for that calendar year in accordance with the regulatory fee~~
28 ~~schedule in subsection (1), on the basis of assets as of the~~
29 ~~Year end Call Report of the preceding year.~~ total annual
30 regulatory fee shall not be less than \$100 or more than
31 \$125,000 ~~\$187,500~~, provided that the regulatory fee cap of
32 \$125,000 ~~\$187,500~~ shall be adjusted to incorporate the same
33 percentage increase as the Director makes in the regulatory fee
34 schedule from time to time under subsection (2). No regulatory

1 fee shall be collected from a credit union until it has been in
2 operation for one year. The regulatory fee shall be billed to
3 credit unions on a quarterly basis and payable by credit unions
4 on the due date for the call report for the preceding quarter.

5 (4) The aggregate of all fees collected by the Department
6 under this Act shall be paid promptly after they are received,
7 accompanied by a detailed statement thereof, into the State
8 Treasury and shall be set apart in the Credit Union Fund, a
9 special fund hereby created in the State treasury. The amount
10 from time to time deposited in the Credit Union Fund and shall
11 be used solely and exclusively to offset the actual ~~ordinary~~
12 administrative and operational expenses of the Credit Union
13 Section ~~Department~~ under this Act. All earnings received from
14 investments of funds in the Credit Union Fund shall be
15 deposited into the Credit Union Fund and may be used for the
16 same purposes as fees deposited into that Fund. Moneys
17 deposited into the Credit Union Fund shall remain the property
18 of credit unions and shall be held in trust by the State for
19 the benefit and account of credit unions unless and until such
20 time as the moneys are expended for the purposes authorized in
21 this Act. No other appropriations shall be made from the Credit
22 Union Fund, and the moneys in the Credit Union Fund shall be
23 exempt from assignment or transfer under any other law or
24 executive order, other than for the purposes authorized by the
25 Illinois State Auditing Act. Moneys in the Credit Union Fund
26 may be transferred to the Professions Indirect Cost Fund, as
27 authorized under Section 2105-300 of the Department of
28 Professional Regulation Law of the Civil Administrative Code of
29 Illinois.

30 (5) The actual administrative and operational expenses of
31 the Credit Union Section for any fiscal ~~calendar~~ year shall
32 mean the ordinary and contingent expenses for that year
33 incidental to making the examinations provided for by, and for
34 administering, this Act, including all salaries and other
35 compensation paid for personal services rendered for the State
36 by officers or employees of the State to enforce this Act; all

1 expenditures for telephone and telegraph charges, postage and
2 postal charges, office supplies and services, furniture and
3 equipment, office space and maintenance thereof, travel
4 expenses and other necessary expenses; all to the extent that
5 such expenditures are directly incidental to such examination
6 or administration.

7 (6) When the balance in the Credit Union Fund at the end of
8 a fiscal year exceeds 25% ~~aggregate of all fees collected by~~
9 ~~the Department under this Act and all earnings thereon for any~~
10 ~~calendar year exceeds 150%~~ of the total actual administrative
11 and operational expenses under this Act for that fiscal year,
12 such excess shall be credited to credit unions and applied
13 against their regulatory fees for the subsequent fiscal year.
14 The amount credited to a credit union shall be in the same
15 proportion as the fee paid by such credit union for the fiscal
16 ~~calendar~~ year in which the excess is produced bears to the
17 aggregate of the fees collected by the Department under this
18 Act for the same fiscal year.

19 (7) Examination fees for the year 2000 statutory
20 examinations paid pursuant to the examination fee schedule in
21 effect at that time shall be credited toward the regulatory fee
22 to be assessed the credit union in calendar year 2001.

23 (8) Nothing in this Act shall prohibit the General Assembly
24 from appropriating funds to the Department from the General
25 Revenue Fund for the purpose of administering this Act.

26 (9) For purposes of this Section, "fiscal year" means a
27 period beginning on July 1 of any calendar year and ending on
28 June 30 of the next calendar year.

29 (Source: P.A. 93-32, eff. 7-1-03; 93-652, eff. 1-8-04; 94-91,
30 eff. 7-1-05.)

31 Section 30. The Residential Mortgage License Act of 1987 is
32 amended by changing Section 2-2, 2-6, and 4-1 as follows:

33 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

34 Sec. 2-2. Application process; investigation; fee.

1 (a) The Commissioner shall issue a license upon completion
2 of all of the following:

3 (1) The filing of an application for license.

4 (2) The filing with the Commissioner of a listing of
5 judgments entered against, and bankruptcy petitions by,
6 the license applicant for the preceding 10 years.

7 (3) The payment, in certified funds, of investigation
8 and application fees, the total of which shall be in an
9 amount equal to \$1,800 ~~\$2,700~~ annually, however, the
10 Commissioner may increase the investigation and
11 application fees by rule as provided in Section 4-11.

12 (4) Except for a broker applying to renew a license,
13 the filing of an audited balance sheet including all
14 footnotes prepared by a certified public accountant in
15 accordance with generally accepted accounting principles
16 and generally accepted auditing principles which evidences
17 that the applicant meets the net worth requirements of
18 Section 3-5.

19 (5) The filing of proof satisfactory to the
20 Commissioner that the applicant, the members thereof if the
21 applicant is a partnership or association, the members or
22 managers thereof that retain any authority or
23 responsibility under the operating agreement if the
24 applicant is a limited liability company, or the officers
25 thereof if the applicant is a corporation have 3 years
26 experience preceding application in real estate finance.
27 Instead of this requirement, the applicant and the
28 applicant's officers or members, as applicable, may
29 satisfactorily complete a program of education in real
30 estate finance and fair lending, as approved by the
31 Commissioner, prior to receiving the initial license. The
32 Commissioner shall promulgate rules regarding proof of
33 experience requirements and educational requirements and
34 the satisfactory completion of those requirements. The
35 Commissioner may establish by rule a list of duly licensed
36 professionals and others who may be exempt from this

1 requirement.

2 (6) An investigation of the averments required by
3 Section 2-4, which investigation must allow the
4 Commissioner to issue positive findings stating that the
5 financial responsibility, experience, character, and
6 general fitness of the license applicant and of the members
7 thereof if the license applicant is a partnership or
8 association, of the officers and directors thereof if the
9 license applicant is a corporation, and of the managers and
10 members that retain any authority or responsibility under
11 the operating agreement if the license applicant is a
12 limited liability company are such as to command the
13 confidence of the community and to warrant belief that the
14 business will be operated honestly, fairly and efficiently
15 within the purpose of this Act. If the Commissioner shall
16 not so find, he or she shall not issue such license, and he
17 or she shall notify the license applicant of the denial.

18 The Commissioner may impose conditions on a license if the
19 Commissioner determines that the conditions are necessary or
20 appropriate. These conditions shall be imposed in writing and
21 shall continue in effect for the period prescribed by the
22 Commissioner.

23 (b) All licenses shall be issued in duplicate with one copy
24 being transmitted to the license applicant and the second being
25 retained with the Commissioner.

26 Upon receipt of such license, a residential mortgage
27 licensee shall be authorized to engage in the business
28 regulated by this Act. Such license shall remain in full force
29 and effect until it expires without renewal, is surrendered by
30 the licensee or revoked or suspended as hereinafter provided.

31 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

32 (205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

33 Sec. 2-6. License issuance and renewal; fee.

34 (a) Beginning July 1, 2003, licenses shall be renewed every
35 year on the anniversary of the date of issuance of the original

1 license. Properly completed renewal application forms and
2 filing fees must be received by the Commissioner 60 days prior
3 to the renewal date.

4 (b) It shall be the responsibility of each licensee to
5 accomplish renewal of its license; failure of the licensee to
6 receive renewal forms absent a request sent by certified mail
7 for such forms will not waive said responsibility. Failure by a
8 licensee to submit a properly completed renewal application
9 form and fees in a timely fashion, absent a written extension
10 from the Commissioner, will result in the assessment of
11 additional fees, as follows:

12 (1) A fee of \$500 ~~\$750~~ will be assessed to the licensee
13 30 days after the proper renewal date and \$1,000 ~~\$1,500~~
14 each month thereafter, until the license is either renewed
15 or expires pursuant to Section 2-6, subsections (c) and
16 (d), of this Act.

17 (2) Such fee will be assessed without prior notice to
18 the licensee, but will be assessed only in cases wherein
19 the Commissioner has in his or her possession documentation
20 of the licensee's continuing activity for which the
21 unexpired license was issued.

22 (c) A license which is not renewed by the date required in
23 this Section shall automatically become inactive. No activity
24 regulated by this Act shall be conducted by the licensee when a
25 license becomes inactive. The Commissioner may require the
26 licensee to provide a plan for the disposition of any
27 residential mortgage loans not closed or funded when the
28 license becomes inactive. The Commissioner may allow a licensee
29 with an inactive license to conduct activities regulated by
30 this Act for the sole purpose of assisting borrowers in the
31 closing or funding of loans for which the loan application was
32 taken from a borrower while the license was active. An inactive
33 license may be reactivated by the Commissioner upon payment of
34 the renewal fee, and payment of a reactivation fee equal to the
35 renewal fee.

36 (d) A license which is not renewed within one year of

1 becoming inactive shall expire.

2 (e) A licensee ceasing an activity or activities regulated
3 by this Act and desiring to no longer be licensed shall so
4 inform the Commissioner in writing and, at the same time,
5 convey the license and all other symbols or indicia of
6 licensure. The licensee shall include a plan for the withdrawal
7 from regulated business, including a timetable for the
8 disposition of the business. Upon receipt of such written
9 notice, the Commissioner shall issue a certified statement
10 canceling the license.

11 (Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018,
12 eff. 1-1-05.)

13 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

14 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
15 powers, and duties. The functions, powers, and duties of the
16 Commissioner of Banks and Real Estate shall include the
17 following:

18 (a) To issue or refuse to issue any license as provided by
19 this Act;

20 (b) To revoke or suspend for cause any license issued under
21 this Act;

22 (c) To keep records of all licenses issued under this Act;

23 (d) To receive, consider, investigate, and act upon
24 complaints made by any person in connection with any
25 residential mortgage licensee in this State;

26 (e) To consider and act upon any recommendations from the
27 Residential Mortgage Board;

28 (f) To prescribe the forms of and receive:

29 (1) applications for licenses; and

30 (2) all reports and all books and records required to
31 be made by any licensee under this Act, including annual
32 audited financial statements and annual reports of
33 mortgage activity;

34 (g) To adopt rules and regulations necessary and proper for
35 the administration of this Act;

1 (h) To subpoena documents and witnesses and compel their
2 attendance and production, to administer oaths, and to require
3 the production of any books, papers, or other materials
4 relevant to any inquiry authorized by this Act;

5 (h-1) To issue orders against any person, if the
6 Commissioner has reasonable cause to believe that an unsafe,
7 unsound, or unlawful practice has occurred, is occurring, or is
8 about to occur, if any person has violated, is violating, or is
9 about to violate any law, rule, or written agreement with the
10 Commissioner, or for the purpose of administering the
11 provisions of this Act and any rule adopted in accordance with
12 the Act;

13 (h-2) To address any inquiries to any licensee, or the
14 officers thereof, in relation to its activities and conditions,
15 or any other matter connected with its affairs, and it shall be
16 the duty of any licensee or person so addressed, to promptly
17 reply in writing to such inquiries. The Commissioner may also
18 require reports from any licensee at any time the Commissioner
19 may deem desirable;

20 (i) To require information with regard to any license
21 applicant as he or she may deem desirable, with due regard to
22 the paramount interests of the public as to the experience,
23 background, honesty, truthfulness, integrity, and competency
24 of the license applicant as to financial transactions involving
25 primary or subordinate mortgage financing, and where the
26 license applicant is an entity other than an individual, as to
27 the honesty, truthfulness, integrity, and competency of any
28 officer or director of the corporation, association, or other
29 entity, or the members of a partnership;

30 (j) To examine the books and records of every licensee
31 under this Act at intervals as specified in Section 4-2;

32 (k) To enforce provisions of this Act;

33 (l) To levy fees, fines, and charges for services performed
34 in administering this Act; the aggregate of all fees collected
35 by the Commissioner on and after the effective date of this Act
36 shall be paid promptly after receipt of the same, accompanied

1 by a detailed statement thereof, into the Savings and
2 Residential Finance Regulatory Fund; the amounts deposited
3 into that Fund shall be used for the ordinary and contingent
4 expenses of the Office of Banks and Real Estate. Nothing in
5 this Act shall prevent continuing the practice of paying
6 expenses involving salaries, retirement, social security, and
7 State-paid insurance of State officers by appropriation from
8 the General Revenue Fund. For the fiscal year beginning on July
9 1, 2007, the Commissioner must adopt rules to adjust regulatory
10 fee rates to those in effect prior to the escalation in rates
11 published in 27 Ill.Reg. 10783, July 1, 2003, unless an audit
12 by the Auditor General of banking regulatory oversight
13 activities requires a different rate to be set to cover the
14 costs of regulatory oversight. Any adjustments made pursuant to
15 an Auditor General's audit must be set forth in the form of a
16 notice to each affected entity 45 days prior to making those
17 adjustments. The notice must contain an explanation that
18 includes a description of the audit results pertaining to the
19 banking industry and a description of each reason why
20 adjustments to the regulatory fee rates are required.

21 (m) To appoint examiners, supervisors, experts, and
22 special assistants as needed to effectively and efficiently
23 administer this Act;

24 (n) To conduct hearings for the purpose of:

25 (1) appeals of orders of the Commissioner;

26 (2) suspensions or revocations of licenses, or fining
27 of licensees;

28 (3) investigating:

29 (i) complaints against licensees; or

30 (ii) annual gross delinquency rates; and

31 (4) carrying out the purposes of this Act;

32 (o) To exercise exclusive visitorial power over a licensee
33 unless otherwise authorized by this Act or as vested in the
34 courts, or upon prior consultation with the Commissioner, a
35 foreign residential mortgage regulator with an appropriate
36 supervisory interest in the parent or affiliate of a licensee;

1 (p) To enter into cooperative agreements with state
2 regulatory authorities of other states to provide for
3 examination of corporate offices or branches of those states
4 and to accept reports of such examinations;

5 (q) To assign an examiner or examiners to monitor the
6 affairs of a licensee with whatever frequency the Commissioner
7 determines appropriate and to charge the licensee for
8 reasonable and necessary expenses of the Commissioner, if in
9 the opinion of the Commissioner an emergency exists or appears
10 likely to occur; and

11 (r) To impose civil penalties of up to \$50 per day against
12 a licensee for failing to respond to a regulatory request or
13 reporting requirement.

14 (Source: P.A. 93-1018, eff. 1-1-05.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.