



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0063

Introduced 1/9/2013, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/51

from Ch. 17, par. 363

Amends the Illinois Banking Act. Provides that financial institutions have 180 days (was, at least 60 but no more than 180 days) to correct capital impairments before the Commissioner may take possession and control of the bank. Provides that the Commissioner shall not extend the time period for the board of directors to correct a capital impairment for a bank that is critically undercapitalized. Provides that if the Commissioner has given notice to the board of directors requiring the bank to raise capital to correct capital impairment, the Commissioner shall only require a capital raising plan that ensures capital necessary for the bank to be adequately capitalized. Provides that the Commissioner shall not enforce or implement the provisions in a manner inconsistent with the requirements of the Federal Deposit Insurance Corporation. Effective immediately.

LRB098 02664 MGM 32669 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing  
5 Sections 51 and 52 as follows:

6 (205 ILCS 5/51) (from Ch. 17, par. 363)

7 Sec. 51. Capital impairment, etc.; correction.

8 (a) If the Commissioner with respect to a State bank shall  
9 find:

10 (1) its capital is impaired or it is otherwise in an  
11 unsound condition; or

12 (2) its business is being conducted in an unlawful,  
13 including, without limitation, in violation of any  
14 provisions of State or federal law, or in a fraudulent or  
15 unsafe manner; or

16 (3) it is unable to continue operations; or

17 (4) its examination has been obstructed or impeded; or

18 (5) that losses have occurred or are likely to occur  
19 that have or will deplete all or substantially all of the  
20 State bank's capital;

21 the Commissioner may give notice to the board of directors of  
22 his or her finding or findings. If the situation so found by  
23 the Commissioner shall not be corrected to his satisfaction

1 within a period of ~~at least 60 but no more than~~ 180 days after  
2 receipt of such notice, ~~which period shall be determined by the~~  
3 ~~Commissioner and set forth in the notice,~~ the Commissioner at  
4 the termination of said period may take possession and control  
5 of the bank and its assets as in this Act provided for the  
6 purpose of examination, reorganization or liquidation through  
7 receivership.

8 (b) If the Commissioner has given notice to the board of  
9 directors of his findings, as provided in subsection (a), and  
10 the time period ~~prescribed in that notice~~ has expired, the  
11 Commissioner may extend the time period ~~prescribed in that~~  
12 ~~notice~~ for such period as the Commissioner deems appropriate.  
13 The Commissioner shall not extend the time period for the board  
14 of directors to correct a capital impairment for a bank that is  
15 critically undercapitalized. For the purposes of this  
16 subsection only, "critically undercapitalized" shall have the  
17 meaning provided by 12 C.F.R. 325.103.

18 (c) If the Commissioner has given notice to the board of  
19 directors requiring the bank to raise capital to correct  
20 capital impairment, the Commissioner shall only require a  
21 capital raising plan that ensures capital necessary for the  
22 bank to be adequately capitalized. For the purposes of this  
23 subsection only, "adequately capitalized" shall have the  
24 meaning provided by 12 C.F.R. 325.103.

25 (d) The Commissioner shall not enforce or implement the  
26 provisions of this Section in a manner inconsistent with the

1 requirements of the Federal Deposit Insurance Corporation.

2 (Source: P.A. 96-1365, eff. 7-28-10.)

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