

1 AN ACT concerning financial regulation.

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

4 Section 5. The Office of Banks and Real Estate Act is
5 amended by changing Sections 5 and 6 as follows:

6 (20 ILCS 3205/5) (from Ch. 17, par. 455)

7 Sec. 5. Powers. In addition to all the other powers and
8 duties provided by law, the Commissioner shall have the
9 following powers:

10 (a) To exercise the rights, powers and duties formerly
11 vested by law in the Director of Financial Institutions under
12 the Illinois Banking Act.

13 (b) To exercise the rights, powers and duties formerly
14 vested by law in the Department of Financial Institutions
15 under "An act to provide for and regulate the administration
16 of trusts by trust companies", approved June 15, 1887, as
17 amended.

18 (c) To exercise the rights, powers and duties formerly
19 vested by law in the Director of Financial Institutions under
20 "An act authorizing foreign corporations, including banks and
21 national banking associations domiciled in other states, to
22 act in a fiduciary capacity in this state upon certain
23 conditions herein set forth", approved July 13, 1953, as
24 amended.

25 (d) Whenever the Commissioner is authorized or required
26 by law to consider or to make findings regarding the
27 character of incorporators, directors, management personnel,
28 or other relevant individuals under the Illinois Banking Act,
29 the Corporate Fiduciary Act, the Pawnbroker Regulation Act,
30 or at other times as the Commissioner deems necessary for the
31 purpose of carrying out the Commissioner's statutory powers

1 and responsibilities, the Commissioner shall consider
2 criminal history record information, including nonconviction
3 information, pursuant to the Criminal Identification Act.
4 The Commissioner shall, in the form and manner required by
5 the Department of State Police and the Federal Bureau of
6 Investigation, cause to be conducted a criminal history
7 record investigation to obtain information currently
8 contained in the files of the Department of State Police or
9 the Federal Bureau of Investigation, provided that the
10 Commissioner need not cause additional criminal history
11 record investigations to be conducted on individuals for whom
12 the Commissioner, a federal bank regulatory agency, or any
13 other government agency has caused such investigations to
14 have been conducted previously unless such additional
15 investigations are otherwise required by law or unless the
16 Commissioner deems such additional investigations to be
17 necessary for the purposes of carrying out the Commissioner's
18 statutory powers and responsibilities. The Department of
19 State Police shall provide, on the Commissioner's request,
20 information concerning criminal charges and their disposition
21 currently on file with respect to a relevant individual.
22 Information obtained as a result of an investigation under
23 this Section shall be used in determining eligibility to be
24 an incorporator, director, management personnel, or other
25 relevant individual in relation to a financial institution or
26 other entity supervised by the Commissioner. Upon request
27 and payment of fees in conformance with the requirements of
28 Section 2605-400 of the Department of State Police Law (20
29 ILCS 2605/2605-400), the Department of State Police is
30 authorized to furnish, pursuant to positive identification,
31 such information contained in State files as is necessary to
32 fulfill the request.

33 (e) When issuing charters, permits, licenses, or other
34 authorizations, the Commissioner may impose such terms and

1 conditions on the issuance as he deems necessary or
2 appropriate to ensure that the issuance is consistent with
3 applicable statutes, rules, and policies. Failure to abide
4 by those terms and conditions may result in the revocation
5 of the issuance, the imposition of corrective orders, or the
6 imposition of civil money penalties.

7 (f) If the Commissioner has reasonable cause to believe
8 that any entity that has not submitted an application for
9 authorization or licensure is conducting any activity that
10 would otherwise require authorization or licensure by the
11 Commissioner, the Commissioner shall have the power to
12 subpoena witnesses, to compel their attendance, and to
13 require the production of any relevant books, papers,
14 accounts, and documents in order to determine whether the
15 entity is subject to authorization or licensure by the
16 Commissioner or the Office of Banks and Real Estate.

17 (g) The Commissioner may, through the Attorney General,
18 request the circuit court of any county to issue an
19 injunction to restrain any person from violating the
20 provisions of any Act administered by the Commissioner.

21 (h) Whenever the Commissioner is authorized to take any
22 action or required by law to consider or make findings, the
23 Commissioner may delegate or appoint an officer or employee
24 of the Office of Banks and Real Estate to take that action or
25 make that finding.

26 (Source: P.A. 90-301, eff. 8-1-97; 90-602, eff. 7-1-98;
27 91-239, eff. 1-1-00.)

28 (20 ILCS 3205/6) (from Ch. 17, par. 456)

29 Sec. 6. Duties. The Commissioner shall direct and
30 supervise all the administrative and technical activities of
31 the Office and shall:

32 (a) Apply and carry out this Act and the law and all
33 rules adopted in pursuance thereof.

1 (b) Appoint, subject to the provisions of the Personnel
2 Code, such employees, experts, and special assistants as may
3 be necessary to carry out effectively the provisions of this
4 Act and, if the rate of compensation is not otherwise fixed
5 by law, fix their compensation; but neither the Commissioner
6 nor any deputy commissioner shall be subject to the Personnel
7 Code.

8 (c) Serve as Chairman of the State Banking Board of
9 Illinois.

10 (d) Serve as Chairman of the Board of Trustees of the
11 Illinois Bank Examiners' Education Foundation.

12 (e) Issue guidelines in the form of rules or regulations
13 which will prohibit discrimination by any State chartered
14 bank against any individual, corporation, partnership,
15 association or other entity because it appears in a so-called
16 blacklist issued by any domestic or foreign corporate or
17 governmental entity.

18 (f) Make an annual report to the Governor regarding the
19 work of the Office as the Commissioner may consider desirable
20 or as the Governor may request.

21 (g) Perform such other acts as may be requested by the
22 State Banking Board of Illinois pursuant to its lawful powers
23 and perform any other lawful act that the Commissioner
24 considers to be necessary or desirable to carry out the
25 purposes and provisions of this Act.

26 (h) Adopt, in accordance with the Illinois
27 Administrative Procedure Act, reasonable rules that the
28 Commissioner deems necessary for the proper administration
29 and enforcement of any Act the administration of which is
30 vested in the Commissioner or the Office of Banks and Real
31 Estate.

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

33 Section 10. The Illinois Banking Act is amended by

1 changing Sections 2, 5, 5b, 7, 8, 10, 12, 13, 13.5, 14, 15,
2 16.1, 17, 18, 21.2, 22, 25, 30.5, 31, 33, 37, 47, 48, 48.5,
3 49, 51, and 53, and adding Sections 4.9 and 48.7 as follows:

4 (205 ILCS 5/2) (from Ch. 17, par. 302)

5 Sec. 2. General definitions. In this Act, unless the
6 context otherwise requires, the following words and phrases
7 shall have the following meanings:

8 "Accommodation party" shall have the meaning ascribed to
9 that term in Section 3-419 of the Uniform Commercial Code.

10 "Action" in the sense of a judicial proceeding includes
11 recoupments, counterclaims, set-off, and any other proceeding
12 in which rights are determined.

13 "Affiliate facility" of a bank means a main banking
14 premises or branch of another commonly owned bank. The main
15 banking premises or any branch of a bank may be an "affiliate
16 facility" with respect to one or more other commonly owned
17 banks.

18 "Appropriate federal banking agency" means the Federal
19 Deposit Insurance Corporation, the Federal Reserve Bank of
20 Chicago, or the Federal Reserve Bank of St. Louis, as
21 determined by federal law.

22 "Bank" means any person doing a banking business whether
23 subject to the laws of this or any other jurisdiction.

24 A "banking house", "branch", "branch bank" or "branch
25 office" shall mean any place of business of a bank at which
26 deposits are received, checks paid, or loans made, but shall
27 not include any place at which only records thereof are made,
28 posted, or kept. A place of business at which deposits are
29 received, checks paid, or loans made shall not be deemed to
30 be a branch, branch bank, or branch office if the place of
31 business is adjacent to and connected with the main banking
32 premises, or if it is separated from the main banking
33 premises by not more than an alley; provided always that (i)

1 if the place of business is separated by an alley from the
2 main banking premises there is a connection between the two
3 by public or private way or by subterranean or overhead
4 passage, and (ii) if the place of business is in a building
5 not wholly occupied by the bank, the place of business shall
6 not be within any office or room in which any other business
7 or service of any kind or nature other than the business of
8 the bank is conducted or carried on. A place of business at
9 which deposits are received, checks paid, or loans made shall
10 not be deemed to be a branch, branch bank, or branch office
11 (i) of any bank if the place is a terminal established and
12 maintained in accordance with paragraph (17) of Section 5 of
13 this Act, or (ii) of a commonly owned bank by virtue of
14 transactions conducted at that place on behalf of the other
15 commonly owned bank under paragraph (23) of Section 5 of this
16 Act if the place is an affiliate facility with respect to the
17 other bank.

18 "Branch of an out-of-state bank" means a branch
19 established or maintained in Illinois by an out-of-state bank
20 as a result of a merger between an Illinois bank and the
21 out-of-state bank that occurs on or after May 31, 1997, or
22 any branch established by the out-of-state bank following the
23 merger.

24 "Call report fee" means the fee to be paid to the
25 Commissioner by each State bank pursuant to paragraph (a) of
26 subsection (3) of Section 48 of this Act.

27 "Capital" includes the aggregate of outstanding capital
28 stock and preferred stock.

29 "Cash flow reserve account" means the account within the
30 books and records of the Commissioner of Banks and Real
31 Estate used to record funds designated to maintain a
32 reasonable Bank and Trust Company Fund operating balance to
33 meet agency obligations on a timely basis.

34 "Charter" includes the original charter and all

1 amendments thereto and articles of merger or consolidation.

2 "Commissioner" means the Commissioner of Banks and Real
3 Estate or a person authorized by the Commissioner, the Office
4 of Banks and Real Estate Act, or this Act to act in the
5 Commissioner's stead.

6 "Commonly owned banks" means 2 or more banks that each
7 qualify as a bank subsidiary of the same bank holding company
8 pursuant to Section 18 of the Federal Deposit Insurance Act;
9 "commonly owned bank" refers to one of a group of commonly
10 owned banks but only with respect to one or more of the other
11 banks in the same group.

12 "Community" means a city, village, or incorporated town
13 and also includes the area served by the banking offices of a
14 bank, but need not be limited or expanded to conform to the
15 geographic boundaries of units of local government in--this
16 State.

17 "Company" means a corporation, limited liability company,
18 partnership, business trust, association, or similar
19 organization and, unless specifically excluded, includes a
20 "State bank" and a "bank".

21 "Consolidating bank" means a party to a consolidation.

22 "Consolidation" takes place when 2 or more banks, or a
23 trust company and a bank, are extinguished and by the same
24 process a new bank is created, taking over the assets and
25 assuming the liabilities of the banks or trust company
26 passing out of existence.

27 "Continuing bank" means a merging bank, the charter of
28 which becomes the charter of the resulting bank.

29 "Converting bank" means a State bank converting to become
30 a national bank, or a national bank converting to become a
31 State bank.

32 "Converting trust company" means a trust company
33 converting to become a State bank.

34 "Court" means a court of competent jurisdiction.

1 "Eligible depository institution" means an insured
2 savings association that is in default, an insured savings
3 association that is in danger of default, a State or national
4 bank that is in default or a State or national bank that is
5 in danger of default, as those terms are defined in this
6 Section, or a new bank as that term defined in Section 11(m)
7 of the Federal Deposit Insurance Act or a bridge bank as that
8 term is defined in Section 11(n) of the Federal Deposit
9 Insurance Act or a new federal savings association authorized
10 under Section 11(d)(2)(f) of the Federal Deposit Insurance
11 Act.

12 "Fiduciary" means trustee, agent, executor,
13 administrator, committee, guardian for a minor or for a
14 person under legal disability, receiver, trustee in
15 bankruptcy, assignee for creditors, or any holder of similar
16 position of trust.

17 "Financial institution" means a bank, savings and loan
18 association, credit union, or any licensee under the Consumer
19 Installment Loan Act or the Sales Finance Agency Act and, for
20 purposes of Section 48.3, any proprietary network, funds
21 transfer corporation, or other entity providing electronic
22 funds transfer services, or any corporate fiduciary, its
23 subsidiaries, affiliates, parent company, or contractual
24 service provider that is examined by the Commissioner.

25 "Foundation" means the Illinois Bank Examiners' Education
26 Foundation.

27 "General obligation" means a bond, note, debenture,
28 security, or other instrument evidencing an obligation of the
29 government entity that is the issuer that is supported by the
30 full available resources of the issuer, the principal and
31 interest of which is payable in whole or in part by taxation.

32 "Guarantee" means an undertaking or promise to answer for
33 payment of another's debt or performance of another's duty,
34 liability, or obligation whether "payment guaranteed" or

1 "collection guaranteed".

2 "In danger of default" means a State or national bank, a
3 federally chartered insured savings association or an
4 Illinois state chartered insured savings association with
5 respect to which the Commissioner or the appropriate federal
6 banking agency has advised the Federal Deposit Insurance
7 Corporation that:

8 (1) in the opinion of the Commissioner or the
9 appropriate federal banking agency,

10 (A) the State or national bank or insured
11 savings association is not likely to be able to meet
12 the demands of the State or national bank's or
13 savings association's obligations in the normal
14 course of business; and

15 (B) there is no reasonable prospect that the
16 State or national bank or insured savings
17 association will be able to meet those demands or
18 pay those obligations without federal assistance; or

19 (2) in the opinion of the Commissioner or the
20 appropriate federal banking agency,

21 (A) the State or national bank or insured
22 savings association has incurred or is likely to
23 incur losses that will deplete all or substantially
24 all of its capital; and

25 (B) there is no reasonable prospect that the
26 capital of the State or national bank or insured
27 savings association will be replenished without
28 federal assistance.

29 "In default" means, with respect to a State or national
30 bank or an insured savings association, any adjudication or
31 other official determination by any court of competent
32 jurisdiction, the Commissioner, the appropriate federal
33 banking agency, or other public authority pursuant to which a
34 conservator, receiver, or other legal custodian is appointed

1 for a State or national bank or an insured savings
2 association.

3 "Insured savings association" means any federal savings
4 association chartered under Section 5 of the federal Home
5 Owners' Loan Act and any State savings association chartered
6 under the Illinois Savings and Loan Act of 1985 or a
7 predecessor Illinois statute, the deposits of which are
8 insured by the Federal Deposit Insurance Corporation. The
9 term also includes a savings bank organized or operating
10 under the Savings Bank Act.

11 "Insured savings association in recovery" means an
12 insured savings association that is not an eligible
13 depository institution and that does not meet the minimum
14 capital requirements applicable with respect to the insured
15 savings association.

16 "Issuer" means for purposes of Section 33 every person
17 who shall have issued or proposed to issue any security;
18 except that (1) with respect to certificates of deposit,
19 voting trust certificates, collateral-trust certificates, and
20 certificates of interest or shares in an unincorporated
21 investment trust not having a board of directors (or persons
22 performing similar functions), "issuer" means the person or
23 persons performing the acts and assuming the duties of
24 depositor or manager pursuant to the provisions of the trust,
25 agreement, or instrument under which the securities are
26 issued; (2) with respect to trusts other than those specified
27 in clause (1) above, where the trustee is a corporation
28 authorized to accept and execute trusts, "issuer" means the
29 entrusters, depositors, or creators of the trust and any
30 manager or committee charged with the general direction of
31 the affairs of the trust pursuant to the provisions of the
32 agreement or instrument creating the trust; and (3) with
33 respect to equipment trust certificates or like securities,
34 "issuer" means the person to whom the equipment or property

1 is or is to be leased or conditionally sold.

2 "Letter of credit" and "customer" shall have the meanings
3 ascribed to those terms in Section 5-102 of the Uniform
4 Commercial Code.

5 "Main banking premises" means the location that is
6 designated in a bank's charter as its main office.

7 "Maker or obligor" means for purposes of Section 33 the
8 issuer of a security, the promisor in a debenture or other
9 debt security, or the mortgagor or grantor of a trust deed or
10 similar conveyance of a security interest in real or personal
11 property.

12 "Merged bank" means a merging bank that is not the
13 continuing, resulting, or surviving bank in a consolidation
14 or merger.

15 "Merger" includes consolidation.

16 "Merging bank" means a party to a bank merger.

17 "Merging trust company" means a trust company party to a
18 merger with a State bank.

19 "Mid-tier bank holding company" means a corporation that
20 (a) owns 100% of the issued and outstanding shares of each
21 class of stock of a State bank, (b) has no other
22 subsidiaries, and (c) 100% of the issued and outstanding
23 shares of the corporation are owned by a parent bank holding
24 company.

25 "Municipality" means any municipality, political
26 subdivision, school district, taxing district, or agency.

27 "National bank" means a national banking association
28 located in this State and after May 31, 1997, means a
29 national banking association without regard to its location.

30 "Out-of-state bank" means a bank chartered under the laws
31 of a state other than Illinois, a territory of the United
32 States, or the District of Columbia.

33 "Parent bank holding company" means a corporation that is
34 a bank holding company as that term is defined in the

1 Illinois Bank Holding Company Act of 1957 and owns 100% of
2 the issued and outstanding shares of a mid-tier bank holding
3 company.

4 "Person" means an individual, corporation, limited
5 liability company, partnership, joint venture, trust, estate,
6 or unincorporated association.

7 "Public agency" means the State of Illinois, the various
8 counties, townships, cities, towns, villages, school
9 districts, educational service regions, special road
10 districts, public water supply districts, fire protection
11 districts, drainage districts, levee districts, sewer
12 districts, housing authorities, the Illinois Bank Examiners'
13 Education Foundation, the Chicago Park District, and all
14 other political corporations or subdivisions of the State of
15 Illinois, whether now or hereafter created, whether herein
16 specifically mentioned or not, and shall also include any
17 other state or any political corporation or subdivision of
18 another state.

19 "Public funds" or "public money" means current operating
20 funds, special funds, interest and sinking funds, and funds
21 of any kind or character belonging to, in the custody of, or
22 subject to the control or regulation of the United States or
23 a public agency. "Public funds" or "public money" shall
24 include funds held by any of the officers, agents, or
25 employees of the United States or of a public agency in the
26 course of their official duties and, with respect to public
27 money of the United States, shall include Postal Savings
28 funds.

29 "Published" means, unless the context requires otherwise,
30 the publishing of the notice or instrument referred to in
31 some newspaper of general circulation in the community in
32 which the bank is located at least once each week for 3
33 successive weeks. Publishing shall be accomplished by, and
34 at the expense of, the bank required to publish. Where

1 publishing is required, the bank shall submit to the
2 Commissioner that evidence of the publication as the
3 Commissioner shall deem appropriate.

4 "Qualified financial contract" means any security
5 contract, commodity contract, forward contract, including
6 spot and forward foreign exchange contracts, repurchase
7 agreement, swap agreement, and any similar agreement, any
8 option to enter into any such agreement, including any
9 combination of the foregoing, and any master agreement for
10 such agreements. A master agreement, together with all
11 supplements thereto, shall be treated as one qualified
12 financial contract. The contract, option, agreement, or
13 combination of contracts, options, or agreements shall be
14 reflected upon the books, accounts, or records of the bank,
15 or a party to the contract shall provide documentary evidence
16 of such agreement.

17 "Recorded" means the filing or recording of the notice or
18 instrument referred to in the office of the Recorder of the
19 county wherein the bank is located.

20 "Resulting bank" means the bank resulting from a merger
21 or conversion.

22 "Securities" means stocks, bonds, debentures, notes, or
23 other similar obligations.

24 "Stand-by letter of credit" means a letter of credit
25 under which drafts are payable upon the condition the
26 customer has defaulted in performance of a duty, liability,
27 or obligation.

28 "State bank" means any banking corporation that has a
29 banking charter issued by the Commissioner under this Act.

30 "State Banking Board" means the State Banking Board of
31 Illinois.

32 "Subsidiary" with respect to a specified company means a
33 company that is controlled by the specified company. For
34 purposes of paragraphs (8) and (12) of Section 5 of this Act,

1 "control" means the exercise of operational or managerial
2 control of a corporation by the bank, either alone or
3 together with other affiliates of the bank.

4 "Surplus" means the aggregate of (i) amounts paid in
5 excess of the par value of capital stock and preferred stock;
6 (ii) amounts contributed other than for capital stock and
7 preferred stock and allocated to the surplus account; and
8 (iii) amounts transferred from undivided profits.

9 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
10 assigned to those terms in regulations promulgated for the
11 appropriate federal banking agency of a state bank, as those
12 regulations are now or hereafter amended.

13 "Trust company" means a limited liability company or
14 corporation incorporated in this State for the purpose of
15 accepting and executing trusts.

16 "Undivided profits" means undistributed earnings less
17 discretionary transfers to surplus.

18 "Unimpaired capital and unimpaired surplus", for the
19 purposes of paragraph (21) of Section 5 and Sections 32, 33,
20 34, 35.1, 35.2, and 47 of this Act means the sum of the state
21 bank's Tier 1 Capital and Tier 2 Capital plus such other
22 shareholder equity as may be included by regulation of the
23 Commissioner. Unimpaired capital and unimpaired surplus
24 shall be calculated on the basis of the date of the last
25 quarterly call report filed with the Commissioner preceding
26 the date of the transaction for which the calculation is
27 made, provided that: (i) when a material event occurs after
28 the date of the last quarterly call report filed with the
29 Commissioner that reduces or increases the bank's unimpaired
30 capital and unimpaired surplus by 10% or more, then the
31 unimpaired capital and unimpaired surplus shall be calculated
32 from the date of the material event for a transaction
33 conducted after the date of the material event; and (ii) if
34 the Commissioner determines for safety and soundness reasons

1 that a state bank should calculate unimpaired capital and
 2 unimpaired surplus more frequently than provided by this
 3 paragraph, the Commissioner may by written notice direct the
 4 bank to calculate unimpaired capital and unimpaired surplus
 5 at a more frequent interval. In the case of a state bank
 6 newly chartered under Section 13 or a state bank resulting
 7 from a merger, consolidation, or conversion under Sections 21
 8 through 26 for which no preceding quarterly call report has
 9 been filed with the Commissioner, unimpaired capital and
 10 unimpaired surplus shall be calculated for the first calendar
 11 quarter on the basis of the effective date of the charter,
 12 merger, consolidation, or conversion.

13 (Source: P.A. 89-208, eff. 9-29-95; 89-364, eff. 8-18-95;
 14 89-508, eff. 7-3-96; 89-534, eff. 1-1-97; 89-567, eff.
 15 7-26-96; 89-626, eff. 8-9-96; 90-14, eff. 7-1-97; 90-301,
 16 eff. 8-1-97.)

17 (205 ILCS 5/4.9 new)

18 Sec. 4.9. Limitations on powers. Notwithstanding any
 19 other provision of law to the contrary, the Commissioner may
 20 specify the powers of banks generally or of a particular bank
 21 and by rule or order limit or restrict the powers of banks or
 22 of a particular bank if the Commissioner finds the exercise
 23 of those powers by banks generally or by a particular bank
 24 may tend to be an unsafe or unsound practice or is otherwise
 25 not in the interest of depositors or consumers of the bank.

26 (205 ILCS 5/5) (from Ch. 17, par. 311)

27 Sec. 5. General corporate powers. A bank organized
 28 under this Act or subject hereto shall be a body corporate
 29 and politic and shall, without specific mention thereof in
 30 the charter, have all the powers conferred by this Act and
 31 the following additional general corporate powers:

32 (1) To sue and be sued, complain, and defend in its

1 corporate name.

2 (2) To have a corporate seal, which may be altered at
3 pleasure, and to use the same by causing it or a facsimile
4 thereof to be impressed or affixed or in any manner
5 reproduced, provided that the affixing of a corporate seal to
6 an instrument shall not give the instrument additional force
7 or effect, or change the construction thereof, and the use of
8 a corporate seal is not mandatory.

9 (3) To make, alter, amend, and repeal bylaws, not
10 inconsistent with its charter or with law, for the
11 administration of the affairs of the bank. If this Act does
12 not provide specific guidance in matters of corporate
13 governance, the provisions of the Business Corporation Act of
14 1983 may be used if so provided in the bylaws.

15 (4) To elect or appoint and remove officers and agents
16 of the bank and define their duties and fix their
17 compensation.

18 (5) To adopt and operate reasonable bonus plans,
19 profit-sharing plans, stock-bonus plans, stock-option plans,
20 pension plans and similar incentive plans for its directors,
21 officers and employees.

22 (5.1) To manage, operate and administer a fund for the
23 investment of funds by a public agency or agencies, including
24 any unit of local government or school district, or any
25 person. The fund for a public agency shall invest in the
26 same type of investments and be subject to the same
27 limitations provided for the investment of public funds. The
28 fund for public agencies shall maintain a separate ledger
29 showing the amount of investment for each public agency in
30 the fund. "Public funds" and "public agency" as used in this
31 Section shall have the meanings ascribed to them in Section 1
32 of the Public Funds Investment Act.

33 (6) To make reasonable donations for the public welfare
34 or for charitable, scientific, religious or educational

1 purposes.

2 (7) To borrow or incur an obligation; and to pledge its
3 assets:

4 (a) to secure its borrowings, its lease of personal
5 or real property or its other nondeposit obligations;

6 (b) to enable it to act as agent for the sale of
7 obligations of the United States;

8 (c) to secure deposits of public money of the
9 United States, whenever required by the laws of the
10 United States, including without being limited to,
11 revenues and funds the deposit of which is subject to the
12 control or regulation of the United States or any of its
13 officers, agents, or employees and Postal Savings funds;

14 (d) to secure deposits of public money of any state
15 or of any political corporation or subdivision thereof
16 including, without being limited to, revenues and funds
17 the deposit of which is subject to the control or
18 regulation of any state or of any political corporation
19 or subdivisions thereof or of any of their officers,
20 agents, or employees;

21 (e) to secure deposits of money whenever required
22 by the National Bankruptcy Act;

23 (f) (blank); and

24 (g) to secure trust funds commingled with the
25 bank's funds, whether deposited by the bank or an
26 affiliate of the bank, pursuant to Section 2-8 of the
27 Corporate Fiduciary Act.

28 (8) To own, possess, and carry as assets all or part of
29 the real estate necessary in or with which to do its banking
30 business, either directly or indirectly through the ownership
31 of all or part of the capital stock, shares or interests in
32 any corporation, association, trust engaged in holding any
33 part or parts or all of the bank premises, engaged in such
34 business and in conducting a safe deposit business in the

1 premises or part of them, or engaged in any activity that the
2 bank is permitted to conduct in a subsidiary pursuant to
3 paragraph (12) of this Section 5.

4 (9) To own, possess, and carry as assets other real
5 estate to which it may obtain title in the collection of its
6 debts or that was formerly used as a part of the bank
7 premises, but title to any real estate except as herein
8 permitted shall not be retained by the bank, either directly
9 or by or through a subsidiary, as permitted by subsection
10 (12) of this Section for a total period of more than 10 years
11 after acquiring title, either directly or indirectly.

12 (10) To do any act, including the acquisition of stock,
13 necessary to obtain insurance of its deposits, or part
14 thereof, and any act necessary to obtain a guaranty, in whole
15 or in part, of any of its loans or investments by the United
16 States or any agency thereof, and any act necessary to sell
17 or otherwise dispose of any of its loans or investments to
18 the United States or any agency thereof, and to acquire and
19 hold membership in the Federal Reserve System.

20 (11) Notwithstanding any other provisions of this Act or
21 any other law, to do any act and to own, possess, and carry
22 as assets property of the character, including stock, that is
23 at the time authorized or permitted to national banks by an
24 Act of Congress, but subject always to the same limitations
25 and restrictions as are applicable to national banks by the
26 pertinent federal law and subject to applicable provisions of
27 the Financial Institutions Insurance Sales Law.

28 (12) To own, possess, and carry as assets stock of one
29 or more corporations that is, or are, engaged in one or more
30 of the following businesses:

31 (a) holding title to and administering assets
32 acquired as a result of the collection or liquidating of
33 loans, investments, or discounts; or

34 (b) holding title to and administering personal

1 property acquired by the bank, directly or indirectly
2 through a subsidiary, for the purpose of leasing to
3 others, provided the lease or leases and the investment
4 of the bank, directly or through a subsidiary, in that
5 personal property otherwise comply with Section 35.1 of
6 this Act; or

7 (c) carrying on or administering any of the
8 activities excepting the receipt of deposits or the
9 payment of checks or other orders for the payment of
10 money in which a bank may engage in carrying on its
11 general banking business; provided, however, that nothing
12 contained in this paragraph (c) shall be deemed to permit
13 a bank organized under this Act or subject hereto to do,
14 either directly or indirectly through any subsidiary, any
15 act, including the making of any loan or investment, or
16 to own, possess, or carry as assets any property that if
17 done by or owned, possessed, or carried by the State bank
18 would be in violation of or prohibited by any provision
19 of this Act.

20 The provisions of this subsection (12) shall not apply to
21 and shall not be deemed to limit the powers of a State bank
22 with respect to the ownership, possession, and carrying of
23 stock that a State bank is permitted to own, possess, or
24 carry under this Act.

25 Any bank intending to establish a subsidiary under this
26 subsection (12) shall give written notice to the Commissioner
27 60 days prior to the subsidiary's commencing of business or,
28 as the case may be, prior to acquiring stock in a corporation
29 that has already commenced business. After receiving the
30 notice, the Commissioner may waive or reduce the balance of
31 the 60 day notice period. The Commissioner may specify the
32 form of the notice and may promulgate rules and regulations
33 to administer this subsection (12).

34 (13) To accept for payment at a future date not

1 exceeding one year from the date of acceptance, drafts drawn
2 upon it by its customers; and to issue, advise, or confirm
3 letters of credit authorizing the holders thereof to draw
4 drafts upon it or its correspondents.

5 (14) To own and lease personal property acquired by the
6 bank at the request of a prospective lessee and upon the
7 agreement of that person to lease the personal property
8 provided that the lease, the agreement with respect thereto,
9 and the amount of the investment of the bank in the property
10 comply with Section 35.1 of this Act.

11 (15) (a) To establish and maintain, in addition to the
12 main banking premises, branches offering any banking
13 services permitted at the main banking premises of a
14 State bank.

15 (b) To establish and maintain, after May 31, 1997,
16 branches in another state that may conduct any activity
17 in that state that is authorized or permitted for any
18 bank that has a banking charter issued by that state,
19 subject to the same limitations and restrictions that are
20 applicable to banks chartered by that state.

21 (16) (Blank).

22 (17) To establish and maintain terminals, as authorized
23 by the Electronic Fund Transfer Act.

24 (18) To establish and maintain temporary service booths
25 at any International Fair held in this State which is
26 approved by the United States Department of Commerce, for the
27 duration of the international fair for the sole purpose of
28 providing a convenient place for foreign trade customers at
29 the fair to exchange their home countries' currency into
30 United States currency or the converse. This power shall not
31 be construed as establishing a new place or change of
32 location for the bank providing the service booth.

33 (19) To indemnify its officers, directors, employees,
34 and agents, as authorized for corporations under Section 8.75

1 of the Business Corporation Act of 1983.

2 (20) To own, possess, and carry as assets stock of, or
3 be or become a member of, any corporation, mutual company,
4 association, trust, or other entity formed exclusively for
5 the purpose of providing directors' and officers' liability
6 and bankers' blanket bond insurance or reinsurance to and for
7 the benefit of the stockholders, members, or beneficiaries,
8 or their assets or businesses, or their officers, directors,
9 employees, or agents, and not to or for the benefit of any
10 other person or entity or the public generally.

11 (21) To make debt or equity investments in corporations
12 or projects, whether for profit or not for profit, designed
13 to promote the development of the community and its welfare,
14 provided that the aggregate investment in all of these
15 corporations and in all of these projects does not exceed 10%
16 of the unimpaired capital and unimpaired surplus of the bank
17 and provided that this limitation shall not apply to
18 creditworthy loans by the bank to those corporations or
19 projects. Upon written application to the Commissioner, a
20 bank may make an investment that would, when aggregated with
21 all other such investments, exceed 10% of the unimpaired
22 capital and unimpaired surplus of the bank. The Commissioner
23 may approve the investment if he is of the opinion and finds
24 that the proposed investment will not have a material adverse
25 effect on the safety and soundness of the bank.

26 (22) To own, possess, and carry as assets the stock of a
27 corporation engaged in the ownership or operation of a travel
28 agency or to operate a travel agency as a part of its
29 business, ~~provided that the bank either owned, possessed, and~~
30 ~~carried as assets the stock of such a corporation or operated~~
31 ~~a travel agency as part of its business before July 1, 1991.~~

32 (23) With respect to affiliate facilities:

33 (a) to conduct at affiliate facilities for and on
34 behalf of another commonly owned bank, if so authorized

1 by the other bank, all transactions that the other bank
2 is authorized or permitted to perform; and

3 (b) to authorize a commonly owned bank to conduct
4 for and on behalf of it any of the transactions it is
5 authorized or permitted to perform at one or more
6 affiliate facilities.

7 Any bank intending to conduct or to authorize a commonly
8 owned bank to conduct at an affiliate facility any of the
9 transactions specified in this paragraph (23) shall give
10 written notice to the Commissioner at least 30 days before
11 any such transaction is conducted at the affiliate facility.

12 (24) To act as the agent for any fire, life, or other
13 insurance company authorized by the State of Illinois, by
14 soliciting and selling insurance and collecting premiums on
15 policies issued by such company; and to receive for services
16 so rendered such fees or commissions as may be agreed upon
17 between the bank and the insurance company for which it may
18 act as agent; provided, however, that no such bank shall in
19 any case assume or guarantee the payment of any premium on
20 insurance policies issued through its agency by its
21 principal; and provided further, that the bank shall not
22 guarantee the truth of any statement made by an assured in
23 filing his application for insurance.

24 (25) Notwithstanding any other provisions of this Act or
25 any other law, to offer any product or service that is at the
26 time authorized or permitted to any insured savings
27 association or out-of-state bank by applicable law, provided
28 that powers conferred only by this subsection (25):

29 (a) shall always be subject to the same limitations
30 and restrictions that are applicable to the insured
31 savings association or out-of-state bank for the product
32 or service by such applicable law;

33 (b) shall be subject to applicable provisions of
34 the Financial Institutions Insurance Sales Law;

1 (c) shall not include the right to own or conduct a
2 real estate brokerage business for which a license would
3 be required under the laws of this State; and

4 (d) shall not be construed to include the
5 establishment or maintenance of a branch, nor shall they
6 be construed to limit the establishment or maintenance of
7 a branch pursuant to subsection (11).

8 (Source: P.A. 90-41, eff. 10-1-97; 90-301, eff. 8-1-97;
9 90-655, eff. 7-30-98; 90-665, eff. 7-30-98; 91-330, eff.
10 7-29-99; 91-849, eff. 6-22-00.)

11 (205 ILCS 5/5b) (from Ch. 17, par. 312.1)

12 Sec. 5b. Deposits in outside depository.

13 (a) Except as provided in subsection (b), every bank is
14 liable for deposits made in an outside depository from the
15 time the deposit is made.

16 (b) A bank may adopt a policy that its liability for
17 deposits made in outside depositories will be delayed until
18 the deposits are recorded, and, if such a policy is adopted
19 and depositors are notified in writing at least 21 days in
20 advance of the effective date of such policy, the bank's
21 liability will be delayed in accordance with the policy. In
22 case of deposit accounts opened after such a policy is
23 adopted, the policy shall be effective if the depositor is
24 given written notice of the policy at the time the deposit
25 account is opened.

26 (c) For the purposes of this Section "outside
27 depository" means any receptacle attached to a main banking
28 premise, ~~or~~ branch, as allowed in subsection (15) of Section
29 5 of this Act, or other location for the purpose of making
30 deposits either during or after regular banking hours, but
31 does not include an automatic teller machine or point of sale
32 terminal, as defined in the Electronic Fund Transfer Act.

33 (Source: P.A. 88-273; 89-310, eff. 1-1-96.)

1 (205 ILCS 5/7) (from Ch. 17, par. 314)

2 Sec. 7. Organization capital requirements. A bank may be
3 organized to exercise the powers conferred by this Act with
4 minimum capital and surplus as determined by the
5 Commissioner. ~~The---Commissioner---shall---record---such
6 organization---capital---requirements---in---the---Office---of---the
7 Secretary-of-State-~~

8 (Source: P.A. 90-301, eff. 8-1-97.)

9 (205 ILCS 5/8) (from Ch. 17, par. 315)

10 Sec. 8. Incorporators. A State bank may be organized on
11 application by 5 or more incorporators who shall be
12 individuals except that a bank holding company may be the
13 sole incorporator of a State bank. ~~Each--incorporator--shall
14 undertake--to--subscribe--and--pay--in--full--in--cash--for--stock
15 having--a--value--of--not--less--than--one--per--cent--of--the--minimum
16 capital--and--surplus--requirements--as--set--forth--in--Section--7,
17 except--that--incorporators--of--a--State--bank--that--will--be--owned
18 by--a--bank--holding--company--may--subscribe--and--pay--in--full--in
19 cash--for--stock--of--the--bank--holding--company,-provided--that--the
20 incorporator's--investment--in--the--bank--holding--company--must--at
21 least--equal--the--amount--of--money--that--would--have--been--needed
22 for--the--incorporator--to--acquire--shares--of--the--bank's--stock
23 pursuant--to--this--Section-~~

24 (Source: P.A. 90-301, eff. 8-1-97.)

25 (205 ILCS 5/10) (from Ch. 17, par. 317)

26 Sec. 10. Permit to organize.

27 (a) Upon the filing of an application for a permit to
28 organize, the Commissioner shall investigate the truth of the
29 statements therein and shall consider the proposed bank's
30 capital structure, its future earnings prospects, the general
31 character, experience, and qualifications of its proposed
32 management, its proposed plan of operation, and the

1 convenience and needs of the area sought to be served, and
2 notwithstanding the provisions of Section 7 of this Act, the
3 Commissioner shall not approve the application and issue a
4 permit to organize unless he shall be of the opinion and
5 finds:

6 (1) that the proposed capital at least meets the
7 minimum requirements of this Act determined by the
8 Commissioner pursuant to Section 7 of this Act including
9 additional capital necessitated by the circumstances of
10 the proposed bank including its size, scope of
11 operations and market in which it proposes to operate;

12 (2) that the future earnings prospects are
13 favorable;

14 (3) that the general character, experience, and
15 qualifications of its proposed management and its
16 proposed plan of operation are such as to assure
17 reasonable promise of successful, safe and sound
18 operation;

19 (4) that the name of the proposed bank is not the
20 same as or deceptively similar to a name reserved with
21 the Commissioner's office under Section 9.5 or to the
22 name of any other bank then operating in this State; and

23 (5) that the convenience and needs of the area
24 sought to be served by the proposed bank will be
25 promoted.

26 (b) The Commissioner shall revoke the permit to organize
27 and order liquidation of any funds collected in the event
28 that the organizers do not obtain a charter from the
29 Commissioner authorizing the bank to commence business within
30 6 months from the date of the issuance of the permit, unless
31 a request has been submitted, in writing, to the Commissioner
32 for an extension and the request has been approved.

33 (c) The Commissioner may impose such terms and
34 conditions, if any, on the issuance of the permit to organize

1 as the Commissioner deems appropriate and necessary for the
2 organization of the bank.

3 (Source: P.A. 90-665, eff. 7-30-98; 91-452, eff. 1-1-00.)

4 (205 ILCS 5/12) (from Ch. 17, par. 319)

5 Sec. 12. Organization.

6 (a) The directors so elected shall ~~may~~ proceed to
7 organize in conformity with this Act and as follows:

8 (1) To qualify themselves as directors.

9 (2) To elect one of their number as president.

10 (3) To make and adopt by-laws not inconsistent with
11 its charter or with law for the administration of the
12 affairs of the bank.

13 (4) To appoint such officers as the by-laws may
14 provide, and fix the salaries of all officers.

15 (5) To furnish to the Commissioner lists of the
16 stockholders and copies of any other records the
17 Commissioner may require.

18 (6) To collect the subscriptions to the capital
19 stock and to the preferred stock, if any, including the
20 surplus and the reserves for operating expenses.

21 (6.5) To notify the Commissioner of any significant
22 deviation or change from the original plan of operation
23 or proposed business activities submitted with the
24 application for a permit to organize.

25 (7) To report the organization to the Commissioner.

26 (b) Subscriptions to the capital stock and to the
27 preferred stock, if any, collected pursuant to item (6) of
28 subsection (a) of this Section must be placed in escrow.
29 Funds may not be withdrawn from the escrow until (1) the
30 charter authorizing the bank to commence a banking business
31 has been issued under Section 13 or (2) the directors submit
32 a written request to withdraw a specified amount of funds and
33 the Commissioner grants a written approval for the

1 withdrawal.

2 (Source: P.A. 85-204.)

3 (205 ILCS 5/13) (from Ch. 17, par. 320)

4 Sec. 13. Issuance of charter.

5 (a) When the directors have organized as provided in
6 Section 12 of this Act, and the capital stock and the
7 preferred stock, if any, together with a surplus of not less
8 than 50% of the capital, has been all fully paid in and a
9 record of the same filed with the Commissioner, the
10 Commissioner or some competent person of the Commissioner's
11 appointment shall make a thorough examination into the
12 affairs of the proposed bank, and if satisfied (i) that all
13 the requirements of this Act have been complied with, (ii)
14 that no intervening circumstance has occurred to change the
15 Commissioner's findings made pursuant to Section 10 of this
16 Act, and (iii) that the prior involvement by any stockholder
17 who will own a sufficient amount of stock to have control, as
18 defined in Section 18 of this Act, of the proposed bank with
19 any other financial institution, whether as stockholder,
20 director, officer, or customer, was conducted in a safe and
21 sound manner, upon payment into the Commissioner's office of
22 the reasonable expenses of the examination, as determined by
23 the Commissioner, the Commissioner shall issue a charter
24 authorizing the bank to commence business as authorized in
25 this Act. All charters issued by the Commissioner or any
26 predecessor agency which chartered State banks, including any
27 charter outstanding as of September 1, 1989, shall be
28 perpetual. For the 2 years after the Commissioner has issued
29 a charter to a bank, the bank shall request and obtain from
30 the Commissioner prior written approval before it may change
31 senior management personnel or directors.

32 The original charter, duly certified by the Commissioner,
33 or a certified copy shall be evidence in all courts and

1 places of the existence and authority of the bank to do
2 business. Upon the issuance of the charter by the
3 Commissioner, the bank shall be deemed fully organized and
4 may proceed to do business. The Commissioner may, in the
5 Commissioner's discretion, withhold the issuing of the
6 charter when the Commissioner has reason to believe that the
7 bank is organized for any purpose other than that
8 contemplated by this Act ~~or that a commission or fee has been~~
9 ~~paid in connection with the sale of the stock of the bank.~~
10 The Commissioner shall revoke the charter and order
11 liquidation in the event that the bank does not commence a
12 general banking business within one year from the date of the
13 issuance of the charter, unless a request has been submitted,
14 in writing, to the Commissioner for an extension and the
15 request has been approved. After commencing a general
16 banking business, a bank may change its name by filing
17 written notice with the Commissioner at least 30 days prior
18 to the effective date of such change. A bank chartered under
19 this Act may change its main banking premises by filing
20 written application with the Commissioner, on forms
21 prescribed by the Commissioner, provided (i) the change shall
22 not be a removal to a new location without complying with the
23 capital requirements of Section 7 and of subsection (1) of
24 Section 10 of this Act; (ii) the Commissioner approves the
25 relocation or change; and (iii) the bank complies with any
26 applicable federal law or regulation. The application shall
27 be deemed to be approved if the Commissioner has not acted on
28 the application within 30 days after receipt of the
29 application, unless within the 30-day time frame the
30 Commissioner informs the bank that an extension of time is
31 necessary prior to the Commissioner's action on the
32 application.

33 (b) (1) The Commissioner may also issue a charter to a
34 bank that is owned exclusively by other depository

1 institutions or depository institution holding companies and
2 is organized to engage exclusively in providing services to
3 or for other depository institutions, their holding
4 companies, and the officers, directors, and employees of such
5 institutions and companies, and in providing correspondent
6 banking services at the request of other depository
7 institutions or their holding companies (also referred to as
8 a "bankers' bank").

9 (2) A bank chartered pursuant to paragraph (1) shall,
10 except as otherwise specifically determined or limited by the
11 Commissioner in an order or pursuant to a rule, be vested
12 with the same rights and privileges and subject to the same
13 duties, restrictions, penalties, and liabilities now or
14 hereafter imposed under this Act.

15 (c) A bank chartered under this Act after November 1,
16 1985, and an out-of-state bank that merges with a State bank
17 and establishes or maintains a branch in this State after May
18 31, 1997, shall obtain from and, at all times while it
19 accepts or retains deposits, maintain with the Federal
20 Deposit Insurance Corporation, or such other instrumentality
21 of or corporation chartered by the United States, deposit
22 insurance as authorized under federal law.

23 (d) (i) A bank that has a banking charter issued by the
24 Commissioner under this Act may, pursuant to a written
25 purchase and assumption agreement, transfer substantially all
26 of its assets to another State bank or national bank in
27 consideration, in whole or in part, for the transferee banks'
28 assumption of any part or all of its liabilities. Such a
29 transfer shall in no way be deemed to impair the charter of
30 the transferor bank or cause the transferor bank to forfeit
31 any of its rights, powers, interests, franchises, or
32 privileges as a State bank, nor shall any voluntary reduction
33 in the transferor bank's activities resulting from the
34 transfer have any such effect; provided, however, that a

1 State bank that transfers substantially all of its assets
 2 pursuant to this subsection (d) and following the transfer
 3 does not accept deposits and make loans, shall not have any
 4 rights, powers, interests, franchises, or privileges under
 5 subsection (15) of Section 5 of this Act until the bank has
 6 resumed accepting deposits and making loans.

7 (ii) The fact that a State bank does not resume
 8 accepting deposits and making loans for a period of 24 months
 9 commencing on September 11, 1989 or on a date of the transfer
 10 of substantially all of a State bank's assets, whichever is
 11 later, or such longer period as the Commissioner may allow in
 12 writing, may be the basis for a finding by the Commissioner
 13 under Section 51 of this Act that the bank is unable to
 14 continue operations.

15 (iii) The authority provided by subdivision (i) of this
 16 subsection (d) shall terminate on May 31, 1997, and no bank
 17 that has transferred substantially all of its assets pursuant
 18 to this subsection (d) shall continue in existence after May
 19 31, 1997.

20 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
 21 90-665, eff. 7-30-98; 91-322, eff. 1-1-00.)

22 (205 ILCS 5/13.5)

23 Sec. 13.5. Formation and merger of interim banks.

24 (a) An interim bank may be chartered as a State bank for
 25 the exclusive purpose of accomplishing a corporate
 26 restructuring through merger with an existing State bank or
 27 as the resulting bank in a merger with an existing national
 28 bank or an insured savings association. An interim bank
 29 shall be chartered and merged pursuant to the provisions of
 30 this Section. The interim bank shall not accept deposits,
 31 make loans, pay checks, or engage in the general banking
 32 business or any part thereof, and shall not be subject to the
 33 provisions of this Act other than those set forth in this

1 Section; provided, however, that if the interim bank becomes
2 the resulting bank in a merger, such resulting bank shall
3 have all of the powers, rights, and duties of a State bank
4 and must comply with all applicable provisions of this Act.

5 (b) An interim State bank may be organized upon
6 application by 5 or more incorporators or by a bank holding
7 company. The application shall be made on forms prescribed
8 by the Commissioner which shall request, at a minimum, the
9 following information:

10 (1) the names and addresses of the incorporators;

11 (2) the proposed name and address of the interim
12 bank;

13 (3) the name and address of all banks with which
14 the interim bank will be merging;

15 (4) a copy of the merger agreement by which the
16 interim bank will be merged with the banks identified in
17 item (3) containing the same information required in
18 merger agreements pursuant to subsection (1) of Section
19 22 of this Act; and

20 (5) an acknowledgement that the interim bank shall
21 not engage in the general banking business or any part
22 thereof unless and until the interim bank becomes the
23 resulting bank in a merger.

24 (c) The merger agreement must be approved by all of the
25 incorporators of the interim bank and must be approved by the
26 existing State bank with which the interim bank will merge,
27 as required by Section 22 of this Act.

28 (d) Upon receipt of the application to organize the
29 interim bank and the merger agreement submitted pursuant to
30 this Section and Section 22 of this Act, the Commissioner may
31 issue a charter to the interim bank and approve the merger
32 agreement if the Commissioner makes the findings set forth in
33 subsection (3) of Section 22 of this Act. The interim bank's
34 charter shall not take effect until, and shall only be

1 effective for purposes of, the merger.

2 (e) Nothing in this Section affects the obligations of
3 an existing State bank with which the interim bank will
4 merge, or the rights of minority or dissenting shareholders
5 of the existing State bank, in connection with the approval,
6 execution, and accomplishment of a merger agreement as
7 provided elsewhere in this Act.

8 (Source: P.A. 90-301, eff. 8-1-97.)

9 (205 ILCS 5/14) (from Ch. 17, par. 321)

10 Sec. 14. Stock. Unless otherwise provided for in this
11 Act provisions of general application to stock of a state
12 bank shall be as follows:

13 (1) All banks shall have their capital divided into
14 shares of a par value of not less than \$1 ~~one-dollar~~ each and
15 not more than \$100 ~~one-hundred-dollars~~ each, however, the par
16 value of shares of a bank effecting a reverse stock split
17 pursuant to item (8) of subsection (a) of Section 17 may
18 temporarily exceed this limit provided it conforms to the
19 limits immediately after the reverse stock split is
20 completed. No issue of capital stock or preferred stock shall
21 be valid until not less than the par value of all such stock
22 so issued shall be paid in and notice thereof by the
23 president, a vice-president or cashier of the bank has been
24 transmitted to the Commissioner. In the case of an increase
25 in capital stock by the declaration of a stock dividend, the
26 capitalization of retained earnings effected by such stock
27 dividend shall constitute the payment for such shares
28 required by the preceding sentence, provided that the surplus
29 of said bank after such stock dividend shall be at least
30 equal to fifty per cent of the capital as increased. The
31 charter shall not limit or deny the voting power of the
32 shares of any class of stock except as provided in Section
33 15(3) of this Act.

1 (2) Pursuant to action taken in accordance with the
2 requirements of Section 17, a bank may issue preferred stock
3 of one or more classes as shall be approved by the
4 Commissioner as hereinafter provided, and make such amendment
5 to its charter as may be necessary for this purpose; but in
6 the case of any newly organized bank which has not yet issued
7 capital stock the requirements of Section 17 shall not apply.

8 (3) Without limiting the authority herein contained a
9 bank, when so provided in its charter and when approved by
10 the Commissioner, may issue shares of preferred stock:

11 (a) Subject to the right of the bank to redeem any
12 of such shares at not exceeding the price fixed by the
13 charter for the redemption thereof;

14 (b) Subject to the provisions of subsection (8) of
15 this Section 14 entitling the holders thereof to
16 cumulative or noncumulative dividends;

17 (c) Having preference over any other class or
18 classes of shares as to the payment of dividends;

19 (d) Having preference as to the assets of the bank
20 over any other class or classes of shares upon the
21 voluntary or involuntary liquidation of the bank;

22 (e) Convertible into shares of any other class of
23 stock, provided that preferred shares shall not be
24 converted into shares of a different par value unless
25 that part of the capital of the bank represented by such
26 preferred shares is at the time of the conversion equal
27 to the aggregate par value of the shares into which the
28 preferred shares are to be converted.

29 (4) If any part of the capital of a bank consists of
30 preferred stock, the determination of whether or not the
31 capital of such bank is impaired and the amount of such
32 impairment shall be based upon the par value of its stock
33 even though the amount which the holders of such preferred
34 stock shall be entitled to receive in the event of retirement

1 or liquidation shall be in excess of the par value of such
2 preferred stock.

3 (5) Pursuant to action taken in accordance with the
4 requirements of Section 17 of this Act, a state bank may
5 provide for a specified number of authorized but unissued
6 shares of capital stock for one or more of the following
7 purposes:

8 (a) Reserved for issuance under stock option plan
9 or plans to directors, officers or employees;

10 (b) Reserved for issuance upon conversion of
11 convertible preferred stock issued pursuant to and in
12 compliance with the provisions of subsections (2) and (3)
13 of this Section 14.

14 (c) Reserved for issuance upon conversion of
15 convertible debentures or other convertible evidences of
16 indebtedness issued by a state bank, provided always that
17 the terms of such conversion have been approved by the
18 Commissioner;

19 (d) Reserved for issuance by the declaration of a
20 stock dividend. If and when any shares of capital stock
21 are proposed to be authorized and reserved for any of the
22 purposes set forth in subparagraphs (a), (b) or (c)
23 above, the notice of the meeting, whether special or
24 annual, of stockholders at which such proposition is to
25 be considered shall be accompanied by a statement setting
26 forth or summarizing the terms upon which the shares of
27 capital stock so reserved are to be issued, and the
28 extent to which any preemptive rights of stockholders are
29 inapplicable to the issuance of the shares so reserved or
30 to the convertible preferred stock or convertible
31 debentures or other convertible evidences of
32 indebtedness, and the approving vote of the holders of at
33 least two-thirds of the outstanding shares of stock
34 entitled to vote at such meeting of the terms of such

1 issuance shall be requisite for the adoption of any
2 amendment providing for the reservation of authorized but
3 unissued shares for any of said purposes. Nothing in this
4 subsection (5) contained shall be deemed to authorize the
5 issuance of any capital stock for a consideration less
6 than the par value thereof.

7 (6) Upon written application to the Commissioner 60 days
8 prior to the proposed purchase and receipt of the written
9 approval of the Commissioner, a state bank may purchase and
10 hold as treasury stock such amounts of the total number of
11 issued and outstanding shares of its capital and preferred
12 stock outstanding as the Commissioner determines is
13 consistent with safety and soundness of the bank. The
14 Commissioner may specify the manner of accounting for the
15 treasury stock and the form of notice prior to ultimate
16 disposition of the shares. Except as authorized in this
17 subsection, it shall not be lawful for a state bank to
18 purchase or hold any additional such shares or securities
19 described in subsection (2) of Section 37 unless necessary to
20 prevent loss upon a debt previously contracted in good faith,
21 in which event such shares or securities so purchased or
22 acquired shall, within 6 months from the time of purchase or
23 acquisition, be sold or disposed of at public or private
24 sale. Any state bank which intends to purchase and hold
25 treasury stock as authorized in this subsection (6) shall
26 file a written application with the Commissioner 60 days
27 prior to any such proposed purchase. The application shall
28 state the number of shares to be purchased, the consideration
29 for the shares, the name and address of the person from whom
30 the shares are to be purchased, if known, and the total
31 percentage of its issued and outstanding shares to be held by
32 the bank after the purchase. The total consideration paid by
33 a state bank for treasury stock shall reduce capital and
34 surplus of the bank for purposes of Sections of this Act

1 relating to lending and investment limits which require
2 computation of capital and surplus. After considering and
3 approving an application to purchase and hold treasury stock
4 under this subsection, the Commissioner may waive or reduce
5 the balance of the 60 day application period. The
6 Commissioner may specify the form of the application for
7 approval to acquire treasury stock and promulgate rules and
8 regulations for the administration of this subsection (6). A
9 state bank may, acquire or resell its owns shares as treasury
10 stock pursuant to this subsection (6) without a change in its
11 charter pursuant to Section 17. Such stock may be held for
12 any purpose permitted in subsection (5) of this Section 14 or
13 may be resold upon such reasonable terms as the board of
14 directors may determine provided notice is given to the
15 Commissioner prior to the resale of such stock.

16 (7) During the time that a state bank shall continue its
17 banking business, it shall not withdraw or permit to be
18 withdrawn, either in the form of dividends or otherwise, any
19 portion of its capital, but nothing in this subsection shall
20 prevent a reduction or change of the capital stock or the
21 preferred stock under the provisions of Sections 17 through
22 30 of this Act, a purchase of treasury stock under the
23 provisions of subsection (6) of this Section 14 or a
24 redemption of preferred stock pursuant to charter provisions
25 therefor.

26 (8) (a) Subject to the provisions of this Act, the
27 board of directors of a state bank from time to time may
28 declare a dividend of so much of the net profits of such
29 bank as it shall judge expedient, but each bank before
30 the declaration of a dividend shall carry at least
31 one-tenth of its net profits since the date of the
32 declaration of the last preceding dividend, or since the
33 issuance of its charter in the case of its first
34 dividend, to its surplus until the same shall be equal to

1 its capital.

2 (b) No dividends shall be paid by a state bank
3 while it continues its banking business to an amount
4 greater than its net profits then on hand, deducting
5 first therefrom its losses and bad debts. All debts due
6 to a state bank on which interest is past due and unpaid
7 for a period of 6 months or more, unless the same are
8 well secured and in the process of collection, shall be
9 considered bad debts.

10 (9) A State bank may, but shall not be obliged to, issue
11 a certificate for a fractional share, and, by action of its
12 board of directors, may in lieu thereof, pay cash equal to
13 the value of the fractional share. A certificate for a
14 fractional share shall entitle the holder to exercise
15 fractional voting rights, to receive dividends, and to
16 participate in any of the assets of the bank in the event of
17 liquidation.

18 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
19 90-655, eff. 7-30-98.)

20 (205 ILCS 5/15) (from Ch. 17, par. 322)

21 Sec. 15. Stock and stockholders. Unless otherwise
22 provided for in this Act, provisions of general application
23 to capital stock, preferred stock, and stockholders of a
24 State bank shall be as follows:

25 (1) There shall be an annual meeting of the stockholders
26 for the election of directors each year on the first business
27 day in January, unless some other date shall be fixed by the
28 by-laws. A special meeting of the stockholders may be called
29 at any time by the board of directors, and otherwise as may
30 be provided in the bylaws.

31 (2) Written or printed notice stating the place, day,
32 and hour of the meeting, and in case of a special meeting,
33 the purpose or purposes for which the meeting is called,

1 shall be delivered not less than 10 nor more than 40 days
2 before the date of the meeting either personally or by mail,
3 by or at the direction of the president, or the secretary, or
4 the officer or persons calling the meeting, to each
5 stockholder of record entitled to vote at the meeting. If
6 mailed, the notice shall be deemed to be delivered when
7 deposited in the United States mail with postage thereon
8 prepaid addressed to the stockholder at his address as it
9 appears on the records of the bank.

10 (3) Except as provided below in this paragraph (3), each
11 outstanding share shall be entitled to one vote on each
12 matter submitted to a vote at a meeting of stockholders.
13 Shares of its own stock belonging to a bank shall not be
14 voted, directly or indirectly, at any meeting and shall not
15 be counted in determining the total number of outstanding
16 shares at any given time, but shares of its own stock held by
17 it in a fiduciary capacity may be voted and shall be counted
18 in determining the total number of outstanding shares at any
19 given time. A stockholder may vote either in person or by
20 proxy executed in writing by the stockholder or by his duly
21 authorized attorney-in-fact. No proxy shall be valid after
22 11 months from the date of its execution, unless otherwise
23 provided in the proxy. Except as provided below in this
24 paragraph (3), in all elections for directors every
25 stockholder (or subscriber to the stock prior to the issuance
26 of a charter) shall have the right to vote, in person or by
27 proxy, for the number of shares of stock owned by him, for as
28 many persons as there are directors to be elected, or to
29 cumulate the shares and give one candidate as many votes as
30 the number of directors multiplied by the number of his or
31 her shares of stock shall equal, or to distribute them on the
32 same principle among as many candidates as he or she shall
33 think fit. The bank charter of any bank organized on or
34 after January 1, 1984 may limit or eliminate cumulative

1 voting rights in all or specified circumstances, or may
2 eliminate voting rights entirely, as to any class or classes
3 or series of stock of the bank; provided that one class of
4 shares or series thereof shall always have voting rights in
5 respect of all matters in the bank. A bank organized prior to
6 January 1, 1984 may amend its charter to eliminate cumulative
7 voting rights under all or specified circumstances, or to
8 eliminate voting rights entirely, as to any class or classes
9 or series of stock of the bank; provided that one class of
10 shares or series thereof shall always have voting rights in
11 respect of all matters in the bank, and provided further that
12 the proposal to eliminate the voting rights receives the
13 approval of the holders of 70% of the outstanding shares of
14 stock entitled to vote as provided in paragraph (b) (7) of
15 Section 17. A majority of the outstanding shares represented
16 in person or by proxy shall constitute a quorum at a meeting
17 of stockholders. In the absence of a quorum a meeting may be
18 adjourned from time to time without notice to the
19 stockholders.

20 (4) Whenever additional stock of a class is offered for
21 sale, stockholders of record of the same class on the date of
22 the offer shall have the right to subscribe to the proportion
23 of the shares as the stock of the class held by them bears to
24 the total of the outstanding stock of the class, and the
25 price thereof may be in excess of par value. This right
26 shall be transferable but shall terminate if not exercised
27 within 60 days of the offer, unless the Commissioner shall
28 authorize a shorter time. If the right is not exercised, the
29 stock shall not be re-offered for sale to others at a lower
30 price without the stockholders of the same class again being
31 accorded a preemptive right to subscribe at the lower price.
32 Notwithstanding any of the provisions of this paragraph (4)
33 or any other provision of law, stockholders shall not have
34 any preemptive or other right to subscribe for or to purchase

1 or acquire shares of capital stock issued or to be issued
2 under a stock-option plan or upon conversion of preferred
3 stock or convertible debentures or other convertible
4 indebtedness that has been approved by stockholders in the
5 manner required by the provisions of subsection (5) of
6 Section 14 hereof or to treasury stock acquired pursuant to
7 subsection (6) of Section 14.

8 (5) For the purpose of determining stockholders entitled
9 to notice of or to vote at any meeting of stockholders, or
10 stockholders entitled to receive payment of any dividend, or
11 in order to make a determination of stockholders for any
12 other proper purpose, the board of directors of a bank may
13 provide that the stock transfer books shall be closed for a
14 stated period not to exceed, in any case, 40 days. In lieu
15 of closing the stock transfer books, the board of directors
16 may fix in advance a date as the record date for any
17 determination of stockholders, the date in any case to be not
18 more than 40 days, and in case of a meeting of stockholders,
19 not less than 10 days prior to the date on which the
20 particular action, requiring the determination of
21 stockholders, is to be taken. If the stock transfer books
22 are not closed and no record date is fixed for the
23 determination of stockholders entitled to notice of or to
24 vote at a meeting of stockholders, or stockholders entitled
25 to receive payment of a dividend, the date on which notice of
26 a meeting is mailed or the date on which the resolution of
27 the board of directors declaring the dividend is adopted, as
28 the case may be, shall be the record date for the
29 determination of stockholders.

30 (6) Stock standing in the name of another corporation,
31 domestic or foreign, may be voted by the officer, agent, or
32 proxy as the by-laws of the corporation may prescribe, or, in
33 the absence of such provision, as the board of directors of
34 the corporation may determine. Stock standing in the name of

1 a deceased person may be voted by his or her administrator or
2 executor, either in person or by proxy. Stock standing in
3 the name of a guardian or trustee may be voted by that
4 fiduciary either in person or by proxy. Shares standing in
5 the name of a receiver may be voted by the receiver, and
6 shares held by or under control of a receiver may be voted by
7 the receiver without the transfer thereof into his or her
8 name if authority so to do be contained in an appropriate
9 order of the court by which the receiver was appointed. A
10 stockholder whose shares of stock are pledged shall be
11 entitled to vote those shares until the shares have been
12 transferred into the name of the pledgee, and thereafter the
13 pledgee shall be entitled to vote the shares so transferred.

14 (7) Shares of stock shall be transferable in accordance
15 with the general laws of this State governing the transfer of
16 corporate shares.

17 (8) The president and cashier of every State bank shall
18 cause to be kept at all times a full and correct list of the
19 names and residences of all the shareholders in the State
20 bank and the number of shares held by each in the office
21 where its business is transacted. The list shall be subject
22 to the inspection of all the shareholders of the State bank
23 and the officers authorized to assess taxes under State
24 authority during business hours of each day in which business
25 may be legally transacted. A copy of the list, verified by
26 the oath of the president or cashier, shall be transmitted to
27 the Commissioner of Banks and Real Estate within 10 days of
28 any demand therefor made by the Commissioner.

29 (9) Any number of shareholders of a bank may create a
30 voting trust for the purpose of conferring upon a trustee or
31 trustees the right to vote or otherwise represent their
32 shares for a period of not to exceed 10 years by entering
33 into a written voting trust agreement specifying the terms
34 and conditions of the voting trust and by transferring their

1 shares to the trustee or trustees for the purposes of the
2 agreement. The trust agreement shall not become effective
3 until a counterpart of the agreement is deposited with the
4 bank at its main banking premises registered--office. The
5 counterpart of the voting trust agreement so deposited with
6 the bank shall be subject to the same right of examination by
7 a shareholder of the bank, in person or by agent or attorney,
8 as is the record of shareholders of the bank and shall be
9 subject to examination by any holder of a beneficial interest
10 in the voting trust, either in person or by agent or
11 attorney, at any reasonable time for any proper purpose.

12 (10) Voting agreements. Shareholders may provide for
13 the voting of their shares by signing an agreement for that
14 purpose. A voting agreement created under this paragraph is
15 not subject to the provisions of paragraph (9).

16 A voting agreement created under this paragraph is
17 specifically enforceable in accordance with the principles of
18 equity.

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

20 (205 ILCS 5/16.1) (from Ch. 17, par. 323.1)

21 Sec. 16.1. One or more of the directors may be removed,
22 with or without cause, at a meeting of shareholders by the
23 affirmative vote of the holders of a majority of the
24 outstanding shares then entitled to vote at an election of
25 directors, except as follows:

26 (1) No director shall be removed at a meeting of
27 shareholders unless the notice of the meeting shall state
28 that a purpose of the meeting is to vote upon the removal of
29 one or more directors named in the notice. Only the named
30 director or directors may be removed at that meeting.

31 (2) In the case of a bank having cumulative voting, if
32 less than the entire board is to be removed, no director may
33 be removed if the votes cast against his or her removal would

1 be sufficient to elect him or her if then cumulatively voted
2 at an election of the entire board of directors.

3 (3) If a director is elected by a class or series of
4 shares, he or she may be removed only by the shareholders of
5 that class or series.

6 (4) In the case of a State bank whose board is
7 classified as provided in paragraph (3) ~~(5)~~ of Section 16 of
8 this Act, the charter or the by-laws may provide that
9 directors may be removed only for cause.

10 (Source: P.A. 86-368; 87-269.)

11 (205 ILCS 5/17) (from Ch. 17, par. 324)

12 Sec. 17. Changes in charter.

13 (a) By compliance with the provisions of this Act a
14 State bank may:

15 (1) (blank);

16 (2) increase, decrease or change its capital stock,
17 whether issued or unissued, provided that in no case
18 shall the capital be diminished to the prejudice of its
19 creditors;

20 (3) provide for authorized but unissued capital
21 stock reserved for issuance for one or more of the
22 purposes provided for in subsection (5) of Section 14
23 hereof;

24 (4) authorize preferred stock, or increase,
25 decrease or change the preferences, qualifications,
26 limitations, restrictions or special or relative rights
27 of its preferred stock, whether issued or unissued,
28 provided that in no case shall the capital be diminished
29 to the prejudice of its creditors;

30 (5) increase, decrease or change the par value of
31 its shares of its capital stock or preferred stock,
32 whether issued or unissued;

33 (6) (blank) ~~extend-the-duration-of-its-charter;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

1 presented for approval, unless holders of preferred stock
2 are entitled to vote as a class in respect thereof, in
3 which event the proposed amendment shall be adopted upon
4 receiving the approval of the holders of 70% of the
5 outstanding shares of each class of shares entitled to
6 vote as a class in respect thereof and of the total
7 outstanding shares entitled to vote at the meeting where
8 the proposal is presented for approval. The proposal to
9 amend the charter pursuant to this paragraph (7) may be
10 voted upon at the annual meeting or a special meeting.

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

21 (A) A statement of the purpose of the proposed
22 reverse stock split.

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

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

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

1 between the third party and the bank.

2 (E) A summary of the opinion including the
3 basis for and the methods of arriving at the
4 findings and any limitation imposed by the bank in
5 arriving at fair value and a statement making the
6 opinion available for reviewing or copying by any
7 stockholder.

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

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

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

34 (c) The purchase and holding and later resale of

1 treasury stock of a state bank pursuant to the provisions of
2 subsection (6) of Section 14 may be accomplished without a
3 change in its charter reflecting any decrease or increase in
4 capital stock.

5 (Source: P.A. 90-160, eff. 7-23-97; 90-301, eff. 8-1-97;
6 90-655, eff. 7-30-98; 91-322, eff. 1-1-00.)

7 (205 ILCS 5/18) (from Ch. 17, par. 325)

8 Sec. 18. Change in control.

9 (a) Before a change may occur in the ownership of
10 outstanding stock of any State bank, whether by sale and
11 purchase, gift, bequest or inheritance, or any other means,
12 including the acquisition of stock of the State bank by any
13 bank holding company, which will result in control or a
14 change in the control of the bank or before a change in the
15 control of a holding company having control of the
16 outstanding stock of a State bank whether by sale and
17 purchase, gift, bequest or inheritance, or any other means,
18 including the acquisition of stock of such holding company by
19 any other bank holding company, which will result in control
20 or a change in control of the bank or holding company, or
21 before a transfer of substantially all the assets or
22 liabilities of the State bank, the Commissioner shall be of
23 the opinion and find:

24 (1) that the general character of its proposed
25 management or of the person desiring to purchase
26 substantially all the assets or to assume substantially
27 all the liabilities of the State bank, after the change
28 in control, is such as to assure reasonable promise of
29 successful, safe and sound operation;

30 (1.1) that depositors' interests will not be
31 jeopardized by the purchase or assumption and that
32 adequate provision has been made for all liabilities as
33 required for a voluntary liquidation under Section 68 of

1 this Act;

2 (2) that the future earnings prospects of the
3 person desiring to purchase substantially all assets or
4 to assume substantially all the liabilities of the State
5 bank, after the proposed change in control, are
6 favorable;

7 (3) that any prior involvement by the persons
8 proposing to obtain control, to purchase substantially
9 all the assets, or to assume substantially all the
10 liabilities of the State bank or by the proposed
11 management personnel with any other financial
12 institution, whether as stockholder, director, officer or
13 customer, was conducted in a safe and sound manner; and

14 (4) that if the acquisition is being made by a bank
15 holding company, the acquisition is authorized under the
16 Illinois Bank Holding Company Act of 1957.

17 (b) Persons desiring to purchase control of an existing
18 state bank, to purchase substantially all the assets, or to
19 assume substantially all the liabilities of the State bank
20 shall, prior to that purchase, submit to the Commissioner:

21 (1) a statement of financial worth;

22 (2) satisfactory evidence that any prior
23 involvement by the persons and the proposed management
24 personnel with any other financial institution, whether
25 as stockholder, director, officer or customer, was
26 conducted in a safe and sound manner; and

27 (3) such other relevant information as the
28 Commissioner may request to substantiate the findings
29 under subsection (a) of this Section.

30 A person who has submitted information to the
31 Commissioner pursuant to this subsection (b) is under a
32 continuing obligation to immediately supplement that
33 information if there are any material changes in the
34 information previously furnished or if there are any material

1 changes in any circumstances that may affect the
 2 Commissioner's opinion and findings. In addition, a person
 3 submitting information under this subsection shall notify the
 4 Commissioner of the date when the change in control is
 5 finally effected.

6 The Commissioner may impose such terms and conditions on
 7 the approval of the change in control application as he deems
 8 necessary or appropriate to ensure that the approval is
 9 consistent with applicable statutes, rules, and policies.

10 If an applicant, whose application for a change in
 11 control has been approved pursuant to subsection (a) of this
 12 Section, fails to effect the change in control within 180
 13 days after the date of the Commissioner's approval, the
 14 Commissioner shall revoke that approval unless a request has
 15 been submitted, in writing, to the Commissioner for an
 16 extension and the request has been approved.

17 ~~As--used--in--this--Section, the term "control" means the~~
 18 ~~ownership of such amount of stock or ability to direct the~~
 19 ~~voting of such stock as to give power to, directly or~~
 20 ~~indirectly, direct or cause the direction of the management~~
 21 ~~or policies of the bank. A change in ownership of stock~~
 22 ~~which would result in direct or indirect ownership by a~~
 23 ~~stockholder, an affiliated group of stockholders or a holding~~
 24 ~~company of less than 10 percent of the outstanding stock~~
 25 ~~shall not be considered a change of control. A change in~~
 26 ~~ownership of stock which would result in direct or indirect~~
 27 ~~ownership by a stockholder, an affiliated group of~~
 28 ~~stockholders or a holding company of 20 percent or such~~
 29 ~~lesser amount which would entitle the holder by applying~~
 30 ~~cumulative voting to elect one director shall be presumed to~~
 31 ~~constitute a change of control for purposes of this Section~~
 32 ~~18. If there is any doubt as to whether a change in the~~
 33 ~~ownership or control of the outstanding stock is sufficient~~
 34 ~~to result in obtaining control thereof or to effect a change~~

1 in-the-control-thereof,-such-doubt-shall-be-resolved-in-favor
2 of-reporting-the-facts-to-the-Commissioner.

3 As-used-in-this-Section,-"substantially-all"--the--assets
4 or--liabilities--of--a--State--bank-means-that-portion-of-the
5 assets-or--liabilities--of--a--State--bank--such--that--their
6 purchase--or--transfer--will-materially-impair-the-ability-of
7 the-State--bank--to--continue--successful,-safe,-and--sound
8 operations--or--to-continue-as-a-going-concern-or-would-cause
9 the-bank-to-lose-its-federal-deposit-insurance.

10 (b-1) Any person who obtains ownership of stock of an
11 existing State bank or stock of a holding company that
12 controls the State bank by gift, bequest, or inheritance such
13 that ownership of the stock would constitute control of the
14 State bank or holding company may obtain title and ownership
15 of the stock, but may not exercise management or control of
16 the business and affairs of the bank or vote his or her
17 shares so as to exercise management or control unless and
18 until the Commissioner approves an application for the change
19 of control as provided in subsection (b) of this Section.

20 (c) Whenever a state bank makes a loan or loans,
21 secured, or to be secured, by 25% or more of the outstanding
22 stock of a state bank, the president or other chief executive
23 officer of the lending bank shall promptly report such fact
24 to the Commissioner upon obtaining knowledge of such loan or
25 loans, except that no report need be made in those cases
26 where the borrower has been the owner of record of the stock
27 for a period of one year or more, or the stock is that of a
28 newly organized bank prior to its opening.

29 (d) The reports required by subsections (b) and (c) of
30 this Section 18, other than those relating to a transfer of
31 assets or assumption of liabilities, shall contain the
32 following information to the extent that it is known by the
33 person making the report: (1) the number of shares involved;
34 (2) the names of the sellers (or transferors); (3) the names

1 of the purchasers (or transferees); (4) the names of the
2 beneficial owners if the shares are registered in another
3 name; (5) the purchase price, if applicable; (6) the total
4 number of shares owned by the sellers (or transferors), the
5 purchasers (or transferees) and the beneficial owners both
6 immediately before and after the transaction; and, (7) in the
7 case of a loan, the name of the borrower, the amount of the
8 loan, the name of the bank issuing the stock securing the
9 loan and the number of shares securing the loan. In addition
10 to the foregoing, such reports shall contain such other
11 information which is requested by the Commissioner to inform
12 the Commissioner of the effect of the transaction upon
13 control of the bank whose stock is involved.

14 (d-1) The reports required by subsection (b) of this
15 Section 18 that relate to purchase of assets and assumption
16 of liabilities shall contain the following information to the
17 extent that it is known by the person making the report: (1)
18 the value, amount, and description of the assets transferred;
19 (2) the amount, type, and to whom each type of liabilities
20 are owed; (3) the names of the purchasers (or transferees);
21 (4) the names of the beneficial owners if the shares of a
22 purchaser or transferee are registered in another name; (5)
23 the purchase price, if applicable; and, (6) in the case of a
24 loan obtained to effect a purchase, the name of the borrower,
25 the amount and terms of the loan, and the description of the
26 assets securing the loan. In addition to the foregoing,
27 these reports shall contain any other information that is
28 requested by the Commissioner to inform the Commissioner of
29 the effect of the transaction upon the bank from which assets
30 are purchased or liabilities are transferred.

31 (e) Whenever such a change as described in subsection
32 (a) of this Section 18 occurs, each state bank shall report
33 promptly to the Commissioner any changes or replacement of
34 its chief executive officer or of any director occurring in

1 the next 12 month period, including in its report a statement
2 of the past and current business and professional
3 affiliations of the new chief executive officer or directors.

4 (f) (Blank).

5 (g) (1) Except as otherwise expressly provided in this
6 subsection (g), the Commissioners shall not approve an
7 application for a change in control if upon consummation
8 of the change in control the persons applying for the
9 change in control, including any affiliates of the
10 persons applying, would control 30% or more of the total
11 amount of deposits which are located in this State at
12 insured depository institutions. For purposes of this
13 subsection (g), the words "insured depository
14 institution" shall mean State banks, national banks, and
15 insured savings associations. For purposes of this
16 subsection (g), the word "deposits" shall have the
17 meaning ascribed to that word in Section 3(1) of the
18 Federal Deposit Insurance Act. For purposes of this
19 subsection (g), the total amount of deposits which are
20 considered to be located in this State at insured
21 depository institutions shall equal the sum of all
22 deposits held at the main banking premises and branches
23 in the State of Illinois of State banks, national banks,
24 or insured savings associations. For purposes of this
25 subsection (g), the word "affiliates" shall have the
26 meaning ascribed to that word in Section 35.2 of this
27 Act.

28 (2) Notwithstanding the provisions of subsection
29 (g)(1) of this Section, the Commissioner may approve an
30 application for a change in control for a bank that is in
31 default or in danger of default. Except in those
32 instances in which an application for a change in control
33 is for a bank that is in default or in danger of default,
34 the Commissioner may not approve a change in control

1 which does not meet the requirements of subsection (g)(1)
2 of this Section. The Commissioner may not waive the
3 provisions of subsection (g)(1) of this Section, whether
4 pursuant to Section 3(d) of the federal Bank Holding
5 Company Act of 1956 or Section 44(d) of the Federal
6 Deposit Insurance Act, except as expressly provided in
7 this subsection (g)(2).

8 (h) As used in this Section, the term "control" means
9 the ownership of such amount of stock or ability to direct
10 the voting of such stock as to, directly or indirectly, give
11 power to direct or cause the direction of the management or
12 policies of the bank. A change in ownership of stock that
13 would result in direct or indirect ownership by a
14 stockholder, an affiliated group of stockholders, or a
15 holding company of less than 10% of the outstanding stock
16 shall not be considered a change in control. A change in
17 ownership of stock that would result in direct or indirect
18 ownership by a stockholder, an affiliated group of
19 stockholders, or a holding company of 20% or such lesser
20 amount that would entitle the holder by applying cumulative
21 voting to elect one director shall be presumed to constitute
22 a change of control for purposes of this Section 18. If
23 there is any question as to whether a change in the ownership
24 or control of the outstanding stock is sufficient to result
25 in obtaining control thereof or to effect a change in the
26 control thereof, the question shall be resolved in favor of
27 reporting the facts to the Commissioner.

28 As used in this Section, "substantially all" the assets
29 or liabilities of a State bank means that portion of the
30 assets or liabilities of a State bank such that their
31 purchase or transfer will materially impair the ability of
32 the State bank to continue successful, safe, and sound
33 operations or to continue as a going concern or would cause
34 the bank to lose its federal deposit insurance.

1 As used in this Section, "purchase" includes a transfer
2 by gift, bequest, inheritance, or any other means.

3 (Source: P.A. 89-567, eff. 7-26-96; 90-226, eff. 7-25-97.)

4 (205 ILCS 5/21.2)

5 Sec. 21.2. Interstate mergers; minimum age requirement.

6 (a) No out of state bank and no national bank whose main
7 banking premises is located in a state other than Illinois
8 shall merge with or into, or shall acquire all or
9 substantially all of the assets of an Illinois bank that has
10 existed and continuously operated as a bank for 5 years or
11 less. An out-of-state bank or a national bank whose main
12 banking premises is located in a state other than Illinois
13 and that has existed and operated for 5 years or less may not
14 merge with an Illinois bank that has existed and continuously
15 operated as a bank for more than 5 years unless that state
16 would permit an Illinois bank to perform the same transaction
17 if each of the merging banks were situated in the other
18 state.

19 (b) For purposes of subsection (a) of this Section, an
20 Illinois bank that is the resulting bank following a merger
21 involving an Illinois interim bank shall be considered to
22 have been in existence and continuously operated during the
23 existence and continuous operation of the Illinois merged
24 bank. As used in this subsection (b), the words "interim
25 bank" shall mean a bank which shall not accept deposits, make
26 loans, pay checks, or engage in the general business of
27 banking or any part thereof, and is chartered solely for the
28 purpose of merging with or acquiring control of, or acquiring
29 all or substantially all of the assets of an existing
30 Illinois bank.

31 (c) The provisions of subsection (a) of the Section
32 shall not apply to the merger or acquisition of all or
33 substantially all of the assets of an Illinois bank:

1 (1) if the merger or acquisition is part of a
 2 purchase or acquisition with respect to which the Federal
 3 Deposit Insurance Corporation provides assistance under
 4 Section 13(c) of the Federal Deposit Insurance Act; or

5 (2) if the Illinois bank is in default or in danger
 6 of default.

7 (Source: P.A. 90-226, eff. 7-25-97.)

8 (205 ILCS 5/22) (from Ch. 17, par. 329)

9 Sec. 22. Merger procedure; resulting State bank. The
 10 merger procedure required of a State bank where there is to
 11 be a resulting State bank by consolidation or merger shall
 12 be:

13 (1) The board of directors of each merging bank or
 14 insured savings association shall, by a majority of the
 15 entire board, approve a merger agreement that shall contain:

16 (a) The name of each merging bank or insured
 17 savings association and its location and a list of each
 18 merging bank's or insured savings association's
 19 stockholders as of the date of the merger agreement;

20 (b) With respect to the resulting bank (i) its name
 21 and place of business; (ii) the amount of Tier 1 capital,
 22 ~~surplus--and--reserve--for--operating--expenses~~; (iii) the
 23 classes and the number of shares of stock and the par
 24 value of each share; (iv) the designation of the
 25 continuing bank and the charter which is to be the
 26 charter of the resulting bank, together with the
 27 amendments to the continuing charter and to the
 28 continuing by-laws; and (v) a detailed financial
 29 Statement showing the assets and liabilities after the
 30 proposed merger or consolidation;

31 (c) Provisions stating the method, terms and
 32 conditions of carrying the merger into effect, including
 33 the manner of converting the shares of the merging banks

1 or insured savings association into the cash, shares of
2 stock or other securities of any corporation or other
3 property, or any combination of the foregoing, Stated in
4 the merger agreement as to be received by the
5 stockholders of each merging bank or insured savings
6 association;

7 (d) A Statement that the agreement is subject to
8 approval by the Commissioner and by the stockholders of
9 each merging bank or insured savings association and that
10 whether approved or disapproved the merging banks or
11 insured savings association will pay the Commissioner's
12 expenses of examination;

13 (e) Provisions governing the manner of disposing of
14 the shares of the resulting bank not taken by the
15 dissenting stockholders of the merging banks or insured
16 savings association; and

17 (f) Such other provisions as the Commissioner may
18 reasonably require to enable him to discharge his duties
19 with respect to the merger.

20 (2) After approval by the board of directors of each
21 bank or insured savings association, the merger agreement
22 shall be submitted to the Commissioner for approval, together
23 with certified copies of the authorizing resolutions of each
24 board of directors showing approval by a majority of the
25 entire board of each bank or insured savings association.

26 (3) After receipt by the Commissioner of the papers
27 specified in paragraph (2), he shall approve or disapprove
28 the merger agreement. The Commissioner shall not approve the
29 merger agreement unless he shall be of the opinion and shall
30 find:

31 (a) That the resulting bank meets the requirements
32 of this Act for the formation of a new bank at the
33 proposed main banking premises of the resulting bank;

34 (b) That the same matters exist with respect to the

1 resulting bank which would have been required under
2 Section 10 of this Act for the organization of a new
3 bank;

4 (c) That the merger agreement is fair to all
5 persons affected; and

6 (d) That the resulting bank will be operated in a
7 safe and sound manner.

8 If the Commissioner disapproves an agreement he shall
9 State his objections and give an opportunity to the merging
10 banks to amend the merger agreement to obviate such
11 objections.

12 (4) The Commissioner may impose such terms and
13 conditions on the approval of the merger agreement as he
14 deems necessary or appropriate to ensure that the approval is
15 consistent with applicable statutes, regulations, and
16 policies.

17 (5) If the Commissioner approves a merger agreement, he
18 may revoke that approval if the merger has not been approved
19 by the shareholders in accordance with Section 23 within 180
20 days after the date of the Commissioner's approval, unless a
21 request has been submitted, in writing, to the Commissioner
22 for an extension and the request has been approved.

23 (6) The board of directors of a bank or insured savings
24 association is under a continuing obligation to furnish
25 additional information if there are any material changes in
26 circumstances after the merger agreement has been submitted
27 which may affect the Commissioner's opinions and findings.

28 (Source: P.A. 87-1226.)

29 (205 ILCS 5/25) (from Ch. 17, par. 332)

30 Sec. 25. Conversion of national bank or insured savings
31 association into State bank. A national bank or insured
32 savings association located in this State which follows the
33 procedure prescribed by the laws of the United States or of

1 the State of Illinois to convert into a State bank may be
2 granted a charter by the Commissioner. The national bank or
3 insured savings association may apply for such charter by
4 filing with the Commissioner:

5 (1) A certificate signed by its president, or a
6 vice-president, or the cashier, and by a majority of the
7 entire board of directors setting forth the corporate action
8 taken in compliance with the provisions of the laws of the
9 United States or of the State of Illinois governing the
10 conversion of a national bank or insured savings association
11 to a State bank;

12 (2) The plan of conversion and the proposed charter
13 approved by the stockholders for the operation of the bank or
14 insured savings association as a State bank;

15 (3) The name proposed for the converting bank or insured
16 savings association, its location and a list of its
17 stockholders as of the date of the stockholders' approval of
18 the plan of conversion;

19 (4) The amount of its Tier 1 capital, ~~surplus and~~
20 ~~reserve for operation expenses~~, the classes and the number of
21 the shares of stock and the par value of each share, and a
22 detailed statement showing the assets and liabilities of the
23 converting bank or insured savings association; and

24 (5) A statement that the plan of conversion is subject
25 to the approval of the Commissioner and that whether approved
26 or disapproved the converting bank or insured savings
27 association will pay the Commissioner's expenses of
28 examination.

29 For purposes of this Section, a national bank or insured
30 savings association is located in the State where its main
31 banking premises or main office is located.

32 (Source: P.A. 89-567, eff. 7-26-96.)

33 (205 ILCS 5/30.5)

1 Sec. 30.5. Mid-tier bank holding company merger with
2 State bank. Upon approval by the Commissioner, a mid-tier
3 bank holding company having power so to do under the law
4 under which it is organized may merge into its subsidiary
5 State bank as prescribed by this Act; except that the action
6 by the mid-tier bank holding company shall be taken in the
7 manner prescribed by and shall be subject to limitations and
8 requirements imposed by the law under which it is organized.
9 The merger procedure shall be as follows:

10 (1) The board of directors of the parent bank holding
11 company shall, by resolution, approve a merger agreement
12 which shall contain:

13 (a) the name and location of the merging bank and
14 of the mid-tier bank holding company;

15 (b) with respect to the merging bank (i) the amount
16 of Tier 1 capital, surplus, and reserve for operating
17 expenses; (ii) the classes and the number of shares of
18 stock and the par value of each share; (iii) a detailed
19 financial statement showing the assets and liabilities
20 after the proposed merger; and (iv) any amendments to the
21 charter or by-laws;

22 (c) provisions governing the manner of converting
23 the shares of the merging bank and the mid-tier bank
24 holding company into shares of the merging bank and the
25 manner of transferring the converted shares to the parent
26 bank holding company;

27 (d) a statement that the merger agreement is
28 subject to approval by the Commissioner and that whether
29 approved or disapproved, the parties thereto will pay the
30 Commissioner's expenses of examination; and

31 (e) such other provisions as the Commissioner may
32 reasonably require to enable him to discharge his duties
33 with respect to the merger.

34 (2) After approval by the board of directors of the

1 parent bank holding company, the merger agreement shall be
2 submitted to the Commissioner for approval.

3 (3) After receipt by the Commissioner of the papers
4 specified in item (2), he shall approve or disapprove the
5 merger agreement. The Commissioner shall not approve the
6 agreement unless he shall be of the opinion and finds that
7 the same matters exist in respect of the continuing bank
8 which would have been required under Section 10 of this Act
9 for the organization of a new bank, that the mid-tier bank
10 holding company has no known liabilities that will become
11 liabilities of the continuing bank, and that the parent bank
12 holding company will indemnify the continuing bank for any
13 known and unknown contingent liabilities for which the
14 continuing bank may become liable as a result of the merger.
15 Nothing in this Section shall authorize a resulting State
16 bank to acquire, hold, or invest any asset or to assume or
17 incur any liability that does not conform to the legal
18 requirements for assets acquired, held, or invested or
19 liabilities assumed or incurred by State banks, or to engage
20 in any activity in which a State bank is not authorized to
21 engage as part of a general banking business. If the
22 Commissioner disapproves the merger agreement, he shall state
23 his objections in writing and give an opportunity to the
24 merging bank and mid-tier bank holding company to obviate the
25 objections.

26 (4) To be effective, if approved by the Commissioner, a
27 copy of the merger agreement executed by the duly authorized
28 president of the mid-tier bank holding company and president
29 of the merging State bank, together with copies of the
30 resolution of the board of directors of the parent bank
31 holding company, approving the merger agreement, certified by
32 the parent bank holding company's president or vice-president
33 and attested by the secretary, must be filed with the
34 Commissioner. The merger shall, unless a later date is

1 specified in the agreement, become effective when the
2 Commissioner has approved the agreement and issued a
3 certificate of merger to the continuing bank, which shall
4 specify the name of the mid-tier bank holding company, the
5 name of the continuing bank, and the amendments to the
6 charter of the continuing bank provided for by the merger
7 agreement. The charter of the mid-tier bank holding company
8 shall thereupon automatically terminate. Such certificate
9 shall be conclusive evidence of the merger and of the
10 correctness of all proceedings therefor in all courts and
11 places including the office of the Secretary of State, and
12 the certificate shall be recorded.

13 (Source: P.A. 89-364, eff. 8-18-95.)

14 (205 ILCS 5/31) (from Ch. 17, par. 338)

15 Sec. 31. Emergency sale of assets, change in control, or
16 merger.

17 (a) With the prior written approval of the Commissioner,
18 any State bank in danger of default may, by vote of a
19 majority of its board of directors, and without a vote of its
20 shareholders, and any State bank in default may, by
21 appropriate action of its receiver or conservator, and
22 without a vote of its shareholders, sell all or any part of
23 its assets to another State bank that is not an eligible
24 depository institution, to a national bank that is not an
25 eligible depository institution, to an insured savings
26 association that is not an eligible depository institution,
27 to the Federal Deposit Insurance Corporation, or to any one
28 or more of them, provided that a State bank that is not an
29 eligible depository institution, a national bank that is not
30 an eligible depository institution, an insured savings
31 association that is not an eligible depository institution,
32 the Federal Deposit Insurance Corporation, or any one or more
33 of them assumes in writing all of the liabilities of the

1 selling bank as shown by its records, other than the
2 liabilities of the selling bank to its shareholders as such.

3 (b) If the Commissioner has made one or more of the
4 findings provided in Section 51, and the finding that an
5 emergency exists as provided in Section 52, and if, in
6 addition, the Commissioner gives his approval in writing, any
7 State bank may, by vote of a majority of its board of
8 directors and without a vote of its shareholders, merge with
9 another State bank that is not an eligible depository
10 institution, a national bank that is not an eligible
11 depository institution, or an insured savings association
12 located in Illinois that is not an eligible depository
13 institution, and after May 31, 1997, an out-of-state bank
14 that is not an eligible depository institution, with such
15 other State bank, out-of-state bank, national bank, or
16 insured savings association being the resulting or continuing
17 bank or resulting insured savings association in such a
18 merger.

19 (c) With the prior written approval of the Commissioner,
20 any State bank may either purchase, assume, or both purchase
21 and assume all or any part of the assets or liabilities, or
22 act as paying agent for the payment of deposit insurance to
23 the depositors of an eligible depository institution.

24 (d) With the prior written approval of the Commissioner,
25 a State bank may, by vote of a majority of its board of
26 directors and without a vote of its shareholders, merge with
27 an insured savings association, national bank, or after May
28 31, 1997, out-of-state bank, in default or in danger of
29 default, provided such State bank results from such merger,
30 and provided further that such resulting bank shall conform
31 all assets acquired or liabilities incurred as a result of
32 such merger to the legal requirements for such assets
33 acquired, held or invested or liabilities assumed or incurred
34 by State banks, and that such resulting or continuing bank

1 shall conform all of its activities to those activities in
2 which a State bank is authorized to engage as part of a
3 general banking business.

4 (d-5) If the Commissioner has made one or more of the
5 findings provided in Section 51 and the finding that an
6 emergency exists as provided in Section 52, and if, in
7 addition, the Commissioner gives his approval in writing, a
8 change in the ownership of outstanding stock of any State
9 bank, whether by sale and purchase, gift, bequest or
10 inheritance, or any other means, including the acquisition of
11 stock of the State bank by any bank holding company, may
12 occur that will result in control or a change in the control
13 of the State bank or a change in the control of a holding
14 company having control of the outstanding stock of a State
15 bank whether by sale and purchase, gift, bequest or
16 inheritance, or any other means, including the acquisition of
17 stock of such holding company by any other bank holding
18 company, which will result in control or a change in control
19 of the bank or holding company.

20 (e) Nothing in this Section shall authorize a State bank
21 to acquire, hold, or invest any asset or to assume or incur
22 any liability that does not conform to the legal requirements
23 for assets acquired, held, or invested or liabilities assumed
24 or incurred by State banks, or to engage in any activity in
25 which a State bank is not authorized to engage as part of a
26 general banking business.

27 (f) Nothing in this Section shall authorize a bank
28 holding company to own or control, directly or indirectly, a
29 State bank or a national bank having its main banking
30 premises in Illinois unless such ownership or control is
31 expressly authorized under the provisions of the Illinois
32 Bank Holding Company Act of 1957.

33 (Source: P.A. 88-4; 89-208, eff. 9-29-95.)

1 (205 ILCS 5/33) (from Ch. 17, par. 341)

2 Sec. 33. Marketable investment securities limit. Any
3 State bank may purchase for its own account marketable
4 investment securities without regard to any other liability
5 to the bank of the issuer, maker, obligor, or guarantor of
6 any marketable investment securities, but the total amount of
7 the marketable investment securities of any one issuer, maker
8 or obligor held by the bank or for its account at any one
9 time shall not exceed 20% of its unimpaired capital and
10 unimpaired surplus. As used in this Section the term
11 "marketable investment securities" means marketable
12 obligations evidencing indebtedness of any person in the form
13 of bonds, notes, or debentures commonly known as investment
14 securities; obligations identified by certificates of
15 participation in investments the bank could have invested in
16 directly; and includes certificates of participation in open
17 end investment companies registered with the Securities and
18 Exchange Commission pursuant to the Investment Company Act of
19 1940 and Securities Act of 1933 commonly referred to as
20 mutual or money market funds, provided the portfolios of
21 those investment companies consist of investments that a bank
22 could invest in directly. Marketable investment securities
23 shall be rated in the top 4 rating categories by national
24 rating services and designated as "investment grade" or "bank
25 quality investments" securities. The rating restriction on
26 marketable investment securities does not apply to securities
27 that are issued by a public agency as defined in Section 1 of
28 the Public Funds Investment Act.

29 (Source: P.A. 88-546; 89-364, eff. 8-18-95.)

30 (205 ILCS 5/37) (from Ch. 17, par. 347)

31 Sec. 37. Loans to officers and loans on and purchases of
32 bank's own stock.

33 (1) No state bank shall make any loan or extension of

1 credit in excess of the limits, as determined by the
2 Commissioner, at any one time outstanding each to its
3 president, or to any of its vice presidents or its salaried
4 officers or employees or directors or to corporations or
5 firms, controlled by them, or in the management of which any
6 of them are actively engaged, unless such loan or extension
7 of credit shall have been first approved, by the board of
8 directors. The Commissioner shall prescribe such limits by
9 rules.

10 (2) It shall not be lawful for a state bank to make any
11 loan or discount on the security of the shares of its own
12 capital stock or preferred stock or on the security of its
13 own debentures or evidences of debt which are either
14 convertible into capital stock or are junior or subordinate
15 in right of payment to deposit or other liabilities of the
16 bank.

17 (3)(a) For purposes of this Section, "control" means (i)
18 ownership, control, or power to vote 25% or more of the
19 outstanding shares of any class of voting security of the
20 corporation or firm, directly or indirectly, or acting
21 through or in concert with one or more other persons; (ii)
22 control in any manner over the election of a majority of the
23 directors of the corporation or firm; or (iii) the power to
24 exercise a controlling influence over the management or
25 policies of the corporation or firm, directly or indirectly,
26 or acting through or in concert with one or more persons.

27 (3)(b) A person does not have the power to exercise a
28 controlling influence over the management or policies of a
29 corporation or firm solely by virtue of the person's position
30 as an officer or director of the corporation or firm.

31 (3)(c) A person is presumed to have control, including
32 the power to exercise a controlling influence over the
33 management or policies, of a corporation or firm if:

34 (i) the person:

1 (A) is an executive officer, director, or
2 individual exercising similar functions of the
3 corporation or firm; and

4 (B) directly or indirectly owns, controls, or
5 has the power to vote more than 10% of any class of
6 voting securities of the corporation or firm; or

7 (ii)(A) the person directly or indirectly owns,
8 controls, or has the power to vote more than 10% of any
9 class of voting securities of the corporation or firm;
10 and

11 (B) no other person directly or indirectly
12 owns, controls, or has the power to vote a greater
13 percentage of that class of voting securities.

14 (3)(d) A person may rebut a presumption established
15 under subdivision (3)(c) of this Section by submitting
16 written materials that, in the Commissioner's judgment,
17 demonstrate an absence of control.

18 (Source: P.A. 86-754.)

19 (205 ILCS 5/47) (from Ch. 17, par. 358)

20 Sec. 47. Reports to Commissioner.

21 (a) All State banks shall make a full and accurate
22 statement of their affairs at least 1 time during each
23 calendar quarter which shall be certified to, under oath by
24 the president, a vice-president or the cashier of such bank.
25 If the statement is submitted in electronic form, the
26 Commissioner may, in the call for the report, specify the
27 manner in which the appropriate officer of the bank shall
28 certify the statement of affairs. The statement shall be
29 according to the form which may be prescribed by the
30 Commissioner and shall exhibit in detail information
31 concerning such bank at the close of business of any day the
32 Commissioner may choose and designate in a call for such
33 report. Each bank shall deliver its quarterly statement to

1 the location specified by the Commissioner within 30 calendar
2 days of the date of the call for such reports. If the
3 quarterly statement is mailed, it must be postmarked within
4 the period prescribed for delivery, and if the quarterly
5 statement is delivered in electronic form, the bank shall
6 generate and retain satisfactory proof that it has caused the
7 report to be delivered within the period prescribed for
8 delivery. ~~Within--60--calendar--days--after--the--Commissioner's~~
9 ~~call--for--the--fourth--calendar--quarter--statement--of--affairs,--a~~
10 ~~State--bank--shall--publish--an--annual--disclosure--statement~~
11 ~~setting--forth--the--information--required--by--rule--of--the~~
12 ~~Commissioner.--The--disclosure--statement--shall--contain--the~~
13 ~~required--information--as--of--the--close--of--the--business--day~~
14 ~~designated--by--the--Commissioner--for--the--fourth--quarter~~
15 ~~statement--of--affairs.--Any--bank--failing--to--make--and--deliver~~
16 ~~such--statement--or--to--comply--with--any--provisions--of--this~~
17 ~~Section--may--be--subject--to--a--penalty--payable--to--the~~
18 ~~Commissioner--of--\$100--for--each--day--of--noncompliance.~~

19 (b) In addition to the foregoing reports, any bank which
20 is the victim of a shortage of funds in excess of \$10,000, an
21 apparent misapplication of the bank's funds by an officer,
22 employee or director, or any adverse legal action in an
23 amount in excess of 10% of total unimpaired capital and
24 unimpaired surplus of the bank, including but not limited to,
25 the entry of an adverse money judgment against the bank or a
26 write-off of assets of the bank, shall report that
27 information in writing to the Commissioner within 7 days of
28 the occurrence. Neither the bank, its directors, officers,
29 employees or its agents, in the preparation or filing of the
30 reports required by subsection (b) of this Section, shall be
31 subject to any liability for libel, slander, or other charges
32 resulting from information supplied in such reports, except
33 when the supplying of such information is done in a corrupt
34 or malicious manner or otherwise not in good faith.

1 (Source: P.A. 89-505, eff. 6-28-96; 89-567, eff. 7-26-96;
2 90-14, eff. 7-1-97.)

3 (205 ILCS 5/48) (from Ch. 17, par. 359)

4 Sec. 48. Commissioner's powers; duties. The Commissioner
5 shall have the powers and authority, and is charged with the
6 duties and responsibilities designated in this Act, and a
7 State bank shall not be subject to any other visitorial power
8 other than as authorized by this Act, except those vested in
9 the courts, or upon prior consultation with the Commissioner,
10 a foreign bank regulator with an appropriate supervisory
11 interest in the parent or affiliate of a state bank. In the
12 performance of the Commissioner's duties:

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

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

1 making the examination the examiners shall include an
2 examination of the affairs of all the affiliates of the bank,
3 as defined in subsection (b) of Section 35.2 of this Act, or
4 subsidiaries of the bank as shall be necessary to disclose
5 fully the conditions of the subsidiaries or affiliates, the
6 relations between the bank and the subsidiaries or affiliates
7 and the effect of those relations upon the affairs of the
8 bank, and in connection therewith shall have power to examine
9 any of the officers, directors, agents, or employees of the
10 subsidiaries or affiliates on oath. After May 31, 1997, the
11 Commissioner may enter into cooperative agreements with state
12 regulatory authorities of other states to provide for
13 examination of State bank branches in those states, and the
14 Commissioner may accept reports of examinations of State bank
15 branches from those state regulatory authorities. These
16 cooperative agreements may set forth the manner in which the
17 other state regulatory authorities may be compensated for
18 examinations prepared for and submitted to the Commissioner.

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

29 (2.5) Whenever any State bank, any subsidiary or
30 affiliate of a State bank, or after May 31, 1997, any branch
31 of an out-of-state bank causes to be performed, by contract
32 or otherwise, any bank services for itself, whether on or off
33 its premises:

34 (a) that performance shall be subject to

1 examination by the Commissioner to the same extent as if
2 services were being performed by the bank or, after May
3 31, 1997, branch of the out-of-state bank itself on its
4 own premises; and

5 (b) the bank or, after May 31, 1997, branch of the
6 out-of-state bank shall notify the Commissioner of the
7 existence of a service relationship. The notification
8 shall be submitted with the first statement of condition
9 (as required by Section 47 of this Act) due after the
10 making of the service contract or the performance of the
11 service, whichever occurs first. The Commissioner shall
12 be notified of each subsequent contract in the same
13 manner.

14 For purposes of this subsection (2.5), the term "bank
15 services" means services such as sorting and posting of
16 checks and deposits, computation and posting of interest and
17 other credits and charges, preparation and mailing of checks,
18 statements, notices, and similar items, or any other
19 clerical, bookkeeping, accounting, statistical, or similar
20 functions performed for a State bank, including but not
21 limited to electronic data processing related to those bank
22 services.

23 (3) The expense of administering this Act, including the
24 expense of the examinations of State banks as provided in
25 this Act, shall to the extent of the amounts resulting from
26 the fees provided for in paragraphs (a), (a-2), and (b) of
27 this subsection (3) be assessed against and borne by the
28 State banks:

29 (a) Each bank shall pay to the Commissioner a Call
30 Report Fee which shall be paid in quarterly installments
31 equal to one-fourth of the sum of the annual fixed fee of
32 \$800, plus a variable fee based on the assets shown on
33 the quarterly statement of condition delivered to the
34 Commissioner in accordance with Section 47 for the

1 preceding quarter according to the following schedule:
2 16¢ per \$1,000 of the first \$5,000,000 of total assets,
3 15¢ per \$1,000 of the next \$20,000,000 of total assets,
4 13¢ per \$1,000 of the next \$75,000,000 of total assets,
5 9¢ per \$1,000 of the next \$400,000,000 of total assets,
6 7¢ per \$1,000 of the next \$500,000,000 of total assets,
7 and 5¢ per \$1,000 of all assets in excess of
8 \$1,000,000,000, of the State bank. The Call Report Fee
9 shall be calculated by the Commissioner and billed to the
10 banks for remittance at the time of the quarterly
11 statements of condition provided for in Section 47. The
12 Commissioner may require payment of the fees provided in
13 this Section by an electronic transfer of funds or an
14 automatic debit of an account of each of the State banks.
15 In case more than one examination of any bank is deemed
16 by the Commissioner to be necessary in any examination
17 frequency cycle specified in subsection 2(a) of this
18 Section, and is performed at his direction, the
19 Commissioner may assess a reasonable additional fee to
20 recover the cost of the additional examination; provided,
21 however, that an examination conducted at the request of
22 the State Treasurer pursuant to the Uniform Disposition
23 of Unclaimed Property Act shall not be deemed to be an
24 additional examination under this Section. In lieu of the
25 method and amounts set forth in this paragraph (a) for
26 the calculation of the Call Report Fee, the Commissioner
27 may specify by rule that the Call Report Fees provided by
28 this Section may be assessed semiannually or some other
29 period and may provide in the rule the formula to be used
30 for calculating and assessing the periodic Call Report
31 Fees to be paid by State banks.

32 (a-1) If in the opinion of the Commissioner an
33 emergency exists or appears likely, the Commissioner may
34 assign an examiner or examiners to monitor the affairs of

1 a State bank with whatever frequency he deems
2 appropriate, including but not limited to a daily basis.
3 The reasonable and necessary expenses of the Commissioner
4 during the period of the monitoring shall be borne by the
5 subject bank. The Commissioner shall furnish the State
6 bank a statement of time and expenses if requested to do
7 so within 30 days of the conclusion of the monitoring
8 period.

9 (a-2) On and after January 1, 1990, the reasonable
10 and necessary expenses of the Commissioner during
11 examination of the performance of electronic data
12 processing services under subsection (2.5) shall be borne
13 by the banks for which the services are provided. An
14 amount, based upon a fee structure prescribed by the
15 Commissioner, shall be paid by the banks or, after May
16 31, 1997, branches of out-of-state banks receiving the
17 electronic data processing services along with the Call
18 Report Fee assessed under paragraph (a) of this
19 subsection (3).

20 (a-3) After May 31, 1997, the reasonable and
21 necessary expenses of the Commissioner during examination
22 of the performance of electronic data processing services
23 under subsection (2.5) at or on behalf of branches of
24 out-of-state banks shall be borne by the out-of-state
25 banks, unless those expenses are borne by the state
26 regulatory authorities that chartered the out-of-state
27 banks, as determined by cooperative agreements between
28 the Commissioner and the state regulatory authorities
29 that chartered the out-of-state banks.

30 (b) "Fiscal year" for purposes of this Section 48
31 is defined as a period beginning July 1 of any year and
32 ending June 30 of the next year. The Commissioner shall
33 receive for each fiscal year, commencing with the fiscal
34 year ending June 30, 1987, a contingent fee equal to the

1 lesser of the aggregate of the fees paid by all State
2 banks under paragraph (a) of subsection (3) for that
3 year, or the amount, if any, whereby the aggregate of the
4 administration expenses, as defined in paragraph (c), for
5 that fiscal year exceeds the sum of the aggregate of the
6 fees payable by all State banks for that year under
7 paragraph (a) of subsection (3), plus any amounts
8 transferred into the Bank and Trust Company Fund from the
9 State Pensions Fund for that year, plus all other amounts
10 collected by the Commissioner for that year under any
11 other provision of this Act, plus the aggregate of all
12 fees collected for that year by the Commissioner under
13 the Corporate Fiduciary Act, excluding the receivership
14 fees provided for in Section 5-10 of the Corporate
15 Fiduciary Act, and the Foreign Banking Office Act. The
16 aggregate amount of the contingent fee thus arrived at
17 for any fiscal year shall be apportioned amongst,
18 assessed upon, and paid by the State banks and foreign
19 banking corporations, respectively, in the same
20 proportion that the fee of each under paragraph (a) of
21 subsection (3), respectively, for that year bears to the
22 aggregate for that year of the fees collected under
23 paragraph (a) of subsection (3). The aggregate amount of
24 the contingent fee, and the portion thereof to be
25 assessed upon each State bank and foreign banking
26 corporation, respectively, shall be determined by the
27 Commissioner and shall be paid by each, respectively,
28 within 120 days of the close of the period for which the
29 contingent fee is computed and is payable, and the
30 Commissioner shall give 20 days advance notice of the
31 amount of the contingent fee payable by the State bank
32 and of the date fixed by the Commissioner for payment of
33 the fee.

34 (c) The "administration expenses" for any fiscal

1 year shall mean the ordinary and contingent expenses for
2 that year incident to making the examinations provided
3 for by, and for otherwise administering, this Act, the
4 Corporate Fiduciary Act, excluding the expenses paid from
5 the Corporate Fiduciary Receivership account in the Bank
6 and Trust Company Fund, the Foreign Banking Office Act,
7 the Electronic Fund Transfer Act, and the Illinois Bank
8 Examiners' Education Foundation Act, including all
9 salaries and other compensation paid for personal
10 services rendered for the State by officers or employees
11 of the State, including the Commissioner and the Deputy
12 Commissioners, all expenditures for telephone and
13 telegraph charges, postage and postal charges, office
14 stationery, supplies and services, and office furniture
15 and equipment, including typewriters and copying and
16 duplicating machines and filing equipment, surety bond
17 premiums, and travel expenses of those officers and
18 employees, employees, expenditures or charges for the
19 acquisition, enlargement or improvement of, or for the
20 use of, any office space, building, or structure, or
21 expenditures for the maintenance thereof or for
22 furnishing heat, light, or power with respect thereto,
23 all to the extent that those expenditures are directly
24 incidental to such examinations or administration. The
25 Commissioner shall not be required by paragraphs (c) or
26 (d-1) of this subsection (3) to maintain in any fiscal
27 year's budget appropriated reserves for accrued vacation
28 and accrued sick leave that is required to be paid to
29 employees of the Commissioner upon termination of their
30 service with the Commissioner in an amount that is more
31 than is reasonably anticipated to be necessary for any
32 anticipated turnover in employees, whether due to normal
33 attrition or due to layoffs, terminations, or
34 resignations.

1 (d) The aggregate of all fees collected by the
2 Commissioner under this Act, the Corporate Fiduciary Act,
3 or the Foreign Banking Office Act on and after July 1,
4 1979, shall be paid promptly after receipt of the same,
5 accompanied by a detailed statement thereof, into the
6 State treasury and shall be set apart in a special fund
7 to be known as the "Bank and Trust Company Fund", except
8 as provided in paragraph (c) of subsection (11) of this
9 Section. The amount from time to time deposited into the
10 Bank and Trust Company Fund shall be used to offset the
11 ordinary administrative expenses of the Commissioner of
12 Banks and Real Estate as defined in this Section. Nothing
13 in this amendatory Act of 1979 shall prevent continuing
14 the practice of paying expenses involving salaries,
15 retirement, social security, and State-paid insurance
16 premiums of State officers by appropriations from the
17 General Revenue Fund. However, the General Revenue Fund
18 shall be reimbursed for those payments made on and after
19 July 1, 1979, by an annual transfer of funds from the
20 Bank and Trust Company Fund.

21 (d-1) Adequate funds shall be available in the Bank
22 and Trust Company Fund to permit the timely payment of
23 administration expenses. In each fiscal year the total
24 administration expenses shall be deducted from the total
25 fees collected by the Commissioner and the remainder
26 transferred into the Cash Flow Reserve Account, unless
27 the balance of the Cash Flow Reserve Account prior to the
28 transfer equals or exceeds one-fourth of the total
29 initial appropriations from the Bank and Trust Company
30 Fund for the subsequent year, in which case the remainder
31 shall be credited to State banks and foreign banking
32 corporations and applied against their fees for the
33 subsequent year. The amount credited to each State bank
34 and foreign banking corporation shall be in the same

1 proportion as the Call Report Fees paid by each for the
2 year bear to the total Call Report Fees collected for the
3 year. If, after a transfer to the Cash Flow Reserve
4 Account is made or if no remainder is available for
5 transfer, the balance of the Cash Flow Reserve Account is
6 less than one-fourth of the total initial appropriations
7 for the subsequent year and the amount transferred is
8 less than 5% of the total Call Report Fees for the year,
9 additional amounts needed to make the transfer equal to
10 5% of the total Call Report Fees for the year shall be
11 apportioned amongst, assessed upon, and paid by the State
12 banks and foreign banking corporations in the same
13 proportion that the Call Report Fees of each,
14 respectively, for the year bear to the total Call Report
15 Fees collected for the year. The additional amounts
16 assessed shall be transferred into the Cash Flow Reserve
17 Account. For purposes of this paragraph (d-1), the
18 calculation of the fees collected by the Commissioner
19 shall exclude the receivership fees provided for in
20 Section 5-10 of the Corporate Fiduciary Act.

21 (e) The Commissioner may upon request certify to
22 any public record in his keeping and shall have authority
23 to levy a reasonable charge for issuing certifications of
24 any public record in his keeping.

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

30 (4) Nothing contained in this Act shall be construed to
31 limit the obligation relative to examinations and reports of
32 any State bank, deposits in which are to any extent insured
33 by the United States or any agency thereof, nor to limit in
34 any way the powers of the Commissioner with reference to

1 examinations and reports of that bank.

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

21 (6) The Commissioner shall have the power:

22 (a) To promulgate reasonable rules for the purpose
23 of administering the provisions of this Act including,
24 but not limited to, the establishing of standards for the
25 safe and sound conduct of banks.

26 (a-5) To impose conditions on any approval issued
27 by the Commissioner if he determines that the conditions
28 are necessary or appropriate to ensure that the approval
29 is consistent with applicable statutes, rules, and
30 policies. These conditions shall be imposed in writing
31 and shall continue in effect for the period prescribed by
32 the Commissioner.

33 (b) To issue orders against any person, if the
34 Commissioner has reasonable cause to believe that an

1 unsafe or unsound banking practice has occurred, is
2 occurring, or is about to occur, if any person has
3 violated, is violating, or is about to violate any law,
4 rule, or written agreement with the Commissioner, or for
5 the purpose of administering the provisions of this Act,
6 and any rule promulgated in accordance with this Act.
7 These orders may include, but are not limited to,
8 corrective action orders, orders of removal, orders of
9 prohibition, cease and desist orders, possession and
10 control orders, and orders assessing civil monetary
11 penalties.

12 (b-1) To enter into agreements with a bank
13 establishing a program to correct the condition of the
14 bank or its practices.

15 (c) To appoint hearing officers to execute any of
16 the powers granted to the Commissioner under this Section
17 for the purpose of administering this Act and any rule
18 promulgated in accordance with this Act and otherwise to
19 authorize an officer or employee of the Office of Banks
20 and Real Estate to exercise his powers under this Act.

21 (d) To subpoena witnesses, to compel their
22 attendance, to administer an oath, to examine any person
23 under oath, and to require the production of any relevant
24 books, papers, accounts, and documents in the course of
25 and pursuant to any investigation being conducted, or any
26 action being taken, by the Commissioner in respect of any
27 matter relating to the duties imposed upon, or the powers
28 vested in, the Commissioner under the provisions of this
29 Act or any rule promulgated in accordance with this Act.

30 (e) To conduct hearings.

31 (7) Whenever, in the opinion of the Commissioner, any
32 director, officer, employee, or agent of a State bank or any
33 subsidiary or bank holding company of the bank or, after May
34 31, 1997, of any branch of an out-of-state bank or any

1 subsidiary or bank holding company of the bank shall have
2 violated any law, rule, or order relating to that bank or any
3 subsidiary or bank holding company of the bank, shall have
4 obstructed or impeded any examination or investigation by the
5 Commissioner, or shall have engaged in an unsafe or unsound
6 practice in conducting the business of that bank or any
7 subsidiary or bank holding company of the bank, or shall have
8 violated any law or engaged or participated in any unsafe or
9 unsound practice in connection with any financial institution
10 or other business entity such that the character and fitness
11 of the director, officer, employee, or agent does not assure
12 reasonable promise of safe and sound operation of the State
13 bank, the Commissioner may issue an order of removal. If, in
14 the opinion of the Commissioner, any former director,
15 officer, employee, or agent of a State bank or any subsidiary
16 or bank holding company of the bank, prior to the termination
17 of his or her service with that bank or any subsidiary or
18 bank holding company of the bank, violated any law, rule, or
19 order relating to that State bank or any subsidiary or bank
20 holding company of the bank, obstructed or impeded any
21 examination or investigation by the Commissioner, or engaged
22 in an unsafe or unsound practice in conducting the business
23 of that bank or any subsidiary or bank holding company of the
24 bank, or violated any law or engaged or participated in any
25 unsafe or unsound practice in connection with any financial
26 institution or other business entity such that the character
27 and fitness of the director, officer, employee, or agent
28 would not have assured reasonable promise of safe and sound
29 operation of the State bank, the Commissioner may issue an
30 order prohibiting that person from further service with a
31 bank or any subsidiary or bank holding company of the bank as
32 a director, officer, employee, or agent. An order issued
33 pursuant to this subsection shall be served upon the
34 director, officer, employee, or agent. A copy of the order

1 shall be sent to each director of the bank affected by
2 registered mail. The person affected by the action may
3 request a hearing before the State Banking Board within 10
4 days after receipt of the order of removal. The hearing
5 shall be held by the Board within 30 days after the request
6 has been received by the Board. The Board shall make a
7 determination approving, modifying, or disapproving the order
8 of the Commissioner as its final administrative decision. If
9 a hearing is held by the Board, the Board shall make its
10 determination within 60 days from the conclusion of the
11 hearing. Any person affected by a decision of the Board under
12 this subsection (7) of Section 48 of this Act may have the
13 decision reviewed only under and in accordance with the
14 Administrative Review Law and the rules adopted pursuant
15 thereto. A copy of the order shall also be served upon the
16 bank of which he is a director, officer, employee, or agent,
17 whereupon he shall cease to be a director, officer, employee,
18 or agent of that bank. The Commissioner may institute a
19 civil action against the director, officer, or agent of the
20 State bank or, after May 31, 1997, of the branch of the
21 out-of-state bank against whom any order provided for by this
22 subsection (7) of this Section 48 has been issued, and
23 against the State bank or, after May 31, 1997, out-of-state
24 bank, to enforce compliance with or to enjoin any violation
25 of the terms of the order. Any person who has been the
26 subject of an order of removal or an order of prohibition
27 issued by the Commissioner under this subsection or Section
28 5-6 of the Corporate Fiduciary Act may not thereafter serve
29 as director, officer, employee, or agent of any State bank or
30 of any branch of any out-of-state bank, or of any corporate
31 fiduciary, as defined in Section 1-5.05 of the Corporate
32 Fiduciary Act, or of any other entity that is subject to
33 licensure or regulation by the Commissioner or the Office of
34 Banks and Real Estate unless the Commissioner has granted

1 prior approval in writing.

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

5 (8) The Commissioner may impose civil penalties of up to
6 \$10,000 against any person for each violation of any
7 provision of this Act, any rule promulgated in accordance
8 with this Act, any order of the Commissioner, or any other
9 action which in the Commissioner's discretion is an unsafe or
10 unsound banking practice.

11 (9) The Commissioner may impose civil penalties of up to
12 \$100 against any person for the first failure to comply with
13 reporting requirements set forth in the report of examination
14 of the bank and up to \$200 for the second and subsequent
15 failures to comply with those reporting requirements.

16 (10) All final administrative decisions of the
17 Commissioner hereunder shall be subject to judicial review
18 pursuant to the provisions of the Administrative Review Law.
19 For matters involving administrative review, venue shall be
20 in either Sangamon County or Cook County.

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

23 (a) (Blank).

24 (b) The Foundation is empowered to receive
25 voluntary contributions, gifts, grants, bequests, and
26 donations on behalf of the Illinois Bank Examiners'
27 Education Foundation from national banks and other
28 persons for the purpose of funding the endowment of the
29 Illinois Bank Examiners' Education Foundation.

30 (c) The aggregate of all special educational fees
31 collected by the Commissioner and property received by
32 the Commissioner on behalf of the Illinois Bank
33 Examiners' Education Foundation under this subsection
34 (11) on or after June 30, 1986, shall be either (i)

1 promptly paid after receipt of the same, accompanied by a
 2 detailed statement thereof, into the State Treasury and
 3 shall be set apart in a special fund to be known as "The
 4 Illinois Bank Examiners' Education Fund" to be invested
 5 by either the Treasurer of the State of Illinois in the
 6 Public Treasurers' Investment Pool or in any other
 7 investment he is authorized to make or by the Illinois
 8 State Board of Investment as the board of trustees of the
 9 Illinois Bank Examiners' Education Foundation may direct
 10 or (ii) deposited into an account maintained in a
 11 commercial bank or corporate fiduciary in the name of the
 12 Illinois Bank Examiners' Education Foundation pursuant to
 13 the order and direction of the Board of Trustees of the
 14 Illinois Bank Examiners' Education Foundation.

15 (12) (Blank).

16 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;
 17 90-665, eff. 7-30-98; 91-16, eff. 7-1-99.)

18 (205 ILCS 5/48.5)

19 Sec. 48.5. Reliance on Commissioner.

20 (a) The Commissioner may issue an opinion in response to
 21 a specific request from a member of the public or the banking
 22 industry or on his own initiative. The opinion may be in the
 23 form of an interpretive letter, no-objection letter, or other
 24 issuance the Commissioner deems appropriate.

25 (b) If the Commissioner determines that the opinion is
 26 useful for the general guidance of the public, State banks,
 27 or trust companies, the Commissioner may disseminate the
 28 opinion by newsletter, via an electronic medium such as the
 29 internet, in a volume of statutes or related materials
 30 published by the Commissioner or others, or by other means
 31 reasonably calculated to notify persons affected by the
 32 opinion. A published opinion must be redacted to preserve
 33 the confidentiality of the requesting party unless the

1 requesting party consents to be identified in the published
2 opinion.

3 (c) No bank or other person shall be liable under this
4 Act for any act done or omitted in good faith in conformity
5 with any rule, interpretation, or opinion issued by the
6 Commissioner of Banks and Real Estate, notwithstanding that
7 after the act or omission has occurred, the rule, opinion, or
8 interpretation upon which reliance is placed is amended,
9 rescinded, or determined by judicial or other authority to be
10 invalid for any reason.

11 (Source: P.A. 90-161, eff. 7-23-97; 90-655, eff. 7-30-98.)

12 (205 ILCS 5/48.7 new)

13 Sec. 48.7. Opinions providing State banks parity in
14 regulation. Notwithstanding any other provision of law, if
15 any regulation, rule, interpretation, procedure, or guideline
16 of the Comptroller of the Currency, the Federal Deposit
17 Insurance Corporation, the Federal Reserve Board, or the bank
18 regulatory authority of any other state puts a bank doing
19 business under the provisions of this Act at a disadvantage
20 to a national bank, the Commissioner may issue an opinion or
21 interpretation that reduces or eliminates the disadvantage to
22 a bank doing business under this Act.

23 (205 ILCS 5/49) (from Ch. 17, par. 361)

24 Sec. 49. False statements; penalty. It is unlawful for
25 any officer, director, or employee of any State bank or
26 subsidiary or holding company of that bank or, after May 31,
27 1997, branch out of an out-of-state bank subject to
28 examination by the Commissioner or any person filing an
29 application or notice or submitting information in connection
30 with an application or notice with the Commissioner to who
31 shall willfully and knowingly subscribe to or make, or cause
32 to be made, any false statement or false entry with intent to

1 deceive any person or persons authorized to examine into the
 2 affairs of the bank or the subsidiary or holding company of
 3 that bank, or the branch of an out-of-state bank, or the
 4 applicant or with intent to deceive the Commissioner or his
 5 administrative officers in the performance of their duties
 6 under this Act. A person who violates this Section is, upon
 7 conviction thereof, shall be guilty of a Class 3 felony.
 8 (Source: P.A. 89-208, eff. 9-29-95.)

9 (205 ILCS 5/51) (from Ch. 17, par. 363)

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

11 (a) If the Commissioner with respect to a State bank
 12 shall find:

13 (1) its capital is impaired or it is otherwise in
 14 an unsound condition; or

15 (2) its business is being conducted in an unlawful,
 16 including, without limitation, in violation of any
 17 provisions of this Act, or in a fraudulent or unsafe
 18 manner; or

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

20 (4) its examination has been obstructed or impeded;
 21 the Commissioner may give notice to the board of
 22 directors or his finding or findings. If the situation so
 23 found by the Commissioner shall not be corrected to his
 24 satisfaction within a period of at least sixty but no
 25 more than one hundred and eighty days after receipt of
 26 such notice, which period shall be determined by the
 27 Commissioner and set forth in the notice, the
 28 Commissioner at the termination of said period shall take
 29 possession and control of the bank and its assets as in
 30 this Act provided for the purpose of examination,
 31 reorganization or liquidation through receivership.

32 (b) Notwithstanding any other provision of this Act, if
 33 the Commissioner has given notice to the board of directors

1 of his findings, as provided in subsection (a), and the time
2 period prescribed in that notice has expired, the
3 Commissioner may extend the time period prescribed in that
4 notice for such period as the Commissioner deems appropriate.

5 (Source: P.A. 87-841.)

6 (205 ILCS 5/53) (from Ch. 17, par. 365)

7 Sec. 53. Commissioner's possession; power. The
8 Commissioner may take possession and control of a state bank
9 and its assets, by posting upon the premises a notice
10 reciting that he is assuming possession pursuant to this Act,
11 and the time when his possession shall be deemed to commence,
12 which time shall not pre-date the posting of the notice.
13 Promptly after taking possession and control of a bank, if
14 the Federal Deposit Insurance Corporation is not appointed as
15 receiver, the Commissioner shall file a copy of the notice
16 posted upon the premises in the circuit court in the county
17 in which the bank is located, and thereupon the clerk of such
18 court shall note the filing thereof upon the records of the
19 court, and shall enter such cause as a court action upon the
20 dockets of such court under the name and style of "In the
21 matter of the possession and control of the Commissioner of
22 Banks and Real Estate of" (inserting the name of such
23 bank), and thereupon the court wherein such cause is docketed
24 shall be vested with jurisdiction to hear and determine all
25 issues and matters pertaining to or connected with the
26 Commissioner's possession and control of such bank as
27 provided in this Act, and such further issues and matters
28 pertaining to or connected with the Commissioner's possession
29 and control as may be submitted to such court for its
30 adjudication by the Commissioner. When the Commissioner has
31 taken possession and control of a bank and its assets, he
32 shall be vested with the full powers of management and
33 control, including without limiting the generality thereof,

1 the following:

2 (1) the power to continue or to discontinue the
3 business;

4 (2) the power to stop or to limit the payment of
5 its obligations, provided, however with respect to a
6 qualified financial contract between any party and a bank
7 or banking office, the branch or agency of which the
8 Commissioner has taken possession and control, which
9 party has a perfected security interest in collateral or
10 other valid lien or security interest in collateral
11 enforceable against third parties pursuant to a security
12 arrangement related to that qualified financial contract,
13 the party may retain all of the collateral and upon
14 repudiation or termination of that qualified financial
15 contract in accordance with its terms apply the
16 collateral in satisfaction of any claims secured by the
17 collateral; in no event shall the total amount so applied
18 exceed the global net payment obligation, if any;

19 (3) the power to collect and to use its assets and
20 to give valid receipts and acquittances therefor;

21 (4) the power to employ and to pay any necessary
22 assistants;

23 (5) the power to execute any instrument in the name
24 of the bank;

25 (6) the power to commence, defend and conduct in
26 its name any action or proceeding in which it may be a
27 party;

28 (7) the power, upon the order of the court, to sell
29 and convey its assets in whole or in part, and to sell or
30 compound bad or doubtful debts upon such terms and
31 conditions as may be fixed in such order;

32 (8) the power, upon the order of the court, to make
33 and to carry out agreements with other banks or with the
34 United States or any agency thereof which shall have

1 insured the bank's deposits, in whole or in part, for the
2 payment or assumption of the bank's liabilities, in whole
3 or in part, and to transfer assets and to make
4 guaranties, in whole or in part, and to transfer assets
5 and to make guaranties in connection therewith;

6 (9) the power, upon the order of the court, to
7 borrow money in the name of the bank and to pledge its
8 assets as security for the loan;

9 (10) the power to terminate his possession and
10 control by restoring the bank to its board of directors;

11 (11) the power to reorganize the bank as provided
12 in this Act;

13 (12) the power to appoint a receiver and to order
14 liquidation of the bank as provided in this Act; and

15 (13) the power, upon the order of the court and
16 without the appointment of a receiver, to determine that
17 the bank has been closed for the purpose of liquidation
18 without adequate provision being made for payment of its
19 depositors, and thereupon the bank shall be deemed to
20 have been closed on account of inability to meet the
21 demands of its depositors.

22 As soon as practical after taking possession, the
23 Commissioner shall make his examination of the condition of
24 the bank and an inventory of the assets. Unless the time
25 shall be extended by order of the court and, unless the
26 Commissioner shall have otherwise settled the affairs of a
27 bank pursuant to the provisions of this Act, at the
28 termination of thirty days from the time of taking possession
29 and control of a bank for the purpose of examination,
30 reorganization or liquidation through receivership, the
31 Commissioner shall either terminate his possession and
32 control by restoring the bank to its board of directors or
33 appoint a receiver and order the liquidation of the bank as
34 provided in this Act. All necessary and reasonable expenses

1 of the Commissioner's possession and control and of its
2 reorganization shall be borne by the bank and may be paid by
3 the Commissioner from its assets. If the Federal Deposit
4 Insurance Corporation is appointed by the Commissioner as
5 receiver of a State bank, or the Federal Deposit Insurance
6 Corporation takes possession of such State bank, the
7 receivership proceedings and the powers and duties of the
8 Federal Deposit Insurance Corporation shall be governed by
9 the Federal Deposit Insurance Act and regulations promulgated
10 thereunder rather than the provisions of this Act.

11 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

12 Section 15. The Illinois Bank Holding Company Act of
13 1957 is amended by changing Section 3.074 as follows:

14 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

15 Sec. 3.074. Powers; administrative review.

16 (a) The Commissioner shall have the power and authority:

17 (1) ~~(a)~~ to promulgate reasonable procedural rules
18 for the purposes of administering the provisions of this
19 Act. The Commissioner shall specify the form of any
20 application, report or document that is required to be
21 filed with the Commissioner pursuant to this Act;

22 (2) ~~(b)~~ to issue orders for the purpose of
23 administering the provisions of this Act and any rule
24 promulgated in accordance with this Act;

25 (3) ~~(e)~~ to appoint hearing officers to execute any
26 of the powers granted to the Commissioner under this
27 Section for the purpose of administering this Act or any
28 rule promulgated in accordance with this Act; and

29 (4) ~~(d)~~ to subpoena witnesses, to compel their
30 attendance, to administer an oath, to examine any person
31 under oath and to require the production of any relevant
32 books, papers, accounts and documents in the course of

1 and pursuant to any investigation or hearing being
2 conducted or any action being taken by the Commissioner
3 in respect to any matter relating to the duties imposed
4 upon or the powers vested in the Commissioner under the
5 provisions of this Act or any rule promulgated in
6 accordance with this Act. ;--and

7 (b) Whenever, in the opinion of the Commissioner, any
8 director, officer, employee, or agent of any bank holding
9 company or subsidiary or affiliate of that company shall have
10 violated any law, rule, or order relating to that bank
11 holding company or subsidiary or affiliate of that company,
12 shall have obstructed or impeded any examination or
13 investigation by the Commissioner, shall have engaged in
14 an unsafe or unsound practice in conducting the business
15 of that bank holding company or subsidiary or affiliate of
16 that company, or shall have violated any law or engaged or
17 participated in any unsafe or unsound practice in
18 connection with any financial institution or other business
19 entity such that the character and fitness of the director,
20 officer, employee, or agent does not assure reasonable
21 promise of safe and sound operation of the bank holding
22 company, the Commissioner may issue an order of removal. If,
23 in the opinion of the Commissioner, any former director,
24 officer, employee, or agent of a bank holding company or
25 subsidiary or affiliate of that company, prior to the
26 termination of his or her service with that holding company
27 or subsidiary or affiliate of that company, violated any law,
28 rule, or order relating to that bank holding company or
29 subsidiary or affiliate of that company, obstructed or
30 impeded any examination or investigation by the Commissioner,
31 engaged in an unsafe or unsound practice in conducting the
32 business of that bank holding company or subsidiary or
33 affiliate of that company, or violated any law or engaged
34 or participated in any unsafe or unsound practice in

1 connection with any financial institution or other business
2 entity such that the character and fitness of the director,
3 officer, employee, or agent would not have assured
4 reasonable promise of safe and sound operation of the bank
5 holding company, the Commissioner may issue an order
6 prohibiting that person from further service with a bank
7 holding company or subsidiary or affiliate of that company as
8 a director, officer, employee, or agent.

9 An order issued pursuant to this subsection shall be
10 served upon the director, officer, employee, or agent. A copy
11 of the order shall be sent to each director of the bank
12 holding company affected by registered mail. The person
13 affected by the action may request a hearing before the State
14 Banking Board within 10 days after receipt of the order. The
15 hearing shall be held by the State Banking Board within 30
16 days after the request has been received by the State Banking
17 Board. The State Banking Board shall make a determination
18 approving, modifying, or disapproving the order of the
19 Commissioner as its final administrative decision. If a
20 hearing is held by the State Banking Board, the State Banking
21 Board shall make its determination within 60 days from the
22 conclusion of the hearing. Any person affected by a decision
23 of the State Banking Board under this subsection may have the
24 decision reviewed only under and in accordance with the
25 Administrative Review Law and the rules adopted pursuant
26 thereto. A copy of the order shall also be served upon the
27 bank holding company of which he is a director, officer,
28 employee, or agent, whereupon he shall cease to be a
29 director, officer, employee, or agent of that bank holding
30 company.

31 The Commissioner may institute a civil action against the
32 director, officer, employee, or agent of the bank holding
33 company, against whom any order provided for by this
34 subsection has been issued, to enforce compliance with or to

1 enjoin any violation of the terms of the order.

2 Any person who has been the subject of an order of
3 removal or an order of prohibition issued by the Commissioner
4 under this subsection, subdivision (7) of Section 48 of the
5 Illinois Banking Act, or Section 5-6 of the Corporate
6 Fiduciary Act may not thereafter serve as director, officer,
7 employee, or agent of any holding company, State bank, or
8 branch of any out-of-state bank, of any corporate fiduciary,
9 as defined in Section 1-5.05 of the Corporate Fiduciary Act,
10 or of any other entity that is subject to licensure or
11 regulation by the Commissioner or the Office of Banks and
12 Real Estate unless the Commissioner has granted prior
13 approval in writing.

14 (c) (e) All final administrative decisions of the
15 Commissioner under this Act shall be subject to judicial
16 review pursuant to provisions of the Administrative Review
17 Law. For matters involving administrative review, venue shall
18 be in either Sangamon County or Cook County.

19 (Source: P.A. 86-754.)

20 Section 20. The Banking Emergencies Act is amended by
21 changing Sections 1 and 2 as follows:

22 (205 ILCS 610/1) (from Ch. 17, par. 1001)

23 Sec. 1. Definitions. A. As used in this Act, unless the
24 context otherwise requires:

25 (1) "Commissioner" means the officer of this State
26 designated by law to exercise supervision over banks and
27 trust companies, and any other person lawfully exercising
28 such powers.

29 (2) "Bank" includes commercial banks, trust companies
30 and any branch thereof lawfully carrying on the business of
31 banking and, to the extent that the provisions hereof are not
32 inconsistent with and do not infringe upon paramount Federal

1 law, also includes national banks.

2 (3) "Officers" means the person or persons designated by
3 the board of directors, to act for the bank in carrying out
4 the provisions of this Act or, in the absence of any such
5 designation or of the officer or officers so designated, the
6 president or any other officer currently in charge of the
7 bank or of the office or offices in question.

8 (4) "Office" means any place at which a bank transacts
9 its business or conducts operations related to its business.

10 (5) "Emergency" means any condition or occurrence which
11 may interfere physically with the conduct of normal business
12 operations at one or more or all of the offices of a bank, or
13 which poses an imminent or existing threat to the safety or
14 security of persons or property, or both at one or more or
15 all of the offices of a bank.

16 Without limiting the generality of the foregoing, an
17 emergency may arise as a result of any one or more of the
18 following: natural disasters; civil strife; power failures;
19 computer failures; interruption of communication facilities;
20 robbery or attempted robbery.

21 (Source: P.A. 85-204.)

22 (205 ILCS 610/2) (from Ch. 17, par. 1002)

23 Sec. 2. Power of Commissioner. Whenever the Commissioner
24 is notified by any officer of a bank or by any other means
25 becomes aware that an emergency exists, or is impending, in
26 ~~the county or municipality or any part thereof,~~ he may, by
27 proclamation, authorize all banks in the State of Illinois
28 ~~located in the affected area or areas~~ to close any or all of
29 their offices, or if only a bank or banks, or offices
30 thereof, in a particular area or areas of the State of
31 Illinois are affected by the emergency or impending
32 emergency, the Commissioner may authorize only the affected
33 bank, banks, or offices thereof, to close. The office or

1 offices so closed may remain closed until the Commissioner
 2 declares, by further proclamation, that the emergency or
 3 impending emergency has ended. The Commissioner during an
 4 emergency or while an impending emergency exists, which
 5 affects, or may affect, a particular bank or banks, or a
 6 particular office or offices thereof, but not banks located
 7 in the area generally of the said county or municipality, may
 8 authorize the particular bank or banks, or office or offices
 9 so affected, to close. The office or offices so closed shall
 10 remain closed until the Commissioner is notified by a bank
 11 officer of the closed bank that the emergency has ended. The
 12 Commissioner shall notify, at such time, the officers of the
 13 bank that one or more offices, heretofore closed because of
 14 the emergency, should reopen and, in either event, for such
 15 further time thereafter as may reasonably be required to
 16 reopen.

17 (Source: P.A. 77-1782.)

18 Section 25. The Corporate Fiduciary Act is amended by
 19 changing Sections 1-8, 3-1, 3-2, 4-3, 4-4, 4-5, 5-3, 5-6, and
 20 6-2 and adding Article 4A as follows:

21 (205 ILCS 620/1-8) (from Ch. 17, par. 1551-8)

22 Sec. 1-8. Change of name or location. A corporate
 23 fiduciary holding a certificate of authority issued pursuant
 24 to this Act must notify and receive written approval from the
 25 Commissioner before changing its name or changing the
 26 location of its corporate headquarters. A corporate
 27 fiduciary which is a State bank chartered by the Commissioner
 28 and which accomplishes a change of name in compliance with
 29 Section 13 of the Illinois Banking Act or a change of
 30 location in compliance with Section 13 ~~17~~ of the Illinois
 31 Banking Act, as now or hereafter amended, shall be deemed to
 32 have complied with this Section 1-8.

1 (Source: P.A. 90-301, eff. 8-1-97.)

2 (205 ILCS 620/3-1) (from Ch. 17, par. 1553-1)

3 Sec. 3-1. Merger. The merger procedure required of a
4 trust company where there is to be a resulting trust company
5 by consolidation or merger shall be:

6 (1) The board of directors of each party to the merger
7 ~~merging-trust-company~~ shall, by a majority of the entire
8 board, approve a merger agreement which shall contain:

9 (a) The name of each party to the merger ~~merging~~
10 ~~trust-company~~ and its location and a list of each merging
11 party's ~~trust-company's~~ stockholders as of the date of
12 the merger agreement;

13 (b) With respect to the resulting trust company (i)
14 its name and place of business; (ii) the amount of
15 capital, surplus and reserve for operating expenses;
16 (iii) the classes and the number of shares of stock and
17 the par value of each share; (iv) the designation of the
18 continuing trust company and the charter which is to be
19 the charter of the resulting trust company, together with
20 the amendments to the continuing charter and to the
21 continuing by-laws; and (v) a detailed financial
22 statement showing the assets and liabilities after the
23 proposed merger or consolidation;

24 (c) Provisions stating the method, terms and
25 conditions of carrying the merger into effect, including
26 the manner of converting the shares of the merging
27 parties ~~trust-companies~~ into the cash, shares of stock or
28 other securities of any corporation or other property, or
29 any combination of the foregoing, stated in the merger
30 agreement as to be received by the stockholders of each
31 merging party ~~trust-company~~;

32 (d) A statement that the agreement is subject to
33 approval by the Commissioner and by the stockholders of

1 each party to the merger ~~merging-trust-company~~ and that
2 whether approved or disapproved, the parties to the
3 merger ~~merging---trust---companies~~ will pay the
4 Commissioner's expenses of examination;

5 (e) Provisions governing the manner of disposing of
6 the shares of the resulting trust company not taken by
7 the dissenting stockholders of the parties to the merger
8 ~~merging-trust-companies~~; and

9 (f) Such other provisions as the Commissioner may
10 reasonably require to enable him to discharge his duties
11 with respect to the merger.

12 (2) After approval by the board of directors of each
13 party to the merger ~~trust-company~~, the merger agreement shall
14 be submitted to the Commissioner for approval, together with
15 certified copies of the authorizing resolutions of each board
16 of directors showing approval by a majority of the entire
17 board of each party to the merger ~~trust-company~~.

18 (3) After receipt by the Commissioner of the papers
19 specified in paragraph (2), he shall approve or disapprove
20 the merger agreement. The Commissioner shall not approve the
21 merger agreement unless he shall be of the opinion and shall
22 find:

23 (a) That the resulting trust company meets the
24 requirements of this Act for the formation of a new trust
25 company at the proposed place of business of the
26 resulting trust company;

27 (b) That the same matters exist in respect of the
28 resulting trust company which would have been required
29 under Section 2-6 of this Act for the organization of a
30 new trust company.

31 If the Commissioner disapproves an agreement, he shall
32 state his objection and give an opportunity to the parties to
33 the merger ~~merging--trust--companies~~ to amend the merger
34 agreement to obviate such objections.

1 (Source: P.A. 88-408.)

2 (205 ILCS 620/3-2) (from Ch. 17, par. 1553-2)

3 Sec. 3-2. Change in control.

4 (a) Before a change may occur in the ownership of
5 outstanding stock or membership interests of any trust
6 company whether by sale and purchase, gift, bequest or
7 inheritance, or any other means, which will result in control
8 or a change in the control of the trust company or before a
9 change in the control of a holding company having control of
10 the outstanding stock or membership interests of a trust
11 company whether by sale and purchase, gift, bequest or
12 inheritance, or any other means, which will result in control
13 or a change in control of the trust company or holding
14 company, the Commissioner shall be of the opinion and find:

15 (1) that the general character of its proposed
16 management, after the change in control, is such as to
17 assure reasonable promise of competent, successful, safe
18 and sound operation;

19 (2) that the future earnings prospects, after the
20 proposed change in control, are favorable; and

21 (3) that the prior business affairs of the persons
22 proposing to obtain control or by the proposed management
23 personnel, whether as stockholder, director, member,
24 officer, or customer, were conducted in a safe, sound,
25 and lawful manner.

26 (b) Persons desiring to purchase control of an existing
27 trust company and persons obtaining control by gift, bequest
28 or inheritance, or any other means shall submit to the
29 Commissioner:

30 (1) A statement of financial worth; and

31 (2) Satisfactory evidence that the prior business
32 affairs of the persons and the proposed management
33 personnel, whether as stockholder, director, officer, or

1 customer, were conducted in a safe, sound, and lawful
2 manner.

3 As--used--in--this--Section, the term "control" means the
4 ownership of such amount of stock or membership interests or
5 ability to direct the voting of such stock or membership
6 interests as to give power to, directly or indirectly, direct
7 or cause the direction of the management or policies of the
8 trust company. A change in ownership of stock which would
9 result in direct or indirect ownership by a stockholder or
10 member, an affiliated group of stockholders or members or a
11 holding company of less than 10% of the outstanding stock or
12 membership interests shall not be considered a change of
13 control. A change in ownership of stock or membership
14 interests which would result in direct or indirect ownership
15 by a stockholder or member, an affiliated group of
16 stockholders or members or a holding company of 20% or such
17 lesser amount which would entitle the holder by applying
18 cumulative voting to elect one director shall be presumed to
19 constitute a change of control for purposes of this Section.
20 If there is any doubt as to whether a change in the ownership
21 or control of the outstanding stock or membership interests
22 is sufficient to result in obtaining control thereof or to
23 effect a change in the control thereof, such doubt shall be
24 resolved in favor of reporting the facts to the Commissioner.

25 (c) Whenever a bank makes a loan or loans, secured, or
26 to be secured, by 25% or more of the outstanding stock of a
27 trust company, the president or other chief executive officer
28 of the lending bank shall promptly report such fact to the
29 Commissioner upon obtaining knowledge of such loan or loans,
30 except that no report need be made in those cases where the
31 borrower has been the owner of record of the stock for a
32 period of one year or more, or the stock is that of a
33 newly-organized trust company prior to its opening.

34 (d) (1) Before a purchase of substantially all the

1 assets and an assumption of substantially all the liabilities
 2 of a trust company or before a purchase of substantially all
 3 the trust assets and an assumption of substantially all the
 4 trust liabilities of a trust company, the Commissioner shall
 5 be of the opinion and find:

6 (i) that the general character of the acquirer's
 7 proposed management, after the transfer, is such as to
 8 assure reasonable promise of competent, successful, safe,
 9 and sound operation;

10 (ii) that the acquirer's future earnings prospects,
 11 after the proposed transfer, are favorable;

12 (iii) that any prior involvement by the acquirer or
 13 by the proposed management personnel, whether as
 14 stockholder, director, officer, agent, or customer, was
 15 conducted in a safe, sound, and lawful manner;

16 (iv) that customers' interests will not be
 17 jeopardized by the purchase and assumption; and

18 (v) that adequate provision has been made for all
 19 obligations and trusts as required under Section 7-1 of
 20 this Act.

21 (2) Persons desiring to purchase substantially all the
 22 assets and assume substantially all the liabilities of a
 23 trust company or to purchase substantially all the trust
 24 assets and assume substantially all the trust liabilities of
 25 a trust company shall submit to the Commissioner:

26 (i) a statement of financial worth; and

27 (ii) satisfactory evidence that the prior business
 28 affairs of the persons and the proposed management
 29 personnel, whether as stockholder, director, officer, or
 30 customer, were conducted in a safe, sound, and lawful
 31 manner.

32 ~~As--used--in--this--Section--7--"substantially--all"--the--assets~~
 33 ~~or--liabilities--or--the--trust--assets--or--trust--liabilities--of--a~~
 34 ~~trust--company--means--that--portion--such--that--their--transfer~~

1 ~~will materially impair the ability of the trust company to~~
2 ~~continue successful, safe, and sound operations or to~~
3 ~~continue as a going concern.~~

4 (e) The reports required by subsections (a), (b), (c),
5 and (d) of this Section 3-2 shall contain the following
6 information to the extent that it is known by the person
7 making the report: (1) the number of shares involved; (2) the
8 names of the sellers (or transferors); (3) the names of the
9 purchasers (or transferees); (4) the names of the beneficial
10 owners if the shares are registered in another name; (5) the
11 purchase price; (6) the total number of shares owned by the
12 sellers (or transferors), the purchasers (or transferees) and
13 the beneficial owners both immediately before and after the
14 transaction; and, (7) in the case of a loan, the name of the
15 borrower, the amount of the loan, and the name of the trust
16 company issuing the stock securing the loan and the number of
17 shares securing the loan. In addition to the foregoing, such
18 reports shall contain such other information as may be
19 available and which is requested by the Commissioner to
20 inform the Commissioner of the effect of the transaction upon
21 the trust company or trust companies whose stock or assets
22 and liabilities are involved.

23 (f) Whenever such a change as described in subsection
24 (a) of this Section 3-2 occurs, each trust company shall
25 report promptly to the Commissioner any changes or
26 replacement of its chief executive officer or of any director
27 occurring in the next 12 month period, including in its
28 report a statement of the past and current business and
29 professional affiliations of the new chief executive officer
30 or directors.

31 (g) The provisions of this Section do not apply when the
32 change in control is the result of organizational
33 restructuring under a holding company.

34 (h) As used in this Section, the term "control" means

1 the ownership of such amount of stock or membership interests
2 or ability to direct the voting of such stock or membership
3 interests as to, directly or indirectly, give power to
4 direct or cause the direction of the management or policies
5 of the trust company. A change in ownership of stock that
6 would result in direct or indirect ownership by a stockholder
7 or member, an affiliated group of stockholders or members, or
8 a holding company of less than 10% of the outstanding stock
9 or membership interests shall not be considered a change
10 of control. A change in ownership of stock or membership
11 interests that would result in direct or indirect ownership
12 by a stockholder or member, an affiliated group of
13 stockholders or members, or a holding company of 20% or such
14 lesser amount which would entitle the holder by applying
15 cumulative voting to elect one director shall be presumed to
16 constitute a change of control for purposes of this Section.
17 If there is any question as to whether a change in the
18 ownership or control of the outstanding stock or membership
19 interests is sufficient to result in obtaining control
20 thereof or to effect a change in the control thereof, the
21 question shall be resolved in favor of reporting the facts to
22 the Commissioner.

23 As used in this Section, "substantially all" the
24 assets or liabilities or the trust assets or trust
25 liabilities of a trust company means that portion such that
26 their transfer will materially impair the ability of the
27 trust company to continue successful, safe, and sound
28 operations or to continue as a going concern.

29 (Source: P.A. 89-364, eff. 8-18-95; 90-424, eff. 1-1-98.)

30 (205 ILCS 620/4-3) (from Ch. 17, par. 1554-3)

31 Sec. 4-3. Service of process upon Secretary of State.
32 Any foreign corporation acting in this State in a fiduciary
33 capacity pursuant to the provisions of Article IV and Article

1 IVA of this Act shall be deemed to have appointed the
2 Secretary of State to be its true and lawful attorney upon
3 whom may be served all legal process in any action or
4 proceeding against it relating to or growing out of any
5 trust, estate or matter in respect of which such foreign
6 corporation has acted or is acting in this state in any such
7 fiduciary capacity, and the acceptance of or engagement in
8 this State in any acts in any such fiduciary capacity shall
9 be signification of its agreement that any such process
10 against it which is so served, shall be of the same legal
11 force and validity as though served upon it personally.
12 Service of such process shall be made by delivering to the
13 Secretary of State, the corporation department of the office
14 a copy of such process, together with the fee for service of
15 process required by the Secretary of State, and such service
16 shall be sufficient service upon said foreign corporation if
17 notice of such service and a copy of the process are, within
18 10 days thereafter, sent by registered mail by the plaintiff
19 to the defendant at its principal office in such other state
20 or territory and the plaintiff's affidavit of compliance
21 herewith is appended to the summons. The court in which the
22 action is pending may order such continuances as may be
23 necessary to afford the defendant reasonable opportunity to
24 defend the action. The fee paid by the plaintiff to the
25 Secretary of State at the time of the service may be
26 recovered as taxable costs by the plaintiff if such party
27 prevails in the action. The Secretary of State shall keep a
28 record of all process served upon him under this section and
29 shall record therein the time of such service.

30 (Source: P.A. 85-858.)

31 (205 ILCS 620/4-4) (from Ch. 17, par. 1554-4)

32 Sec. 4-4. Place of business not to be established in
33 State; not deemed transacting business.

1 (a) A foreign corporation, as defined in Section 1-5.08
2 of this Act, shall not establish in this State a place of
3 business, branch office, or agency for the conduct of
4 business as a fiduciary and because it is not permitted to
5 establish in this State a place of business, branch office or
6 agency, a foreign corporation insofar as it acts in a
7 fiduciary capacity in this State pursuant to the provisions
8 of this Act shall not be deemed to be transacting business in
9 this State. The foreign corporation may apply for, and
10 procure from the Commissioner, a license to establish a
11 representative office pursuant to the Foreign Bank
12 Representative Office Act.

13 The provisions of this subsection (a) do not apply to
14 foreign corporations establishing or acquiring and
15 maintaining a place of business in this State to conduct
16 business as a fiduciary in accordance with Article IVA of
17 this Act.

18 (b) Notwithstanding subsection (a) of this Section 4-4,
19 after May 31, 1997, a branch of an out-of-state bank, as
20 defined in Section 2 of the Illinois Banking Act, and a
21 foreign association, as defined in Section 1-10.31 of the
22 Illinois Savings and Loan Act of 1985, may establish an
23 office in this State for the conduct of business as a
24 fiduciary, provided: (i) fiduciary business conducted in this
25 State by a branch of an out-of-state bank is subject to
26 examination by the Commissioner; and (ii) the trust
27 activities of the branch of the out-of-state bank are subject
28 to regulation, including enforcement actions, by the
29 Commissioner to the same extent as Illinois corporate
30 fiduciaries.

31 (Source: P.A. 90-665, eff. 7-30-98; 91-97, eff. 7-9-99.)

32 (205 ILCS 620/4-5) (from Ch. 17, par. 1554-5)
33 Sec. 4-5. Certificate of authority; fees; certificate of

1 reciprocity.

2 (a) Prior to the time any foreign corporation acts in
3 this State as testamentary trustee, trustee appointed by any
4 court, trustee under any written agreement, declaration or
5 instrument of trust, executor, administrator, administrator
6 to collect, guardian or in any other like fiduciary capacity,
7 such foreign corporation shall apply to the Commissioner of
8 Banks and Real Estate for a certificate of authority with
9 reference to the fiduciary capacity or capacities in which
10 such foreign corporation proposes to act in this State, and
11 the Commissioner of Banks and Real Estate shall issue a
12 certificate of authority to such corporation concerning only
13 the fiduciary capacity or such of the fiduciary capacities to
14 which the application pertains and with respect to which he
15 has been furnished satisfactory evidence that such foreign
16 corporation meets the requirements of Section 4-2 of this
17 Act. The certificate of authority shall set forth the
18 fiduciary capacity or capacities, as the case may be, for
19 which the certificate is issued, and shall recite and certify
20 that such foreign corporation is eligible to act in this
21 State in such fiduciary capacity or capacities, as the case
22 may be, pursuant to the provisions of this Act. The
23 certificate of authority shall remain in full force and
24 effect until such time as such foreign corporation ceases to
25 be eligible so to act under the provisions of this Act.

26 (b) Each foreign corporation making application for a
27 certificate of authority shall pay reasonable fees to the
28 Commissioner of Banks and Real Estate as determined by the
29 Commissioner for the services of his office.

30 (c) Any foreign corporation holding a certificate of
31 reciprocity which recites and certifies that such foreign
32 corporation is eligible to act in this State in any such
33 fiduciary capacity pursuant to the provisions of Article IV
34 of this Act or any predecessor Act upon the same subject,

1 issued prior to the effective date of this amendatory Act of
 2 1987 may act in this State under such certificate of
 3 reciprocity in any such fiduciary capacity without applying
 4 for a new certificate of authority. Such certificate of
 5 reciprocity shall remain in full force and effect until such
 6 time as such foreign corporation ceases to be eligible so to
 7 act under the provisions of Article IV of this Act.

8 (d) Any foreign corporation acting in Illinois under a
 9 certificate of authority or a certificate of reciprocity
 10 shall report changes in its name or address to the
 11 Commissioner and shall notify the Commissioner when it is no
 12 longer serving as a corporate fiduciary in Illinois.

13 (e) The provisions of this Section shall not apply to a
 14 foreign corporation establishing or acquiring and maintaining
 15 a place of business in this State to conduct business as a
 16 fiduciary in accordance with Article IVA of this Act.

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

18 (205 ILCS 620/Art. IVA heading new)

19 ARTICLE IVA MULTISTATE TRUST ACTIVITIES

20 (205 ILCS 620/4A-1 new)

21 Sec. 4A-1. Corporate fiduciaries establishing offices in
 22 other states.

23 (a) A corporate fiduciary may act as a fiduciary or
 24 otherwise engage in fiduciary activities in this or any other
 25 state or foreign country, subject to complying with
 26 applicable laws of that state or foreign country, at an
 27 office established and maintained pursuant to this Act, at a
 28 branch, or at any location other than an office or branch. A
 29 corporate fiduciary seeking to establish or acquire a branch
 30 in another state or foreign country must comply with the
 31 notice provisions in Section 1-7 of this Act.

32 (b) A corporate fiduciary may also conduct any

1 activities at any office outside Illinois that are
2 permissible for a trust institution chartered by the state
3 where the office is located, except to the extent those
4 activities are expressly prohibited by the laws of Illinois
5 or by any regulation or order of the Commissioner. However,
6 the Commissioner may waive any such prohibition if he
7 determines, by order or regulation, that the involvement of
8 out-of-state offices of state corporate fiduciaries in
9 particular activities would not threaten the safety or
10 soundness of those state corporate fiduciaries.

11 (205 ILCS 620/4A-5 new)

12 Sec. 4A-5. Foreign corporations establishing places of
13 business to conduct fiduciary activities in Illinois.

14 (a) A foreign corporation may establish or acquire and
15 maintain a place of business for the conduct of business as a
16 fiduciary in this State provided that a corporate fiduciary
17 that has its principal place of business in Illinois is
18 permitted to establish or acquire and maintain a similar
19 place of business that may engage in activities substantially
20 similar to those permitted to foreign corporations under this
21 Act in the state where the foreign corporation has its
22 principal place of business.

23 (b) A foreign corporation desiring to establish or
24 acquire and maintain a place of business to conduct business
25 as a fiduciary in Illinois under this Section shall provide,
26 or cause its home state regulator to provide, written notice
27 of the proposed transaction to the Commissioner on or after
28 the date on which the foreign corporation applies to its home
29 state regulator for approval to establish or acquire and
30 maintain a place of business in Illinois. The filing of the
31 notice shall be preceded or accompanied by a copy of the
32 resolution adopted by the board authorizing the additional
33 place of business and the filing fee required by the

1 Commissioner. The Commissioner may prescribe the form of the
2 notice required under this Section. In the Commissioner's
3 discretion, the application or notice submitted to the
4 foreign corporation's home state regulator may be sufficient
5 notice under this Section.

6 (c) A foreign corporation desiring to establish or
7 acquire and maintain a place of business to conduct business
8 as a fiduciary shall (i) confirm in writing to the
9 Commissioner that for as long as it maintains a place of
10 business in Illinois, it will comply with the laws of this
11 State and (ii) provide satisfactory evidence to the
12 Commissioner of compliance with any applicable requirements
13 of state foreign corporation qualification laws and
14 applicable requirements of its home state regulator for
15 acquiring or establishing and maintaining the office.

16 (d) A foreign corporation submitting a notice to the
17 Commissioner in accordance with subsection (b) may commence
18 fiduciary business at the place of business listed in its
19 notice on the 61st day after the date the Commissioner
20 receives the notice unless the Commissioner specifies an
21 earlier or later date. However, if the foreign corporation
22 is not a depository institution and the Commissioner approves
23 the foreign corporation to conduct a fiduciary business in
24 Illinois subject to specific conditions, the foreign
25 corporation shall not commence a fiduciary business in
26 Illinois until it has satisfied those conditions and provided
27 evidence satisfactory to the Commissioner that it has done
28 so. The Commissioner may extend the 60-day review period if
29 additional time or information is needed for approval of the
30 notice. The Commissioner may deny approval of the notice if
31 he finds that the foreign corporation lacks sufficient
32 financial resources to undertake the proposed expansion
33 without adversely affecting its safety or soundness or that
34 the place of business is contrary to the public interest.

1 (205 ILCS 620/4A-10 new)

2 Sec. 4A-10. Additional places of business for foreign
3 corporations. A foreign corporation that establishes or
4 acquires and maintains a place of business to conduct
5 business as a fiduciary in Illinois pursuant to Section 4A-5
6 may establish or acquire additional trust offices or
7 representative offices in this State to the same extent that
8 a corporate fiduciary may establish or acquire additional
9 offices in Illinois under Section 1-7 of this Act.

10 (205 ILCS 620/4A-15 new)

11 Sec. 4A-15. Representative offices. A foreign
12 corporation not conducting fiduciary activities may establish
13 a representative office under the Foreign Bank Representative
14 Office Act. At these offices, the foreign corporation may
15 market and solicit fiduciary services and provide back office
16 and administrative support to the foreign corporation's
17 fiduciary activities, but it may not engage in fiduciary
18 activities.

19 (205 ILCS 620/4A-20 new)

20 Sec. 4A-20. Examination of foreign corporations.

21 (a) To the extent consistent with subsection (c) of this
22 Section, the Commissioner may make such examinations of any
23 place of business established or maintained under Section
24 4A-5 by a foreign corporation as the Commissioner may deem
25 necessary to determine whether the place of business is being
26 operated in compliance with the laws of this State and in
27 accordance with safe and sound banking practices. The
28 provisions of Section 5-2 of this Act shall apply to the
29 examinations.

30 (b) The Commissioner may require periodic reports
31 regarding any foreign corporation that has maintained a place
32 of business in this State under Section 4A-5. The required

1 reports shall be provided by the foreign corporation or by
2 the home state regulator. Any reporting requirements
3 prescribed by the Commissioner under this Section shall be
4 consistent with Section 5-9 of this Act.

5 (c) The Commissioner may enter into cooperative,
6 coordinating, and information-sharing agreements with any
7 other bank supervisory agencies or any organization
8 affiliated with or representing one or more bank supervisory
9 agencies with respect to the periodic examination or other
10 supervision of any office in this State of a foreign
11 corporation or any office of a corporate fiduciary in a host
12 state. The Commissioner may accept a report of examination
13 or report of investigation in lieu of the Commissioner
14 conducting an examination or investigation.

15 (d) The Commissioner may enter into contracts with any
16 bank supervisory agency that has concurrent jurisdiction over
17 a corporate fiduciary or foreign corporation maintaining a
18 place of business under Section 4A-5 of this Act to engage
19 the services of that agency's examiners at a reasonable rate
20 of compensation or to provide the services of the
21 Commissioner's examiners to that agency at a reasonable rate
22 of compensation.

23 (e) The Commissioner may enter joint examinations or
24 joint enforcement actions with other bank supervisory
25 agencies having concurrent jurisdiction over any place of
26 business established under Section 4A-5 or any office of a
27 corporate fiduciary in any host state. The Commissioner may
28 at any time take such actions independently if the
29 Commissioner deems such actions to be necessary or
30 appropriate to ensure compliance with the laws of this State.
31 However, in the case of a foreign corporation, the
32 Commissioner shall recognize the exclusive authority of the
33 home state regulator over corporate governance matters and
34 the primary responsibility of the home state regulator over

1 safety and soundness matters.

2 (f) A foreign corporation that maintains one or more
3 offices pursuant to Section 4A-5 may be assessed, and if
4 assessed, shall pay supervisory and examination fees in
5 accordance with Section 5-10 of this Act. The fees may be
6 shared with other bank supervisory agencies or any
7 organization affiliated with or representing one or more bank
8 supervisory agencies in accordance with agreements between
9 such parties and the Commissioner.

10 (205 ILCS 620/4A-25 new)

11 Sec. 4A-25. Notice to Commissioner. A corporate
12 fiduciary that maintains a place of business in this State
13 under Section 4A-5, or the home state regulator of such
14 foreign corporation, shall give at least 30 days prior
15 written notice or, in the case of an emergency transaction,
16 such shorter notice as is consistent with applicable state or
17 federal law, to the Commissioner of:

18 (1) any merger, consolidation, or other transaction
19 that would cause a change in control with respect to the
20 foreign corporation or any bank holding company that
21 controls the corporation;

22 (2) any transfer of all or substantially all of the
23 trust accounts or trust assets of the foreign corporation
24 to another person; or

25 (3) the closing or disposition of any place of
26 business in this State.

27 (205 ILCS 620/5-3) (from Ch. 17, par. 1555-3)

28 Sec. 5-3. Violations; orders.

29 (a) Whenever it appears to the Commissioner from any
30 examination, statement of condition or report, that any
31 corporate fiduciary has committed any violation of law, has
32 made or published a false statement of condition or is

1 conducting its business in an unsafe, unsound or unauthorized
2 manner, he shall, by an order under his signature, direct the
3 discontinuance of such illegal and unsafe, unsound or
4 unauthorized practices and that the corporate fiduciary
5 strictly conform with the requirements of the law, and with
6 safety and security in its transactions.

7 (b) If a corporate fiduciary refuses or neglects to make
8 a required statement of condition or any report required
9 under this Act, or to comply with an order as above stated,
10 or if it appears to the Commissioner that it is unsafe or
11 inexpedient for the such corporate fiduciary to continue to
12 transact business, or that extraordinary withdrawals of money
13 are jeopardizing the interests of remaining depositors, or
14 that any corporate fiduciary or officer of a corporate
15 fiduciary has abused his trust or is guilty of misconduct in
16 his official position, injurious to the corporate fiduciary,
17 or that it has suffered a serious loss, he shall enter an
18 order appropriate to the circumstances, which may include the
19 appointment of a receiver as hereinafter provided, the taking
20 of possession of the corporate fiduciary, or the removal of a
21 director, officer, employee, or agent of the corporate
22 fiduciary, or he may, represented by the Attorney General,
23 seek an injunction or other appropriate order from the court.

24 (c) No dividends shall be paid by a corporate fiduciary
25 while it continues its business as a corporate fiduciary to
26 an amount greater than its net profits then on hand,
27 deducting first therefrom its losses and bad debts.

28 (Source: P.A. 86-754.)

29 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

30 Sec. 5-6. Removal orders. Whenever, in the opinion of
31 the Commissioner, any director, officer, employee, or agent
32 of a corporate fiduciary or subsidiary or corporate parent of
33 the corporate fiduciary shall have violated any law, rule, or

1 order relating to the corporate fiduciary or subsidiary or
2 corporate parent of the corporate fiduciary, shall have
3 engaged in an unsafe or unsound practice in conducting the
4 business of the corporate fiduciary or subsidiary or
5 corporate parent of the corporate fiduciary, or shall have
6 violated any law or engaged or participated in any unsafe or
7 unsound practice in connection with any financial institution
8 or other business entity such that the character and fitness
9 of the director, officer, employee, or agent does not assure
10 reasonable promise of safe and sound operation of the
11 corporate fiduciary or subsidiary or corporate parent of the
12 corporate fiduciary, the Commissioner may issue an order of
13 removal. If in the opinion of the Commissioner, any former
14 director, officer, employee, or agent of a corporate
15 fiduciary or subsidiary or corporate parent of the corporate
16 fiduciary, prior to the termination of his or her service
17 with the corporate fiduciary or subsidiary or corporate
18 parent of the corporate fiduciary, violated any law, rule, or
19 order relating to the corporate fiduciary or subsidiary or
20 corporate parent of the corporate fiduciary or engaged in an
21 unsafe or unsound practice in conducting the business of the
22 corporate fiduciary or subsidiary or corporate parent of the
23 corporate fiduciary or violated any law or engaged or
24 participated in any unsafe or unsound practice in connection
25 with any financial institution or other business entity such
26 that the character and fitness of the director, officer,
27 employee, or agent would not have assured reasonable promise
28 of safe and sound operation of the corporate fiduciary or
29 subsidiary or corporate parent of the corporate fiduciary,
30 the Commissioner may issue an order prohibiting that person
31 from further service with a corporate fiduciary or subsidiary
32 or corporate parent of the corporate fiduciary as a director,
33 officer, employee, or agent. An order issued pursuant to this
34 Section shall be served upon the director, officer, employee,

1 or agent. A copy of the order shall be sent to each director
2 of the corporate fiduciary affected by personal service,
3 certified mail return receipt requested, or any other method
4 that provides proof of service and receipt. The person
5 affected by the action may request a hearing before the State
6 Banking Board of Illinois, hereafter "the Board", within 10
7 days after receipt of the order of removal or prohibition.
8 The hearing shall be held by the Board according to the same
9 procedures used pursuant to Section 48 of the Illinois
10 Banking Act, and the hearing shall be held within 30 days
11 after the request has been received by the Board. After
12 concluding the hearing, the Board shall make a determination
13 approving, modifying, or disapproving the order of the
14 Commissioner as its final administrative decision. A copy of
15 the order shall be served upon the corporate fiduciary of
16 which the person is a director, officer, employee, or agent,
17 whereupon the person shall cease to be a director, officer,
18 employee, or agent of the corporate fiduciary. Any person
19 who has been removed or prohibited by an order of the
20 Commissioner under this Section or subsection (7) of Section
21 48 of the Illinois Banking Act may not thereafter serve as
22 director, officer, employee, or agent of any State bank or
23 corporate fiduciary, or of any other entity that is subject
24 to licensure or regulation by the Commissioner or the Office
25 of Banks and Real Estate unless the Commissioner has granted
26 prior approval in writing. The Commissioner may institute a
27 civil action against the director, officer, employee, or
28 agent subject to an order issued under this Section and
29 against the corporate fiduciary to enforce compliance with or
30 to enjoin any violation of the terms of the order.

31 (Source: P.A. 90-301, eff. 8-1-97; 90-665, eff. 7-30-98.)

32 (205 ILCS 620/6-2) (from Ch. 17, par. 1556-2)

33 Sec. 6-2. Control by Commissioner.

1 (a) If the Commissioner with respect to a corporate
2 fiduciary shall find:

3 (1) Its capital is impaired or it is otherwise in an
4 unsound condition; or

5 (2) Its business is being conducted in an unlawful
6 manner, including, without limitation, in violation of any
7 provisions of this Act or of an order of the Commissioner, or
8 in a fraudulent or unsafe manner; or

9 (3) It is unable to continue operations; or

10 (4) Its examination has been obstructed or impeded; the
11 Commissioner may give notice to the board of directors of the
12 corporate fiduciary of his finding or findings. If the
13 situation so found by the Commissioner shall not be corrected
14 to his satisfaction within 60 days after receipt of such
15 notice, the Commissioner at the termination of said 60 days
16 may ~~shall~~ take possession and control of the corporate
17 fiduciary, its assets, and assets held for beneficiaries of
18 its fiduciary obligations, as in this Act provided for the
19 purpose of examination, reorganization or liquidation through
20 receivership.

21 (b) If, in addition to a finding as provided in
22 subsection (a) of this Section, the Commissioner shall be of
23 the opinion and shall find that an emergency exists which may
24 result in serious losses to the beneficiaries of fiduciary
25 relationships with the corporate fiduciary, he may, in his
26 discretion, without having given the notice provided for in
27 subsection (a) of this Section, and whether or not
28 proceedings under subsection (a) of this Section have been
29 instituted or are then pending, forthwith take possession and
30 control of the corporate fiduciary and its assets for the
31 purpose of examination, reorganization or liquidation through
32 receivership.

33 (Source: P.A. 85-858.)

1 Section 30. The Foreign Banking Office Act is amended by
2 changing Sections 11 and 12 as follows:

3 (205 ILCS 645/11) (from Ch. 17, par. 2718)

4 Sec. 11. Pledging requirements; discretion of
5 Commissioner. A foreign banking corporation holding a
6 certificate of authority issued pursuant to this Act may be
7 required, when deemed necessary and appropriate in the
8 opinion of the Commissioner, to keep on deposit with the
9 Federal Reserve Bank of Chicago or such State bank or
10 national bank as such foreign banking corporation may
11 designate and the Commissioner may approve, interest-bearing
12 stocks and bonds, notes, debentures or other obligations of
13 the United States or any agency or instrumentality thereof or
14 guaranteed by the United States, or of this State, or of a
15 city, county, town, village, school district, or
16 instrumentality of this State or guaranteed by this State, or
17 dollar deposits, or obligations of the International Bank for
18 Reconstruction and Development, or obligations issued by the
19 Inter-American Development Bank, or obligations of the Asian
20 Development Bank, or obligations of the African Development
21 Bank, or obligations of the International Finance
22 Corporation, or such other assets as the Commissioner shall
23 permit, to an aggregate amount, based upon principal amount
24 or market value, whichever is lower, in the case of the
25 above-described securities, and subject to such limitations
26 as he shall prescribe, such amount as the Commissioner deems
27 necessary for the protection of depositors or the costs of
28 taking possession and control ~~of not less than the greater of~~
29 ~~\$100,000 or 5% of the total liabilities (including contingent~~
30 ~~liabilities--of--such--banking--office,--including--acceptances,~~
31 ~~but--excluding--(i)--accrued--expenses,--(ii)--amounts--due--and~~
32 ~~other--liabilities--to--other--offices,--agencies--or--branches--of,~~
33 ~~and--wholly--owned--(except--for--a--nominal--number--of--directors)~~

1 shares)--subsidiaries--of,--such-foreign-banking-corporation,
2 and-(iii)-such-contingent-liabilities-as-the-Commissioner-may
3 exclude. The deposit shall be maintained with the Federal
4 Reserve Bank of Chicago or any such State bank or national
5 bank pursuant to a deposit agreement in such form and
6 containing such conditions and limitations (including a
7 deposit in the name of the Commissioner in trust for the
8 depositors of such banking office) as the Commissioner may
9 prescribe. So long as it continues business in the ordinary
10 course such banking office shall, however, be permitted to
11 collect interest on the securities so deposited and from time
12 to time exchange, examine and compare such securities.

13 (Source: P.A. 89-208, eff. 6-1-97; 90-301, eff. 8-1-97.)

14 (205 ILCS 645/12) (from Ch. 17, par. 2719)

15 Sec. 12. Control by Commissioner.

16 (a) Upon the Commissioner's taking possession, pursuant
17 to Section 53 of the Illinois Banking Act, of the business
18 and property in this State of the banking office of a foreign
19 banking corporation whose deposit liabilities in this State
20 are not insured by the Federal Deposit Insurance Corporation,
21 the amounts deposited pursuant to Section 11 shall thereupon
22 become the property of the Commissioner, free and clear of
23 any and all liens and other claims, and shall be held by the
24 Commissioner him in trust for the depositors of such banking
25 office. The Commissioner may, without regard to any
26 priorities, preferences, or adverse claims and without
27 obtaining the approval of any court, reduce such property to
28 cash and, as soon as practicable, utilize the cash to cover
29 initial liquidation costs, if any, and then distribute any
30 excess it to such depositors on a pro rata basis; but no
31 depositor may receive an amount in excess of his account
32 balances. For purposes of this Section, the term "depositor"
33 does not include any other offices or branches of, or

1 wholly-owned (except for a nominal number of directors'
2 shares) subsidiaries of, such foreign banking corporation,
3 but includes those to whom such banking office is indebted by
4 virtue of money or its equivalent received by such banking
5 office (i) for which it has given credit or is obligated to
6 give credit to a time or demand deposit or which is evidenced
7 by a check or draft against a deposit account and certified
8 by such banking office, or (ii) for which it has issued a
9 letter of credit for cash or a traveler's check on which such
10 banking office is primarily liable, or (iii) for which it has
11 issued an outstanding draft (including advice or
12 authorization to charge the banking office's balance at
13 another bank), cashier's check or money order, or other
14 officer's check.

15 (b) Whenever the Commissioner takes possession of the
16 property and business of a foreign bank pursuant to Section
17 53 of the Illinois Banking Act, the Commissioner shall
18 conserve or liquidate the property and business of the
19 foreign bank pursuant to the laws of this State as if the
20 foreign bank were an Illinois bank, with absolute preference
21 and priority given to the creditors of the foreign bank
22 arising out of transactions with, and recorded on the books
23 of, its Illinois state branch or Illinois state agency over
24 the creditors of the foreign bank's offices located outside
25 this State. When the Commissioner has completed the
26 liquidation of the property and business of a foreign bank,
27 the Commissioner shall transfer any remaining assets to the
28 foreign bank in accordance with such orders as the court may
29 issue. However, in case the foreign bank has an office in
30 another state of the United States which is in liquidation
31 and the assets of such office appear to be insufficient to
32 pay in full the creditors of that office, the court shall
33 order the Commissioner to transfer to the liquidator of that
34 office such amount of any such remaining assets as appears to

1 be necessary to cover the insufficiency; if there are 2 or
 2 more such offices and the amount of remaining assets is less
 3 than the aggregate amount of insufficiencies with respect to
 4 the offices, the court shall order the Commissioner to
 5 distribute the remaining assets among the liquidators of
 6 those offices in such manner as the court finds equitable.

7 (Source:P.A. 84-1308.)

8 Section 35. The Foreign Bank Representative Office Act
 9 is amended by changing Sections 4, 6, and 8 as follows:

10 (205 ILCS 650/4) (from Ch. 17, par. 2854)

11 Sec. 4. Application; fees.

12 (a) The application for a license shall contain
 13 information and be accompanied by a reasonable fee as
 14 determined, by rule, by the Commissioner ~~but--in--no--event~~
 15 ~~shall-such-fee-exceed-\$300-per-year.~~

16 (b) The Commissioner shall issue a license to a foreign
 17 bank to establish and maintain a representative office if the
 18 Commissioner finds:

19 (1) the foreign bank is of good character and sound
 20 financial standing;

21 (2) the management of the foreign bank and the proposed
 22 management of the representative office are adequate; and

23 (3) the convenience and needs of persons to be served by
 24 the proposed representative office will be promoted.

25 (Source: P.A. 85-204.)

26 (205 ILCS 650/6) (from Ch. 17, par. 2856)

27 Sec. 6. Revocation of license. If the Commissioner
 28 finds:

29 (a) the licensee or its representative has violated any
 30 provision of this Act or other law, rule, or regulation of
 31 this State; or

1 (b) any fact or condition exists which, if it had
2 existed at the time of the original application for such
3 license, would have resulted in the Commissioner refusing to
4 issue such license; then the Commissioner, ~~may--certify--such~~
5 ~~findings--to--the--State--Banking--Board--of--Illinois.~~ after
6 granting the licensee or representative a reasonable
7 opportunity to be heard before ~~the Board, the Board,~~ upon a
8 ~~majority vote of all its members,~~ may revoke such license.
9 (Source: P.A. 85-204.)

10 (205 ILCS 650/8)

11 Sec. 8. Powers of the Commissioner. The Commissioner
12 shall have under this Act all of the powers granted to him
13 under the Illinois Banking Act, including the authority to
14 impose a reasonable charge to recover the cost of an
15 examination conducted by the Commissioner, to the extent
16 necessary to enable the Commissioner to supervise the
17 representative office of a foreign bank holding a license.
18 (Source: P.A. 90-301, eff. 8-1-97; 90-655, eff. 7-30-98.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.

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- 13 205 ILCS 620/4A-15 new
- 14 205 ILCS 620/4A-20 new
- 15 205 ILCS 620/4A-25 new
- 16 205 ILCS 620/5-3 from Ch. 17, par. 1555-3
- 17 205 ILCS 620/5-6 from Ch. 17, par. 1555-6
- 18 205 ILCS 620/6-2 from Ch. 17, par. 1556-2
- 19 205 ILCS 645/11 from Ch. 17, par. 2718
- 20 205 ILCS 645/12 from Ch. 17, par. 2719
- 21 205 ILCS 650/4 from Ch. 17, par. 2854
- 22 205 ILCS 650/6 from Ch. 17, par. 2856
- 23 205 ILCS 650/8