

1 AN ACT concerning banks.

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

4 Section 5. The Illinois Banking Act is amended by
5 changing Sections 32 and 35.1 as follows:

6 (205 ILCS 5/32) (from Ch. 17, par. 339)

7 Sec. 32. Basic loaning limits. The liabilities
8 outstanding at one time to a state bank of a person for money
9 borrowed, including the liabilities of a partnership or joint
10 venture in the liabilities of the several members thereof,
11 shall not exceed 25% of the amount of the unimpaired capital
12 and unimpaired surplus of the bank.

13 The liabilities to any state bank of a person may exceed
14 25% of the unimpaired capital and unimpaired surplus of the
15 bank, provided that (i) the excess amount from time to time
16 outstanding is fully secured by readily marketable collateral
17 having a market value, as determined by reliable and
18 continuously available quotations, at least equal to the
19 excess amount outstanding; and (ii) the total liabilities
20 shall not exceed 30% of the unimpaired capital and unimpaired
21 surplus of the bank.

22 The following shall not be considered as money borrowed
23 within the meaning of this Section:

24 (1) The purchase or discount of bills of exchange
25 drawn in good faith against actually existing values.

26 (2) The purchase or discount of commercial or
27 business paper actually owned by the person negotiating
28 the same.

29 (3) The purchase of or loaning money in exchange
30 for evidences of indebtedness which shall be secured by
31 mortgage or trust deed upon productive real estate the

1 value of which, as ascertained by the oath of 2 qualified
 2 appraisers, neither of whom shall be an officer,
 3 director, or employee of the bank or of any subsidiary or
 4 affiliate of the bank, is double the amount of the
 5 principal debt secured at the time of the original
 6 purchase of evidence of indebtedness or loan of money and
 7 which is still double the amount of the principal debt
 8 secured at the time of any renewal of the indebtedness or
 9 loan, and which mortgage or trust deed is shown, either
 10 by a guaranty policy of a title guaranty company approved
 11 by the Commissioner or by a registrar's certificate of
 12 title in any county having adopted the provisions of the
 13 Registered Titles (Torrens) Act, or by the opinion of an
 14 attorney-at-law, to be a first lien upon the real estate
 15 therein described, and real estate shall not be deemed to
 16 be encumbered within the meaning of this subsection (3)
 17 by reason of the existence of instruments reserving
 18 rights-of-way, sewer rights and rights in wells, building
 19 restrictions or other restrictive covenants, nor by
 20 reason of the fact it is subject to lease under which
 21 rents or profits are reserved by the owners.

22 (4) The purchase of marketable investment
 23 securities.

24 (5) The liability to a state bank of a person who
 25 is an accommodation party to, or guarantor of payment
 26 for, any evidence of indebtedness of another person who
 27 obtains a loan from or discounts paper with or sells
 28 paper to the state bank; but the total liability to a
 29 state bank of a person as an accommodation party or
 30 guarantor of payment in respect of such evidences of
 31 indebtedness shall not exceed 25% 20% of the amount of
 32 the unimpaired capital and unimpaired surplus of the
 33 bank; provided however that the liability of an
 34 accommodation party to paper excepted under subsection 2

1 of this Section shall not be included in the computation
2 of this limitation.

3 (6) The liability to a state bank of a person, who
4 as a guarantor, guarantees collection of the obligation
5 or indebtedness of another person.

6 The total liabilities of any one person, for money
7 borrowed, or otherwise, shall not exceed 25% of the deposits
8 of the bank, and those total liabilities shall at no time
9 exceed 50% of the amount of the unimpaired capital and
10 unimpaired surplus of the bank. Absent an actual unremedied
11 breach, the obligation or responsibility for breach of
12 warranties or representations, express or implied, of a
13 person transferring negotiable or non-negotiable paper to a
14 bank without recourse and without guaranty of payment, shall
15 not be included in determining the amount of liabilities of
16 the person to the bank for borrowed money or otherwise; and
17 in the event of and to the extent of an unremedied breach,
18 the amount remaining unpaid for principal and interest on the
19 paper in respect of which the unremedied breach exists shall
20 thereafter for the purpose of determining whether subsequent
21 transactions giving rise to additional liability of the
22 person to the state bank for borrowed money or otherwise are
23 within the limitations of Sections 32 through 34 of this Act,
24 be included in computing the amount of liabilities of the
25 person for borrowed money or otherwise.

26 The liability of a person to a state bank on account of
27 acceptances made or issued by the state bank on behalf of the
28 person shall be included in the computation of the total
29 liabilities of the person for money borrowed except to the
30 extent the acceptances grow out of transactions of the
31 character described in subsection (6) of Section 34 of this
32 Act and are otherwise within the limitations of that
33 subsection; provided nevertheless that any such excepted
34 acceptances acquired by the state bank which accepted the

1 same shall be included in the computation of the liabilities
2 of the person to the state bank for money borrowed.

3 (Source: P.A. 92-336, eff. 8-10-01.)

4 (205 ILCS 5/35.1) (from Ch. 17, par. 344)

5 Sec. 35.1. Lease limitations. In exercise of the power
6 conferred by paragraph (14) of Section 5 of this Act to own
7 and lease personal property, a state bank shall be subject to
8 the following limitations and restrictions in addition to
9 those contained in that paragraph:

10 (a) The unamortized investment of the bank in personal
11 property subject to any lease or series of leases which is or
12 are the responsibility of a person shall not, when added to
13 any liability of such person for money borrowed, exceed 25%
14 20% of the unimpaired capital and unimpaired surplus of the
15 bank. The term "unamortized investment" means the total cost
16 of such property to the bank less so much of the payments
17 theretofore received by the bank from the lessee and other
18 sources, which under generally accepted principles of
19 accounting are applicable to amortization of the investment.

20 (b) The amount of unamortized investment of the bank in
21 personal property subject to a lease or leases which are the
22 responsibility of a person shall for the purpose of computing
23 the total permitted amount of liability of such person to the
24 bank for money borrowed or otherwise under Section 32 of this
25 Act be treated as the liability of such person.

26 (c) No such lease or related agreement shall obligate
27 the bank to maintain, repair or service the personal
28 property, or unconditionally obligate the bank to restore or
29 replace the same, or in effect unconditionally place on the
30 bank the risk of such restoration or replacement, in the
31 event of loss, theft or destruction of or damage to such
32 property from any cause other than a wilful act of the bank.

33 The limitations and restrictions set forth in paragraphs

1 (a), (b) and (c) above shall apply and be complied with even
2 though such owning and leasing is carried on by the bank, in
3 whole or in part, through the medium of a subsidiary as
4 permitted by paragraph (12) of Section 5 of this Act.

5 In the event a state bank acquires by purchase or
6 discount a lease, or the sums due and to become due
7 thereunder, of personal property made by a lessor other than
8 the bank or such a subsidiary, paragraph (b) of this Section
9 35.1 shall also apply to the obligation of the lessee under
10 such lease.

11 (Source: P.A. 88-546.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.