

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 Section 37 as follows:

6 (205 ILCS 5/37) (from Ch. 17, par. 347)

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

9 (1) No state bank shall make any loan or extension of
10 credit in excess of the limits, as determined by the
11 Commissioner, at any one time outstanding each to its
12 president, or to any of its vice presidents or its salaried
13 officers or employees or directors or to corporations or
14 firms, controlled by them, or in the management of which any
15 of them are actively engaged, unless such loan or extension
16 of credit shall have been first approved, by the board of
17 directors. The Commissioner shall prescribe such limits by
18 rules. A state bank that is in compliance with the provisions
19 of Regulation O adopted by the Board of Governors of the
20 Federal Reserve System (12 CFR 215) shall be deemed to be in
21 compliance with this subsection and with the rules pertaining
22 to this subsection.

23 (2) It shall not be lawful for a state bank to make any
24 loan or discount on the security of the shares of its own
25 capital stock or preferred stock or on the security of its
26 own debentures or evidences of debt which are either
27 convertible into capital stock or are junior or subordinate
28 in right of payment to deposit or other liabilities of the
29 bank.

30 (3)(a) For purposes of this Section, "control" means (i)
31 ownership, control, or power to vote 25% or more of the

1 outstanding shares of any class of voting security of the
2 corporation or firm, directly or indirectly, or acting
3 through or in concert with one or more other persons; (ii)
4 control in any manner over the election of a majority of the
5 directors of the corporation or firm; or (iii) the power to
6 exercise a controlling influence over the management or
7 policies of the corporation or firm, directly or indirectly,
8 or acting through or in concert with one or more persons.

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

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

16 (i) the person:

17 (A) is an executive officer, director, or
18 individual exercising similar functions of the
19 corporation or firm; and

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

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

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

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

34 (Source: P.A. 92-483, eff. 8-23-01.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.