

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing
5 Sections 16 and 35 and by adding Section 80.5 as follows:

6 (205 ILCS 5/16) (from Ch. 17, par. 323)

7 Sec. 16. Directors. The business and affairs of a State
8 bank shall be managed by its board of directors that shall
9 exercise its powers as follows:

10 (1) Directors shall be elected as provided in this Act. Any
11 omission to elect a director or directors shall not impair any
12 of the rights and privileges of the bank or of any person in
13 any way interested. The existing directors shall hold office
14 until their successors are elected and qualify.

15 (2) (a) Notwithstanding the provisions of any charter
16 heretofore or hereafter issued, the number of directors,
17 not fewer than 5 nor more than 25, may be fixed from time
18 to time by the stockholders at any meeting of the
19 stockholders called for the purpose of electing directors
20 or changing the number thereof by the affirmative vote of
21 at least two-thirds of the outstanding stock entitled to
22 vote at the meeting, and the number so fixed shall be the
23 board regardless of vacancies until the number of directors

1 is thereafter changed by similar action.

2 (b) Notwithstanding the minimum number of directors
3 specified in paragraph (a) of this subsection, a State bank
4 that has been in existence for 10 years or more and has
5 less than \$50,000,000 ~~\$20,000,000~~ in assets, as of the
6 December 31 immediately preceding the annual meeting of
7 shareholders at which directors are elected, may, subject
8 to the approval of the Commissioner, have a minimum of 3
9 directors; provided that if a State bank has fewer than 5
10 directors, at least one director shall not be an officer or
11 employee of the bank. The Commissioner shall annually
12 review the appropriateness of the grant of authority to
13 have a reduced minimum number of directors pursuant to this
14 paragraph (b).

15 (3) Except as otherwise provided in this paragraph (3),
16 directors shall hold office until the next annual meeting of
17 the stockholders succeeding their election or until their
18 successors are elected and qualify. If the board of directors
19 consists of 6 or more members, in lieu of electing the
20 membership of the whole board of directors annually, the
21 charter or by-laws of a State bank may provide that the
22 directors shall be divided into either 2 or 3 classes, each
23 class to be as nearly equal in number as is possible. The term
24 of office of directors of the first class shall expire at the
25 first annual meeting of the stockholders after their election,
26 that of the second class shall expire at the second annual

1 meeting after their election, and that of the third class, if
2 any, shall expire at the third annual meeting after their
3 election. At each annual meeting after classification, the
4 number of directors equal to the number of the class whose
5 terms expire at the time of the meeting shall be elected to
6 hold office until the second succeeding annual meeting, if
7 there be 2 classes, or until the third succeeding annual
8 meeting, if there be 3 classes. Vacancies may be filled by
9 stockholders at a special meeting called for the purpose.

10 If authorized by the bank's by-laws or an amendment
11 thereto, the directors of a State bank may properly fill a
12 vacancy or vacancies arising between shareholders' meetings,
13 but at no time may the number of directors selected to fill a
14 vacancy in this manner during any interim period between
15 shareholders' meetings exceed 33 1/3% of the total membership
16 of the board of directors.

17 (4) The board of directors shall hold regular meetings at
18 least once each month, provided that, upon prior written
19 approval by the Commissioner, the board of directors may hold
20 regular meetings less frequently than once each month but at
21 least once each calendar quarter. A special meeting of the
22 board of directors may be held as provided by the by-laws. A
23 special meeting of the board of directors may also be held upon
24 call by the Commissioner or a bank examiner appointed under the
25 provisions of this Act upon not less than 12 hours notice of
26 the meeting by personal service of the notice or by mailing the

1 notice to each of the directors at his residence as shown by
2 the books of the bank. A majority of the board of directors
3 shall constitute a quorum for the transaction of business
4 unless a greater number is required by the charter or the
5 by-laws. The act of the majority of the directors present at a
6 meeting at which a quorum is present shall be the act of the
7 board of directors unless the act of a greater number is
8 required by the charter or by the by-laws.

9 (5) A member of the board of directors shall be elected
10 president. The board of directors may appoint other officers,
11 as the by-laws may provide, and fix their salaries to carry on
12 the business of the bank. The board of directors may make and
13 amend by-laws (not inconsistent with this Act) for the
14 government of the bank and may, by the affirmative vote of a
15 majority of the board of directors, establish reasonable
16 compensation of all directors for services to the corporation
17 as directors, officers, or otherwise. An officer, whether
18 elected or appointed by the board of directors or appointed
19 pursuant to the by-laws, may be removed by the board of
20 directors at any time.

21 (6) The board of directors shall cause suitable books and
22 records of all the bank's transactions to be kept.

23 (7) (a) In discharging the duties of their respective
24 positions, the board of directors, committees of the board,
25 and individual directors may, in considering the best long
26 term and short term interests of the bank, consider the

1 effects of any action (including, without limitation,
2 action that may involve or relate to a merger or potential
3 merger or to a change or potential change in control of the
4 bank) upon employees, depositors, suppliers, and customers
5 of the corporation or its subsidiaries, communities in
6 which the main banking premises, branches, offices, or
7 other establishments of the bank or its subsidiaries are
8 located, and all pertinent factors.

9 (b) In discharging the duties of their respective
10 positions, the board of directors, committees of the board,
11 and individual directors shall be entitled to rely on
12 advice, information, opinions, reports or statements,
13 including financial statements and financial data,
14 prepared or presented by: (i) one or more officers or
15 employees of the bank whom the director believes to be
16 reliable and competent in the matter presented; (ii) one or
17 more counsels, accountants, or other consultants as to
18 matters that the director believes to be within that
19 person's professional or expert competence; or (iii) a
20 committee of the board upon which the director does not
21 serve, as to matters within that committee's designated
22 authority; provided that the director's reliance under
23 this paragraph (b) is placed in good faith, after
24 reasonable inquiry if the need for such inquiry is apparent
25 under the circumstances and without knowledge that would
26 cause such reliance to be unreasonable.

1 (Source: P.A. 91-452, eff. 1-1-00; 92-476, eff. 8-23-01.)

2 (205 ILCS 5/35) (from Ch. 17, par. 343)

3 Sec. 35. Exemptions from loan and investment limits. The
4 limitations in Sections 32, 33, 34, and 35.1 upon the
5 liabilities of any one person and upon the purchase or holding
6 of marketable investment securities shall not apply to the
7 following as to which there shall be no limitation:

8 (1) Obligations of, or guaranteed by the United States or
9 any department, bureau, board, commission, or establishment of
10 the United States, including any corporation wholly owned,
11 directly or indirectly, by the United States.

12 (2) Loans to or obligations of any person to the extent
13 that they are secured by not less than a like amount of bonds
14 or notes of the United States, or certificates of indebtedness
15 of the United States, or Treasury Bills of the United States or
16 obligations fully guaranteed as to both principal and interest
17 by the United States, or to the extent that the same shall be
18 secured or covered by guaranty or by commitment or agreement to
19 take over or purchase, made by any Federal Reserve Bank or by
20 the United States or any department, bureau, board, commission
21 or establishment of the United States, including any
22 corporation wholly owned, directly or indirectly, by the United
23 States.

24 (3) Obligations of any corporation wholly owned, directly
25 or indirectly, by the United States or of any agency or

1 instrumentality of the United States.

2 (4) General obligations and tax anticipation warrants of
3 each state of the United States and general obligations of each
4 municipality located in whole or in part in the county in which
5 the bank is located.

6 (5) Loans to or obligations of any person to the extent
7 that they are secured by not less than the same amount of
8 general obligations and tax anticipation warrants of each state
9 of the United States and of each municipality located in whole
10 or in part in the county in which the bank is located.

11 (6) Loans to or obligations of or investments in those
12 subsidiaries, established or acquired pursuant to subsection
13 (12) of Section 5 of this Act, all of the stock of which is
14 owned by the bank.

15 (7) Loans or extensions of credit secured by a segregated
16 deposit account in the lending bank.

17 (8) Obligations of the State of Illinois, and obligations
18 guaranteed by the State of Illinois to the extent of the
19 guarantee.

20 (9) To the ownership of certificates of participation in
21 open-end investment companies registered with the Securities
22 and Exchange Commission under the Investment Company Act of
23 1940 and Securities Act of 1933, provided the portfolios of
24 such investment companies consist wholly of investments in
25 which the bank could invest directly without limitation.

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

1 (205 ILCS 5/80.5 new)

2 Sec. 80.5. Accounting of Administrative Expenses. Upon
3 request of the Board, the Secretary shall provide information
4 relating to the prior fiscal year, including:

5 (1) all fees collected under Section 48 of this Act;

6 (2) the total amount deposited into the Bank and Trust
7 Company Fund;

8 (3) the total administrative expenses for the fiscal
9 year; and

10 (4) the amount available to be applied as a credit
11 against fees for the subsequent year as required by
12 subsection (d-1) of Section 48 and the actual amount so
13 credited.