



Sen. Michael W. Frerichs

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09800SB1778sam001

LRB098 09391 MGM 42047 a

1 AMENDMENT TO SENATE BILL 1778

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1778 on page 10,  
3 immediately below line 11, by inserting the following:

4 "Section 5. The Illinois Banking Act is amended by changing  
5 Sections 48, 48.05 and 48.3 as follows:

6 (205 ILCS 5/48)

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

16 (1) The Commissioner shall call for statements from all

1 State banks as provided in Section 47 at least one time during  
2 each calendar quarter.

3 (2) (a) The Commissioner, as often as the Commissioner  
4 shall deem necessary or proper, and no less frequently than 18  
5 months following the preceding examination, shall appoint a  
6 suitable person or persons to make an examination of the  
7 affairs of every State bank, except that for every eligible  
8 State bank, as defined by regulation, the Commissioner in lieu  
9 of the examination may accept on an alternating basis the  
10 examination made by the eligible State bank's appropriate  
11 federal banking agency pursuant to Section 111 of the Federal  
12 Deposit Insurance Corporation Improvement Act of 1991,  
13 provided the appropriate federal banking agency has made such  
14 an examination. A person so appointed shall not be a  
15 stockholder or officer or employee of any bank which that  
16 person may be directed to examine, and shall have powers to  
17 make a thorough examination into all the affairs of the bank  
18 and in so doing to examine any of the officers or agents or  
19 employees thereof on oath and shall make a full and detailed  
20 report of the condition of the bank to the Commissioner. In  
21 making the examination the examiners shall include an  
22 examination of the affairs of all the affiliates of the bank,  
23 as defined in subsection (b) of Section 35.2 of this Act, or  
24 subsidiaries of the bank as shall be necessary to disclose  
25 fully the conditions of the subsidiaries or affiliates, the  
26 relations between the bank and the subsidiaries or affiliates

1 and the effect of those relations upon the affairs of the bank,  
2 and in connection therewith shall have power to examine any of  
3 the officers, directors, agents, or employees of the  
4 subsidiaries or affiliates on oath. After May 31, 1997, the  
5 Commissioner may enter into cooperative agreements with state  
6 regulatory authorities of other states to provide for  
7 examination of State bank branches in those states, and the  
8 Commissioner may accept reports of examinations of State bank  
9 branches from those state regulatory authorities. These  
10 cooperative agreements may set forth the manner in which the  
11 other state regulatory authorities may be compensated for  
12 examinations prepared for and submitted to the Commissioner.

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

23 (2.5) Whenever any State bank, any subsidiary or affiliate  
24 of a State bank, or after May 31, 1997, any branch of an  
25 out-of-state bank causes to be performed, by contract or  
26 otherwise, any bank services for itself, whether on or off its

1 premises:

2 (a) that performance shall be subject to examination by  
3 the Commissioner to the same extent as if services were  
4 being performed by the bank or, after May 31, 1997, branch  
5 of the out-of-state bank itself on its own premises; and

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

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

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

1 banks:

2 (a) Each bank shall pay to the Secretary a Call Report  
3 Fee which shall be paid in quarterly installments equal to  
4 one-fourth of the sum of the annual fixed fee of \$800, plus  
5 a variable fee based on the assets shown on the quarterly  
6 statement of condition delivered to the Secretary in  
7 accordance with Section 47 for the preceding quarter  
8 according to the following schedule: 16¢ per \$1,000 of the  
9 first \$5,000,000 of total assets, 15¢ per \$1,000 of the  
10 next \$20,000,000 of total assets, 13¢ per \$1,000 of the  
11 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next  
12 \$400,000,000 of total assets, 7¢ per \$1,000 of the next  
13 \$500,000,000 of total assets, and 5¢ per \$1,000 of all  
14 assets in excess of \$1,000,000,000, of the State bank. The  
15 Call Report Fee shall be calculated by the Secretary and  
16 billed to the banks for remittance at the time of the  
17 quarterly statements of condition provided for in Section  
18 47. The Secretary may require payment of the fees provided  
19 in this Section by an electronic transfer of funds or an  
20 automatic debit of an account of each of the State banks.  
21 In case more than one examination of any bank is deemed by  
22 the Secretary to be necessary in any examination frequency  
23 cycle specified in subsection 2(a) of this Section, and is  
24 performed at his direction, the Secretary may assess a  
25 reasonable additional fee to recover the cost of the  
26 additional examination; provided, however, that an

1 examination conducted at the request of the State Treasurer  
2 pursuant to the Uniform Disposition of Unclaimed Property  
3 Act shall not be deemed to be an additional examination  
4 under this Section. In lieu of the method and amounts set  
5 forth in this paragraph (a) for the calculation of the Call  
6 Report Fee, the Secretary may specify by rule that the Call  
7 Report Fees provided by this Section may be assessed  
8 semiannually or some other period and may provide in the  
9 rule the formula to be used for calculating and assessing  
10 the periodic Call Report Fees to be paid by State banks.

11 (a-1) If in the opinion of the Commissioner an  
12 emergency exists or appears likely, the Commissioner may  
13 assign an examiner or examiners to monitor the affairs of a  
14 State bank with whatever frequency he deems appropriate,  
15 including but not limited to a daily basis. The reasonable  
16 and necessary expenses of the Commissioner during the  
17 period of the monitoring shall be borne by the subject  
18 bank. The Commissioner shall furnish the State bank a  
19 statement of time and expenses if requested to do so within  
20 30 days of the conclusion of the monitoring period.

21 (a-2) On and after January 1, 1990, the reasonable and  
22 necessary expenses of the Commissioner during examination  
23 of the performance of electronic data processing services  
24 under subsection (2.5) shall be borne by the banks for  
25 which the services are provided. An amount, based upon a  
26 fee structure prescribed by the Commissioner, shall be paid

1 by the banks or, after May 31, 1997, branches of  
2 out-of-state banks receiving the electronic data  
3 processing services along with the Call Report Fee assessed  
4 under paragraph (a) of this subsection (3).

5 (a-3) After May 31, 1997, the reasonable and necessary  
6 expenses of the Commissioner during examination of the  
7 performance of electronic data processing services under  
8 subsection (2.5) at or on behalf of branches of  
9 out-of-state banks shall be borne by the out-of-state  
10 banks, unless those expenses are borne by the state  
11 regulatory authorities that chartered the out-of-state  
12 banks, as determined by cooperative agreements between the  
13 Commissioner and the state regulatory authorities that  
14 chartered the out-of-state banks.

15 (b) "Fiscal year" for purposes of this Section 48 is  
16 defined as a period beginning July 1 of any year and ending  
17 June 30 of the next year. The Commissioner shall receive  
18 for each fiscal year, commencing with the fiscal year  
19 ending June 30, 1987, a contingent fee equal to the lesser  
20 of the aggregate of the fees paid by all State banks under  
21 paragraph (a) of subsection (3) for that year, or the  
22 amount, if any, whereby the aggregate of the administration  
23 expenses, as defined in paragraph (c), for that fiscal year  
24 exceeds the sum of the aggregate of the fees payable by all  
25 State banks for that year under paragraph (a) of subsection  
26 (3), plus any amounts transferred into the Bank and Trust

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

25 (c) The "administration expenses" for any fiscal year  
26 shall mean the ordinary and contingent expenses for that



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

1 necessary for any anticipated turnover in employees,  
2 whether due to normal attrition or due to layoffs,  
3 terminations, or resignations.

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

1 funds from the Bank and Trust Company Fund. Moneys in the  
2 Bank and Trust Company Fund may be transferred to the  
3 Professions Indirect Cost Fund, as authorized under  
4 Section 2105-300 of the Department of Professional  
5 Regulation Law of the Civil Administrative Code of  
6 Illinois.

7 Notwithstanding provisions in the State Finance Act,  
8 as now or hereafter amended, or any other law to the  
9 contrary, the sum of \$18,788,847 shall be transferred from  
10 the Bank and Trust Company Fund to the Financial  
11 Institutions Settlement of 2008 Fund on the effective date  
12 of this amendatory Act of the 95th General Assembly, or as  
13 soon thereafter as practical.

14 Notwithstanding provisions in the State Finance Act,  
15 as now or hereafter amended, or any other law to the  
16 contrary, the Governor may, during any fiscal year through  
17 January 10, 2011, from time to time direct the State  
18 Treasurer and Comptroller to transfer a specified sum not  
19 exceeding 10% of the revenues to be deposited into the Bank  
20 and Trust Company Fund during that fiscal year from that  
21 Fund to the General Revenue Fund in order to help defray  
22 the State's operating costs for the fiscal year.  
23 Notwithstanding provisions in the State Finance Act, as now  
24 or hereafter amended, or any other law to the contrary, the  
25 total sum transferred during any fiscal year through  
26 January 10, 2011, from the Bank and Trust Company Fund to

1 the General Revenue Fund pursuant to this provision shall  
2 not exceed during any fiscal year 10% of the revenues to be  
3 deposited into the Bank and Trust Company Fund during that  
4 fiscal year. The State Treasurer and Comptroller shall  
5 transfer the amounts designated under this Section as soon  
6 as may be practicable after receiving the direction to  
7 transfer from the Governor.

8 (d-1) Adequate funds shall be available in the Bank and  
9 Trust Company Fund to permit the timely payment of  
10 administration expenses. In each fiscal year the total  
11 administration expenses shall be deducted from the total  
12 fees collected by the Commissioner and the remainder  
13 transferred into the Cash Flow Reserve Account, unless the  
14 balance of the Cash Flow Reserve Account prior to the  
15 transfer equals or exceeds one-fourth of the total initial  
16 appropriations from the Bank and Trust Company Fund for the  
17 subsequent year, in which case the remainder shall be  
18 credited to State banks and foreign banking corporations  
19 and applied against their fees for the subsequent year. The  
20 amount credited to each State bank and foreign banking  
21 corporation shall be in the same proportion as the Call  
22 Report Fees paid by each for the year bear to the total  
23 Call Report Fees collected for the year. If, after a  
24 transfer to the Cash Flow Reserve Account is made or if no  
25 remainder is available for transfer, the balance of the  
26 Cash Flow Reserve Account is less than one-fourth of the

1 total initial appropriations for the subsequent year and  
2 the amount transferred is less than 5% of the total Call  
3 Report Fees for the year, additional amounts needed to make  
4 the transfer equal to 5% of the total Call Report Fees for  
5 the year shall be apportioned amongst, assessed upon, and  
6 paid by the State banks and foreign banking corporations in  
7 the same proportion that the Call Report Fees of each,  
8 respectively, for the year bear to the total Call Report  
9 Fees collected for the year. The additional amounts  
10 assessed shall be transferred into the Cash Flow Reserve  
11 Account. For purposes of this paragraph (d-1), the  
12 calculation of the fees collected by the Commissioner shall  
13 exclude the receivership fees provided for in Section 5-10  
14 of the Corporate Fiduciary Act.

15 (e) The Commissioner may upon request certify to any  
16 public record in his keeping and shall have authority to  
17 levy a reasonable charge for issuing certifications of any  
18 public record in his keeping.

19 (f) In addition to fees authorized elsewhere in this  
20 Act, the Commissioner may, in connection with a review,  
21 approval, or provision of a service, levy a reasonable  
22 charge to recover the cost of the review, approval, or  
23 service.

24 (4) Nothing contained in this Act shall be construed to  
25 limit the obligation relative to examinations and reports of  
26 any State bank, deposits in which are to any extent insured by

1 the United States or any agency thereof, nor to limit in any  
2 way the powers of the Commissioner with reference to  
3 examinations and reports of that bank.

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

22 (6) The Commissioner shall have the power:

23 (a) To promulgate reasonable rules for the purpose of  
24 administering the provisions of this Act.

25 (a-5) To impose conditions on any approval issued by  
26 the Commissioner if he determines that the conditions are

1           necessary or appropriate. These conditions shall be  
2           imposed in writing and shall continue in effect for the  
3           period prescribed by the Commissioner.

4           (b) To issue orders against any person, if the  
5           Commissioner has reasonable cause to believe that an unsafe  
6           or unsound banking practice has occurred, is occurring, or  
7           is about to occur, if any person has violated, is  
8           violating, or is about to violate any law, rule, or written  
9           agreement with the Commissioner, or for the purpose of  
10          administering the provisions of this Act and any rule  
11          promulgated in accordance with this Act.

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

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

22          (d) To subpoena witnesses, to compel their attendance,  
23          to administer an oath, to examine any person under oath,  
24          and to require the production of any relevant books,  
25          papers, accounts, and documents in the course of and  
26          pursuant to any investigation being conducted, or any

1           action being taken, by the Commissioner in respect of any  
2           matter relating to the duties imposed upon, or the powers  
3           vested in, the Commissioner under the provisions of this  
4           Act or any rule promulgated in accordance with this Act.

5           (e) To conduct hearings.

6           (7) Whenever, in the opinion of the Secretary, any  
7           director, officer, employee, or agent of a State bank or any  
8           subsidiary or bank holding company of the bank or, after May  
9           31, 1997, of any branch of an out-of-state bank or any  
10          subsidiary or bank holding company of the bank shall have  
11          violated any law, rule, or order relating to that bank or any  
12          subsidiary or bank holding company of the bank, shall have  
13          obstructed or impeded any examination or investigation by the  
14          Secretary, shall have engaged in an unsafe or unsound practice  
15          in conducting the business of that bank or any subsidiary or  
16          bank holding company of the bank, or shall have violated any  
17          law or engaged or participated in any unsafe or unsound  
18          practice in connection with any financial institution or other  
19          business entity such that the character and fitness of the  
20          director, officer, employee, or agent does not assure  
21          reasonable promise of safe and sound operation of the State  
22          bank, the Secretary may issue an order of removal. If, in the  
23          opinion of the Secretary, any former director, officer,  
24          employee, or agent of a State bank or any subsidiary or bank  
25          holding company of the bank, prior to the termination of his or  
26          her service with that bank or any subsidiary or bank holding



1 company of the bank, violated any law, rule, or order relating  
2 to that State bank or any subsidiary or bank holding company of  
3 the bank, obstructed or impeded any examination or  
4 investigation by the Secretary, engaged in an unsafe or unsound  
5 practice in conducting the business of that bank or any  
6 subsidiary or bank holding company of the bank, or violated any  
7 law or engaged or participated in any unsafe or unsound  
8 practice in connection with any financial institution or other  
9 business entity such that the character and fitness of the  
10 director, officer, employee, or agent would not have assured  
11 reasonable promise of safe and sound operation of the State  
12 bank, the Secretary may issue an order prohibiting that person  
13 from further service with a bank or any subsidiary or bank  
14 holding company of the bank as a director, officer, employee,  
15 or agent. An order issued pursuant to this subsection shall be  
16 served upon the director, officer, employee, or agent. A copy  
17 of the order shall be sent to each director of the bank  
18 affected by registered mail. A copy of the order shall also be  
19 served upon the bank of which he is a director, officer,  
20 employee, or agent, whereupon he shall cease to be a director,  
21 officer, employee, or agent of that bank. The Secretary may  
22 institute a civil action against the director, officer, or  
23 agent of the State bank or, after May 31, 1997, of the branch  
24 of the out-of-state bank against whom any order provided for by  
25 this subsection (7) of this Section 48 has been issued, and  
26 against the State bank or, after May 31, 1997, out-of-state

1 bank, to enforce compliance with or to enjoin any violation of  
2 the terms of the order. Any person who has been the subject of  
3 an order of removal or an order of prohibition issued by the  
4 Secretary under this subsection or Section 5-6 of the Corporate  
5 Fiduciary Act may not thereafter serve as director, officer,  
6 employee, or agent of any State bank or of any branch of any  
7 out-of-state bank, or of any corporate fiduciary, as defined in  
8 Section 1-5.05 of the Corporate Fiduciary Act, or of any other  
9 entity that is subject to licensure or regulation by the  
10 Division of Banking unless the Secretary has granted prior  
11 approval in writing.

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

15 (8) The Commissioner may impose civil penalties of up to  
16 \$100,000 against any person for each violation of any provision  
17 of this Act, any rule promulgated in accordance with this Act,  
18 any order of the Commissioner, or any other action which in the  
19 Commissioner's discretion is an unsafe or unsound banking  
20 practice.

21 (9) The Commissioner may impose civil penalties of up to  
22 \$100 against any person for the first failure to comply with  
23 reporting requirements set forth in the report of examination  
24 of the bank and up to \$200 for the second and subsequent  
25 failures to comply with those reporting requirements.

26 (10) All final administrative decisions of the

1 Commissioner hereunder shall be subject to judicial review  
2 pursuant to the provisions of the Administrative Review Law.  
3 For matters involving administrative review, venue shall be in  
4 either Sangamon County or Cook County.

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

7 (a) (Blank).

8 (b) The Foundation is empowered to receive voluntary  
9 contributions, gifts, grants, bequests, and donations on  
10 behalf of the Illinois Bank Examiners' Education  
11 Foundation from national banks and other persons for the  
12 purpose of funding the endowment of the Illinois Bank  
13 Examiners' Education Foundation.

14 (c) The aggregate of all special educational fees  
15 collected by the Secretary and property received by the  
16 Secretary on behalf of the Illinois Bank Examiners'  
17 Education Foundation under this subsection (11) on or after  
18 June 30, 1986, shall be either (i) promptly paid after  
19 receipt of the same, accompanied by a detailed statement  
20 thereof, into the State Treasury and shall be set apart in  
21 a special fund to be known as "The Illinois Bank Examiners'  
22 Education Fund" to be invested by either the Treasurer of  
23 the State of Illinois in the Public Treasurers' Investment  
24 Pool or in any other investment he is authorized to make or  
25 by the Illinois State Board of Investment as the State  
26 Banking Board of Illinois may direct or (ii) deposited into

1 an account maintained in a commercial bank or corporate  
2 fiduciary in the name of the Illinois Bank Examiners'  
3 Education Foundation pursuant to the order and direction of  
4 the Board of Trustees of the Illinois Bank Examiners'  
5 Education Foundation.

6 (12) (Blank).

7 (13) The Secretary may borrow funds from the General  
8 Revenue Fund on behalf of the Bank and Trust Company Fund if  
9 the Director of Banking certifies to the Governor that there is  
10 an economic emergency affecting banking that requires a  
11 borrowing to provide additional funds to the Bank and Trust  
12 Company Fund. The borrowed funds shall be paid back within 3  
13 years and shall not exceed the total funding appropriated to  
14 the Agency in the previous year.

15 (14) The Secretary, when appointed as receiver, or any  
16 person appointed as receiver shall have the same powers,  
17 rights, and privileges as the Federal Deposit Insurance  
18 Corporation. These powers, rights, and privileges shall  
19 originate at the time of the appointment and continue through  
20 the term of the receivership.

21 (Source: P.A. 96-1163, eff. 1-1-11; 96-1365, eff. 7-28-10;  
22 97-333, eff. 8-12-11.)

23 (205 ILCS 5/48.05)

24 Sec. 48.05. Regulatory fees. For the fiscal year beginning  
25 July 1, 2007 and every year thereafter, each state bank

1 regulated by the Department shall pay a regulatory fee to the  
2 Department based upon its total assets as reflected in the most  
3 recent quarterly report of condition ~~shown by its year-end Call~~  
4 ~~Report~~ at the following rates:

5 19.295¢ per \$1,000 of the first \$5,000,000 of total  
6 assets;

7 18.16¢ per \$1,000 of the next \$20,000,000 of total  
8 assets;

9 15.89¢ per \$1,000 of the next \$75,000,000 of total  
10 assets;

11 10.7825¢ per \$1,000 of the next \$400,000,000 of total  
12 assets;

13 8.5125¢ per \$1,000 of the next \$500,000,000 of total  
14 assets;

15 6.2425¢ per \$1,000 of the next \$19,000,000,000 of total  
16 assets;

17 2.27¢ per \$1,000 of the next \$30,000,000,000 of total  
18 assets;

19 1.135¢ per \$1,000 of the next \$50,000,000,000 of total  
20 assets; and

21 0.5675¢ per \$1,000 of all assets in excess of  
22 \$100,000,000,000 of the state bank.

23 (Source: P.A. 95-1047, eff. 4-6-09.)

24 (205 ILCS 5/48.3) (from Ch. 17, par. 360.2)

25 Sec. 48.3. Disclosure of reports of examinations and

1 confidential supervisory information; limitations.

2 (a) Any report of examination, visitation, or  
3 investigation prepared by the Commissioner under this Act, the  
4 Electronic Fund Transfer Act, the Corporate Fiduciary Act, the  
5 Illinois Bank Holding Company Act of 1957, and the Foreign  
6 Banking Office Act, any report of examination, visitation, or  
7 investigation prepared by the state regulatory authority of  
8 another state that examines a branch of an Illinois State bank  
9 in that state, any document or record prepared or obtained in  
10 connection with or relating to any examination, visitation, or  
11 investigation, and any record prepared or obtained by the  
12 Commissioner to the extent that the record summarizes or  
13 contains information derived from any report, document, or  
14 record described in this subsection shall be deemed  
15 "confidential supervisory information". Confidential  
16 supervisory information shall not include any information or  
17 record routinely prepared by a bank or other financial  
18 institution and maintained in the ordinary course of business  
19 or any information or record that is required to be made  
20 publicly available pursuant to State or federal law or rule.  
21 Confidential supervisory information shall be the property of  
22 the Commissioner and shall only be disclosed under the  
23 circumstances and for the purposes set forth in this Section.

24 The Commissioner may disclose confidential supervisory  
25 information only under the following circumstances:

26 (1) The Commissioner may furnish confidential

1 supervisory information to the Board of Governors of the  
2 Federal Reserve System, the federal reserve bank of the  
3 federal reserve district in which the State bank is located  
4 or in which the parent or other affiliate of the State bank  
5 is located, any official or examiner thereof duly  
6 accredited for the purpose, or any other state regulator,  
7 federal regulator, or in the case of a foreign bank  
8 possessing a certificate of authority pursuant to the  
9 Foreign Banking Office Act or a license pursuant to the  
10 Foreign Bank Representative Office Act, the bank regulator  
11 in the country where the foreign bank is chartered, that  
12 the Commissioner determines to have an appropriate  
13 regulatory interest. Nothing contained in this Act shall be  
14 construed to limit the obligation of any member State bank  
15 to comply with the requirements relative to examinations  
16 and reports of the Federal Reserve Act and of the Board of  
17 Governors of the Federal Reserve System or the federal  
18 reserve bank of the federal reserve district in which the  
19 bank is located, nor to limit in any way the powers of the  
20 Commissioner with reference to examinations and reports.

21 (2) The Commissioner may furnish confidential  
22 supervisory information to the United States, any agency  
23 thereof that has insured a bank's deposits in whole or in  
24 part, or any official or examiner thereof duly accredited  
25 for the purpose. Nothing contained in this Act shall be  
26 construed to limit the obligation relative to examinations

1 and reports of any State bank, deposits in which are to any  
2 extent insured by the United States, any agency thereof,  
3 nor to limit in any way the powers of the Commissioner with  
4 reference to examination and reports of such bank.

5 (3) The Commissioner may furnish confidential  
6 supervisory information to the appropriate law enforcement  
7 authorities when the Commissioner reasonably believes a  
8 bank, which the Commissioner has caused to be examined, has  
9 been a victim of a crime.

10 (4) The Commissioner may furnish confidential  
11 supervisory information relating to a bank or other  
12 financial institution, which the Commissioner has caused  
13 to be examined, to be sent to the administrator of the  
14 Uniform Disposition of Unclaimed Property Act.

15 (5) The Commissioner may furnish confidential  
16 supervisory information relating to a bank or other  
17 financial institution, which the Commissioner has caused  
18 to be examined, relating to its performance of obligations  
19 under the Illinois Income Tax Act and the Illinois Estate  
20 and Generation-Skipping Transfer Tax Act to the Illinois  
21 Department of Revenue.

22 (6) The Commissioner may furnish confidential  
23 supervisory information relating to a bank or other  
24 financial institution, which the Commissioner has caused  
25 to be examined, under the federal Currency and Foreign  
26 Transactions Reporting Act, Title 31, United States Code,



1 Section 1051 et seq.

2 (6.5) The Commissioner may furnish confidential  
3 supervisory information to any other agency or entity that  
4 the Commissioner determines to have a legitimate  
5 regulatory interest.

6 (7) The Commissioner may furnish confidential  
7 supervisory information under any other statute that by its  
8 terms or by regulations promulgated thereunder requires  
9 the disclosure of financial records other than by subpoena,  
10 summons, warrant, or court order.

11 (8) At the request of the affected bank or other  
12 financial institution, the Commissioner may furnish  
13 confidential supervisory information relating to a bank or  
14 other financial institution, which the Commissioner has  
15 caused to be examined, in connection with the obtaining of  
16 insurance coverage or the pursuit of an insurance claim for  
17 or on behalf of the bank or other financial institution;  
18 provided that, when possible, the Commissioner shall  
19 disclose only relevant information while maintaining the  
20 confidentiality of financial records not relevant to such  
21 insurance coverage or claim and, when appropriate, may  
22 delete identifying data relating to any person or  
23 individual.

24 (9) The Commissioner may furnish a copy of a report of  
25 any examination performed by the Commissioner of the  
26 condition and affairs of any electronic data processing

1           entity to the banks serviced by the electronic data  
2           processing entity.

3           (10) In addition to the foregoing circumstances, the  
4           Commissioner may, but is not required to, furnish  
5           confidential supervisory information under the same  
6           circumstances authorized for the bank or financial  
7           institution pursuant to subsection (b) of this Section,  
8           except that the Commissioner shall provide confidential  
9           supervisory information under circumstances described in  
10          paragraph (3) of subsection (b) of this Section only upon  
11          the request of the bank or other financial institution.

12          (b) A bank or other financial institution or its officers,  
13          agents, and employees may disclose confidential supervisory  
14          information only under the following circumstances:

15               (1) to the board of directors of the bank or other  
16               financial institution, as well as the president,  
17               vice-president, cashier, and other officers of the bank or  
18               other financial institution to whom the board of directors  
19               may delegate duties with respect to compliance with  
20               recommendations for action, and to the board of directors  
21               of a bank holding company that owns at least 80% of the  
22               outstanding stock of the bank or other financial  
23               institution;

24               (2) to attorneys for the bank or other financial  
25               institution and to a certified public accountant engaged by  
26               the State bank or financial institution to perform an

1 independent audit provided that the attorney or certified  
2 public accountant shall not permit the confidential  
3 supervisory information to be further disseminated;

4 (3) to any person who seeks to acquire a controlling  
5 interest in, or who seeks to merge with, the bank or  
6 financial institution, provided that all attorneys,  
7 certified public accountants, officers, agents, or  
8 employees of that person shall agree to be bound to respect  
9 the confidentiality of the confidential supervisory  
10 information and to not further disseminate the information  
11 therein contained;

12 (4) (blank); or

13 (5) to the bank's insurance company in relation to an  
14 insurance claim or the effort by the bank to procure  
15 insurance coverage, provided that, when possible, the bank  
16 shall disclose only information that is relevant to the  
17 insurance claim or that is necessary to procure the  
18 insurance coverage, while maintaining the confidentiality  
19 of financial information pertaining to customers. When  
20 appropriate, the bank may delete identifying data relating  
21 to any person.

22 (6) to any person conducting a review of the bank on  
23 behalf of the bank for purposes of complying with any  
24 enforcement action taken by a bank regulatory agency so  
25 long as the bank obtains approval prior to release of the  
26 confidential supervisory information by the Secretary and

1       the person conducting the review agrees to maintain the  
2       confidentiality of the confidential supervisory  
3       information and to not further disseminate the  
4       confidential supervisory information.

5       The disclosure of confidential supervisory information by  
6       a bank or other financial institution pursuant to this  
7       subsection (b) and the disclosure of information to the  
8       Commissioner or other regulatory agency in connection with any  
9       examination, visitation, or investigation shall not constitute  
10      a waiver of any legal privilege otherwise available to the bank  
11      or other financial institution with respect to the information.

12      (c) (1) Notwithstanding any other provision of this Act or  
13      any other law, confidential supervisory information shall be  
14      the property of the Commissioner and shall be privileged from  
15      disclosure to any person except as provided in this Section. No  
16      person in possession of confidential supervisory information  
17      may disclose that information for any reason or under any  
18      circumstances not specified in this Section without the prior  
19      authorization of the Commissioner. Any person upon whom a  
20      demand for production of confidential supervisory information  
21      is made, whether by subpoena, order, or other judicial or  
22      administrative process, must withhold production of the  
23      confidential supervisory information and must notify the  
24      Commissioner of the demand, at which time the Commissioner is  
25      authorized to intervene for the purpose of enforcing the  
26      limitations of this Section or seeking the withdrawal or

1 termination of the attempt to compel production of the  
2 confidential supervisory information.

3 (2) Any request for discovery or disclosure of confidential  
4 supervisory information, whether by subpoena, order, or other  
5 judicial or administrative process, shall be made to the  
6 Commissioner, and the Commissioner shall determine within 15  
7 days whether to disclose the information pursuant to procedures  
8 and standards that the Commissioner shall establish by rule. If  
9 the Commissioner determines that such information will not be  
10 disclosed, the Commissioner's decision shall be subject to  
11 judicial review under the provisions of the Administrative  
12 Review Law, and venue shall be in either Sangamon County or  
13 Cook County.

14 (3) Any court order that compels disclosure of confidential  
15 supervisory information may be immediately appealed by the  
16 Commissioner, and the order shall be automatically stayed  
17 pending the outcome of the appeal.

18 (d) If any officer, agent, attorney, or employee of a bank  
19 or financial institution knowingly and willfully furnishes  
20 confidential supervisory information in violation of this  
21 Section, the Commissioner may impose a civil monetary penalty  
22 up to \$1,000 for the violation against the officer, agent,  
23 attorney, or employee.

24 (Source: P.A. 90-301, eff. 8-1-97; 91-201, eff. 1-1-00.)"; and

25 on page 47, by replacing lines 7 through 11 with the following:

1           "The Secretary, when appointed as receiver, or any person  
2 appointed as receiver shall have the same powers, rights, and  
3 privileges as the Federal Deposit Insurance Corporation, which  
4 shall originate at the time of the appointment and continue  
5 through the term of the receivership."