**Section 310.220 Exceptions to Minimum Organizational Capital Requirements for Banks**

a) In applications involving a merger resulting in a State bank pursuant to Section 22 or Section 30 of the Illinois Banking Act, a conversion resulting in a State bank pursuant to Section 26 or 30 of the Illinois Banking Act, or a change in location of a State bank pursuant to Section 13 of the Illinois Banking Act, a lesser amount of capital than specified in Section 310.200 may be approved if the Commissioner determines that such lesser amount of capital is sufficient to enable the bank to operate in a safe and sound manner. For example, the Commissioner may authorize a lesser amount of capital than that prescribed in Section 310.200 if the applicant is an existing bank operating with capital levels below the minimum capital requirements prescribed in that Section and operating in a safe and sound manner and the application contemplates an activity that the bank will be able to conduct in a safe and sound manner at the current capital levels following approval of the application.

b) A bank organized to assume the assets and liabilities of an existing bank or insured savings association that has failed, or is in default or in danger of default, shall have a minimum tier 1 capital, as defined by the Federal Deposit Insurance Corporation, of 5% of total assets. The Commissioner hereby incorporates by reference the definition of tier 1 captial found in 12 CFR 325, Minimum Capital Requirements, as effective April 1, 2002 (no later amendments or editions). Copies of 12 CFR 325 are available at the Commissioner's Springfield or Chicago office. Copies may also be obtained on the Federal Deposit Insurance Corporation web site.