



Rep. Dagmara Avelar

Filed: 4/17/2024

10300HB5428ham001

LRB103 38790 RTM 72428 a

1 AMENDMENT TO HOUSE BILL 5428

2 AMENDMENT NO. _____. Amend House Bill 5428 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Banking Act is amended by
5 changing Sections 2, 5, 13, 15, 16, 16.5, 32.1, 48, 48.1, and
6 48.2 as follows:

7 (205 ILCS 5/2) (from Ch. 17, par. 302)

8 Sec. 2. General definitions. In this Act, unless the
9 context otherwise requires, the following words and phrases
10 shall have the following meanings:

11 "Accommodation party" shall have the meaning ascribed to
12 that term in Section 3-419 of the Uniform Commercial Code.

13 "Action" in the sense of a judicial proceeding includes
14 recoupments, counterclaims, set-off, and any other proceeding
15 in which rights are determined.

16 "Affiliate facility" of a bank means a main banking

1 premises or branch of another commonly owned bank. The main
2 banking premises or any branch of a bank may be an "affiliate
3 facility" with respect to one or more other commonly owned
4 banks.

5 "Appropriate federal banking agency" means the Federal
6 Deposit Insurance Corporation, the Federal Reserve Bank of
7 Chicago, or the Federal Reserve Bank of St. Louis, as
8 determined by federal law.

9 "Bank" means any person doing a banking business whether
10 subject to the laws of this or any other jurisdiction.

11 A "banking house", "branch", "branch bank" or "branch
12 office" shall mean any place of business of a bank at which
13 deposits are received, checks paid, or loans made, but shall
14 not include any place at which only records thereof are made,
15 posted, or kept. A place of business at which deposits are
16 received, checks paid, or loans made shall not be deemed to be
17 a branch, branch bank, or branch office if the place of
18 business is adjacent to and connected with the main banking
19 premises, or if it is separated from the main banking premises
20 by not more than an alley; provided always that (i) if the
21 place of business is separated by an alley from the main
22 banking premises there is a connection between the 2 ~~two~~ by
23 public or private way or by subterranean or overhead passage,
24 and (ii) if the place of business is in a building not wholly
25 occupied by the bank, the place of business shall not be within
26 any office or room in which any other business or service of

1 any kind or nature other than the business of the bank is
2 conducted or carried on. A place of business at which deposits
3 are received, checks paid, or loans made shall not be deemed to
4 be a branch, branch bank, or branch office (i) of any bank if
5 the place is a terminal established and maintained in
6 accordance with paragraph (17) of Section 5 of this Act, or
7 (ii) of a commonly owned bank by virtue of transactions
8 conducted at that place on behalf of the other commonly owned
9 bank under paragraph (23) of Section 5 of this Act if the place
10 is an affiliate facility with respect to the other bank.

11 "Branch of an out-of-state bank" means a branch
12 established or maintained in Illinois by an out-of-state bank
13 as a result of a merger between an Illinois bank and the
14 out-of-state bank that occurs on or after May 31, 1997, or any
15 branch established by the out-of-state bank following the
16 merger.

17 "Bylaws" means the bylaws of a bank that are adopted by the
18 bank's board of directors or shareholders for the regulation
19 and management of the bank's affairs. If the bank operates as a
20 limited liability company, however, "bylaws" means the
21 operating agreement of the bank.

22 "Call report fee" means the fee to be paid to the
23 Commissioner by each State bank pursuant to paragraph (a) of
24 subsection (3) of Section 48 of this Act.

25 "Capital" includes the aggregate of outstanding capital
26 stock and preferred stock.

1 "Cash flow reserve account" means the account within the
2 books and records of the Commissioner of Banks and Real Estate
3 used to record funds designated to maintain a reasonable Bank
4 and Trust Company Fund operating balance to meet agency
5 obligations on a timely basis.

6 "Charter" includes the original charter and all amendments
7 thereto and articles of merger or consolidation.

8 "Commissioner" means the Commissioner of Banks and Real
9 Estate, except that beginning on April 6, 2009 (the effective
10 date of Public Act 95-1047), all references in this Act to the
11 Commissioner of Banks and Real Estate are deemed, in
12 appropriate contexts, to be references to the Secretary of
13 Financial and Professional Regulation.

14 "Commonly owned banks" means 2 or more banks that each
15 qualify as a bank subsidiary of the same bank holding company
16 pursuant to Section 18 of the Federal Deposit Insurance Act;
17 "commonly owned bank" refers to one of a group of commonly
18 owned banks but only with respect to one or more of the other
19 banks in the same group.

20 "Community" means a city, village, or incorporated town
21 and also includes the area served by the banking offices of a
22 bank, but need not be limited or expanded to conform to the
23 geographic boundaries of units of local government.

24 "Company" means a corporation, limited liability company,
25 partnership, business trust, association, or similar
26 organization and, unless specifically excluded, includes a

1 "State bank" and a "bank".

2 "Consolidating bank" means a party to a consolidation.

3 "Consolidation" takes place when 2 or more banks, or a
4 trust company and a bank, are extinguished and by the same
5 process a new bank is created, taking over the assets and
6 assuming the liabilities of the banks or trust company passing
7 out of existence.

8 "Continuing bank" means a merging bank, the charter of
9 which becomes the charter of the resulting bank.

10 "Converting bank" means a State bank converting to become
11 a national bank, or a national bank converting to become a
12 State bank.

13 "Converting trust company" means a trust company
14 converting to become a State bank.

15 "Court" means a court of competent jurisdiction.

16 "Director" means a member of the board of directors of a
17 bank. In the case of a manager-managed limited liability
18 company, however, "director" means a manager of the bank and,
19 in the case of a member-managed limited liability company,
20 "director" means a member of the bank. The term "director"
21 does not include an advisory director, honorary director,
22 director emeritus, or similar person, unless the person is
23 otherwise performing functions similar to those of a member of
24 the board of directors.

25 "Director of Banking" means the Director of the Division
26 of Banking of the Department of Financial and Professional

1 Regulation.

2 "Eligible depository institution" means an insured savings
3 association that is in default, an insured savings association
4 that is in danger of default, a State or national bank that is
5 in default or a State or national bank that is in danger of
6 default, as those terms are defined in this Section, or a new
7 bank as that term is defined in Section 11(m) of the Federal
8 Deposit Insurance Act or a bridge bank as that term is defined
9 in Section 11(n) of the Federal Deposit Insurance Act or a new
10 federal savings association authorized under Section
11 11(d) (2) (f) of the Federal Deposit Insurance Act.

12 "Fiduciary" means trustee, agent, executor, administrator,
13 committee, guardian for a minor or for a person under legal
14 disability, receiver, trustee in bankruptcy, assignee for
15 creditors, or any holder of similar position of trust.

16 "Financial institution" means a bank, savings bank,
17 savings and loan association, credit union, or any licensee
18 under the Consumer Installment Loan Act or the Sales Finance
19 Agency Act and, for purposes of Section 48.3, any proprietary
20 network, funds transfer corporation, or other entity providing
21 electronic funds transfer services, or any corporate
22 fiduciary, its subsidiaries, affiliates, parent company, or
23 contractual service provider that is examined by the
24 Commissioner. For purposes of Section 5c and subsection (b) of
25 Section 13 of this Act, "financial institution" includes any
26 proprietary network, funds transfer corporation, or other

1 entity providing electronic funds transfer services, and any
2 corporate fiduciary.

3 "Foundation" means the Illinois Bank Examiners' Education
4 Foundation.

5 "General obligation" means a bond, note, debenture,
6 security, or other instrument evidencing an obligation of the
7 government entity that is the issuer that is supported by the
8 full available resources of the issuer, the principal and
9 interest of which is payable in whole or in part by taxation.

10 "Guarantee" means an undertaking or promise to answer for
11 payment of another's debt or performance of another's duty,
12 liability, or obligation whether "payment guaranteed" or
13 "collection guaranteed".

14 "In danger of default" means a State or national bank, a
15 federally chartered insured savings association or an Illinois
16 state chartered insured savings association with respect to
17 which the Commissioner or the appropriate federal banking
18 agency has advised the Federal Deposit Insurance Corporation
19 that:

20 (1) in the opinion of the Commissioner or the
21 appropriate federal banking agency,

22 (A) the State or national bank or insured savings
23 association is not likely to be able to meet the
24 demands of the State or national bank's or savings
25 association's obligations in the normal course of
26 business; and

1 (B) there is no reasonable prospect that the State
2 or national bank or insured savings association will
3 be able to meet those demands or pay those obligations
4 without federal assistance; or

5 (2) in the opinion of the Commissioner or the
6 appropriate federal banking agency,

7 (A) the State or national bank or insured savings
8 association has incurred or is likely to incur losses
9 that will deplete all or substantially all of its
10 capital; and

11 (B) there is no reasonable prospect that the
12 capital of the State or national bank or insured
13 savings association will be replenished without
14 federal assistance.

15 "In default" means, with respect to a State or national
16 bank or an insured savings association, any adjudication or
17 other official determination by any court of competent
18 jurisdiction, the Commissioner, the appropriate federal
19 banking agency, or other public authority pursuant to which a
20 conservator, receiver, or other legal custodian is appointed
21 for a State or national bank or an insured savings
22 association.

23 "Insured savings association" means any federal savings
24 association chartered under Section 5 of the federal Home
25 Owners' Loan Act and any State savings association chartered
26 under the Illinois Savings and Loan Act of 1985 or a

1 predecessor Illinois statute, the deposits of which are
2 insured by the Federal Deposit Insurance Corporation. The term
3 also includes a savings bank organized or operating under the
4 Savings Bank Act.

5 "Insured savings association in recovery" means an insured
6 savings association that is not an eligible depository
7 institution and that does not meet the minimum capital
8 requirements applicable with respect to the insured savings
9 association.

10 "Issuer" means for purposes of Section 33 every person who
11 shall have issued or proposed to issue any security; except
12 that (1) with respect to certificates of deposit, voting trust
13 certificates, collateral-trust certificates, and certificates
14 of interest or shares in an unincorporated investment trust
15 not having a board of directors (or persons performing similar
16 functions), "issuer" means the person or persons performing
17 the acts and assuming the duties of depositor or manager
18 pursuant to the provisions of the trust, agreement, or
19 instrument under which the securities are issued; (2) with
20 respect to trusts other than those specified in clause (1)
21 above, where the trustee is a corporation authorized to accept
22 and execute trusts, "issuer" means the entrusters, depositors,
23 or creators of the trust and any manager or committee charged
24 with the general direction of the affairs of the trust
25 pursuant to the provisions of the agreement or instrument
26 creating the trust; and (3) with respect to equipment trust

1 certificates or like securities, "issuer" means the person to
2 whom the equipment or property is or is to be leased or
3 conditionally sold.

4 "Letter of credit" ~~and "customer"~~ shall have the same
5 meaning as that term is given ~~meanings ascribed to those terms~~
6 in Section 5-102 of the Uniform Commercial Code.

7 "Main banking premises" means the location that is
8 designated in a bank's charter as its main office.

9 "Maker or obligor" means for purposes of Section 33 the
10 issuer of a security, the promisor in a debenture or other debt
11 security, or the mortgagor or grantor of a trust deed or
12 similar conveyance of a security interest in real or personal
13 property.

14 "Merged bank" means a merging bank that is not the
15 continuing, resulting, or surviving bank in a consolidation or
16 merger.

17 "Merger" includes consolidation.

18 "Merging bank" means a party to a bank merger.

19 "Merging trust company" means a trust company party to a
20 merger with a State bank.

21 "Mid-tier bank holding company" means a corporation that
22 (a) owns 100% of the issued and outstanding shares of each
23 class of stock of a State bank, (b) has no other subsidiaries,
24 and (c) 100% of the issued and outstanding shares of the
25 corporation are owned by a parent bank holding company.

26 "Municipality" means any municipality, political

1 subdivision, school district, taxing district, or agency.

2 "National bank" means a national banking association
3 located in this State and after May 31, 1997, means a national
4 banking association without regard to its location.

5 "Out-of-state bank" means a bank chartered under the laws
6 of a state other than Illinois, a territory of the United
7 States, or the District of Columbia.

8 "Parent bank holding company" means a corporation that is
9 a bank holding company as that term is defined in the Illinois
10 Bank Holding Company Act of 1957 and owns 100% of the issued
11 and outstanding shares of a mid-tier bank holding company.

12 "Person" means an individual, corporation, limited
13 liability company, partnership, joint venture, trust, estate,
14 or unincorporated association.

15 "Public agency" means the State of Illinois, the various
16 counties, townships, cities, towns, villages, school
17 districts, educational service regions, special road
18 districts, public water supply districts, fire protection
19 districts, drainage districts, levee districts, sewer
20 districts, housing authorities, the Illinois Bank Examiners'
21 Education Foundation, the Chicago Park District, and all other
22 political corporations or subdivisions of the State of
23 Illinois, whether now or hereafter created, whether herein
24 specifically mentioned or not, and shall also include any
25 other state or any political corporation or subdivision of
26 another state.

1 "Public funds" or "public money" means current operating
2 funds, special funds, interest and sinking funds, and funds of
3 any kind or character belonging to, in the custody of, or
4 subject to the control or regulation of the United States or a
5 public agency. "Public funds" or "public money" shall include
6 funds held by any of the officers, agents, or employees of the
7 United States or of a public agency in the course of their
8 official duties and, with respect to public money of the
9 United States, shall include Postal Savings funds.

10 "Published" means, ~~unless the context requires otherwise,~~
11 the publishing of the notice ~~or instrument~~ referred to in some
12 newspaper of general circulation in the community in which the
13 bank is located at least once each week for 3 successive weeks.
14 Publishing shall be accomplished by, and at the expense of,
15 the bank required to publish. Where publishing is required,
16 the bank shall submit to the Commissioner that evidence of the
17 publication as the Commissioner shall deem appropriate.

18 "Qualified financial contract" means any security
19 contract, commodity contract, forward contract, including spot
20 and forward foreign exchange contracts, repurchase agreement,
21 swap agreement, and any similar agreement, any option to enter
22 into any such agreement, including any combination of the
23 foregoing, and any master agreement for such agreements. A
24 master agreement, together with all supplements thereto, shall
25 be treated as one qualified financial contract. The contract,
26 option, agreement, or combination of contracts, options, or

1 agreements shall be reflected upon the books, accounts, or
2 records of the bank, or a party to the contract shall provide
3 documentary evidence of such agreement.

4 "Recorded" means the filing or recording of the notice or
5 instrument referred to in the office of the Recorder of the
6 county wherein the bank is located.

7 "Resulting bank" means the bank resulting from a merger or
8 conversion.

9 "Secretary" means the Secretary of Financial and
10 Professional Regulation, or a person authorized by the
11 Secretary or by this Act to act in the Secretary's stead.

12 "Securities" means stocks, bonds, debentures, notes, or
13 other similar obligations.

14 "Stand-by letter of credit" means a letter of credit under
15 which drafts are payable upon the condition the customer has
16 defaulted in performance of a duty, liability, or obligation.

17 "State bank" means any banking corporation that has a
18 banking charter issued by the Commissioner under this Act.

19 "State Banking Board" means the State Banking Board of
20 Illinois.

21 "Subsidiary" with respect to a specified company means a
22 company that is controlled by the specified company. For
23 purposes of paragraphs (8) and (12) of Section 5 of this Act,
24 "control" means the exercise of operational or managerial
25 control of a corporation by the bank, either alone or together
26 with other affiliates of the bank.

1 "Surplus" means the aggregate of (i) amounts paid in
2 excess of the par value of capital stock and preferred stock;
3 (ii) amounts contributed other than for capital stock and
4 preferred stock and allocated to the surplus account; and
5 (iii) amounts transferred from undivided profits.

6 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
7 assigned to those terms in regulations promulgated for the
8 appropriate federal banking agency of a state bank, as those
9 regulations are now or hereafter amended.

10 "Trust company" means a limited liability company or
11 corporation incorporated in this State for the purpose of
12 accepting and executing trusts.

13 "Undivided profits" means undistributed earnings less
14 discretionary transfers to surplus.

15 "Unimpaired capital and unimpaired surplus", for the
16 purposes of paragraph (21) of Section 5 and Sections 32, 33,
17 34, 35.1, 35.2, and 47 of this Act means the sum of the state
18 bank's Tier 1 Capital and Tier 2 Capital plus such other
19 shareholder equity as may be included by regulation of the
20 Commissioner. Unimpaired capital and unimpaired surplus shall
21 be calculated on the basis of the date of the last quarterly
22 call report filed with the Commissioner preceding the date of
23 the transaction for which the calculation is made, provided
24 that: (i) when a material event occurs after the date of the
25 last quarterly call report filed with the Commissioner that
26 reduces or increases the bank's unimpaired capital and

1 unimpaired surplus by 10% or more, then the unimpaired capital
2 and unimpaired surplus shall be calculated from the date of
3 the material event for a transaction conducted after the date
4 of the material event; and (ii) if the Commissioner determines
5 for safety and soundness reasons that a state bank should
6 calculate unimpaired capital and unimpaired surplus more
7 frequently than provided by this paragraph, the Commissioner
8 may by written notice direct the bank to calculate unimpaired
9 capital and unimpaired surplus at a more frequent interval. In
10 the case of a state bank newly chartered under Section 13 or a
11 state bank resulting from a merger, consolidation, or
12 conversion under Sections 21 through 26 for which no preceding
13 quarterly call report has been filed with the Commissioner,
14 unimpaired capital and unimpaired surplus shall be calculated
15 for the first calendar quarter on the basis of the effective
16 date of the charter, merger, consolidation, or conversion.

17 (Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09;
18 96-1000, eff. 7-2-10; 96-1163, eff. 1-1-11.)

19 (205 ILCS 5/5) (from Ch. 17, par. 311)

20 Sec. 5. General corporate powers. A bank organized under
21 this Act or subject hereto shall be a body corporate and
22 politic and shall, without specific mention thereof in the
23 charter, have all the powers conferred by this Act and the
24 following additional general corporate powers:

25 (1) To sue and be sued, complain, and defend in its

1 corporate name.

2 (2) To have a corporate seal, which may be altered at
3 pleasure, and to use the same by causing it or a facsimile
4 thereof to be impressed or affixed or in any manner
5 reproduced, provided that the affixing of a corporate seal
6 to an instrument shall not give the instrument additional
7 force or effect, or change the construction thereof, and
8 the use of a corporate seal is not mandatory.

9 (3) To make, alter, amend, and repeal bylaws, not
10 inconsistent with its charter or with law, for the
11 administration of the affairs of the bank. If this Act
12 does not provide specific guidance in matters of corporate
13 governance, the provisions of the Business Corporation Act
14 of 1983 may be used if so provided in the bylaws, and if
15 the bank is a limited liability company, the provisions of
16 the Limited Liability Company Act shall be used.

17 (4) To elect or appoint and remove officers and agents
18 of the bank and define their duties and fix their
19 compensation.

20 (5) To adopt and operate reasonable bonus plans,
21 profit-sharing plans, stock-bonus plans, stock-option
22 plans, pension plans, and similar incentive plans for its
23 directors, officers and employees.

24 (5.1) To manage, operate, and administer a fund for
25 the investment of funds by a public agency or agencies,
26 including any unit of local government or school district,

1 or any person. The fund for a public agency shall invest in
2 the same type of investments and be subject to the same
3 limitations provided for the investment of public funds.
4 The fund for public agencies shall maintain a separate
5 ledger showing the amount of investment for each public
6 agency in the fund. "Public funds" and "public agency" as
7 used in this Section shall have the meanings ascribed to
8 them in Section 1 of the Public Funds Investment Act.

9 (6) To make reasonable donations for the public
10 welfare or for charitable, scientific, religious or
11 educational purposes.

12 (7) To borrow or incur an obligation; and to pledge
13 its assets:

14 (a) to secure its borrowings, its lease of
15 personal or real property or its other nondeposit
16 obligations;

17 (b) to enable it to act as agent for the sale of
18 obligations of the United States;

19 (c) to secure deposits of public money of the
20 United States, whenever required by the laws of the
21 United States, including, without being limited to,
22 revenues and funds the deposit of which is subject to
23 the control or regulation of the United States or any
24 of its officers, agents, or employees and Postal
25 Savings funds;

26 (d) to secure deposits of public money of any

1 state or of any political corporation or subdivision
2 thereof, including, without being limited to, revenues
3 and funds the deposit of which is subject to the
4 control or regulation of any state or of any political
5 corporation or subdivisions thereof or of any of their
6 officers, agents, or employees;

7 (e) to secure deposits of money whenever required
8 by the National Bankruptcy Act;

9 (f) (blank); ~~and~~

10 (g) to secure trust funds commingled with the
11 bank's funds, whether deposited by the bank or an
12 affiliate of the bank, pursuant to Section 2-8 of the
13 Corporate Fiduciary Act; ~~and~~

14 (h) to secure deposits.

15 (8) To own, possess, and carry as assets all or part of
16 the real estate necessary in or with which to do its
17 banking business, either directly or indirectly through
18 the ownership of all or part of the capital stock, shares
19 or interests in any corporation, association, trust
20 engaged in holding any part or parts or all of the bank
21 premises, engaged in such business and in conducting a
22 safe deposit business in the premises or part of them, or
23 engaged in any activity that the bank is permitted to
24 conduct in a subsidiary pursuant to paragraph (12) of this
25 Section 5.

26 (9) To own, possess, and carry as assets other real

1 estate to which it may obtain title in the collection of
2 its debts or that was formerly used as a part of the bank
3 premises, but title to any real estate except as herein
4 permitted may only ~~shall not~~ be retained by the bank,
5 either directly or by or through a subsidiary, as
6 permitted by subsection (12) of this Section for a total
7 period of ~~more than~~ 10 years after acquiring title or for a
8 total period equal to the maximum period, including the
9 maximum extensions, permitted to a national bank under
10 federal law after acquiring title, whichever is greater,
11 either directly or indirectly.

12 (10) To do any act, including the acquisition of
13 stock, necessary to obtain insurance of its deposits, or
14 part thereof, and any act necessary to obtain a guaranty,
15 in whole or in part, of any of its loans or investments by
16 the United States or any agency thereof, and any act
17 necessary to sell or otherwise dispose of any of its loans
18 or investments to the United States or any agency thereof,
19 and to acquire and hold membership in the Federal Reserve
20 System.

21 (11) Notwithstanding any other provisions of this Act
22 or any other law, to do any act and to own, possess, and
23 carry as assets property of the character, including
24 stock, that is at the time authorized or permitted to
25 national banks by an Act of Congress, but subject always
26 to the same limitations and restrictions as are applicable

1 to national banks by the pertinent federal law and subject
2 to applicable provisions of the Financial Institutions
3 Insurance Sales Law.

4 (12) To own, possess, and carry as assets stock of one
5 or more corporations that is, or are, engaged in one or
6 more of the following businesses:

7 (a) holding title to and administering assets
8 acquired as a result of the collection or liquidating
9 of loans, investments, or discounts; or

10 (b) holding title to and administering personal
11 property acquired by the bank, directly or indirectly
12 through a subsidiary, for the purpose of leasing to
13 others, provided the lease or leases and the
14 investment of the bank, directly or through a
15 subsidiary, in that personal property otherwise comply
16 with Section 35.1 of this Act; or

17 (c) carrying on or administering any of the
18 activities excepting the receipt of deposits or the
19 payment of checks or other orders for the payment of
20 money in which a bank may engage in carrying on its
21 general banking business; provided, however, that
22 nothing contained in this paragraph (c) shall be
23 deemed to permit a bank organized under this Act or
24 subject hereto to do, either directly or indirectly
25 through any subsidiary, any act, including the making
26 of any loan or investment, or to own, possess, or carry

1 as assets any property that if done by or owned,
2 possessed, or carried by the State bank would be in
3 violation of or prohibited by any provision of this
4 Act.

5 The provisions of this subsection (12) shall not apply
6 to and shall not be deemed to limit the powers of a State
7 bank with respect to the ownership, possession, and
8 carrying of stock that a State bank is permitted to own,
9 possess, or carry under this Act.

10 Any bank intending to establish a subsidiary under
11 this subsection (12) shall give written notice to the
12 Commissioner 60 days prior to the subsidiary's commencing
13 of business or, as the case may be, prior to acquiring
14 stock in a corporation that has already commenced
15 business. After receiving the notice, the Commissioner may
16 waive or reduce the balance of the 60-day notice period.
17 The Commissioner may specify the form of the notice, may
18 designate the types of subsidiaries not subject to this
19 notice requirement, and may promulgate rules and
20 regulations to administer this subsection (12).

21 (13) To accept for payment at a future date not
22 exceeding one year from the date of acceptance, drafts
23 drawn upon it by its customers; and to issue, advise, or
24 confirm letters of credit authorizing the holders thereof
25 to draw drafts upon it or its correspondents.

26 (14) To own and lease personal property acquired by

1 the bank at the request of a prospective lessee and upon
2 the agreement of that person to lease the personal
3 property provided that the lease, the agreement with
4 respect thereto, and the amount of the investment of the
5 bank in the property comply with Section 35.1 of this Act.

6 (15) (a) To establish and maintain, in addition to the
7 main banking premises, branches offering any banking
8 services permitted at the main banking premises of a State
9 bank.

10 (b) To establish and maintain, after May 31, 1997,
11 branches in another state that may conduct any activity in
12 that state that is authorized or permitted for any bank
13 that has a banking charter issued by that state, subject
14 to the same limitations and restrictions that are
15 applicable to banks chartered by that state.

16 (16) (Blank).

17 (17) To establish and maintain terminals, as
18 authorized by the Electronic Fund Transfer Act.

19 (18) To establish and maintain temporary service
20 booths at any International Fair held in this State which
21 is approved by the United States Department of Commerce,
22 for the duration of the international fair for the sole
23 purpose of providing a convenient place for foreign trade
24 customers at the fair to exchange their home countries'
25 currency into United States currency or the converse. This
26 power shall not be construed as establishing a new place

1 or change of location for the bank providing the service
2 booth.

3 (19) To indemnify its officers, directors, employees,
4 and agents, as authorized for corporations under Section
5 8.75 of the Business Corporation Act of 1983.

6 (20) To own, possess, and carry as assets stock of, or
7 be or become a member of, any corporation, mutual company,
8 association, trust, or other entity formed exclusively for
9 the purpose of providing directors' and officers'
10 liability and bankers' blanket bond insurance or
11 reinsurance to and for the benefit of the stockholders,
12 members, or beneficiaries, or their assets or businesses,
13 or their officers, directors, employees, or agents, and
14 not to or for the benefit of any other person or entity or
15 the public generally.

16 (21) To make debt or equity investments in
17 corporations or projects, whether for profit or not for
18 profit, designed to promote the development of the
19 community and its welfare, provided that the aggregate
20 investment in all of these corporations and in all of
21 these projects does not exceed 10% of the unimpaired
22 capital and unimpaired surplus of the bank and provided
23 that this limitation shall not apply to creditworthy loans
24 by the bank to those corporations or projects. Upon
25 written application to the Commissioner, a bank may make
26 an investment that would, when aggregated with all other

1 such investments, exceed 10% of the unimpaired capital and
2 unimpaired surplus of the bank. The Commissioner may
3 approve the investment if he is of the opinion and finds
4 that the proposed investment will not have a material
5 adverse effect on the safety and soundness of the bank.

6 (22) To own, possess, and carry as assets the stock of
7 a corporation engaged in the ownership or operation of a
8 travel agency or to operate a travel agency as a part of
9 its business.

10 (23) With respect to affiliate facilities:

11 (a) to conduct at affiliate facilities for and on
12 behalf of another commonly owned bank, if so
13 authorized by the other bank, all transactions that
14 the other bank is authorized or permitted to perform;
15 and

16 (b) to authorize a commonly owned bank to conduct
17 for and on behalf of it any of the transactions it is
18 authorized or permitted to perform at one or more
19 affiliate facilities.

20 Any bank intending to conduct or to authorize a
21 commonly owned bank to conduct at an affiliate facility
22 any of the transactions specified in this paragraph (23)
23 shall give written notice to the Commissioner at least 30
24 days before any such transaction is conducted at the
25 affiliate facility.

26 (24) To act as the agent for any fire, life, or other

1 insurance company authorized by the State of Illinois, by
2 soliciting and selling insurance and collecting premiums
3 on policies issued by such company; and to receive for
4 services so rendered such fees or commissions as may be
5 agreed upon between the bank and the insurance company for
6 which it may act as agent; provided, however, that no such
7 bank shall in any case assume or guarantee the payment of
8 any premium on insurance policies issued through its
9 agency by its principal; and provided further, that the
10 bank shall not guarantee the truth of any statement made
11 by an assured in filing his application for insurance.

12 (25) Notwithstanding any other provisions of this Act
13 or any other law, to offer any product or service that is
14 at the time authorized or permitted to any insured savings
15 association or out-of-state bank by applicable law,
16 provided that powers conferred only by this subsection
17 (25):

18 (a) shall always be subject to the same
19 limitations and restrictions that are applicable to
20 the insured savings association or out-of-state bank
21 for the product or service by such applicable law;

22 (b) shall be subject to applicable provisions of
23 the Financial Institutions Insurance Sales Law;

24 (c) shall not include the right to own or conduct a
25 real estate brokerage business for which a license
26 would be required under the laws of this State; and

1 (d) shall not be construed to include the
2 establishment or maintenance of a branch, nor shall
3 they be construed to limit the establishment or
4 maintenance of a branch pursuant to subsection (11).

5 Not less than 30 days before engaging in any activity
6 under the authority of this subsection, a bank shall
7 provide written notice to the Commissioner of its intent
8 to engage in the activity. The notice shall indicate the
9 specific federal or state law, rule, regulation, or
10 interpretation the bank intends to use as authority to
11 engage in the activity.

12 (26) To provide data processing services to a person
13 for profit. The total revenue attributable to the bank's
14 data processing activities must be derived predominantly
15 from processing banking, financial, or economic data, and
16 other types of data if the derivative or resultant product
17 is banking, financial, or economic data.

18 (27) To invest in commodities derivatives, with the
19 management and controls necessary to ensure that such
20 activities are carried out according to safe and sound
21 banking practices.

22 Nothing in this Section shall be construed to require the
23 filing of a notice or application for approval with the United
24 States Office of the Comptroller of the Currency or a bank
25 supervisor of another state as a condition to the right of a
26 State bank to exercise any of the powers conferred by this

1 Section in this State.

2 (Source: P.A. 99-362, eff. 8-13-15; 100-863, eff. 8-14-18.)

3 (205 ILCS 5/13) (from Ch. 17, par. 320)

4 Sec. 13. Issuance of charter.

5 (a) When the directors have organized as provided in
6 Section 12 of this Act, and the capital stock and the preferred
7 stock, if any, together with a surplus of not less than 50% of
8 the capital, has been all fully paid in and a record of the
9 same filed with the Commissioner, the Commissioner or some
10 competent person of the Commissioner's appointment shall make
11 a thorough examination into the affairs of the proposed bank,
12 and if satisfied (i) that all the requirements of this Act have
13 been complied with, (ii) that no intervening circumstance has
14 occurred to change the Commissioner's findings made pursuant
15 to Section 10 of this Act, and (iii) that the prior involvement
16 by any stockholder who will own a sufficient amount of stock to
17 have control, as defined in Section 18 of this Act, of the
18 proposed bank with any other financial institution, whether as
19 stockholder, director, officer, or customer, was conducted in
20 a safe and sound manner, upon payment into the Commissioner's
21 office of the reasonable expenses of the examination, as
22 determined by the Commissioner, the Commissioner shall issue a
23 charter authorizing the bank to commence business as
24 authorized in this Act. All charters issued by the
25 Commissioner or any predecessor agency which chartered State

1 banks, including any charter outstanding as of September 1,
2 1989, shall be perpetual. For the 2 years after the
3 Commissioner has issued a charter to a bank, the bank shall
4 request and obtain from the Commissioner prior written
5 approval before it may change senior management personnel or
6 directors.

7 The original charter, duly certified by the Commissioner,
8 or a certified copy shall be evidence in all courts and places
9 of the existence and authority of the bank to do business. Upon
10 the issuance of the charter by the Commissioner, the bank
11 shall be deemed fully organized and may proceed to do
12 business. The Commissioner may, in the Commissioner's
13 discretion, withhold the issuing of the charter when the
14 Commissioner has reason to believe that the bank is organized
15 for any purpose other than that contemplated by this Act. The
16 Commissioner shall revoke the charter and order liquidation in
17 the event that the bank does not commence a general banking
18 business within one year from the date of the issuance of the
19 charter, unless a request has been submitted, in writing, to
20 the Commissioner for an extension and the request has been
21 approved. After commencing a general banking business, a bank
22 may change its name by filing written notice with the
23 Commissioner at least 30 days prior to the effective date of
24 such change. A bank chartered under this Act may change its
25 main banking premises by filing written notice ~~application~~
26 with the Commissioner, on forms prescribed by the

1 Commissioner, provided (i) the change shall not be a removal
2 to a new location without complying with the capital
3 requirements of Section 7 and of subsection (1) of Section 10
4 of this Act; and (ii) ~~the Commissioner approves the relocation~~
5 ~~or change; and (iii) the bank complies with any applicable~~
6 federal law or regulation. ~~The application shall be deemed to~~
7 ~~be approved if the Commissioner has not acted on the~~
8 ~~application within 30 days after receipt of the application,~~
9 ~~unless within the 30-day time frame the Commissioner informs~~
10 ~~the bank that an extension of time is necessary prior to the~~
11 ~~Commissioner's action on the application.~~

12 (b) (1) The Commissioner may also issue a charter to a bank
13 that is owned exclusively by other depository institutions or
14 depository institution holding companies and is organized to
15 engage exclusively in providing services to or for other
16 financial institutions, their holding companies, and the
17 officers, directors, and employees of such institutions and
18 companies, and in providing services at the request of other
19 financial institutions or their holding companies (also
20 referred to as a "bankers' bank"). The bank may also provide
21 products and services to its officers, directors, and
22 employees.

23 (2) A bank chartered pursuant to paragraph (1) shall,
24 except as otherwise specifically determined or limited by the
25 Commissioner in an order or pursuant to a rule, be vested with
26 the same rights and privileges and subject to the same duties,

1 restrictions, penalties, and liabilities now or hereafter
2 imposed under this Act.

3 (c) A bank chartered under this Act shall, at all times
4 while it accepts or retains deposits, maintain with the
5 Federal Deposit Insurance Corporation, or such other
6 instrumentality of or corporation chartered by the United
7 States, deposit insurance as authorized under federal law.

8 (d)(i) A bank that has a banking charter issued by the
9 Commissioner under this Act may, pursuant to a written
10 purchase and assumption agreement, transfer substantially all
11 of its assets to another State bank or national bank in
12 consideration, in whole or in part, for the transferee banks'
13 assumption of any part or all of its liabilities. Such a
14 transfer shall in no way be deemed to impair the charter of the
15 transferor bank or cause the transferor bank to forfeit any of
16 its rights, powers, interests, franchises, or privileges as a
17 State bank, nor shall any voluntary reduction in the
18 transferor bank's activities resulting from the transfer have
19 any such effect; provided, however, that a State bank that
20 transfers substantially all of its assets pursuant to this
21 subsection (d) and following the transfer does not accept
22 deposits and make loans, shall not have any rights, powers,
23 interests, franchises, or privileges under subsection (15) of
24 Section 5 of this Act until the bank has resumed accepting
25 deposits and making loans.

26 (ii) The fact that a State bank does not resume accepting

1 deposits and making loans for a period of 24 months commencing
2 on September 11, 1989 or on a date of the transfer of
3 substantially all of a State bank's assets, whichever is
4 later, or such longer period as the Commissioner may allow in
5 writing, may be the basis for a finding by the Commissioner
6 under Section 51 of this Act that the bank is unable to
7 continue operations.

8 (iii) The authority provided by subdivision (i) of this
9 subsection (d) shall terminate on May 31, 1997, and no bank
10 that has transferred substantially all of its assets pursuant
11 to this subsection (d) shall continue in existence after May
12 31, 1997.

13 (Source: P.A. 95-924, eff. 8-26-08; 96-1365, eff. 7-28-10.)

14 (205 ILCS 5/15) (from Ch. 17, par. 322)

15 Sec. 15. Stock and stockholders. Unless otherwise provided
16 for in this Act, provisions of general application to capital
17 stock, preferred stock, and stockholders of a State bank shall
18 be as follows:

19 (1) There shall be an annual meeting of the stockholders
20 for the election of directors each year on the first business
21 day in January, unless some other date shall be fixed by the
22 by-laws. A special meeting of the stockholders may be called
23 at any time by the board of directors, and otherwise as may be
24 provided in the bylaws.

25 (2) Written or printed notice stating the place, day, and

1 hour of the meeting, and in case of a special meeting, the
2 purpose or purposes for which the meeting is called, shall be
3 delivered not less than 10 nor more than 40 days before the
4 date of the meeting either personally, electronically, or by
5 mail, by or at the direction of the president, or the
6 secretary, or the officer or persons calling the meeting, to
7 each stockholder of record entitled to vote at the meeting. If
8 mailed, the notice shall be deemed to be delivered when
9 deposited in the United States mail with postage thereon
10 prepaid addressed to the stockholder at his address as it
11 appears on the records of the bank.

12 (3) Except as provided below in this paragraph (3), each
13 outstanding share shall be entitled to one vote on each matter
14 submitted to a vote at a meeting of stockholders. Shares of its
15 own stock belonging to a bank shall not be voted, directly or
16 indirectly, at any meeting and shall not be counted in
17 determining the total number of outstanding shares at any
18 given time, but shares of its own stock held by it in a
19 fiduciary capacity may be voted and shall be counted in
20 determining the total number of outstanding shares at any
21 given time. A stockholder may vote either in person or by proxy
22 executed in writing by the stockholder or by his duly
23 authorized attorney-in-fact. No proxy shall be valid after 11
24 months from the date of its execution, unless otherwise
25 provided in the proxy. Except as provided below in this
26 paragraph (3), in all elections for directors every

1 stockholder (or subscriber to the stock prior to the issuance
2 of a charter) shall have the right to vote, in person or by
3 proxy, for the number of shares of stock owned by him, for as
4 many persons as there are directors to be elected, or to
5 cumulate the shares and give one candidate as many votes as the
6 number of directors multiplied by the number of his or her
7 shares of stock shall equal, or to distribute them on the same
8 principle among as many candidates as he or she shall think
9 fit. The bank charter of any bank organized on or after January
10 1, 1984 may limit or eliminate cumulative voting rights in all
11 or specified circumstances, or may eliminate voting rights
12 entirely, as to any class or classes or series of stock of the
13 bank; provided that one class of shares or series thereof
14 shall always have voting rights in respect of all matters in
15 the bank. A bank organized prior to January 1, 1984 may amend
16 its charter to eliminate cumulative voting rights under all or
17 specified circumstances, or to eliminate voting rights
18 entirely, as to any class or classes or series of stock of the
19 bank; provided that one class of shares or series thereof
20 shall always have voting rights in respect of all matters in
21 the bank, and provided further that the proposal to eliminate
22 the voting rights receives the approval of the holders of 70%
23 of the outstanding shares of stock entitled to vote as
24 provided in paragraph (b) (7) of Section 17. A majority of the
25 outstanding shares represented in person or by proxy shall
26 constitute a quorum at a meeting of stockholders. In the

1 absence of a quorum a meeting may be adjourned from time to
2 time without notice to the stockholders.

3 (4) Whenever additional stock of a class is offered for
4 sale, stockholders of record of the same class on the date of
5 the offer shall have the right to subscribe to the proportion
6 of the shares as the stock of the class held by them bears to
7 the total of the outstanding stock of the class, and the price
8 thereof may be in excess of par value. This right shall be
9 transferable but shall terminate if not exercised within 60
10 days of the offer, unless the Commissioner shall authorize a
11 shorter time. If the right is not exercised, the stock shall
12 not be re-offered for sale to others at a lower price without
13 the stockholders of the same class again being accorded a
14 preemptive right to subscribe at the lower price.
15 Notwithstanding any of the provisions of this paragraph (4) or
16 any other provision of law, stockholders shall not have any
17 preemptive or other right to subscribe for or to purchase or
18 acquire shares of capital stock issued or to be issued under a
19 stock-option plan or upon conversion of preferred stock or
20 convertible debentures or other convertible indebtedness that
21 has been approved by stockholders in the manner required by
22 the provisions of subsection (5) of Section 14 hereof or to
23 treasury stock acquired pursuant to subsection (6) of Section
24 14.

25 (5) For the purpose of determining stockholders entitled
26 to notice of or to vote at any meeting of stockholders, or

1 stockholders entitled to receive payment of any dividend, or
2 in order to make a determination of stockholders for any other
3 proper purpose, the board of directors of a bank may provide
4 that the stock transfer books shall be closed for a stated
5 period not to exceed, in any case, 40 days. In lieu of closing
6 the stock transfer books, the board of directors may fix in
7 advance a date as the record date for any determination of
8 stockholders, the date in any case to be not more than 40 days,
9 and in case of a meeting of stockholders, not less than 10 days
10 prior to the date on which the particular action, requiring
11 the determination of stockholders, is to be taken. If the
12 stock transfer books are not closed and no record date is fixed
13 for the determination of stockholders entitled to notice of or
14 to vote at a meeting of stockholders, or stockholders entitled
15 to receive payment of a dividend, the date on which notice of a
16 meeting is delivered ~~mailed~~ or the date on which the
17 resolution of the board of directors declaring the dividend is
18 adopted, as the case may be, shall be the record date for the
19 determination of stockholders.

20 (6) Stock standing in the name of another corporation,
21 domestic or foreign, may be voted by the officer, agent, or
22 proxy as the by-laws of the corporation may prescribe, or, in
23 the absence of such provision, as the board of directors of the
24 corporation may determine. Stock standing in the name of a
25 deceased person may be voted by his or her administrator or
26 executor, either in person or by proxy. Stock standing in the

1 name of a guardian or trustee may be voted by that fiduciary
2 either in person or by proxy. Shares standing in the name of a
3 receiver may be voted by the receiver, and shares held by or
4 under control of a receiver may be voted by the receiver
5 without the transfer thereof into his or her name if authority
6 so to do be contained in an appropriate order of the court by
7 which the receiver was appointed. A stockholder whose shares
8 of stock are pledged shall be entitled to vote those shares
9 until the shares have been transferred into the name of the
10 pledgee, and thereafter the pledgee shall be entitled to vote
11 the shares so transferred.

12 (7) Shares of stock shall be transferable in accordance
13 with the general laws of this State governing the transfer of
14 corporate shares.

15 (8) The president and any other officer designated by the
16 board of directors of every State bank shall cause to be kept
17 at all times a full and correct list of the names and
18 residences of all the shareholders in the State bank and the
19 number of shares held by each in the office where its business
20 is transacted. The list shall be subject to the inspection of
21 all the shareholders of the State bank and the officers
22 authorized to assess taxes under State authority during
23 business hours of each day in which business may be legally
24 transacted or shall be kept on a reasonably accessible
25 electronic network, at the State bank's election. A copy of
26 the list, verified by the oath of the president or cashier,

1 shall be transmitted to the Commissioner of Banks and Real
2 Estate within 10 days of any demand therefor made by the
3 Commissioner.

4 (9) Any number of shareholders of a bank may create a
5 voting trust for the purpose of conferring upon a trustee or
6 trustees the right to vote or otherwise represent their shares
7 for a period of not to exceed 10 years by entering into a
8 written voting trust agreement specifying the terms and
9 conditions of the voting trust and by transferring their
10 shares to the trustee or trustees for the purposes of the
11 agreement. The trust agreement shall not become effective
12 until a counterpart of the agreement is deposited with the
13 bank at its main banking premises. The counterpart of the
14 voting trust agreement so deposited with the bank shall be
15 subject to the same right of examination by a shareholder of
16 the bank, in person or by agent or attorney, as is the record
17 of shareholders of the bank and shall be subject to
18 examination by any holder of a beneficial interest in the
19 voting trust, either in person or by agent or attorney, at any
20 reasonable time for any proper purpose.

21 (10) Voting agreements. Shareholders may provide for the
22 voting of their shares by signing an agreement for that
23 purpose. A voting agreement created under this paragraph is
24 not subject to the provisions of paragraph (9).

25 A voting agreement created under this paragraph is
26 specifically enforceable in accordance with the principles of

1 equity.

2 (11) Unless expressly prohibited by the charter or bylaws
3 and subject to applicable requirements of this Act, the board
4 of directors may provide by resolution that stockholders may
5 attend, participate in, act in, and vote at an annual meeting
6 or special meeting through the use of a conference telephone
7 or interactive technology, including, but not limited to,
8 electronic transmission, Internet usage, or remote
9 communication, by means of which all persons participating in
10 the meeting can communicate with each other. Participation
11 through the use of a conference telephone or interactive
12 technology shall constitute attendance, presence, and
13 representation in person at the annual meeting or special
14 meeting of the person or persons so participating and count
15 toward the quorum required to conduct business at the meeting.
16 The following conditions shall apply to any virtual meeting of
17 the stockholders:

18 (a) the bank must internally possess or retain the
19 technological capacity to facilitate virtual meeting
20 attendance, participation, communication, and voting; and

21 (b) the stockholders must receive notice of the use of
22 a virtual meeting format and appropriate instructions for
23 joining, participating, and voting during the virtual
24 meeting at least 7 days before the virtual meeting.

25 (Source: P.A. 95-924, eff. 8-26-08.)

1 (205 ILCS 5/16) (from Ch. 17, par. 323)

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

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

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

20 (b) Notwithstanding the minimum number of directors
21 specified in paragraph (a) of this subsection, a State
22 bank that has been in existence for 10 years or more and
23 has less than \$20,000,000 in assets, as of the December 31
24 immediately preceding the annual meeting of shareholders
25 at which directors are elected, may, subject to the
26 approval of the Commissioner, have a minimum of 3

1 directors; provided that if a State bank has fewer than 5
2 directors, at least one director shall not be an officer
3 or employee of the bank. The Commissioner shall annually
4 review the appropriateness of the grant of authority to
5 have a reduced minimum number of directors pursuant to
6 this paragraph (b).

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

1 stockholders at a special meeting called for the purpose.

2 If authorized by the bank's by-laws or an amendment
3 thereto, the directors of a State bank may properly fill a
4 vacancy or vacancies arising between shareholders' meetings,
5 but at no time may the number of directors selected to fill a
6 vacancy in this manner during any interim period between
7 shareholders' meetings exceed 33 1/3% of the total membership
8 of the board of directors.

9 (4) The board of directors shall hold regular meetings at
10 least once each month, provided that, upon prior written
11 approval by the Commissioner, the board of directors may hold
12 regular meetings less frequently than once each month but at
13 least once each calendar quarter. A special meeting of the
14 board of directors may be held as provided by the by-laws. A
15 special meeting of the board of directors may also be held upon
16 call by the Commissioner or a bank examiner appointed under
17 the provisions of this Act upon not less than 12 hours notice
18 of the meeting by personal service of the notice, by
19 electronic delivery of the notice, or by mailing the notice to
20 each of the directors at his residence as shown by the books of
21 the bank. A majority of the board of directors shall
22 constitute a quorum for the transaction of business unless a
23 greater number is required by the charter or the by-laws. The
24 act of the majority of the directors present at a meeting at
25 which a quorum is present shall be the act of the board of
26 directors unless the act of a greater number is required by the

1 charter or by the by-laws.

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

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

16 (7) (a) In discharging the duties of their respective
17 positions, the board of directors, committees of the
18 board, and individual directors may, in considering the
19 best long-term ~~long-term~~ and short-term ~~short-term~~
20 interests of the bank, consider the effects of any action
21 (including, without limitation, action that may involve or
22 relate to a merger or potential merger or to a change or
23 potential change in control of the bank) upon employees,
24 depositors, suppliers, and customers of the corporation or
25 its subsidiaries, communities in which the main banking
26 premises, branches, offices, or other establishments of

1 the bank or its subsidiaries are located, and all
2 pertinent factors.

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

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

22 (205 ILCS 5/16.5)

23 Sec. 16.5. Employment of persons with convictions. Except
24 with the prior written consent of the Commissioner, no State
25 bank shall knowingly employ or otherwise permit an individual

1 to serve as an officer, director, employee, or agent of the
2 State bank if the individual has been convicted of a felony or
3 of any criminal offense relating to dishonesty or breach of
4 trust. Notwithstanding the provisions of this Section, a State
5 bank in compliance with the provisions of 12 U.S.C. 1829 and
6 administrative rules issued under 12 U.S.C. 1829 by the State
7 bank's primary federal financial institution regulator shall
8 be deemed in compliance with this Section.

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

10 (205 ILCS 5/32.1) (from Ch. 17, par. 340)

11 Sec. 32.1. Loans to single individuals ~~Single Females~~.

12 (a) For purposes of this Section, "single" means not
13 currently married.

14 (b) No State bank shall require that single individuals
15 who have reached the age of majority ~~females~~ to whom loans are
16 made have cosigners on promissory notes negotiated to secure
17 such loans unless such bank shall, under the same or similar
18 circumstances, also require that single males who have reached
19 the age of majority have cosigners on promissory notes
20 negotiated to secure loans.

21 (Source: P.A. 79-556.)

22 (205 ILCS 5/48)

23 Sec. 48. Secretary's powers; duties. The Secretary shall
24 have the powers and authority, and is charged with the duties

1 and responsibilities designated in this Act, and a State bank
2 shall not be subject to any other visitorial power other than
3 as authorized by this Act, except those vested in the courts,
4 or upon prior consultation with the Secretary, a foreign bank
5 regulator with an appropriate supervisory interest in the
6 parent or affiliate of a State bank. In the performance of the
7 Secretary's duties:

8 (1) The Commissioner shall call for statements from
9 all State banks as provided in Section 47 at least one time
10 during each calendar quarter.

11 (2) (a) The Commissioner, as often as the Commissioner
12 shall deem necessary or proper, and no less frequently
13 than 18 months following the preceding examination, shall
14 appoint a suitable person or persons to make an
15 examination of the affairs of every State bank, except
16 that for every eligible State bank, as defined by
17 regulation, the Commissioner in lieu of the examination
18 may accept on an alternating basis the examination made by
19 the eligible State bank's appropriate federal banking
20 agency pursuant to Section 111 of the Federal Deposit
21 Insurance Corporation Improvement Act of 1991, provided
22 the appropriate federal banking agency has made such an
23 examination. A person so appointed shall not be a
24 stockholder or officer or employee of any bank which that
25 person may be directed to examine, and shall have powers
26 to make a thorough examination into all the affairs of the

1 bank and in so doing to examine any of the officers or
2 agents or employees thereof on oath and shall make a full
3 and detailed report of the condition of the bank to the
4 Commissioner. In making the examination the examiners
5 shall include an examination of the affairs of all the
6 affiliates of the bank, as defined in subsection (b) of
7 Section 35.2 of this Act, or subsidiaries of the bank as
8 shall be necessary to disclose fully the conditions of the
9 subsidiaries or affiliates, the relations between the bank
10 and the subsidiaries or affiliates and the effect of those
11 relations upon the affairs of the bank, and in connection
12 therewith shall have power to examine any of the officers,
13 directors, agents, or employees of the subsidiaries or
14 affiliates on oath. After May 31, 1997, the Commissioner
15 may enter into cooperative agreements with state
16 regulatory authorities of other states to provide for
17 examination of State bank branches in those states, and
18 the Commissioner may accept reports of examinations of
19 State bank branches from those state regulatory
20 authorities. These cooperative agreements may set forth
21 the manner in which the other state regulatory authorities
22 may be compensated for examinations prepared for and
23 submitted to the Commissioner.

24 (b) After May 31, 1997, the Commissioner is authorized
25 to examine, as often as the Commissioner shall deem
26 necessary or proper, branches of out-of-state banks. The

1 Commissioner may establish and may assess fees to be paid
2 to the Commissioner for examinations under this subsection
3 (b). The fees shall be borne by the out-of-state bank,
4 unless the fees are borne by the state regulatory
5 authority that chartered the out-of-state bank, as
6 determined by a cooperative agreement between the
7 Commissioner and the state regulatory authority that
8 chartered the out-of-state bank.

9 (2.1) Pursuant to paragraph (a) of subsection (6) of
10 this Section, the Secretary shall adopt rules that ensure
11 consistency and due process in the examination process.
12 The Secretary may also establish guidelines that (i)
13 define the scope of the examination process and (ii)
14 clarify examination items to be resolved. The rules,
15 formal guidance, interpretive letters, or opinions
16 furnished to State banks by the Secretary may be relied
17 upon by the State banks.

18 (2.5) Whenever any State bank, any subsidiary or
19 affiliate of a State bank, or after May 31, 1997, any
20 branch of an out-of-state bank causes to be performed, by
21 contract or otherwise, any bank services for itself,
22 whether on or off its premises:

23 (a) that performance shall be subject to
24 examination by the Commissioner to the same extent as
25 if services were being performed by the bank or, after
26 May 31, 1997, branch of the out-of-state bank itself

1 on its own premises; and

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

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

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

26 (a) Each bank shall pay to the Secretary a Call

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

1 examination. In lieu of the method and amounts set
2 forth in this paragraph (a) for the calculation of the
3 Call Report Fee, the Secretary may specify by rule
4 that the Call Report Fees provided by this Section may
5 be assessed semiannually or some other period and may
6 provide in the rule the formula to be used for
7 calculating and assessing the periodic Call Report
8 Fees to be paid by State banks.

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

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

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

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

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

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

1 payable by the State bank and of the date fixed by the
2 Commissioner for payment of the fee.

3 (c) The "administration expenses" for any fiscal
4 year shall mean the ordinary and contingent expenses
5 for that year incident to making the examinations
6 provided for by, and for otherwise administering, this
7 Act, the Corporate Fiduciary Act, excluding the
8 expenses paid from the Corporate Fiduciary
9 Receivership account in the Bank and Trust Company
10 Fund, the Foreign Banking Office Act, the Electronic
11 Fund Transfer Act, and the Illinois Bank Examiners'
12 Education Foundation Act, including all salaries and
13 other compensation paid for personal services rendered
14 for the State by officers or employees of the State,
15 including the Commissioner and the Deputy
16 Commissioners, communication equipment and services,
17 office furnishings, surety bond premiums, and travel
18 expenses of those officers and employees, employees,
19 expenditures or charges for the acquisition,
20 enlargement or improvement of, or for the use of, any
21 office space, building, or structure, or expenditures
22 for the maintenance thereof or for furnishing heat,
23 light, or power with respect thereto, all to the
24 extent that those expenditures are directly incidental
25 to such examinations or administration. The
26 Commissioner shall not be required by paragraph (c) or

1 (d-1) of this subsection (3) to maintain in any fiscal
2 year's budget appropriated reserves for accrued
3 vacation and accrued sick leave that is required to be
4 paid to employees of the Commissioner upon termination
5 of their service with the Commissioner in an amount
6 that is more than is reasonably anticipated to be
7 necessary for any anticipated turnover in employees,
8 whether due to normal attrition or due to layoffs,
9 terminations, or resignations.

10 (c-1) At the conclusion of each fiscal year,
11 beginning in fiscal year 2025, the Department shall
12 separately identify the direct administrative and
13 operational expenses and allocable indirect costs of
14 the Division of Banking of the Department incidental
15 to conducting the examinations required or authorized
16 by the Illinois Community Reinvestment Act and
17 implementing rules adopted by the Department. Pursuant
18 to Section 2105-300 of the Department of Professional
19 Regulation Law of the Civil Administrative Code of
20 Illinois, the Department shall make copies of the
21 analyses available to the banking industry in a timely
22 manner. The administrative and operational expenses of
23 the Division of Banking of the Department in
24 conducting examinations required or authorized by the
25 Illinois Community Reinvestment Act shall have the
26 same meaning and scope as the administration expenses

1 of the Division of Banking of the Department, as
2 defined in paragraph (c) of subsection (3).

3 (d) The aggregate of all fees collected by the
4 Secretary under this Act, the Corporate Fiduciary Act,
5 or the Foreign Banking Office Act on and after July 1,
6 1979, and from State banks and savings banks pursuant
7 to the Illinois Community Reinvestment Act shall be
8 paid promptly after receipt of the same, accompanied
9 by a detailed statement thereof, into the State
10 treasury and shall be set apart in a special fund to be
11 known as the Bank and Trust Company Fund, except as
12 provided in paragraph (c) of subsection (11) of this
13 Section. All earnings received from investments of
14 funds in the Bank and Trust Company Fund shall be
15 deposited into the Bank and Trust Company Fund and may
16 be used for the same purposes as fees deposited into
17 that Fund. The amount from time to time deposited into
18 the Bank and Trust Company Fund shall be used: (i) to
19 offset the ordinary administrative expenses of the
20 Secretary as defined in this Section or (ii) as a
21 credit against fees under paragraph (d-1) of this
22 subsection (3). Nothing in Public Act 81-131 shall
23 prevent continuing the practice of paying expenses
24 involving salaries, retirement, social security, and
25 State-paid insurance premiums of State officers by
26 appropriations from the General Revenue Fund. However,

1 the General Revenue Fund shall be reimbursed for those
2 payments made on and after July 1, 1979, by an annual
3 transfer of funds from the Bank and Trust Company
4 Fund. Moneys in the Bank and Trust Company Fund may be
5 transferred to the Professions Indirect Cost Fund, as
6 authorized under Section 2105-300 of the Department of
7 Professional Regulation Law of the Civil
8 Administrative Code of Illinois.

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

1 Comptroller shall transfer the amounts designated
2 under this Section as soon as may be practicable after
3 receiving the direction to transfer from the Governor.

4 (d-1) Adequate funds shall be available in the
5 Bank and Trust Company Fund to permit the timely
6 payment of administration expenses. In each fiscal
7 year the total administration expenses shall be
8 deducted from the total fees collected by the
9 Commissioner and the remainder transferred into the
10 Cash Flow Reserve Account, unless the balance of the
11 Cash Flow Reserve Account prior to the transfer equals
12 or exceeds one-fourth of the total initial
13 appropriations from the Bank and Trust Company Fund
14 for the subsequent year, in which case the remainder
15 shall be credited to State banks and foreign banking
16 corporations and applied against their fees for the
17 subsequent year. The amount credited to each State
18 bank and foreign banking corporation shall be in the
19 same proportion as the Call Report Fees paid by each
20 for the year bear to the total Call Report Fees
21 collected for the year. If, after a transfer to the
22 Cash Flow Reserve Account is made or if no remainder is
23 available for transfer, the balance of the Cash Flow
24 Reserve Account is less than one-fourth of the total
25 initial appropriations for the subsequent year and the
26 amount transferred is less than 5% of the total Call

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

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

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

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

1 nor to limit in any way the powers of the Commissioner with
2 reference to examinations and reports of that bank.

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

23 (6) The Commissioner shall have the power:

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

26 (a-5) To impose conditions on any approval issued

1 by the Commissioner if he determines that the
2 conditions are necessary or appropriate. These
3 conditions shall be imposed in writing and shall
4 continue in effect for the period prescribed by the
5 Commissioner.

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

15 (b-1) To enter into agreements with a bank
16 establishing a program to correct the condition of the
17 bank or its practices.

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

25 (d) To subpoena witnesses, to compel their
26 attendance, to administer an oath, to examine any

1 person under oath, and to require the production of
2 any relevant books, papers, accounts, and documents in
3 the course of and pursuant to any investigation being
4 conducted, or any action being taken, by the
5 Commissioner in respect of any matter relating to the
6 duties imposed upon, or the powers vested in, the
7 Commissioner under the provisions of this Act or any
8 rule promulgated in accordance with this Act.

9 (e) To conduct hearings.

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

1 State bank, the Secretary may issue an order of removal.
2 If, in the opinion of the Secretary, any former director,
3 officer, employee, or agent of a State bank or any
4 subsidiary or bank holding company of the bank, prior to
5 the termination of his or her service with that bank or any
6 subsidiary or bank holding company of the bank, violated
7 any law, rule, or order relating to that State bank or any
8 subsidiary or bank holding company of the bank, obstructed
9 or impeded any examination or investigation by the
10 Secretary, engaged in an unsafe or unsound practice in
11 conducting the business of that bank or any subsidiary or
12 bank holding company of the bank, or violated any law or
13 engaged or participated in any unsafe or unsound practice
14 in connection with any financial institution or other
15 business entity such that the character and fitness of the
16 director, officer, employee, or agent would not have
17 assured reasonable promise of safe and sound operation of
18 the State bank, the Secretary may issue an order
19 prohibiting that person from further service with a bank
20 or any subsidiary or bank holding company of the bank as a
21 director, officer, employee, or agent. An order issued
22 pursuant to this subsection shall be served upon the
23 director, officer, employee, or agent. A copy of the order
24 shall be sent to each director of the bank affected by
25 registered mail. A copy of the order shall also be served
26 upon the bank of which he is a director, officer,

1 employee, or agent, whereupon he shall cease to be a
2 director, officer, employee, or agent of that bank. The
3 Secretary may institute a civil action against the
4 director, officer, or agent of the State bank or, after
5 May 31, 1997, of the branch of the out-of-state bank
6 against whom any order provided for by this subsection (7)
7 of this Section 48 has been issued, and against the State
8 bank or, after May 31, 1997, out-of-state bank, to enforce
9 compliance with or to enjoin any violation of the terms of
10 the order. Any person who has been the subject of an order
11 of removal or an order of prohibition issued by the
12 Secretary under this subsection or Section 5-6 of the
13 Corporate Fiduciary Act may not thereafter serve as
14 director, officer, employee, or agent of any State bank or
15 of any branch of any out-of-state bank, or of any
16 corporate fiduciary, as defined in Section 1-5.05 of the
17 Corporate Fiduciary Act, or of any other entity that is
18 subject to licensure or regulation by the Division of
19 Banking unless the Secretary has granted prior approval in
20 writing.

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

24 (7.5) Notwithstanding the provisions of this Section,
25 the Secretary shall not:

26 (1) issue an order against a State bank or any

1 subsidiary organized under this Act for unsafe or
2 unsound banking practices solely because the entity
3 provides or has provided financial services to a
4 cannabis-related legitimate business;

5 (2) prohibit, penalize, or otherwise discourage a
6 State bank or any subsidiary from providing financial
7 services to a cannabis-related legitimate business
8 solely because the entity provides or has provided
9 financial services to a cannabis-related legitimate
10 business;

11 (3) recommend, incentivize, or encourage a State
12 bank or any subsidiary not to offer financial services
13 to an account holder or to downgrade or cancel the
14 financial services offered to an account holder solely
15 because:

16 (A) the account holder is a manufacturer or
17 producer, or is the owner, operator, or employee
18 of a cannabis-related legitimate business;

19 (B) the account holder later becomes an owner
20 or operator of a cannabis-related legitimate
21 business; or

22 (C) the State bank or any subsidiary was not
23 aware that the account holder is the owner or
24 operator of a cannabis-related legitimate
25 business; and

26 (4) take any adverse or corrective supervisory

1 action on a loan made to an owner or operator of:

2 (A) a cannabis-related legitimate business
3 solely because the owner or operator owns or
4 operates a cannabis-related legitimate business;
5 or

6 (B) real estate or equipment that is leased to
7 a cannabis-related legitimate business solely
8 because the owner or operator of the real estate
9 or equipment leased the equipment or real estate
10 to a cannabis-related legitimate business.

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

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

23 (10) All final administrative decisions of the
24 Commissioner hereunder shall be subject to judicial review
25 pursuant to the provisions of the Administrative Review
26 Law. For matters involving administrative review, venue

1 shall be in either Sangamon County or Cook County.

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

5 (a) (Blank).

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

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

1 corporate fiduciary in the name of the Illinois Bank
2 Examiners' Education Foundation pursuant to the order
3 and direction of the Board of Trustees of the Illinois
4 Bank Examiners' Education Foundation.

5 (12) (Blank).

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

14 (14) In addition to the fees authorized in this Act,
15 the Secretary may assess reasonable receivership fees
16 against any State bank that does not maintain insurance
17 with the Federal Deposit Insurance Corporation. All fees
18 collected under this subsection (14) shall be paid into
19 the Non-insured Institutions Receivership account in the
20 Bank and Trust Company Fund, as established by the
21 Secretary. The fees assessed under this subsection (14)
22 shall provide for the expenses that arise from the
23 administration of the receivership of any such institution
24 required to pay into the Non-insured Institutions
25 Receivership account, whether pursuant to this Act, the
26 Corporate Fiduciary Act, the Foreign Banking Office Act,

1 or any other Act that requires payments into the
2 Non-insured Institutions Receivership account. The
3 Secretary may establish by rule a reasonable manner of
4 assessing fees under this subsection (14).

5 (Source: P.A. 102-558, eff. 8-20-21; 103-154, eff. 6-30-23.)

6 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

7 Sec. 48.1. Customer financial records; confidentiality.

8 (a) For the purpose of this Section, the term "financial
9 records" means any original, any copy, or any summary of:

10 (1) a document granting signature authority over a
11 deposit or account;

12 (2) a statement, ledger card or other record on any
13 deposit or account, which shows each transaction in or
14 with respect to that account;

15 (3) a check, draft or money order drawn on a bank or
16 issued and payable by a bank; or

17 (4) any other item containing information pertaining
18 to any relationship established in the ordinary course of
19 a bank's business between a bank and its customer,
20 including financial statements or other financial
21 information provided by the customer.

22 (b) This Section does not prohibit:

23 (1) The preparation, examination, handling or
24 maintenance of any financial records by any officer,
25 employee or agent of a bank having custody of the records,

1 or the examination of the records by a certified public
2 accountant engaged by the bank to perform an independent
3 audit.

4 (2) The examination of any financial records by, or
5 the furnishing of financial records by a bank to, any
6 officer, employee or agent of (i) the Commissioner of
7 Banks and Real Estate, (ii) after May 31, 1997, a state
8 regulatory authority authorized to examine a branch of a
9 State bank located in another state, (iii) the Comptroller
10 of the Currency, (iv) the Federal Reserve Board, or (v)
11 the Federal Deposit Insurance Corporation for use solely
12 in the exercise of his duties as an officer, employee, or
13 agent.

14 (3) The publication of data furnished from financial
15 records relating to customers where the data cannot be
16 identified to any particular customer or account.

17 (4) The making of reports or returns required under
18 Chapter 61 of the Internal Revenue Code of 1986.

19 (5) Furnishing information concerning the dishonor of
20 any negotiable instrument permitted to be disclosed under
21 the Uniform Commercial Code.

22 (6) The exchange in the regular course of business of
23 (i) credit information between a bank and other banks or
24 financial institutions or commercial enterprises, directly
25 or through a consumer reporting agency or (ii) financial
26 records or information derived from financial records

1 between a bank and other banks or financial institutions
2 or commercial enterprises for the purpose of conducting
3 due diligence pursuant to a purchase or sale involving the
4 bank or assets or liabilities of the bank.

5 (7) The furnishing of information to the appropriate
6 law enforcement authorities where the bank reasonably
7 believes it has been the victim of a crime.

8 (8) The furnishing of information under the Revised
9 Uniform Unclaimed Property Act.

10 (9) The furnishing of information under the Illinois
11 Income Tax Act and the Illinois Estate and
12 Generation-Skipping Transfer Tax Act.

13 (10) The furnishing of information under the federal
14 Currency and Foreign Transactions Reporting Act Title 31,
15 United States Code, Section 1051 et seq.

16 (11) The furnishing of information under any other
17 statute that by its terms or by regulations promulgated
18 thereunder requires the disclosure of financial records
19 other than by subpoena, summons, warrant, or court order.

20 (12) The furnishing of information about the existence
21 of an account of a person to a judgment creditor of that
22 person who has made a written request for that
23 information.

24 (13) The exchange in the regular course of business of
25 information between commonly owned banks in connection
26 with a transaction authorized under paragraph (23) of

1 Section 5 and conducted at an affiliate facility.

2 (14) The furnishing of information in accordance with
3 the federal Personal Responsibility and Work Opportunity
4 Reconciliation Act of 1996. Any bank governed by this Act
5 shall enter into an agreement for data exchanges with a
6 State agency provided the State agency pays to the bank a
7 reasonable fee not to exceed its actual cost incurred. A
8 bank providing information in accordance with this item
9 shall not be liable to any account holder or other person
10 for any disclosure of information to a State agency, for
11 encumbering or surrendering any assets held by the bank in
12 response to a lien or order to withhold and deliver issued
13 by a State agency, or for any other action taken pursuant
14 to this item, including individual or mechanical errors,
15 provided the action does not constitute gross negligence
16 or willful misconduct. A bank shall have no obligation to
17 hold, encumber, or surrender assets until it has been
18 served with a subpoena, summons, warrant, court or
19 administrative order, lien, or levy.

20 (15) The exchange in the regular course of business of
21 information between a bank and any commonly owned
22 affiliate of the bank, subject to the provisions of the
23 Financial Institutions Insurance Sales Law.

24 (16) The furnishing of information to law enforcement
25 authorities, the Illinois Department on Aging and its
26 regional administrative and provider agencies, the

1 Department of Human Services Office of Inspector General,
2 or public guardians: (i) upon subpoena by the
3 investigatory entity or the guardian, or (ii) if there is
4 suspicion by the bank that a customer who is an elderly
5 person or person with a disability has been or may become
6 the victim of financial exploitation. For the purposes of
7 this item (16), the term: (i) "elderly person" means a
8 person who is 60 or more years of age, (ii) "~~disabled~~
9 person with a disability" means a person who has or
10 reasonably appears to the bank to have a physical or
11 mental disability that impairs his or her ability to seek
12 or obtain protection from or prevent financial
13 exploitation, and (iii) "financial exploitation" means
14 tortious or illegal use of the assets or resources of an
15 elderly ~~or disabled~~ person or person with a disability,
16 and includes, without limitation, misappropriation of the
17 ~~elderly or disabled person's~~ assets or resources of the
18 elderly person or person with a disability by undue
19 influence, breach of fiduciary relationship, intimidation,
20 fraud, deception, extortion, or the use of assets or
21 resources in any manner contrary to law. A bank or person
22 furnishing information pursuant to this item (16) shall be
23 entitled to the same rights and protections as a person
24 furnishing information under the Adult Protective Services
25 Act and the Illinois Domestic Violence Act of 1986.

26 (17) The disclosure of financial records or

1 information as necessary to effect, administer, or enforce
2 a transaction requested or authorized by the customer, or
3 in connection with:

4 (A) servicing or processing a financial product or
5 service requested or authorized by the customer;

6 (B) maintaining or servicing a customer's account
7 with the bank; or

8 (C) a proposed or actual securitization or
9 secondary market sale (including sales of servicing
10 rights) related to a transaction of a customer.

11 Nothing in this item (17), however, authorizes the
12 sale of the financial records or information of a customer
13 without the consent of the customer.

14 (18) The disclosure of financial records or
15 information as necessary to protect against actual or
16 potential fraud, unauthorized transactions, claims, or
17 other liability.

18 (19) (A) The disclosure of financial records or
19 information related to a private label credit program
20 between a financial institution and a private label party
21 in connection with that private label credit program. Such
22 information is limited to outstanding balance, available
23 credit, payment and performance and account history,
24 product references, purchase information, and information
25 related to the identity of the customer.

26 (B) (1) For purposes of this paragraph (19) of

1 subsection (b) of Section 48.1, a "private label credit
2 program" means a credit program involving a financial
3 institution and a private label party that is used by a
4 customer of the financial institution and the private
5 label party primarily for payment for goods or services
6 sold, manufactured, or distributed by a private label
7 party.

8 (2) For purposes of this paragraph (19) of subsection
9 (b) of Section 48.1, a "private label party" means, with
10 respect to a private label credit program, any of the
11 following: a retailer, a merchant, a manufacturer, a trade
12 group, or any such person's affiliate, subsidiary, member,
13 agent, or service provider.

14 (20) (A) The furnishing of financial records of a
15 customer to the Department to aid the Department's initial
16 determination or subsequent re-determination of the
17 customer's eligibility for Medicaid and Medicaid long-term
18 care benefits for long-term care services, provided that
19 the bank receives the written consent and authorization of
20 the customer, which shall:

21 (1) have the customer's signature notarized;

22 (2) be signed by at least one witness who
23 certifies that he or she believes the customer to be of
24 sound mind and memory;

25 (3) be tendered to the bank at the earliest
26 practicable time following its execution,

1 certification, and notarization;

2 (4) specifically limit the disclosure of the
3 customer's financial records to the Department; and

4 (5) be in substantially the following form:

5 CUSTOMER CONSENT AND AUTHORIZATION
6 FOR RELEASE OF FINANCIAL RECORDS

7 I, , hereby authorize
8 (Name of Customer)

9
10 (Name of Financial Institution)

11
12 (Address of Financial Institution)

13 to disclose the following financial records:

14 any and all information concerning my deposit, savings, money
15 market, certificate of deposit, individual retirement,
16 retirement plan, 401(k) plan, incentive plan, employee benefit
17 plan, mutual fund and loan accounts (including, but not
18 limited to, any indebtedness or obligation for which I am a
19 co-borrower, co-obligor, guarantor, or surety), and any and
20 all other accounts in which I have an interest and any other

1 information regarding me in the possession of the Financial
2 Institution,

3 to the Illinois Department of Human Services or the Illinois
4 Department of Healthcare and Family Services, or both ("the
5 Department"), for the following purpose(s):

6 to aid in the initial determination or re-determination by the
7 State of Illinois of my eligibility for Medicaid long-term
8 care benefits, pursuant to applicable law.

9 I understand that this Consent and Authorization may be
10 revoked by me in writing at any time before my financial
11 records, as described above, are disclosed, and that this
12 Consent and Authorization is valid until the Financial
13 Institution receives my written revocation. This Consent and
14 Authorization shall constitute valid authorization for the
15 Department identified above to inspect all such financial
16 records set forth above, and to request and receive copies of
17 such financial records from the Financial Institution (subject
18 to such records search and reproduction reimbursement policies
19 as the Financial Institution may have in place). An executed
20 copy of this Consent and Authorization shall be sufficient and
21 as good as the original and permission is hereby granted to
22 honor a photostatic or electronic copy of this Consent and
23 Authorization. Disclosure is strictly limited to the

1 Department identified above and no other person or entity
 2 shall receive my financial records pursuant to this Consent
 3 and Authorization. By signing this form, I agree to indemnify
 4 and hold the Financial Institution harmless from any and all
 5 claims, demands, and losses, including reasonable attorneys
 6 fees and expenses, arising from or incurred in its reliance on
 7 this Consent and Authorization. As used herein, "Customer"
 8 shall mean "Member" if the Financial Institution is a credit
 9 union.

10
 11

(Date) (Signature of Customer)

12

13

14 (Address of Customer)

15

16 (Customer's birth date)

17 (month/day/year)

18 The undersigned witness certifies that,
 19 known to me to be the same person whose name is subscribed as
 20 the customer to the foregoing Consent and Authorization,
 21 appeared before me and the notary public and acknowledged
 22 signing and delivering the instrument as his or her free and

1 voluntary act for the uses and purposes therein set forth. I
 2 believe him or her to be of sound mind and memory. The
 3 undersigned witness also certifies that the witness is not an
 4 owner, operator, or relative of an owner or operator of a
 5 long-term care facility in which the customer is a patient or
 6 resident.

7 Dated:

8 (Signature of Witness)

9

10 (Print Name of Witness)

11

12

13 (Address of Witness)

14 State of Illinois)

15) ss.

16 County of

17 The undersigned, a notary public in and for the above county
 18 and state, certifies that, known to me to be the
 19 same person whose name is subscribed as the customer to the
 20 foregoing Consent and Authorization, appeared before me
 21 together with the witness,, in person and

1 acknowledged signing and delivering the instrument as the free
2 and voluntary act of the customer for the uses and purposes
3 therein set forth.

4 Dated:

5 Notary Public:

6 My commission expires:

7 (B) In no event shall the bank distribute the
8 customer's financial records to the long-term care
9 facility from which the customer seeks initial or
10 continuing residency or long-term care services.

11 (C) A bank providing financial records of a customer
12 in good faith relying on a consent and authorization
13 executed and tendered in accordance with this paragraph
14 (20) shall not be liable to the customer or any other
15 person in relation to the bank's disclosure of the
16 customer's financial records to the Department. The
17 customer signing the consent and authorization shall
18 indemnify and hold the bank harmless that relies in good
19 faith upon the consent and authorization and incurs a loss
20 because of such reliance. The bank recovering under this
21 indemnification provision shall also be entitled to
22 reasonable attorney's fees and the expenses of recovery.

23 (D) A bank shall be reimbursed by the customer for all
24 costs reasonably necessary and directly incurred in

1 searching for, reproducing, and disclosing a customer's
2 financial records required or requested to be produced
3 pursuant to any consent and authorization executed under
4 this paragraph (20). The requested financial records shall
5 be delivered to the Department within 10 days after
6 receiving a properly executed consent and authorization or
7 at the earliest practicable time thereafter if the
8 requested records cannot be delivered within 10 days, but
9 delivery may be delayed until the final reimbursement of
10 all costs is received by the bank. The bank may honor a
11 photostatic or electronic copy of a properly executed
12 consent and authorization.

13 (E) Nothing in this paragraph (20) shall impair,
14 abridge, or abrogate the right of a customer to:

15 (1) directly disclose his or her financial records
16 to the Department or any other person; or

17 (2) authorize his or her attorney or duly
18 appointed agent to request and obtain the customer's
19 financial records and disclose those financial records
20 to the Department.

21 (F) For purposes of this paragraph (20), "Department"
22 means the Department of Human Services and the Department
23 of Healthcare and Family Services or any successor
24 administrative agency of either agency.

25 (21) The furnishing of financial records of a deceased
26 customer to a public administrator of any county or other

1 governmental jurisdiction for the purpose of facilitating
2 burial of the customer.

3 (c) Except as otherwise provided by this Act, a bank may
4 not disclose to any person, except to the customer or his duly
5 authorized agent, any financial records or financial
6 information obtained from financial records relating to that
7 customer of that bank unless:

8 (1) the customer has authorized disclosure to the
9 person;

10 (2) the financial records are disclosed in response to
11 a lawful subpoena, summons, warrant, citation to discover
12 assets, or court order which meets the requirements of
13 subsection (d) of this Section; or

14 (3) the bank is attempting to collect an obligation
15 owed to the bank and the bank complies with the provisions
16 of Section 2I of the Consumer Fraud and Deceptive Business
17 Practices Act.

18 (d) A bank shall disclose financial records under
19 paragraph (2) of subsection (c) of this Section under a lawful
20 subpoena, summons, warrant, citation to discover assets, or
21 court order only after the bank sends a copy of the subpoena,
22 summons, warrant, citation to discover assets, or court order
23 to the person establishing the relationship with the bank, if
24 living, and, otherwise the person's personal representative,
25 if known, at the person's last known address by first class
26 mail, postage prepaid, through a third-party commercial

1 carrier or courier with delivery charge fully prepaid, by hand
2 delivery, or by electronic delivery at an email address on
3 file with the bank (if the person establishing the
4 relationship with the bank has consented to receive electronic
5 delivery and, if the person establishing the relationship with
6 the bank is a consumer, the person has consented under the
7 consumer consent provisions set forth in Section 7001 of Title
8 15 of the United States Code), unless the bank is specifically
9 prohibited from notifying the person by order of court or by
10 applicable State or federal law. A bank shall not mail a copy
11 of a subpoena to any person pursuant to this subsection if the
12 subpoena was issued by a grand jury ~~under the Statewide Grand~~
13 ~~Jury Act.~~

14 (e) Any officer or employee of a bank who knowingly and
15 willfully furnishes financial records in violation of this
16 Section is guilty of a business offense and, upon conviction,
17 shall be fined not more than \$1,000.

18 (f) Any person who knowingly and willfully induces or
19 attempts to induce any officer or employee of a bank to
20 disclose financial records in violation of this Section is
21 guilty of a business offense and, upon conviction, shall be
22 fined not more than \$1,000.

23 (g) A bank shall be reimbursed for costs that are
24 reasonably necessary and that have been directly incurred in
25 searching for, reproducing, or transporting books, papers,
26 records, or other data required or requested to be produced

1 pursuant to a lawful subpoena, summons, warrant, citation to
2 discover assets, or court order. The Commissioner shall
3 determine the rates and conditions under which payment may be
4 made.

5 (Source: P.A. 101-81, eff. 7-12-19; 102-873, eff. 5-13-22.)

6 (205 ILCS 5/48.2) (from Ch. 17, par. 360.1)

7 Sec. 48.2. Prohibition against certain activities.

8 (a) Any bank, subsidiary, affiliate, officer or employee
9 of such bank subject to this Act shall not:

10 (1) grant any loan on the prior condition, agreement
11 or understanding that the borrower contract with any
12 specific person or organization for the following:

13 (A) insurance services of an agent or broker;

14 (B) legal services rendered to the borrower;

15 (C) services of a real estate agent or broker; or

16 (D) real estate or property management services;

17 (2) require that insurance services, legal services,
18 real estate services or property management services be
19 placed with any subsidiary, affiliate, officer or employee
20 of any bank.

21 (b) Any bank or subsidiary, affiliate, employee, officer,
22 banking house, branch bank, branch office, additional office
23 or agency of such bank that is transacting an insurance
24 business in this State shall comply with Article XLIV of the
25 Illinois Insurance Code.

1 (c) Any officer or employee of a bank or its affiliates or
2 subsidiaries who violates this Section is guilty of a business
3 offense, and upon conviction shall be fined not more than
4 \$1,000. This Section does not create a private cause of action
5 for civil damages.

6 (d) In any contract or loan which is secured by a mortgage,
7 deed of trust, or conveyance in the nature of a mortgage, on
8 residential real estate, the interest which is computed,
9 calculated, charged, or collected pursuant to such contract or
10 loan, or pursuant to any regulation or rule promulgated
11 pursuant to this Act, may not be computed, calculated, charged
12 or collected for any period of time occurring after the date on
13 which the total indebtedness, with the exception of late
14 payment penalties, is paid in full. For purposes of this
15 subsection (d) of this Section 48.2, a prepayment shall mean
16 the payment of the total indebtedness, with the exception of
17 late payment penalties if incurred or charged, on any date
18 before the date specified in the contract or loan agreement on
19 which the total indebtedness shall be paid in full, or before
20 the date on which all payments, if timely made, shall have been
21 made. In the event of a prepayment of the indebtedness which is
22 made on a date after the date on which interest on the
23 indebtedness was last computed, calculated, charged, or
24 collected but before the next date on which interest on the
25 indebtedness was to be calculated, computed, charged, or
26 collected, the lender may calculate, charge and collect

1 interest on the indebtedness for the period which elapsed
2 between the date on which the prepayment is made and the date
3 on which interest on the indebtedness was last computed,
4 calculated, charged or collected at a rate equal to 1/360 of
5 the annual rate for each day which so elapsed, which rate shall
6 be applied to the indebtedness outstanding as of the date of
7 prepayment. The lender shall refund to the borrower any
8 interest charged or collected which exceeds that which the
9 lender may charge or collect pursuant to the preceding
10 sentence. The provisions of this amendatory Act of 1985 shall
11 apply only to contracts or loans entered into on or after
12 January 1, 1986.

13 (e) Any bank, affiliate or subsidiary of such bank which
14 shall engage in making residential mortgage financing
15 transactions, shall with respect to each such transaction,
16 provide the following:

17 (1) if a contractual obligation is intended to a
18 borrower, a mortgage commitment which shall set forth the
19 material terms, conditions and contingencies of such
20 commitment;

21 (2) if the servicing of a residential mortgage shall
22 be transferred from the original mortgagee, within 45 days
23 of such transfer, written notice ~~sent by certified mail,~~
24 ~~return receipt requested,~~ to the mortgagor ~~at the address~~
25 ~~of the property, unless the mortgagor shall have directed~~
26 ~~correspondence from the mortgagee shall be sent to another~~

1 ~~address~~, which notice shall set forth: the name and
2 address of the transferee; the name, address and telephone
3 number to which inquiries by the residential mortgagor
4 should be addressed; and the name and address to which the
5 next 3 monthly installments are to be submitted to the
6 transferee and the amount of each of such monthly
7 installment; and

8 (3) if the servicing of a residential mortgage shall
9 be transferred again or if the information in paragraph
10 (2) above shall change, the notice with the corrected
11 information shall be provided within 45 days of such
12 subsequent transfer or change in information by the
13 transferee of the servicing of the mortgage at that time.

14 (Source: P.A. 90-41, eff. 10-1-97.)

15 Section 10. The Savings Bank Act is amended by changing
16 Sections 1008, 4002, 4003, 4013, 6002, 7005, 8002, 8016, and
17 11008 as follows:

18 (205 ILCS 205/1008) (from Ch. 17, par. 7301-8)

19 Sec. 1008. General corporate powers.

20 (a) A savings bank operating under this Act shall be a body
21 corporate and politic and shall have all of the powers
22 conferred by this Act including, but not limited to, the
23 following powers:

24 (1) To sue and be sued, complain, and defend in its

1 corporate name and to have a common seal, which it may
2 alter or renew at pleasure.

3 (2) To obtain and maintain insurance by a deposit
4 insurance corporation as defined in this Act.

5 (3) To act as a fiscal agent for the United States, the
6 State of Illinois or any department, branch, arm, or
7 agency of the State or any unit of local government or
8 school district in the State, when duly designated for
9 that purpose, and as agent to perform reasonable functions
10 as may be required of it.

11 (4) To become a member of or deal with any corporation
12 or agency of the United States or the State of Illinois, to
13 the extent that the agency assists in furthering or
14 facilitating its purposes or powers and to that end to
15 purchase stock or securities thereof or deposit money
16 therewith, and to comply with any other conditions of
17 membership or credit.

18 (5) To make donations in reasonable amounts for the
19 public welfare or for charitable, scientific, religious,
20 or educational purposes.

21 (6) To adopt and operate reasonable insurance, bonus,
22 profit sharing, and retirement plans for officers and
23 employees and for directors including, but not limited to,
24 advisory, honorary, and emeritus directors, who are not
25 officers or employees.

26 (7) To reject any application for membership; to

1 retire deposit accounts by enforced retirement as provided
2 in this Act and the bylaws; and to limit the issuance of,
3 or payments on, deposit accounts, subject, however, to
4 contractual obligations.

5 (8) To purchase stock or membership interests in
6 service corporations and to invest in any form of
7 indebtedness of any service corporation as defined in this
8 Act, subject to regulations of the Secretary.

9 (9) To purchase stock of a corporation whose principal
10 purpose is to operate a safe deposit company or escrow
11 service company.

12 (10) To exercise all the powers necessary to qualify
13 as a trustee or custodian under federal or State law,
14 provided that the authority to accept and execute trusts
15 is subject to the provisions of the Corporate Fiduciary
16 Act and to the supervision of those activities by the
17 Secretary.

18 (11) (Blank).

19 (12) To establish, maintain, and operate terminals as
20 authorized by the Electronic Fund Transfer Act.

21 (13) To borrow or incur an obligation; and to pledge
22 its assets:

23 (A) to enable it to act as agent for the sale of
24 obligations of the United States;

25 (B) to secure deposits;

26 (C) to secure deposits of money whenever required

1 by the National Bankruptcy Act;

2 (D) (blank); and

3 (E) to secure trust funds commingled with the
4 savings bank's funds, whether deposited by the savings
5 bank or an affiliate of the savings bank, as required
6 under Section 2-8 of the Corporate Fiduciary Act.

7 (14) To accept for payment at a future date not to
8 exceed one year from the date of acceptance, drafts drawn
9 upon it by its customers; and to issue, advise, or confirm
10 letters of credit authorizing holders thereof to draw
11 drafts upon it or its correspondents.

12 (15) Subject to the regulations of the Secretary, to
13 own and lease personal property acquired by the savings
14 bank at the request of a prospective lessee and, upon the
15 agreement of that person, to lease the personal property.

16 (16) To establish temporary service booths at any
17 International Fair in this State that is approved by the
18 United States Department of Commerce for the duration of
19 the international fair for the purpose of providing a
20 convenient place for foreign trade customers to exchange
21 their home countries' currency into United States currency
22 or the converse. To provide temporary periodic service to
23 persons residing in a bona fide nursing home, senior
24 citizens' retirement home, or long-term care facility.
25 These powers shall not be construed as establishing a new
26 place or change of location for the savings bank providing

1 the service booth.

2 (17) To indemnify its officers, directors, employees,
3 and agents, as authorized for corporations under Section
4 8.75 of the Business Corporation Act of 1983.

5 (18) To provide data processing services to others on
6 a for-profit basis.

7 (19) To utilize any electronic technology to provide
8 customers with home banking services.

9 (20) Subject to the regulations of the Secretary, to
10 enter into an agreement to act as a surety.

11 (21) Subject to the regulations of the Secretary, to
12 issue credit cards, extend credit therewith, and otherwise
13 engage in or participate in credit card operations.

14 (22) To purchase for its own account shares of stock
15 of a bankers' bank, described in Section 13(b)(1) of the
16 Illinois Banking Act, on the same terms and conditions as
17 a bank may purchase such shares. In no event shall the
18 total amount of such stock held by a savings bank in such
19 bankers' bank exceed 10% of its capital and surplus
20 (including undivided profits) and in no event shall a
21 savings bank acquire more than 15% ~~5%~~ of any class of
22 voting securities of such bankers' bank.

23 (23) With respect to affiliate facilities:

24 (A) to conduct at affiliate facilities any of the
25 following transactions for and on behalf of any
26 affiliated depository institution, if so authorized by

1 the affiliate or affiliates: receiving deposits;
2 renewing deposits; cashing and issuing checks, drafts,
3 money orders, travelers checks, or similar
4 instruments; changing money; receiving payments on
5 existing indebtedness; ~~and~~ conducting ministerial
6 functions with respect to loan applications, servicing
7 loans, and providing loan account information; and, on
8 behalf of another commonly owned bank, if so
9 authorized by the other bank, all transactions that
10 the other bank is authorized or permitted to perform;
11 and

12 (B) to authorize an affiliated depository
13 institution to conduct for and on behalf of it, any of
14 the transactions listed in this subsection at one or
15 more affiliate facilities.

16 A savings bank intending to conduct or to authorize an
17 affiliated depository institution to conduct at an
18 affiliate facility any of the transactions specified in
19 this subsection shall give written notice to the Secretary
20 at least 30 days before any such transaction is conducted
21 at an affiliate facility. All conduct under this
22 subsection shall be on terms consistent with safe and
23 sound banking practices and applicable law.

24 (24) Subject to Article XLIV of the Illinois Insurance
25 Code, to act as the agent for any fire, life, or other
26 insurance company authorized by the State of Illinois, by

1 soliciting and selling insurance and collecting premiums
2 on policies issued by such company; and may receive for
3 services so rendered such fees or commissions as may be
4 agreed upon between the said savings bank and the
5 insurance company for which it may act as agent; provided,
6 however, that no such savings bank shall in any case
7 assume or guarantee the payment of any premium on
8 insurance policies issued through its agency by its
9 principal; and provided further, that the savings bank
10 shall not guarantee the truth of any statement made by an
11 assured in filing his application for insurance.

12 (25) To become a member of the Federal Home Loan Bank
13 and to have the powers granted to a savings association
14 organized under the Illinois Savings and Loan Act of 1985
15 or the laws of the United States, subject to regulations
16 of the Secretary.

17 (26) To offer any product or service that is at the
18 time authorized or permitted to a bank by applicable law,
19 but subject always to the same limitations and
20 restrictions that are applicable to the bank for the
21 product or service by such applicable law and subject to
22 the applicable provisions of the Financial Institutions
23 Insurance Sales Law and rules of the Secretary.

24 (b) If this Act or the regulations adopted under this Act
25 fail to provide specific guidance in matters of corporate
26 governance, the provisions of the Business Corporation Act of

1 1983 may be used, or if the savings bank is a limited liability
2 company, the provisions of the Limited Liability Company Act
3 shall be used.

4 (c) A savings bank may be organized as a limited liability
5 company, may convert to a limited liability company, or may
6 merge with and into a limited liability company, under the
7 applicable laws of this State and of the United States,
8 including any rules promulgated thereunder. A savings bank
9 organized as a limited liability company shall be subject to
10 the provisions of the Limited Liability Company Act in
11 addition to this Act, provided that if a provision of the
12 Limited Liability Company Act conflicts with a provision of
13 this Act or with any rule of the Secretary, the provision of
14 this Act or the rule of the Secretary shall apply.

15 Any filing required to be made under the Limited Liability
16 Company Act shall be made exclusively with the Secretary, and
17 the Secretary shall possess the exclusive authority to
18 regulate the savings bank as provided in this Act.

19 Any organization as, conversion to, and merger with or
20 into a limited liability company shall be subject to the prior
21 approval of the Secretary.

22 A savings bank that is a limited liability company shall
23 be subject to all of the provisions of this Act in the same
24 manner as a savings bank that is organized in stock form.

25 The Secretary may promulgate rules to ensure that a
26 savings bank that is a limited liability company (i) is

1 operating in a safe and sound manner and (ii) is subject to the
2 Secretary's authority in the same manner as a savings bank
3 that is organized in stock form.

4 (Source: P.A. 102-558, eff. 8-20-21.)

5 (205 ILCS 205/4002) (from Ch. 17, par. 7304-2)

6 Sec. 4002. Annual and special meetings. Dates of annual
7 meetings of members or stockholders shall be specified in the
8 bylaws. Failure to hold an annual meeting shall not cause a
9 forfeiture or dissolution of the savings bank. Special
10 meetings may be called by the board of directors, the holders
11 of not less than 25% of the outstanding capital stock shares,
12 or by any other person as the bylaws may designate. The
13 Commissioner may also call a special meeting with not less
14 than 12 hours written or oral notice. Every annual or special
15 meeting shall be held at the business office of the savings
16 bank ~~or, if the space is inadequate,~~ in another place within
17 the same county as shall be specifically designated in the
18 notice of the meeting, or virtually. Unless expressly
19 prohibited by the articles of incorporation or bylaws and
20 subject to applicable requirements of this Act, the board of
21 directors may provide by resolution that members or
22 stockholders may attend, participate in, act in, and vote at
23 an annual meeting or special meeting through the use of a
24 conference telephone or interactive technology, including, but
25 not limited to, electronic transmission, Internet usage, or

1 remote communication, by means of which all persons
2 participating in the meeting can communicate with each other.
3 Participation through the use of a conference telephone or
4 interactive technology shall constitute attendance, presence,
5 and representation in person at the annual meeting or special
6 meeting of the person or persons so participating and count
7 toward the quorum required to conduct business at the meeting.
8 The following conditions shall apply to any virtual meeting of
9 members or stockholders:

10 (a) the savings bank must internally possess or retain the
11 technological capacity to facilitate virtual meeting
12 attendance, participation, communication, and voting; and

13 (b) members or stockholders must receive notice of the use
14 of a virtual meeting format and appropriate instructions for
15 joining, participating, and voting during the virtual meeting
16 at least 7 days before the virtual meeting.

17 (Source: P.A. 86-1213.)

18 (205 ILCS 205/4003) (from Ch. 17, par. 7304-3)

19 Sec. 4003. Notice of meetings.

20 (a) Notice of an annual meeting shall be published once
21 not fewer than 10 days nor more than 40 days before the date of
22 the meeting. The notice shall also be displayed at the place of
23 business of the savings bank in a manner to be prescribed by
24 the Commissioner. The notice must state the time, place, and
25 purpose of the meeting.

1 (b) For any special meeting or for any annual meeting that
2 is to consider any proposition that requires an affirmative
3 vote of two-thirds of the members or stockholders or any
4 proposition to amend the articles of incorporation of the
5 savings bank, the notice must be delivered personally,
6 electronically, or by mail to the holders of stock, capital
7 accounts, and membership entitled to notice of or to vote at
8 the meeting, by mail, postmarked between 10 and 40 days before
9 the date of the meeting, ~~and must also be posted at the savings~~
10 ~~bank's offices as if for an annual meeting, beginning on the~~
11 ~~date notice is given.~~ All notices must state the time, place,
12 and purpose of the meeting. If mailed, the notice shall be
13 deemed to be delivered on the date on which it has been
14 postmarked.

15 (Source: P.A. 89-74, eff. 6-30-95.)

16 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

17 Sec. 4013. Access to books and records; communication with
18 members and shareholders.

19 (a) Every member or shareholder shall have the right to
20 inspect books and records of the savings bank that pertain to
21 his accounts. Otherwise, the right of inspection and
22 examination of the books and records shall be limited as
23 provided in this Act, and no other person shall have access to
24 the books and records nor shall be entitled to a list of the
25 members or shareholders.

1 (b) For the purpose of this Section, the term "financial
2 records" means any original, any copy, or any summary of (1) a
3 document granting signature authority over a deposit or
4 account; (2) a statement, ledger card, or other record on any
5 deposit or account that shows each transaction in or with
6 respect to that account; (3) a check, draft, or money order
7 drawn on a savings bank or issued and payable by a savings
8 bank; or (4) any other item containing information pertaining
9 to any relationship established in the ordinary course of a
10 savings bank's business between a savings bank and its
11 customer, including financial statements or other financial
12 information provided by the member or shareholder.

13 (c) This Section does not prohibit:

14 (1) The preparation, examination, handling, or
15 maintenance of any financial records by any officer,
16 employee, or agent of a savings bank having custody of
17 records or examination of records by a certified public
18 accountant engaged by the savings bank to perform an
19 independent audit.

20 (2) The examination of any financial records by, or
21 the furnishing of financial records by a savings bank to,
22 any officer, employee, or agent of the Commissioner of
23 Banks and Real Estate or the federal depository
24 institution regulator for use solely in the exercise of
25 his duties as an officer, employee, or agent.

26 (3) The publication of data furnished from financial

1 records relating to members or holders of capital where
2 the data cannot be identified to any particular member,
3 shareholder, or account.

4 (4) The making of reports or returns required under
5 Chapter 61 of the Internal Revenue Code of 1986.

6 (5) Furnishing information concerning the dishonor of
7 any negotiable instrument permitted to be disclosed under
8 the Uniform Commercial Code.

9 (6) The exchange in the regular course of business of
10 (i) credit information between a savings bank and other
11 savings banks or financial institutions or commercial
12 enterprises, directly or through a consumer reporting
13 agency or (ii) financial records or information derived
14 from financial records between a savings bank and other
15 savings banks or financial institutions or commercial
16 enterprises for the purpose of conducting due diligence
17 pursuant to a purchase or sale involving the savings bank
18 or assets or liabilities of the savings bank.

19 (7) The furnishing of information to the appropriate
20 law enforcement authorities where the savings bank
21 reasonably believes it has been the victim of a crime.

22 (8) The furnishing of information pursuant to the
23 Revised Uniform Unclaimed Property Act.

24 (9) The furnishing of information pursuant to the
25 Illinois Income Tax Act and the Illinois Estate and
26 Generation-Skipping Transfer Tax Act.

1 (10) The furnishing of information pursuant to the
2 federal Currency and Foreign Transactions Reporting Act,
3 (Title 31, United States Code, Section 1051 et seq.).

4 (11) The furnishing of information pursuant to any
5 other statute which by its terms or by regulations
6 promulgated thereunder requires the disclosure of
7 financial records other than by subpoena, summons,
8 warrant, or court order.

9 (12) The furnishing of information in accordance with
10 the federal Personal Responsibility and Work Opportunity
11 Reconciliation Act of 1996. Any savings bank governed by
12 this Act shall enter into an agreement for data exchanges
13 with a State agency provided the State agency pays to the
14 savings bank a reasonable fee not to exceed its actual
15 cost incurred. A savings bank providing information in
16 accordance with this item shall not be liable to any
17 account holder or other person for any disclosure of
18 information to a State agency, for encumbering or
19 surrendering any assets held by the savings bank in
20 response to a lien or order to withhold and deliver issued
21 by a State agency, or for any other action taken pursuant
22 to this item, including individual or mechanical errors,
23 provided the action does not constitute gross negligence
24 or willful misconduct. A savings bank shall have no
25 obligation to hold, encumber, or surrender assets until it
26 has been served with a subpoena, summons, warrant, court

1 or administrative order, lien, or levy.

2 (13) The furnishing of information to law enforcement
3 authorities, the Illinois Department on Aging and its
4 regional administrative and provider agencies, the
5 Department of Human Services Office of Inspector General,
6 or public guardians: (i) upon subpoena by the
7 investigatory entity or the guardian, or (ii) if there is
8 suspicion by the savings bank that a customer who is an
9 elderly person or person with a disability has been or may
10 become the victim of financial exploitation. For the
11 purposes of this item (13), the term: (i) "elderly person"
12 means a person who is 60 or more years of age, (ii) "person
13 with a disability" means a person who has or reasonably
14 appears to the savings bank to have a physical or mental
15 disability that impairs his or her ability to seek or
16 obtain protection from or prevent financial exploitation,
17 and (iii) "financial exploitation" means tortious or
18 illegal use of the assets or resources of an elderly
19 person or person with a disability, and includes, without
20 limitation, misappropriation of the assets or resources of
21 the elderly person or person with a disability by undue
22 influence, breach of fiduciary relationship, intimidation,
23 fraud, deception, extortion, or the use of assets or
24 resources in any manner contrary to law. A savings bank or
25 person furnishing information pursuant to this item (13)
26 shall be entitled to the same rights and protections as a

1 person furnishing information under the Adult Protective
2 Services Act and the Illinois Domestic Violence Act of
3 1986.

4 (14) The disclosure of financial records or
5 information as necessary to effect, administer, or enforce
6 a transaction requested or authorized by the member or
7 holder of capital, or in connection with:

8 (A) servicing or processing a financial product or
9 service requested or authorized by the member or
10 holder of capital;

11 (B) maintaining or servicing an account of a
12 member or holder of capital with the savings bank; or

13 (C) a proposed or actual securitization or
14 secondary market sale (including sales of servicing
15 rights) related to a transaction of a member or holder
16 of capital.

17 Nothing in this item (14), however, authorizes the
18 sale of the financial records or information of a member
19 or holder of capital without the consent of the member or
20 holder of capital.

21 (15) The exchange in the regular course of business of
22 information between a savings bank and any commonly owned
23 affiliate of the savings bank, subject to the provisions
24 of the Financial Institutions Insurance Sales Law.

25 (16) The disclosure of financial records or
26 information as necessary to protect against or prevent

1 actual or potential fraud, unauthorized transactions,
2 claims, or other liability.

3 (17) (a) The disclosure of financial records or
4 information related to a private label credit program
5 between a financial institution and a private label party
6 in connection with that private label credit program. Such
7 information is limited to outstanding balance, available
8 credit, payment and performance and account history,
9 product references, purchase information, and information
10 related to the identity of the customer.

11 (b) (1) For purposes of this paragraph (17) of
12 subsection (c) of Section 4013, a "private label credit
13 program" means a credit program involving a financial
14 institution and a private label party that is used by a
15 customer of the financial institution and the private
16 label party primarily for payment for goods or services
17 sold, manufactured, or distributed by a private label
18 party.

19 (2) For purposes of this paragraph (17) of subsection
20 (c) of Section 4013, a "private label party" means, with
21 respect to a private label credit program, any of the
22 following: a retailer, a merchant, a manufacturer, a trade
23 group, or any such person's affiliate, subsidiary, member,
24 agent, or service provider.

25 (18) (a) The furnishing of financial records of a
26 customer to the Department to aid the Department's initial

1 determination or subsequent re-determination of the
 2 customer's eligibility for Medicaid and Medicaid long-term
 3 care benefits for long-term care services, provided that
 4 the savings bank receives the written consent and
 5 authorization of the customer, which shall:

- 6 (1) have the customer's signature notarized;
- 7 (2) be signed by at least one witness who
 8 certifies that he or she believes the customer to be of
 9 sound mind and memory;
- 10 (3) be tendered to the savings bank at the
 11 earliest practicable time following its execution,
 12 certification, and notarization;
- 13 (4) specifically limit the disclosure of the
 14 customer's financial records to the Department; and
- 15 (5) be in substantially the following form:

16 CUSTOMER CONSENT AND AUTHORIZATION
 17 FOR RELEASE OF FINANCIAL RECORDS

18 I, , hereby authorize
 19 (Name of Customer)

20
 21 (Name of Financial Institution)

22

1 (Address of Financial Institution)

2 to disclose the following financial records:

3 any and all information concerning my deposit, savings, money
4 market, certificate of deposit, individual retirement,
5 retirement plan, 401(k) plan, incentive plan, employee benefit
6 plan, mutual fund and loan accounts (including, but not
7 limited to, any indebtedness or obligation for which I am a
8 co-borrower, co-obligor, guarantor, or surety), and any and
9 all other accounts in which I have an interest and any other
10 information regarding me in the possession of the Financial
11 Institution,

12 to the Illinois Department of Human Services or the Illinois
13 Department of Healthcare and Family Services, or both ("the
14 Department"), for the following purpose(s):

15 to aid in the initial determination or re-determination by the
16 State of Illinois of my eligibility for Medicaid long-term
17 care benefits, pursuant to applicable law.

18 I understand that this Consent and Authorization may be
19 revoked by me in writing at any time before my financial
20 records, as described above, are disclosed, and that this
21 Consent and Authorization is valid until the Financial

1 Institution receives my written revocation. This Consent and
 2 Authorization shall constitute valid authorization for the
 3 Department identified above to inspect all such financial
 4 records set forth above, and to request and receive copies of
 5 such financial records from the Financial Institution (subject
 6 to such records search and reproduction reimbursement policies
 7 as the Financial Institution may have in place). An executed
 8 copy of this Consent and Authorization shall be sufficient and
 9 as good as the original and permission is hereby granted to
 10 honor a photostatic or electronic copy of this Consent and
 11 Authorization. Disclosure is strictly limited to the
 12 Department identified above and no other person or entity
 13 shall receive my financial records pursuant to this Consent
 14 and Authorization. By signing this form, I agree to indemnify
 15 and hold the Financial Institution harmless from any and all
 16 claims, demands, and losses, including reasonable attorneys
 17 fees and expenses, arising from or incurred in its reliance on
 18 this Consent and Authorization. As used herein, "Customer"
 19 shall mean "Member" if the Financial Institution is a credit
 20 union.

21

22 (Date)

(Signature of Customer)

23

24

1 (Address of Customer)

2

3 (Customer's birth date)

4 (month/day/year)

5 The undersigned witness certifies that,
6 known to me to be the same person whose name is subscribed as
7 the customer to the foregoing Consent and Authorization,
8 appeared before me and the notary public and acknowledged
9 signing and delivering the instrument as his or her free and
10 voluntary act for the uses and purposes therein set forth. I
11 believe him or her to be of sound mind and memory. The
12 undersigned witness also certifies that the witness is not an
13 owner, operator, or relative of an owner or operator of a
14 long-term care facility in which the customer is a patient or
15 resident.

16 Dated:

17 (Signature of Witness)

18

19 (Print Name of Witness)

20

21

1 (Address of Witness)

2 State of Illinois)

3) ss.

4 County of)

5 The undersigned, a notary public in and for the above county
6 and state, certifies that, known to me to be the
7 same person whose name is subscribed as the customer to the
8 foregoing Consent and Authorization, appeared before me
9 together with the witness,, in person and
10 acknowledged signing and delivering the instrument as the free
11 and voluntary act of the customer for the uses and purposes
12 therein set forth.

13 Dated:

14 Notary Public:

15 My commission expires:

16 (b) In no event shall the savings bank distribute the
17 customer's financial records to the long-term care
18 facility from which the customer seeks initial or
19 continuing residency or long-term care services.

20 (c) A savings bank providing financial records of a
21 customer in good faith relying on a consent and
22 authorization executed and tendered in accordance with

1 this paragraph (18) shall not be liable to the customer or
2 any other person in relation to the savings bank's
3 disclosure of the customer's financial records to the
4 Department. The customer signing the consent and
5 authorization shall indemnify and hold the savings bank
6 harmless that relies in good faith upon the consent and
7 authorization and incurs a loss because of such reliance.
8 The savings bank recovering under this indemnification
9 provision shall also be entitled to reasonable attorney's
10 fees and the expenses of recovery.

11 (d) A savings bank shall be reimbursed by the customer
12 for all costs reasonably necessary and directly incurred
13 in searching for, reproducing, and disclosing a customer's
14 financial records required or requested to be produced
15 pursuant to any consent and authorization executed under
16 this paragraph (18). The requested financial records shall
17 be delivered to the Department within 10 days after
18 receiving a properly executed consent and authorization or
19 at the earliest practicable time thereafter if the
20 requested records cannot be delivered within 10 days, but
21 delivery may be delayed until the final reimbursement of
22 all costs is received by the savings bank. The savings
23 bank may honor a photostatic or electronic copy of a
24 properly executed consent and authorization.

25 (e) Nothing in this paragraph (18) shall impair,
26 abridge, or abrogate the right of a customer to:

1 (1) directly disclose his or her financial records
2 to the Department or any other person; or

3 (2) authorize his or her attorney or duly
4 appointed agent to request and obtain the customer's
5 financial records and disclose those financial records
6 to the Department.

7 (f) For purposes of this paragraph (18), "Department"
8 means the Department of Human Services and the Department
9 of Healthcare and Family Services or any successor
10 administrative agency of either agency.

11 (19) The furnishing of financial records of a deceased
12 customer to a public administrator of any county or other
13 governmental jurisdiction for the purpose of facilitating
14 burial of the customer.

15 (d) A savings bank may not disclose to any person, except
16 to the member or holder of capital or his duly authorized
17 agent, any financial records relating to that member or
18 shareholder of the savings bank unless:

19 (1) the member or shareholder has authorized
20 disclosure to the person; or

21 (2) the financial records are disclosed in response to
22 a lawful subpoena, summons, warrant, citation to discover
23 assets, or court order that meets the requirements of
24 subsection (e) of this Section.

25 (e) A savings bank shall disclose financial records under
26 subsection (d) of this Section pursuant to a lawful subpoena,

1 summons, warrant, citation to discover assets, or court order
2 only after the savings bank sends a copy of the subpoena,
3 summons, warrant, citation to discover assets, or court order
4 to the person establishing the relationship with the savings
5 bank, if living, and otherwise, the person's personal
6 representative, if known, at the person's last known address
7 by first class mail, postage prepaid, through a third-party
8 commercial carrier or courier with delivery charge fully
9 prepaid, by hand delivery, or by electronic delivery at an
10 email address on file with the savings bank (if the person
11 establishing the relationship with the savings bank has
12 consented to receive electronic delivery and, if the person
13 establishing the relationship with the savings bank is a
14 consumer, the person has consented under the consumer consent
15 provisions set forth in Section 7001 of Title 15 of the United
16 States Code), unless the savings bank is specifically
17 prohibited from notifying the person by order of court or by
18 applicable State or federal law. A savings bank shall not mail
19 a copy of a subpoena to any customer pursuant to this
20 subsection if the subpoena was issued by a grand jury.

21 (f) Any officer or employee of a savings bank who
22 knowingly and willfully furnishes financial records in
23 violation of this Section is guilty of a business offense and,
24 upon conviction, shall be fined not more than \$1,000.

25 (g) Any person who knowingly and willfully induces or
26 attempts to induce any officer or employee of a savings bank to

1 disclose financial records in violation of this Section is
2 guilty of a business offense and, upon conviction, shall be
3 fined not more than \$1,000.

4 (h) If any member or shareholder desires to communicate
5 with the other members or shareholders of the savings bank
6 with reference to any question pending or to be presented at an
7 annual or special meeting, the savings bank shall give that
8 person, upon request, a statement of the approximate number of
9 members or shareholders entitled to vote at the meeting and an
10 estimate of the cost of preparing and delivering ~~mailing~~ the
11 communication. The requesting member shall submit the
12 communication to the Commissioner who, upon finding it to be
13 appropriate and truthful, shall direct that it be prepared and
14 delivered ~~mailed~~ to the members upon the requesting member's
15 or shareholder's payment or adequate provision for payment of
16 the expenses of preparation and delivery ~~mailing~~.

17 (i) A savings bank shall be reimbursed for costs that are
18 necessary and that have been directly incurred in searching
19 for, reproducing, or transporting books, papers, records, or
20 other data ~~of a customer~~ required to be reproduced pursuant to
21 a lawful subpoena, warrant, citation to discover assets, or
22 court order.

23 (j) Notwithstanding the provisions of this Section, a
24 savings bank may sell or otherwise make use of lists of
25 ~~customers'~~ names and addresses of persons who have obtained a
26 financial product or service from the savings bank. All other

1 information ~~regarding a customer's account~~ is subject to the
2 disclosure provisions of this Section. At the request of any
3 person who has obtained a financial product or service from
4 the savings bank customer, that person's ~~customer's~~ name and
5 address shall be deleted from any list that is to be sold or
6 used in any other manner beyond identification of the person's
7 ~~customer's~~ accounts.

8 (Source: P.A. 102-873, eff. 5-13-22.)

9 (205 ILCS 205/6002) (from Ch. 17, par. 7306-2)

10 Sec. 6002. Investment in loans.

11 (a) Subject to the regulations of the Commissioner, a
12 savings bank may loan funds as follows:

13 (1) On the security of deposit accounts, but no such
14 loan shall exceed the withdrawal value of the pledged
15 account.

16 (2) On the security of real estate:

17 (A) of a value, determined in accordance with this
18 Act, sufficient to provide good and ample security for
19 the loan;

20 (B) with a fee simple title or a leasehold title;

21 (C) with the title established by evidence of
22 title as is consistent with sound lending practices in
23 the locality;

24 (D) with the security interest in the real estate
25 evidenced by an appropriate written instrument and the

1 loan evidenced by a note, bond, or similar written
2 instrument; a loan on the security of the whole of the
3 beneficial interest in a land trust satisfies the
4 requirements of this paragraph if the title to the
5 land is held by a corporate trustee and if the real
6 estate held in the land trust meets the other
7 requirements of this subsection;

8 (E) with a mortgage loan not to exceed 40 years.

9 (3) For the purpose of repair, improvement,
10 rehabilitation, furnishing, or equipment of real estate.

11 (4) For the purpose of financing or refinancing an
12 existing ownership interest in certificates of stock,
13 certificates of beneficial interest, other evidence of an
14 ownership interest in, or a proprietary lease from a
15 corporation, trust, or partnership formed for the purpose
16 of the cooperative ownership of real estate, secured by
17 the assignment or transfer of certificates or other
18 evidence of ownership of the borrower.

19 (5) Through the purchase of loans that, at the time of
20 purchase, the savings bank could make in accordance with
21 this Section and the bylaws.

22 (6) Through the purchase of installment contracts for
23 the sale of real estate and title thereto that is subject
24 to the contracts, but in each instance only if the savings
25 bank, at the time of purchase, could make a mortgage loan
26 of the same amount and for the same length of time on the

1 security of the real estate.

2 (7) Through loans guaranteed or insured, wholly or in
3 part, by the United States or any of its
4 instrumentalities.

5 (8) Subject to regulations adopted by the
6 Commissioner, through secured or unsecured loans for
7 business, corporate, commercial, or agricultural purposes;
8 provided that the total of all loans granted under this
9 paragraph shall not exceed 15% of the savings bank's total
10 assets unless a greater amount is authorized in writing by
11 the Commissioner.

12 (9) For the purpose of manufactured home financing
13 subject, however, to the regulation of the Commissioner.
14 As used in this Section, "manufactured home" means a
15 manufactured home as defined in subdivision (53) of
16 Section 9-102 of the Uniform Commercial Code.

17 (10) Through loans secured by the cash surrender value
18 of any life insurance policy or any collateral that would
19 be a legal investment under the terms of this Act if made
20 by the savings bank.

21 (11) Any provision of this Act or any other law,
22 except for paragraph (18) of Section 6003, to the contrary
23 notwithstanding, but subject to the Financial Institutions
24 Insurance Sales Law and subject to the Commissioner's
25 regulations, any savings bank may make any loan or
26 investment or engage in any activity that it could make or

1 engage in if it were organized under State law as a savings
2 and loan association or under federal law as a federal
3 savings and loan association or federal savings bank.

4 (12) A savings bank may issue letters of credit or
5 other similar arrangements only as provided for by
6 regulation of the Commissioner with regard to aggregate
7 amounts permitted, take out commitments for stand-by
8 letters of credit, underlying documentation and
9 underwriting, legal limitations on loans of the savings
10 bank, control and subsidiary records, and other procedures
11 deemed necessary by the Commissioner.

12 (13) For the purpose of automobile financing, subject
13 to the regulation of the Commissioner.

14 (14) For the purpose of financing primary, secondary,
15 undergraduate, or postgraduate education.

16 (15) Through revolving lines of credit on the security
17 of a first or junior lien on the borrower's personal
18 residence, based primarily on the borrower's equity, the
19 proceeds of which may be used for any purpose; those loans
20 being commonly referred to as home equity loans.

21 (16) As secured or unsecured credit to cover the
22 payment of checks, drafts, or other funds transfer orders
23 in excess of the available balance of an account on which
24 they are drawn, subject to the regulations of the
25 Commissioner.

26 (17) Through the purchase of fixed rate annuity

1 contracts, if:

2 (A) the savings bank's purchase of fixed rate
3 annuities from any one issuer does not exceed 25% of
4 the amount of the savings bank's unimpaired capital
5 and unimpaired surplus;

6 (B) consistent with safe and sound operation of
7 the savings bank and applicable federal regulatory
8 guidance, and prior to any purchase of fixed rate
9 annuities, the saving bank establishes reasonable
10 internal concentration limits for its combined
11 holdings from all issuers, and the savings bank's
12 purchase of annuities remains within those limits;

13 (C) consistent with safe and sound operation of
14 the savings bank and applicable federal regulatory
15 guidance, and prior to purchasing each fixed rate
16 annuity, the savings bank conducts an independent
17 analysis to determine that the annuity will meet the
18 savings bank's internal underwriting standards. At a
19 minimum, the savings bank must:

20 (i) perform a full financial statement
21 analysis on the issuer (obligor);

22 (ii) assess the issuer's industry position,
23 pricing power, and management strength;

24 (iii) assess and evaluate the issuer's source
25 of repayment and collateral value, if any;

26 (iv) gain appropriate credit approvals of the

1 savings bank's management and board of directors,
2 or a committee thereof;

3 (v) assign a risk rating; and

4 (vi) ensure their lending policy addresses the
5 type of exposure the savings bank plans to
6 acquire;

7 (D) after purchase of the annuity, the savings
8 bank reviews the credit exposure on an ongoing basis
9 and updates the risk rating as appropriate;

10 (E) the terms of the annuity contract include
11 charges or penalties for early withdrawal (surrender),
12 the savings bank conducts independent analysis of the
13 reasonableness of and associated risks of the charges
14 or penalties;

15 (F) except for payment of charges or penalties
16 that the savings bank determines reasonable under
17 subparagraph (C), the savings bank is permitted to
18 surrender (terminate) the annuity at any time before
19 maturity and receive immediate access to the full
20 value of the annuity, including principal and accrued
21 interest; and

22 (G) the savings bank does not exercise any option
23 it may have to convert its fixed rate annuity to a
24 variable return status or any other status other than
25 a fixed rate annuity as described in this Section.

26 (b) For purposes of this Section, "real estate" includes a

1 manufactured home as defined in subdivision (53) of Section
2 9-102 of the Uniform Commercial Code which is real property as
3 defined in Section 5-35 of the Conveyance and Encumbrance of
4 Manufactured Homes as Real Property and Severance Act.

5 (Source: P.A. 98-749, eff. 7-16-14.)

6 (205 ILCS 205/7005) (from Ch. 17, par. 7307-5)

7 Sec. 7005. Holders of deposit accounts.

8 (a) Deposit accounts of a savings bank may be held as
9 follows:

10 (1) by any individual in his own right, regardless of
11 age or marital status, or by 2 or more individuals;

12 (2) by a fiduciary when authorized by law;

13 (3) by a government or governmental instrumentality
14 when authorized by law; and

15 (4) by any corporation or other person when not
16 prohibited by law.

17 (b) A savings bank may accept deposits made by a minor and
18 may open an account in the name of such minor and the rules and
19 regulations of such savings bank with respect to each such
20 deposit and account shall be as binding upon such minor as if
21 such minor were of full age and legal capacity. The receipt,
22 acquittance, or order of payment of such minor on such account
23 or deposit or any part thereof shall be as binding upon such
24 minor as if such minor were of full age and legal capacity.

25 (Source: P.A. 86-1213.)

1 (205 ILCS 205/8002) (from Ch. 17, par. 7308-2)

2 Sec. 8002. Procedure to amend articles.

3 (a) The procedure to effect an amendment of articles of
4 incorporation shall be as follows:

5 (1) The board of directors shall adopt a resolution
6 setting forth the proposed amendment and direct that it be
7 submitted to a vote at an annual or special meeting of the
8 members or stockholders.

9 (2) The proposed amendment shall be set forth in the
10 notice of meeting delivered ~~mailed~~ as prescribed in
11 Section 4003 of this Act.

12 (3) The proposed amendment shall be adopted upon
13 receiving the affirmative vote of a majority of the votes
14 entitled to be cast, unless the articles of incorporation
15 set forth a requirement that amendments of the articles of
16 incorporation shall be adopted by an affirmative vote of
17 two-thirds of the total number of votes entitled to be
18 cast.

19 (b) A report of proceedings, including the notice given,
20 the time of delivery ~~mailing~~, the amendment adopted, the vote
21 thereon, and the total number of votes entitled to be cast,
22 verified by the president, vice president, or managing officer
23 and attested to by the secretary of the savings bank, shall be
24 filed with the Secretary within 5 business days after the
25 vote.

1 (c) Each adopted amendment shall be subject to the same
2 inquiry as the corresponding provision in the original
3 articles. If the Secretary approves an amendment he shall
4 issue to the savings bank a certificate setting forth the
5 amendment and his approval thereof. The Secretary shall
6 approve an amendment, or state any objections to an amendment,
7 within 30 days after the receipt of the amendment adopted by
8 the board. If no objections are specified by the Secretary
9 within that time frame, the amendment will be deemed to be
10 approved by the Secretary. The amendment shall become
11 effective upon issuance of the certificate.

12 (d) An amendment of the articles of incorporation approved
13 by the board of directors, the Secretary, and members as part
14 of merger, sale of substantially all assets, change in
15 control, holding company reorganization, or mutual to stock
16 form conversion need not be approved under this Section.

17 (e) No amendment of articles of incorporation shall affect
18 any existing cause of action either in favor of or against the
19 savings bank or any pending action in which the savings bank
20 shall be a party or the existing rights of persons other than
21 members of the savings bank.

22 (Source: P.A. 97-492, eff. 1-1-12.)

23 (205 ILCS 205/11008) (from Ch. 17, par. 7311-8)
24 Sec. 11008. Unauthorized participation by convicted
25 individual.

1 (a) Except with the prior written consent of the
2 Commissioner, no person who has been convicted of any criminal
3 offense involving dishonesty or a breach of trust may own or
4 control directly or indirectly more than 0.001% of the capital
5 stock of, receive benefit directly or indirectly from, or
6 participate directly or indirectly in any manner in the
7 affairs of a savings bank.

8 (b) A savings bank may not permit participation by a
9 person described in subsection (a).

10 (c) Except with the prior written consent of the
11 Secretary, no savings bank shall knowingly employ or otherwise
12 permit an individual to serve as an officer, director,
13 employee, or agent of the savings bank if the individual has
14 been convicted of a felony or of any criminal offense relating
15 to dishonesty or breach of trust. Notwithstanding the
16 provisions of this Section, a savings bank in compliance with
17 the provisions of 12 U.S.C. 1829 and administrative rules
18 issued under 12 U.S.C. 1829 by the savings bank's primary
19 federal financial institution regulator shall be deemed in
20 compliance with this Section. ~~Whoever knowingly violates~~
21 ~~subsection (a) or (b) is guilty of a Class 3 felony and may be~~
22 ~~fined not more than \$10,000 for each day of violation.~~

23 (Source: P.A. 91-97, eff. 7-9-99; 92-483, eff. 8-23-01.)

24 (205 ILCS 205/1007.100 rep.)

25 (205 ILCS 205/11011 rep.)

1 Section 15. The Savings Bank Act is amended by repealing
2 Sections 1007.100 and 11011.

3 Section 20. The Illinois Credit Union Act is amended by
4 changing Section 10 as follows:

5 (205 ILCS 305/10) (from Ch. 17, par. 4411)

6 Sec. 10. Credit union records; member financial records.

7 (1) A credit union shall establish and maintain books,
8 records, accounting systems and procedures which accurately
9 reflect its operations and which enable the Department to
10 readily ascertain the true financial condition of the credit
11 union and whether it is complying with this Act.

12 (2) A photostatic or photographic reproduction of any
13 credit union records shall be admissible as evidence of
14 transactions with the credit union.

15 (3)(a) For the purpose of this Section, the term
16 "financial records" means any original, any copy, or any
17 summary of (1) a document granting signature authority over an
18 account, (2) a statement, ledger card or other record on any
19 account which shows each transaction in or with respect to
20 that account, (3) a check, draft or money order drawn on a
21 financial institution or other entity or issued and payable by
22 or through a financial institution or other entity, or (4) any
23 other item containing information pertaining to any
24 relationship established in the ordinary course of business

1 between a credit union and its member, including financial
2 statements or other financial information provided by the
3 member.

4 (b) This Section does not prohibit:

5 (1) The preparation, examination, handling or
6 maintenance of any financial records by any officer,
7 employee or agent of a credit union having custody of such
8 records, or the examination of such records by a certified
9 public accountant engaged by the credit union to perform
10 an independent audit.

11 (2) The examination of any financial records by or the
12 furnishing of financial records by a credit union to any
13 officer, employee or agent of the Department, the National
14 Credit Union Administration, Federal Reserve board or any
15 insurer of share accounts for use solely in the exercise
16 of his duties as an officer, employee or agent.

17 (3) The publication of data furnished from financial
18 records relating to members where the data cannot be
19 identified to any particular member or ~~customer~~ of
20 account.

21 (4) The making of reports or returns required under
22 Chapter 61 of the Internal Revenue Code of 1954.

23 (5) Furnishing information concerning the dishonor of
24 any negotiable instrument permitted to be disclosed under
25 the Uniform Commercial Code.

26 (6) The exchange in the regular course of business of

1 (i) credit information between a credit union and other
2 credit unions or financial institutions or commercial
3 enterprises, directly or through a consumer reporting
4 agency or (ii) financial records or information derived
5 from financial records between a credit union and other
6 credit unions or financial institutions or commercial
7 enterprises for the purpose of conducting due diligence
8 pursuant to a merger or a purchase or sale of assets or
9 liabilities of the credit union.

10 (7) The furnishing of information to the appropriate
11 law enforcement authorities where the credit union
12 reasonably believes it has been the victim of a crime.

13 (8) The furnishing of information pursuant to the
14 Revised Uniform Unclaimed Property Act.

15 (9) The furnishing of information pursuant to the
16 Illinois Income Tax Act and the Illinois Estate and
17 Generation-Skipping Transfer Tax Act.

18 (10) The furnishing of information pursuant to the
19 federal Currency and Foreign Transactions Reporting Act,
20 Title 31, United States Code, Section 1051 et sequentia.

21 (11) The furnishing of information pursuant to any
22 other statute which by its terms or by regulations
23 promulgated thereunder requires the disclosure of
24 financial records other than by subpoena, summons, warrant
25 or court order.

26 (12) The furnishing of information in accordance with

1 the federal Personal Responsibility and Work Opportunity
2 Reconciliation Act of 1996. Any credit union governed by
3 this Act shall enter into an agreement for data exchanges
4 with a State agency provided the State agency pays to the
5 credit union a reasonable fee not to exceed its actual
6 cost incurred. A credit union providing information in
7 accordance with this item shall not be liable to any
8 account holder or other person for any disclosure of
9 information to a State agency, for encumbering or
10 surrendering any assets held by the credit union in
11 response to a lien or order to withhold and deliver issued
12 by a State agency, or for any other action taken pursuant
13 to this item, including individual or mechanical errors,
14 provided the action does not constitute gross negligence
15 or willful misconduct. A credit union shall have no
16 obligation to hold, encumber, or surrender assets until it
17 has been served with a subpoena, summons, warrant, court
18 or administrative order, lien, or levy.

19 (13) The furnishing of information to law enforcement
20 authorities, the Illinois Department on Aging and its
21 regional administrative and provider agencies, the
22 Department of Human Services Office of Inspector General,
23 or public guardians: (i) upon subpoena by the
24 investigatory entity or the guardian, or (ii) if there is
25 suspicion by the credit union that a member who is an
26 elderly person or person with a disability has been or may

1 become the victim of financial exploitation. For the
2 purposes of this item (13), the term: (i) "elderly person"
3 means a person who is 60 or more years of age, (ii) "person
4 with a disability" means a person who has or reasonably
5 appears to the credit union to have a physical or mental
6 disability that impairs his or her ability to seek or
7 obtain protection from or prevent financial exploitation,
8 and (iii) "financial exploitation" means tortious or
9 illegal use of the assets or resources of an elderly
10 person or person with a disability, and includes, without
11 limitation, misappropriation of the ~~elderly or disabled~~
12 ~~person's~~ assets or resources of the elderly person or
13 person with a disability by undue influence, breach of
14 fiduciary relationship, intimidation, fraud, deception,
15 extortion, or the use of assets or resources in any manner
16 contrary to law. A credit union or person furnishing
17 information pursuant to this item (13) shall be entitled
18 to the same rights and protections as a person furnishing
19 information under the Adult Protective Services Act and
20 the Illinois Domestic Violence Act of 1986.

21 (14) The disclosure of financial records or
22 information as necessary to effect, administer, or enforce
23 a transaction requested or authorized by the member, or in
24 connection with:

25 (A) servicing or processing a financial product or
26 service requested or authorized by the member;

1 (B) maintaining or servicing a member's account
2 with the credit union; or

3 (C) a proposed or actual securitization or
4 secondary market sale (including sales of servicing
5 rights) related to a transaction of a member.

6 Nothing in this item (14), however, authorizes the
7 sale of the financial records or information of a member
8 without the consent of the member.

9 (15) The disclosure of financial records or
10 information as necessary to protect against or prevent
11 actual or potential fraud, unauthorized transactions,
12 claims, or other liability.

13 (16)(a) The disclosure of financial records or
14 information related to a private label credit program
15 between a financial institution and a private label party
16 in connection with that private label credit program. Such
17 information is limited to outstanding balance, available
18 credit, payment and performance and account history,
19 product references, purchase information, and information
20 related to the identity of the customer.

21 (b)(1) For purposes of this item (16), "private label
22 credit program" means a credit program involving a
23 financial institution and a private label party that is
24 used by a customer of the financial institution and the
25 private label party primarily for payment for goods or
26 services sold, manufactured, or distributed by a private

1 label party.

2 (2) For purposes of this item (16), "private label
3 party" means, with respect to a private label credit
4 program, any of the following: a retailer, a merchant, a
5 manufacturer, a trade group, or any such person's
6 affiliate, subsidiary, member, agent, or service provider.

7 (17)(a) The furnishing of financial records of a
8 member to the Department to aid the Department's initial
9 determination or subsequent re-determination of the
10 member's eligibility for Medicaid and Medicaid long-term
11 care benefits for long-term care services, provided that
12 the credit union receives the written consent and
13 authorization of the member, which shall:

14 (1) have the member's signature notarized;

15 (2) be signed by at least one witness who
16 certifies that he or she believes the member to be of
17 sound mind and memory;

18 (3) be tendered to the credit union at the
19 earliest practicable time following its execution,
20 certification, and notarization;

21 (4) specifically limit the disclosure of the
22 member's financial records to the Department; and

23 (5) be in substantially the following form:

24 CUSTOMER CONSENT AND AUTHORIZATION

25 FOR RELEASE OF FINANCIAL RECORDS

1 I, , hereby authorize
2 (Name of Customer)

3
4 (Name of Financial Institution)

5
6 (Address of Financial Institution)

7 to disclose the following financial records:

8 any and all information concerning my deposit, savings, money
9 market, certificate of deposit, individual retirement,
10 retirement plan, 401(k) plan, incentive plan, employee benefit
11 plan, mutual fund and loan accounts (including, but not
12 limited to, any indebtedness or obligation for which I am a
13 co-borrower, co-obligor, guarantor, or surety), and any and
14 all other accounts in which I have an interest and any other
15 information regarding me in the possession of the Financial
16 Institution,

17 to the Illinois Department of Human Services or the Illinois
18 Department of Healthcare and Family Services, or both ("the
19 Department"), for the following purpose(s):

1 to aid in the initial determination or re-determination by the
2 State of Illinois of my eligibility for Medicaid long-term
3 care benefits, pursuant to applicable law.

4 I understand that this Consent and Authorization may be
5 revoked by me in writing at any time before my financial
6 records, as described above, are disclosed, and that this
7 Consent and Authorization is valid until the Financial
8 Institution receives my written revocation. This Consent and
9 Authorization shall constitute valid authorization for the
10 Department identified above to inspect all such financial
11 records set forth above, and to request and receive copies of
12 such financial records from the Financial Institution (subject
13 to such records search and reproduction reimbursement policies
14 as the Financial Institution may have in place). An executed
15 copy of this Consent and Authorization shall be sufficient and
16 as good as the original and permission is hereby granted to
17 honor a photostatic or electronic copy of this Consent and
18 Authorization. Disclosure is strictly limited to the
19 Department identified above and no other person or entity
20 shall receive my financial records pursuant to this Consent
21 and Authorization. By signing this form, I agree to indemnify
22 and hold the Financial Institution harmless from any and all
23 claims, demands, and losses, including reasonable attorneys
24 fees and expenses, arising from or incurred in its reliance on
25 this Consent and Authorization. As used herein, "Customer"

1 shall mean "Member" if the Financial Institution is a credit
2 union.

3

4 (Date) (Signature of Customer)

5

6

7 (Address of Customer)

8

9 (Customer's birth date)

10 (month/day/year)

11 The undersigned witness certifies that,
12 known to me to be the same person whose name is subscribed as
13 the customer to the foregoing Consent and Authorization,
14 appeared before me and the notary public and acknowledged
15 signing and delivering the instrument as his or her free and
16 voluntary act for the uses and purposes therein set forth. I
17 believe him or her to be of sound mind and memory. The
18 undersigned witness also certifies that the witness is not an
19 owner, operator, or relative of an owner or operator of a
20 long-term care facility in which the customer is a patient or
21 resident.

1 Dated:

2 (Signature of Witness)

3

4 (Print Name of Witness)

5

6

7 (Address of Witness)

8 State of Illinois)

9) ss.

10 County of

11 The undersigned, a notary public in and for the above county
12 and state, certifies that, known to me to be the
13 same person whose name is subscribed as the customer to the
14 foregoing Consent and Authorization, appeared before me
15 together with the witness,, in person and
16 acknowledged signing and delivering the instrument as the free
17 and voluntary act of the customer for the uses and purposes
18 therein set forth.

19 Dated:

20 Notary Public:

21 My commission expires:

1 (b) In no event shall the credit union distribute the
2 member's financial records to the long-term care facility
3 from which the member seeks initial or continuing
4 residency or long-term care services.

5 (c) A credit union providing financial records of a
6 member in good faith relying on a consent and
7 authorization executed and tendered in accordance with
8 this item (17) shall not be liable to the member or any
9 other person in relation to the credit union's disclosure
10 of the member's financial records to the Department. The
11 member signing the consent and authorization shall
12 indemnify and hold the credit union harmless that relies
13 in good faith upon the consent and authorization and
14 incurs a loss because of such reliance. The credit union
15 recovering under this indemnification provision shall also
16 be entitled to reasonable attorney's fees and the expenses
17 of recovery.

18 (d) A credit union shall be reimbursed by the member
19 for all costs reasonably necessary and directly incurred
20 in searching for, reproducing, and disclosing a member's
21 financial records required or requested to be produced
22 pursuant to any consent and authorization executed under
23 this item (17). The requested financial records shall be
24 delivered to the Department within 10 days after receiving
25 a properly executed consent and authorization or at the

1 earliest practicable time thereafter if the requested
2 records cannot be delivered within 10 days, but delivery
3 may be delayed until the final reimbursement of all costs
4 is received by the credit union. The credit union may
5 honor a photostatic or electronic copy of a properly
6 executed consent and authorization.

7 (e) Nothing in this item (17) shall impair, abridge,
8 or abrogate the right of a member to:

9 (1) directly disclose his or her financial records
10 to the Department or any other person; or

11 (2) authorize his or her attorney or duly
12 appointed agent to request and obtain the member's
13 financial records and disclose those financial records
14 to the Department.

15 (f) For purposes of this item (17), "Department" means
16 the Department of Human Services and the Department of
17 Healthcare and Family Services or any successor
18 administrative agency of either agency.

19 (18) The furnishing of the financial records of a
20 member to an appropriate law enforcement authority,
21 without prior notice to or consent of the member, upon
22 written request of the law enforcement authority, when
23 reasonable suspicion of an imminent threat to the personal
24 security and safety of the member exists that necessitates
25 an expedited release of the member's financial records, as
26 determined by the law enforcement authority. The law

1 enforcement authority shall include a brief explanation of
2 the imminent threat to the member in its written request
3 to the credit union. The written request shall reflect
4 that it has been authorized by a supervisory or managerial
5 official of the law enforcement authority. The decision to
6 furnish the financial records of a member to a law
7 enforcement authority shall be made by a supervisory or
8 managerial official of the credit union. A credit union
9 providing information in accordance with this item (18)
10 shall not be liable to the member or any other person for
11 the disclosure of the information to the law enforcement
12 authority.

13 (19) The furnishing of financial records of a deceased
14 member to a public administrator of any county or other
15 governmental jurisdiction for the purpose of facilitating
16 burial of the customer.

17 (c) Except as otherwise provided by this Act, a credit
18 union may not disclose to any person, except to the member or
19 his duly authorized agent, any financial records relating to
20 that member of the credit union unless:

21 (1) the member has authorized disclosure to the
22 person;

23 (2) the financial records are disclosed in response to
24 a lawful subpoena, summons, warrant, citation to discover
25 assets, or court order that meets the requirements of
26 subparagraph (3) (d) of this Section; or

1 (3) the credit union is attempting to collect an
2 obligation owed to the credit union and the credit union
3 complies with the provisions of Section 2I of the Consumer
4 Fraud and Deceptive Business Practices Act.

5 (d) A credit union shall disclose financial records under
6 item (3)(c)(2) of this Section pursuant to a lawful subpoena,
7 summons, warrant, citation to discover assets, or court order
8 only after the credit union sends a copy of the subpoena,
9 summons, warrant, citation to discover assets, or court order
10 to the person establishing the relationship with the credit
11 union, if living, and otherwise the person's personal
12 representative, if known, at the person's last known address
13 by first class mail, postage prepaid, through a third-party
14 commercial carrier or courier with delivery charge fully
15 prepaid, by hand delivery, or by electronic delivery at an
16 email address on file with the credit union (if the person
17 establishing the relationship with the credit union has
18 consented to receive electronic delivery and, if the person
19 establishing the relationship with the credit union is a
20 consumer, the person has consented under the consumer consent
21 provisions set forth in Section 7001 of Title 15 of the United
22 States Code), unless the credit union is specifically
23 prohibited from notifying the person by order of court or by
24 applicable State or federal law. In the case of a grand jury
25 subpoena, a credit union shall not mail a copy of a subpoena to
26 any person pursuant to this subsection if the subpoena was

1 issued by a grand jury ~~under the Statewide Grand Jury Act~~ or
2 notifying the person would constitute a violation of the
3 federal Right to Financial Privacy Act of 1978.

4 (e)(1) Any officer or employee of a credit union who
5 knowingly and willfully furnishes financial records in
6 violation of this Section is guilty of a business offense and
7 upon conviction thereof shall be fined not more than \$1,000.

8 (2) Any person who knowingly and willfully induces or
9 attempts to induce any officer or employee of a credit union to
10 disclose financial records in violation of this Section is
11 guilty of a business offense and upon conviction thereof shall
12 be fined not more than \$1,000.

13 (f) A credit union shall be reimbursed for costs which are
14 reasonably necessary and which have been directly incurred in
15 searching for, reproducing or transporting books, papers,
16 records or other data of a member required or requested to be
17 produced pursuant to a lawful subpoena, summons, warrant,
18 citation to discover assets, or court order. The Secretary and
19 the Director may determine, by rule, the rates and conditions
20 under which payment shall be made. Delivery of requested
21 documents may be delayed until final reimbursement of all
22 costs is received.

23 (Source: P.A. 101-81, eff. 7-12-19; 102-873, eff. 5-13-22.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."