



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**SB2553**

Introduced 2/3/2004, by Terry Link

**SYNOPSIS AS INTRODUCED:**

205 ILCS 5/37

from Ch. 17, par. 347

Amends the Illinois Banking Act. Provides that a state bank may acquire or hold shares of its own securities as authorized by the Act. Effective immediately.

LRB093 19593 SAS 45334 b

1 AN ACT concerning financial regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing  
5 Section 37 as follows:

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

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

9 (1) No state bank shall make any loan or extension of  
10 credit in excess of the limits, as determined by the  
11 Commissioner, at any one time outstanding each to its  
12 president, or to any of its vice presidents or its salaried  
13 officers or employees or directors or to corporations or firms,  
14 controlled by them, or in the management of which any of them  
15 are actively engaged, unless such loan or extension of credit  
16 shall have been first approved, by the board of directors. The  
17 Commissioner shall prescribe such limits by rules.

18 (2) It shall not be lawful for a state bank to make any  
19 loan or discount on the security of the shares of its own  
20 capital stock or preferred stock or on the security of its own  
21 debentures or evidences of debt which are either convertible  
22 into capital stock or are junior or subordinate in right of  
23 payment to deposit or other liabilities of the bank; however, a  
24 state bank may acquire or hold such shares or securities as  
25 authorized by Section 14 of this Act.

26 (3) (a) For purposes of this Section, "control" means (i)  
27 ownership, control, or power to vote 25% or more of the  
28 outstanding shares of any class of voting security of the  
29 corporation or firm, directly or indirectly, or acting through  
30 or in concert with one or more other persons; (ii) control in  
31 any manner over the election of a majority of the directors of  
32 the corporation or firm; or (iii) the power to exercise a

1 controlling influence over the management or policies of the  
2 corporation or firm, directly or indirectly, or acting through  
3 or in concert with one or more persons.

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

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

11 (i) the person:

12 (A) is an executive officer, director, or  
13 individual exercising similar functions of the  
14 corporation or firm; and

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

18 (ii) (A) the person directly or indirectly owns,  
19 controls, or has the power to vote more than 10% of any  
20 class of voting securities of the corporation or firm;  
21 and

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

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

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

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.