



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

205 ILCS 5/21.2
205 ILCS 5/21.4 new
205 ILCS 5/80 from Ch. 17, par. 392

Amends the Illinois Banking Act. Provides that no out-of-state bank and no national bank whose main banking premises located outside of Illinois may establish a branch in Illinois unless the out-of-state or national bank obtains a certificate of authority and a written confirmation from the Commissioner of Banks and Real Estate in the manner provided in this Section. Provides that out-of-state banks or national banks with main banking premises in a state other than Illinois may merge with Illinois banks subject to certain conditions. In provisions pertaining to the power of the Banks and Trust Companies Board, provides that the Board may make recommendations to the Commissioner regarding whether the laws of another state are reciprocal with the laws of Illinois. Requires the Commissioner to report to the Board if the Commissioner determines whether the laws of another state are reciprocal with the laws of Illinois.

LRB093 19061 SAS 44796 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 21.2 and 80 and by adding Section 21.4 as follows:

6 (205 ILCS 5/21.2)

7 Sec. 21.2. Interstate mergers; minimum age requirement.

8 (a) No out of state bank and no national bank whose main
9 banking premises is located in a state other than Illinois
10 shall merge with or into, or shall acquire all or substantially
11 all of the assets of an Illinois bank that has existed and
12 continuously operated as a bank for 5 years or less.

13 (b) For purposes of subsection (a) of this Section, an
14 Illinois bank that is the resulting bank following a merger
15 involving an Illinois interim bank shall be considered to have
16 been in existence and continuously operated during the
17 existence and continuous operation of the Illinois merged bank.
18 As used in this subsection (b), the words "interim bank" shall
19 mean a bank which shall not accept deposits, make loans, pay
20 checks, or engage in the general business of banking or any
21 part thereof, and is chartered solely for the purpose of
22 merging with or acquiring control of, or acquiring all or
23 substantially all of the assets of an existing Illinois bank.

24 (c) The provisions of subsection (a) of the Section shall
25 not apply to the merger or acquisition of all or substantially
26 all of the assets of an Illinois bank:

27 (1) if the merger or acquisition is part of a purchase
28 or acquisition with respect to which the Federal Deposit
29 Insurance Corporation provides assistance under Section
30 13(c) of the Federal Deposit Insurance Act; or

31 (2) if the Illinois bank is in default or in danger of
32 default; or

1 (3) if the out of state bank or national bank has its
2 main banking premises in a state that is deemed to be
3 reciprocal and Illinois and would be eligible to establish
4 a branch pursuant to Section 21.4 of this Act.

5 (Source: P.A. 90-226, eff. 7-25-97.)

6 (205 ILCS 5/21.4 new)

7 Sec. 21.4. Out-of-state banks establishing branches.

8 (a) No out-of-state bank and no national bank whose main
9 banking premises is located in a state other than Illinois
10 shall establish a branch in this State, other than a branch
11 authorized pursuant to Section 21.1 of this Act, unless:

12 (1) the laws of the state in which such out-of-state
13 bank or national bank has its main banking premises permit
14 such out-of-state bank or national bank to establish a
15 branch in this State;

16 (2) such out-of-state bank or national bank has its
17 main banking premises in a state that permits a State bank
18 to establish a branch in that state pursuant to terms and
19 conditions that are deemed to be reciprocal with the
20 provisions of this Act;

21 (3) such out-of-state bank obtains a certificate of
22 authority from the Commissioner as provided in this
23 Section.

24 (b) Not less than 60 days before such out-of-state bank
25 intends to do business at such ranch in this State the
26 out-of-state bank must file an application for a certificate of
27 authority on forms specified by the Commissioner which shall
28 request, to the extent applicable, the same information
29 required in an application by a foreign corporation pursuant to
30 Section 13.15 of the Business Corporation Act of 1983. The
31 Commissioner may require additional information or documents
32 from the applicant as part of the application. The Commissioner
33 shall also request confirmation from such out-of-state bank's
34 chartering authority and appropriate federal banking agency of
35 the authority of such out-of-state bank to establish the branch

1 and of any necessary regulatory approvals from those agencies.
2 After receiving a completed application and the relevant
3 confirmations or approvals from the state and federal
4 regulatory agencies, the Commissioner shall issue a
5 certificate of authority authorizing the out-of-state bank to
6 establish the branch consistent with the provisions of this
7 Section.

8 (c) The determination of whether the laws of the state in
9 which such out-of-state bank or national bank has its main
10 banking-premises are reciprocal with the provisions of this Act
11 shall be made in writing by the Commissioner after consultation
12 with the State Banking Board. The Commissioner and the State
13 Banking Board shall consider all material commercial, legal and
14 procedural factors, including but not limited to application,
15 procedures, regulatory burdens and tax consequences, that
16 might result in substantial disparity between the ability of a
17 State bank to establish and operate a branch in such other
18 state and the ability of such out-of-state bank or such
19 national bank to establish and operate a branch in this State.
20 Nothing in this Section shall be construed as imposing any
21 liability on the Commissioner the State Banking Board or the
22 individual members thereof with regard to any reciprocity
23 determinations that are made.

24 (d) After such out-of-state bank or national bank lawfully
25 establishes a branch in this State pursuant to the provisions
26 of this Section, such out-of-state bank or national bank may
27 establish and maintain additional branches in this State to the
28 same extent as a State bank. An out-of-state bank shall provide
29 written notice to the Commissioner of its intent to establish
30 an additional branch or branches in this State within 30 days
31 after receiving approval from the appropriate federal banking
32 agency to establish the branch or branches. The form of the
33 notice shall be specified by the Commissioner and may include
34 any of the information required for a similar notice by a State
35 bank. Receipt by the Commissioner of notice of the out-of-state
36 bank's intent to establish such additional branch or branches

1 in this State from the out-of-state bank's chartering authority
2 shall satisfy the notice requirements of this subsection (d).

3 (e) A branch of an out-of-state bank may not conduct any
4 activity that is not authorized for a State bank.

5 (205 ILCS 5/80) (from Ch. 17, par. 392)

6 Sec. 80. Board; powers. The Board shall have the following
7 powers in addition to any others that may be granted to it by
8 law:

9 (a) To make, alter, and amend rules and regulations
10 proposed for adoption by the Commissioner with respect to the
11 following matters:

12 (i) The scope and nature of showings to be furnished
13 and evidence to be presented in connection with the
14 granting of charters of new banks, and in connection with
15 the approval by the Commissioner of mergers, conversions,
16 consolidations and changes of location, and the forms upon
17 which any of such showings may be made.

18 (ii) The steps to be taken and the showings to be
19 furnished in connection with voluntary dissolutions under
20 Sections 68 to 74, inclusive, of this Act, and the forms
21 upon which such showing are to be made.

22 (iii) The form, content and nature of the reports to be
23 furnished to the Commissioner under Section 47 of this Act,
24 and the definition of the scope of examinations and the
25 data to be furnished in connection with examinations by the
26 Commissioner under subsection (2) and subsection (5) of
27 Section 48 of this Act.

28 (b) To review, consider and make recommendations to the
29 Commissioner upon any banking matters, including but not
30 limited to determinations as to whether the laws of another
31 state are sufficiently reciprocal with the laws of Illinois for
32 purposes of allowing interstate de novo branching pursuant to
33 Section 21.4 of this Act.

34 (c) To require the Commissioner to report periodically to
35 the Board on any banking matters, including the following:

1 (i) Data with respect to banks whose condition or
2 practices are being critically considered or reviewed by
3 the Commissioner pursuant to Section 51 of this Act, and
4 data with respect to banks to which any notice has been
5 given by the Commissioner pursuant to said Section 51; and

6 (ii) The extent and nature of all disciplinary action
7 taken by the Commissioner against any bank or any officer
8 or director thereof, and information with respect to the
9 manner or extent of the remedial action, if any, taken by
10 the criticized bank or director or officer; and

11 (iii) The extent and nature of all action taken by the
12 Commissioner under or pursuant to Section 52 of this Act;
13 ~~and~~

14 (iv) The extent and nature of all action taken by the
15 Commissioner under or pursuant to Section 31 of this Act;
16 and

17 (v) Any determination by the Commissioner as to whether
18 the laws of another state are sufficiently reciprocal with
19 the laws of Illinois for purposes of allowing interstate de
20 novo branching pursuant to Section 21.4 of this Act,
21 including any statutory provisions and other factors that
22 were considered by the Commissioner in making that
23 determination.

24 (d) To require the Commissioner to furnish the Board
25 reports in respect of the granting or of the denial of new
26 charters, mergers, changes of location, conversions or
27 consolidations, including the findings made and the basis for
28 the action taken by the Commissioner in connection therewith.

29 (e) To review, consider and submit to the Commissioner and
30 to the Governor proposals for amendments to this Act or for
31 changes in or additions to the administration thereof which in
32 the opinion of the Board are necessary or desirable in order to
33 assure the safe and sound conduct of the banking business.

34 (f) To require the Commissioner to furnish the Board space
35 for meetings to be held by the Board as well as to require the
36 Commissioner to provide such clerical and technical assistance

1 as the Board may require.

2 (g) To adopt its own by-laws with respect to Board meetings
3 and procedures. Such by-laws shall provide that:

4 (i) A majority of the whole Board constitutes a quorum.

5 (ii) A majority of the quorum shall constitute
6 effective action except that a vote of a majority of the
7 whole Board shall be necessary for the approval of rules
8 and regulations proposed for adoption by the Commissioner
9 under Section 80(a), (i), (ii) and (iii) of this Act and
10 shall be necessary for recommendations made to the
11 Commissioner and to the Governor with regard to proposed
12 amendments to this Act or to the administrative practices
13 hereunder.

14 (iii) The Board shall meet at least once in each
15 calendar year and upon the call of the Commissioner or a
16 majority of the Board. The Commissioner or a majority of
17 the Board may call such special or additional meetings as
18 may be deemed necessary or desirable.

19 (h) To make rules to regulate the method of selecting
20 candidates for consideration by the Governor to fill a vacancy
21 in the Office of the Commissioner and the deputy commissioners.

22 (i) To make rules to regulate the method of selecting
23 candidates for consideration by the Governor to fill a vacancy
24 in the office of any of the 10 Class B members of the Board.

25 (j) To make rules to regulate the conduct of hearings under
26 subsection (7) of Section 48 of this Act.

27 (k) To subpoena witnesses, to compel their attendance, to
28 administer an oath, to examine any person under oath and to
29 require the production of any relevant books, papers, accounts
30 and documents in the course of and pursuant to any hearing
31 being conducted under subsection (7) of Section 48 of this Act.

32 (l) To appoint hearing officers to conduct hearings under
33 subsection (7) of Section 48 of this Act.

34 (Source: P.A. 89-508, eff. 7-3-96.)