



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4345

Introduced 12/30/2005, by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

205 ILCS 105/1-1.5 new	
205 ILCS 105/1-5	from Ch. 17, par. 3301-5
205 ILCS 205/1001.5 new	
205 ILCS 205/1004	from Ch. 17, par. 7301-4

Amends the Illinois Savings and Loan Act of 1985 and the Savings Bank Act. Prohibits any person or group of persons from (1) using the name of an existing savings and loan association or savings bank when marketing or soliciting business from customers or prospective customers if the name is used without the written consent of that association or savings bank or (2) using a name that is similar to that of an existing savings and loan association or savings bank when marketing to or soliciting business from customers or prospective customers if the similar name is used in a manner that would cause a reasonable person to believe that the existing association or savings bank originated, endorsed, or is in any other way responsible for the marketing material or solicitation. Authorizes the Secretary of Financial and Professional Regulation to issue cease and desist orders for violation of these provisions. Imposes civil penalties for violation of the these provisions and for violation of the cease and desist order. Authorizes the Department of Financial and Professional Regulation to adopt rules to administer the provisions. Makes other changes. Effective immediately.

LRB094 15657 MKM 50866 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Savings and Loan Act of 1985 is
5 amended by by adding Section 1-1.5 and by changing Section 1-5
6 as follows:

7 (205 ILCS 105/1-1.5 new)

8 Sec. 1-1.5. References to Office or Commissioner of Banks
9 and Real Estate. On and after the effective date of this
10 amendatory Act of the 94th General Assembly, unless the context
11 requires otherwise:

12 (1) References in this Act to the Office of Banks and
13 Real Estate or "the Office" mean the Department of
14 Financial and Professional Regulation.

15 (2) References in this Act to the Commissioner of Banks
16 and Real Estate or "the Commissioner" mean the Secretary of
17 Financial and Professional Regulation.

18 (205 ILCS 105/1-5) (from Ch. 17, par. 3301-5)

19 Sec. 1-5. Prohibitions.

20 (a) No person or group of persons, except an association
21 duly incorporated under this Act or a prior Act or a Federal
22 association or a foreign association duly authorized to do
23 business in this State, shall transact business within the
24 scope of this Act or do any business under any name or title or
25 circulate or use any advertising or make any representation or
26 give any information to any person which indicates or
27 reasonably implies the operation of a business which is within
28 the scope of this Act.

29 (b) A circuit court may issue an injunction to restrain any
30 person from violating or continuing to violate subsection (a)
31 ~~any of the foregoing provisions~~ of this Section.

1 (b-5) Except as otherwise expressly permitted by law, no
2 person or group of persons may:

3 (1) use the name of an existing association when
4 marketing or soliciting business from customers or
5 prospective customers if the name of the existing
6 association is used without the written consent of that
7 association; or

8 (2) use a name that is similar to that of an existing
9 association when marketing or soliciting business from
10 customers or prospective customers if the similar name is
11 used in a manner that would cause a reasonable person to
12 believe that the marketing material or solicitation
13 originated from or is endorsed by the existing association
14 or that the existing association is in any other way
15 responsible for the marketing material or solicitation.

16 (c) Any person or group of persons who violates subsection
17 (a) of any provision of this Section commits a business offense
18 and shall be fined not to exceed \$5,000.

19 (d) In addition to any other available remedies, an
20 existing association may report an alleged violation of any
21 provision of this Section to the Secretary. If the Secretary of
22 Financial and Professional Regulation finds that any person or
23 group of persons is in violation of any provision of this
24 Section, then the Secretary may direct that person or group of
25 persons to cease and desist from that violation. If the
26 Secretary issues a cease and desist order against any person or
27 group of persons for violation of item (2) of subsection (b-5),
28 then the order must require that person or group of persons to
29 cease and desist from using the offending marketing material or
30 solicitation in Illinois.

31 If the person or group of persons against whom the
32 Secretary issued the cease and desist order persists in the
33 violation, then the Secretary may impose a fine of up to
34 \$10,000 for each violation. Each day that a person or group of
35 persons is in violation of this Section constitutes a separate
36 violation of this Section and each instance in which marketing

1 material or a solicitation is sent in violation of item (2) of
2 subsection (b-5) constitutes a separate violation of this
3 Section.

4 (e) The Department of Financial and Professional
5 Regulation may adopt rules to administer the provisions of this
6 Section.

7 (Source: P.A. 84-543.)

8 Section 10. The Savings Bank Act is amended by adding
9 Section 1001.5 and by changing Section 1004 as follows:

10 (205 ILCS 205/1001.5 new)

11 Sec. 1001.5. References to Office or Commissioner of Banks
12 and Real Estate. On and after the effective date of this
13 amendatory Act of the 94th General Assembly, unless the context
14 requires otherwise:

15 (1) References in this Act to the Office of Banks and
16 Real Estate or "the Office" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Commissioner of Banks
19 and Real Estate or "the Commissioner" mean the Secretary of
20 Financial and Professional Regulation.

21 (205 ILCS 205/1004) (from Ch. 17, par. 7301-4)

22 Sec. 1004. Applicability.

23 (a) This Act shall apply to all financial institutions no
24 matter how named or chartered, if they comply with the
25 provisions of this Act and with the rules of the Commissioner
26 promulgated pursuant to this Act.

27 (b) No person or group of persons, except a savings bank
28 duly organized or authorized under this Act, a predecessor Act,
29 or a federal Act may transact business within the scope of this
30 Act or do business under any name or title or circulate or use
31 any advertising or make any representations or give any
32 information to anyone using any media, including electronic
33 media, that indicates or implies the operation of a business

1 within the scope of this Act. Nothing herein shall prohibit the
2 continued use of the name or title "savings bank" by any bank
3 or savings and loan association if the use of that name or
4 title was in effect before January 1, 1990.

5 (c) Except as otherwise expressly permitted by law, no
6 person or group of persons may:

7 (1) use the name of an existing savings bank when
8 marketing or soliciting business from customers or
9 prospective customers if the name of the existing savings
10 bank is used without the written consent of that savings
11 bank; or

12 (2) use a name that is similar to that of an existing
13 savings bank when marketing or soliciting business from
14 customers or prospective customers if the similar name is
15 used in a manner that would cause a reasonable person to
16 believe that the marketing material or solicitation
17 originated from or is endorsed by the existing savings bank
18 or that the existing savings bank is in any other way
19 responsible for the marketing material or solicitation.

20 (d) Any person who violates subsection (b) of this Section
21 commits a business offense and shall be fined in an amount not
22 to exceed \$5,000.

23 (e) In addition to any other available remedies, any
24 existing savings bank may report an alleged violation of any
25 provision of this Section to the Secretary of Financial and
26 Professional Regulation. If the Secretary finds that any person
27 or group of persons is in violation of any provision of this
28 Section, then the Secretary may direct that person or group of
29 persons to cease and desist from that violation. If the
30 Secretary issues a cease and desist order against any person or
31 group of persons for violation of item (2) of subsection (c),
32 then the order must require that person or group of persons to
33 cease and desist from using the offending marketing material or
34 solicitation in Illinois.

35 If the person or group of persons against whom the
36 Secretary issued the cease and desist order persists in the

1 violation, then the Secretary may impose a fine of up to
2 \$10,000 for each violation. Each day that a person or group of
3 persons is in violation of this Section constitutes a separate
4 violation of this Section and each instance in which marketing
5 material or a solicitation is sent in violation of item (2) of
6 subsection (c) constitutes a separate violation of this
7 Section.

8 (f) The Department of Financial and Professional
9 Regulation may adopt rules to administer the provisions of this
10 Section.

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.