

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 Banking Act is amended by changing  
5 Section 16 as follows:

6 (205 ILCS 5/16) (from Ch. 17, par. 323)

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

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

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

25 (b) Notwithstanding the minimum number of directors  
26 specified in paragraph (a) of this subsection, a State bank  
27 that has been in existence for 10 years or more and has  
28 less than \$20,000,000 in assets, as of the December 31  
29 immediately preceding the annual meeting of shareholders  
30 at which directors are elected, may, subject to the  
31 approval of the Commissioner, have a minimum of 3  
32 directors; provided that if a State bank has fewer than 5

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

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

27 Unless prohibited ~~If authorized~~ by the bank's by-laws or an  
28 amendment thereto, the directors of a State bank may properly  
29 fill a vacancy or vacancies arising between shareholders'  
30 meetings by appointment, but at no time may the number of  
31 directors appointed ~~selected~~ to fill a vacancy in this manner  
32 during any interim period between shareholders' meetings  
33 exceed 33 1/3% of the total membership of the board of  
34 directors. Any director appointed to fill a vacancy arising  
35 between shareholders' meetings shall serve until the next  
36 meeting of shareholders at which directors are elected.

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

19           (5) A member of the board of directors shall be elected  
20 president. The board of directors may appoint other officers,  
21 as the by-laws may provide, and fix their salaries to carry on  
22 the business of the bank. The board of directors may make and  
23 amend by-laws (not inconsistent with this Act) for the  
24 government of the bank and may, by the affirmative vote of a  
25 majority of the board of directors, establish reasonable  
26 compensation of all directors for services to the corporation  
27 as directors, officers, or otherwise. An officer, whether  
28 elected or appointed by the board of directors or appointed  
29 pursuant to the by-laws, may be removed by the board of  
30 directors at any time.

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

33           (7) (a) In discharging the duties of their respective  
34 positions, the board of directors, committees of the board,  
35 and individual directors may, in considering the best long  
36 term and short term interests of the bank, consider the

1 effects of any action (including, without limitation,  
2 action that may involve or relate to a merger or potential  
3 merger or to a change or potential change in control of the  
4 bank) upon employees, depositors, suppliers, and customers  
5 of the corporation or its subsidiaries, communities in  
6 which the main banking premises, branches, offices, or  
7 other establishments of the bank or its subsidiaries are  
8 located, and all pertinent factors.

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

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