

SB2338



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2338

Introduced 2/14/2008, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

205 ILCS 5/15

from Ch. 17, par. 322

Amends the Illinois Banking Act. Provides that the president and any other officer designated by the board of directors (rather than the president and cashier) of every State bank shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the State bank and the number of shares held by each in the office where its business is transacted. Effective immediately.

LRB095 16921 MJR 42966 b

A BILL FOR

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 15 as follows:

6 (205 ILCS 5/15) (from Ch. 17, par. 322)

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

11 (1) There shall be an annual meeting of the stockholders
12 for the election of directors each year on the first business
13 day in January, unless some other date shall be fixed by the
14 by-laws. A special meeting of the stockholders may be called at
15 any time by the board of directors, and otherwise as may be
16 provided in the bylaws.

17 (2) Written or printed notice stating the place, day, and
18 hour of the meeting, and in case of a special meeting, the
19 purpose or purposes for which the meeting is called, shall be
20 delivered not less than 10 nor more than 40 days before the
21 date of the meeting either personally or by mail, by or at the
22 direction of the president, or the secretary, or the officer or
23 persons calling the meeting, to each stockholder of record

1 entitled to vote at the meeting. If mailed, the notice shall be
2 deemed to be delivered when deposited in the United States mail
3 with postage thereon prepaid addressed to the stockholder at
4 his address as it appears on the records of the bank.

5 (3) Except as provided below in this paragraph (3), each
6 outstanding share shall be entitled to one vote on each matter
7 submitted to a vote at a meeting of stockholders. Shares of its
8 own stock belonging to a bank shall not be voted, directly or
9 indirectly, at any meeting and shall not be counted in
10 determining the total number of outstanding shares at any given
11 time, but shares of its own stock held by it in a fiduciary
12 capacity may be voted and shall be counted in determining the
13 total number of outstanding shares at any given time. A
14 stockholder may vote either in person or by proxy executed in
15 writing by the stockholder or by his duly authorized
16 attorney-in-fact. No proxy shall be valid after 11 months from
17 the date of its execution, unless otherwise provided in the
18 proxy. Except as provided below in this paragraph (3), in all
19 elections for directors every stockholder (or subscriber to the
20 stock prior to the issuance of a charter) shall have the right
21 to vote, in person or by proxy, for the number of shares of
22 stock owned by him, for as many persons as there are directors
23 to be elected, or to cumulate the shares and give one candidate
24 as many votes as the number of directors multiplied by the
25 number of his or her shares of stock shall equal, or to
26 distribute them on the same principle among as many candidates

1 as he or she shall think fit. The bank charter of any bank
2 organized on or after January 1, 1984 may limit or eliminate
3 cumulative voting rights in all or specified circumstances, or
4 may eliminate voting rights entirely, as to any class or
5 classes or series of stock of the bank; provided that one class
6 of shares or series thereof shall always have voting rights in
7 respect of all matters in the bank. A bank organized prior to
8 January 1, 1984 may amend its charter to eliminate cumulative
9 voting rights under all or specified circumstances, or to
10 eliminate voting rights entirely, as to any class or classes or
11 series of stock of the bank; provided that one class of shares
12 or series thereof shall always have voting rights in respect of
13 all matters in the bank, and provided further that the proposal
14 to eliminate the voting rights receives the approval of the
15 holders of 70% of the outstanding shares of stock entitled to
16 vote as provided in paragraph (b) (7) of Section 17. A majority
17 of the outstanding shares represented in person or by proxy
18 shall constitute a quorum at a meeting of stockholders. In the
19 absence of a quorum a meeting may be adjourned from time to
20 time without notice to the stockholders.

21 (4) Whenever additional stock of a class is offered for
22 sale, stockholders of record of the same class on the date of
23 the offer shall have the right to subscribe to the proportion
24 of the shares as the stock of the class held by them bears to
25 the total of the outstanding stock of the class, and the price
26 thereof may be in excess of par value. This right shall be

1 transferable but shall terminate if not exercised within 60
2 days of the offer, unless the Commissioner shall authorize a
3 shorter time. If the right is not exercised, the stock shall
4 not be re-offered for sale to others at a lower price without
5 the stockholders of the same class again being accorded a
6 preemptive right to subscribe at the lower price.
7 Notwithstanding any of the provisions of this paragraph (4) or
8 any other provision of law, stockholders shall not have any
9 preemptive or other right to subscribe for or to purchase or
10 acquire shares of capital stock issued or to be issued under a
11 stock-option plan or upon conversion of preferred stock or
12 convertible debentures or other convertible indebtedness that
13 has been approved by stockholders in the manner required by the
14 provisions of subsection (5) of Section 14 hereof or to
15 treasury stock acquired pursuant to subsection (6) of Section
16 14.

17 (5) For the purpose of determining stockholders entitled to
18 notice of or to vote at any meeting of stockholders, or
19 stockholders entitled to receive payment of any dividend, or in
20 order to make a determination of stockholders for any other
21 proper purpose, the board of directors of a bank may provide
22 that the stock transfer books shall be closed for a stated
23 period not to exceed, in any case, 40 days. In lieu of closing
24 the stock transfer books, the board of directors may fix in
25 advance a date as the record date for any determination of
26 stockholders, the date in any case to be not more than 40 days,

1 and in case of a meeting of stockholders, not less than 10 days
2 prior to the date on which the particular action, requiring the
3 determination of stockholders, is to be taken. If the stock
4 transfer books are not closed and no record date is fixed for
5 the determination of stockholders entitled to notice of or to
6 vote at a meeting of stockholders, or stockholders entitled to
7 receive payment of a dividend, the date on which notice of a
8 meeting is mailed or the date on which the resolution of the
9 board of directors declaring the dividend is adopted, as the
10 case may be, shall be the record date for the determination of
11 stockholders.

12 (6) Stock standing in the name of another corporation,
13 domestic or foreign, may be voted by the officer, agent, or
14 proxy as the by-laws of the corporation may prescribe, or, in
15 the absence of such provision, as the board of directors of the
16 corporation may determine. Stock standing in the name of a
17 deceased person may be voted by his or her administrator or
18 executor, either in person or by proxy. Stock standing in the
19 name of a guardian or trustee may be voted by that fiduciary
20 either in person or by proxy. Shares standing in the name of a
21 receiver may be voted by the receiver, and shares held by or
22 under control of a receiver may be voted by the receiver
23 without the transfer thereof into his or her name if authority
24 so to do be contained in an appropriate order of the court by
25 which the receiver was appointed. A stockholder whose shares of
26 stock are pledged shall be entitled to vote those shares until

1 the shares have been transferred into the name of the pledgee,
2 and thereafter the pledgee shall be entitled to vote the shares
3 so transferred.

4 (7) Shares of stock shall be transferable in accordance
5 with the general laws of this State governing the transfer of
6 corporate shares.

7 (8) The president and any other officer designated by the
8 board of directors ~~and cashier~~ of every State bank shall cause
9 to be kept at all times a full and correct list of the names and
10 residences of all the shareholders in the State bank and the
11 number of shares held by each in the office where its business
12 is transacted. The list shall be subject to the inspection of
13 all the shareholders of the State bank and the officers
14 authorized to assess taxes under State authority during
15 business hours of each day in which business may be legally
16 transacted. A copy of the list, verified by the oath of the
17 president or cashier, shall be transmitted to the Commissioner
18 of Banks and Real Estate within 10 days of any demand therefor
19 made by the Commissioner.

20 (9) Any number of shareholders of a bank may create a
21 voting trust for the purpose of conferring upon a trustee or
22 trustees the right to vote or otherwise represent their shares
23 for a period of not to exceed 10 years by entering into a
24 written voting trust agreement specifying the terms and
25 conditions of the voting trust and by transferring their shares
26 to the trustee or trustees for the purposes of the agreement.

1 The trust agreement shall not become effective until a
2 counterpart of the agreement is deposited with the bank at its
3 main banking premises. The counterpart of the voting trust
4 agreement so deposited with the bank shall be subject to the
5 same right of examination by a shareholder of the bank, in
6 person or by agent or attorney, as is the record of
7 shareholders of the bank and shall be subject to examination by
8 any holder of a beneficial interest in the voting trust, either
9 in person or by agent or attorney, at any reasonable time for
10 any proper purpose.

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

15 A voting agreement created under this paragraph is
16 specifically enforceable in accordance with the principles of
17 equity.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.