

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 Office of Banks and Real Estate Act is  
5 amended by changing Sections 0.1, 0.2, and 5 as follows:

6 (20 ILCS 3205/0.1)

7 Sec. 0.1. Short title. This Act may be cited as the  
8 Division of Banking ~~Office of Banks and Real Estate Act.~~

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

10 (20 ILCS 3205/0.2)

11 Sec. 0.2. Definitions. For the purposes of this Act, unless  
12 the context otherwise requires:

13 "Commissioner" means the Secretary of Financial and  
14 Professional Regulation ~~Commissioner of Banks and Real Estate,~~  
15 or a person authorized by the Secretary ~~Commissioner,~~ the  
16 Division of Banking Act, or by this Act to act in the  
17 Secretary's ~~Commissioner's~~ stead.

18 "Division" means the Division of Banking within the  
19 Department of Financial and Professional Regulation.

20 "Office" means the Division of Banking within the  
21 Department of Financial and Professional Regulation ~~Office of~~  
22 ~~Banks and Real Estate.~~

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

2 (20 ILCS 3205/5) (from Ch. 17, par. 455)

3 Sec. 5. Powers. In addition to all the other powers and  
4 duties provided by law, the Commissioner shall have the  
5 following powers:

6 (a) To exercise the rights, powers and duties formerly  
7 vested by law in the Director of Financial Institutions under  
8 the Illinois Banking Act.

9 (b) To exercise the rights, powers and duties formerly  
10 vested by law in the Department of Financial Institutions under  
11 "An act to provide for and regulate the administration of  
12 trusts by trust companies", approved June 15, 1887, as amended.

13 (c) To exercise the rights, powers and duties formerly  
14 vested by law in the Director of Financial Institutions under  
15 "An act authorizing foreign corporations, including banks and  
16 national banking associations domiciled in other states, to act  
17 in a fiduciary capacity in this state upon certain conditions  
18 herein set forth", approved July 13, 1953, as amended.

19 (c-5) To exercise all of the rights, powers, and duties  
20 granted to the Director or Secretary under the Illinois Banking  
21 Act, the Corporate Fiduciary Act, the Electronic Fund Transfer  
22 Act, the Illinois Bank Holding Company Act of 1957, the Savings  
23 Bank Act, the Illinois Savings and Loan Act of 1985, the  
24 Savings and Loan Share and Account Act, the Residential  
25 Mortgage License Act of 1987, and the Pawnbroker Regulation

1 Act.

2 (d) Whenever the Commissioner is authorized or required by  
3 law to consider or to make findings regarding the character of  
4 incorporators, directors, management personnel, or other  
5 relevant individuals under the Illinois Banking Act, the  
6 Corporate Fiduciary Act, the Pawnbroker Regulation Act, or at  
7 other times as the Commissioner deems necessary for the purpose  
8 of carrying out the Commissioner's statutory powers and  
9 responsibilities, the Commissioner shall consider criminal  
10 history record information, including nonconviction  
11 information, pursuant to the Criminal Identification Act. The  
12 Commissioner shall, in the form and manner required by the  
13 Department of State Police and the Federal Bureau of  
14 Investigation, cause to be conducted a criminal history record  
15 investigation to obtain information currently contained in the  
16 files of the Department of State Police or the Federal Bureau  
17 of Investigation, provided that the Commissioner need not cause  
18 additional criminal history record investigations to be  
19 conducted on individuals for whom the Commissioner, a federal  
20 bank regulatory agency, or any other government agency has  
21 caused such investigations to have been conducted previously  
22 unless such additional investigations are otherwise required  
23 by law or unless the Commissioner deems such additional  
24 investigations to be necessary for the purposes of carrying out  
25 the Commissioner's statutory powers and responsibilities. The  
26 Department of State Police shall provide, on the Commissioner's

1 request, information concerning criminal charges and their  
2 disposition currently on file with respect to a relevant  
3 individual. Information obtained as a result of an  
4 investigation under this Section shall be used in determining  
5 eligibility to be an incorporator, director, management  
6 personnel, or other relevant individual in relation to a  
7 financial institution or other entity supervised by the  
8 Commissioner. Upon request and payment of fees in conformance  
9 with the requirements of Section 2605-400 of the Department of  
10 State Police Law (20 ILCS 2605/2605-400), the Department of  
11 State Police is authorized to furnish, pursuant to positive  
12 identification, such information contained in State files as is  
13 necessary to fulfill the request.

14 (e) When issuing charters, permits, licenses, or other  
15 authorizations, the Commissioner may impose such terms and  
16 conditions on the issuance as he deems necessary or  
17 appropriate. Failure to abide by those terms and conditions may  
18 result in the revocation of the issuance, the imposition of  
19 corrective orders, or the imposition of civil money penalties.

20 (f) If the Commissioner has reasonable cause to believe  
21 that any entity that has not submitted an application for  
22 authorization or licensure is conducting any activity that  
23 would otherwise require authorization or licensure by the  
24 Commissioner, the Commissioner shall have the power to subpoena  
25 witnesses, to compel their attendance, ~~and~~ to require the  
26 production of any relevant books, papers, accounts, and

1 documents, and to conduct an examination of the entity in order  
2 to determine whether the entity is subject to authorization or  
3 licensure by the Commissioner or the Division ~~Office of Banks~~  
4 ~~and Real Estate~~. If the Secretary determines that the entity is  
5 subject to authorization or licensure by the Secretary, then  
6 the Secretary shall have the power to issue orders against or  
7 take any other action, including initiating a receivership  
8 against the unauthorized or unlicensed entity.

9 (g) The Commissioner may, through the Attorney General,  
10 request the circuit court of any county to issue an injunction  
11 to restrain any person from violating the provisions of any Act  
12 administered by the Commissioner.

13 (h) Whenever the Commissioner is authorized to take any  
14 action or required by law to consider or make findings, the  
15 Commissioner may delegate or appoint, in writing, an officer or  
16 employee of the Division ~~Office of Banks and Real Estate~~ to  
17 take that action or make that finding.

18 (i) Whenever the Secretary determines that it is in the  
19 public's interest, he or she may publish any cease and desist  
20 order or other enforcement action issued by the Division.

21 (Source: P.A. 91-239, eff. 1-1-00; 92-483, eff. 8-23-01.)

22 Section 7. The Illinois Bank Examiners' Education  
23 Foundation Act is amended by changing Sections 3.01, 4, and 5  
24 as follows:

1 (20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

2 Sec. 3.01. "Board" means the State Banking Board of  
3 Illinois as established under the provisions of the Illinois  
4 Banking Act ~~Board of Trustees of the Illinois Bank Examiners'~~  
5 ~~Education Foundation created by this Act.~~

6 (Source: P.A. 84-1127.)

7 (20 ILCS 3210/4) (from Ch. 17, par. 404)

8 Sec. 4. The Foundation shall establish an endowment fund  
9 with the monies in the Illinois Bank Examiners' Education Fund.  
10 The income from such Fund shall be used to pay for continuing  
11 education and professional training activity for the  
12 examination employees of the Commissioner's office authorized  
13 by the Board ~~of the Illinois Bank Examiners' Education Program~~  
14 and to pay for reasonable expenses incurred by the Board in the  
15 course of administering its official duties under this Act. The  
16 continuing education and professional training activity to be  
17 funded by the Foundation shall be a supplement to the education  
18 and training expenditures regularly being made from the Bank &  
19 Trust Company Fund for such purposes.

20 (Source: P.A. 84-1127.)

21 (20 ILCS 3210/5) (from Ch. 17, par. 405)

22 Sec. 5. The Foundation shall be governed by the ~~a~~ Board ~~of~~  
23 ~~Trustees. The Board shall consist of the following trustees:~~  
24 ~~the Commissioner, who shall be its chairman; one Class A member~~

1 ~~and three Class B members from the State Banking Board of~~  
2 ~~Illinois, appointed by the Governor.~~

3 For carrying out their official duties under this Act, the  
4 Board members ~~The terms of the trustees of the Foundation who~~  
5 ~~are members of the State Banking Board of Illinois are to be~~  
6 ~~coextensive with their terms on the State Banking Board of~~  
7 ~~Illinois. An appointment to fill a vacancy shall be for the~~  
8 ~~unexpired term of the trustee whose term is being filled.~~  
9 ~~Trustees~~ shall receive no compensation ~~for service on the~~  
10 ~~Board~~, but shall be reimbursed for all reasonable and necessary  
11 expenditures incurred in the performance of said ~~their official~~  
12 duties.

13 (Source: P.A. 84-1127.)

14 Section 10. The Illinois Bank Examiners' Education  
15 Foundation Act is amended by changing Section 3.02 and by  
16 adding Section 3.025 as follows:

17 (20 ILCS 3210/3.02) (from Ch. 17, par. 403.2)

18 Sec. 3.02. "Commissioner" means the Secretary of Financial  
19 and Professional Regulation ~~Commissioner of Banks and Real~~  
20 ~~Estate~~ or a person authorized by the Secretary ~~Commissioner~~,  
21 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
22 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

1 (20 ILCS 3210/3.025 new)

2 Sec. 3.025. Division. "Division" means the Division of  
3 Banking within the Department of Financial and Professional  
4 Regulation.

5 Section 15. The Illinois Banking Act is amended by changing  
6 Sections 13, 32, 40, 48, 51, and 52 as follows:

7 (205 ILCS 5/13) (from Ch. 17, par. 320)

8 Sec. 13. Issuance of charter.

9 (a) When the directors have organized as provided in  
10 Section 12 of this Act, and the capital stock and the preferred  
11 stock, if any, together with a surplus of not less than 50% of  
12 the capital, has been all fully paid in and a record of the  
13 same filed with the Commissioner, the Commissioner or some  
14 competent person of the Commissioner's appointment shall make a  
15 thorough examination into the affairs of the proposed bank, and  
16 if satisfied (i) that all the requirements of this Act have  
17 been complied with, (ii) that no intervening circumstance has  
18 occurred to change the Commissioner's findings made pursuant to  
19 Section 10 of this Act, and (iii) that the prior involvement by  
20 any stockholder who will own a sufficient amount of stock to  
21 have control, as defined in Section 18 of this Act, of the  
22 proposed bank with any other financial institution, whether as  
23 stockholder, director, officer, or customer, was conducted in a  
24 safe and sound manner, upon payment into the Commissioner's



1 office of the reasonable expenses of the examination, as  
2 determined by the Commissioner, the Commissioner shall issue a  
3 charter authorizing the bank to commence business as authorized  
4 in this Act. All charters issued by the Commissioner or any  
5 predecessor agency which chartered State banks, including any  
6 charter outstanding as of September 1, 1989, shall be  
7 perpetual. For the 2 years after the Commissioner has issued a  
8 charter to a bank, the bank shall request and obtain from the  
9 Commissioner prior written approval before it may change senior  
10 management personnel or directors.

11 The original charter, duly certified by the Commissioner,  
12 or a certified copy shall be evidence in all courts and places  
13 of the existence and authority of the bank to do business. Upon  
14 the issuance of the charter by the Commissioner, the bank shall  
15 be deemed fully organized and may proceed to do business. The  
16 Commissioner may, in the Commissioner's discretion, withhold  
17 the issuing of the charter when the Commissioner has reason to  
18 believe that the bank is organized for any purpose other than  
19 that contemplated by this Act. The Commissioner shall revoke  
20 the charter and order liquidation in the event that the bank  
21 does not commence a general banking business within one year  
22 from the date of the issuance of the charter, unless a request  
23 has been submitted, in writing, to the Commissioner for an  
24 extension and the request has been approved. After commencing a  
25 general banking business, a bank may change its name by filing  
26 written notice with the Commissioner at least 30 days prior to

1 the effective date of such change. A bank chartered under this  
2 Act may change its main banking premises by filing written  
3 application with the Commissioner, on forms prescribed by the  
4 Commissioner, provided (i) the change shall not be a removal to  
5 a new location without complying with the capital requirements  
6 of Section 7 and of subsection (1) of Section 10 of this Act;  
7 (ii) the Commissioner approves the relocation or change; and  
8 (iii) the bank complies with any applicable federal law or  
9 regulation. The application shall be deemed to be approved if  
10 the Commissioner has not acted on the application within 30  
11 days after receipt of the application, unless within the 30-day  
12 time frame the Commissioner informs the bank that an extension  
13 of time is necessary prior to the Commissioner's action on the  
14 application.

15 (b) (1) The Commissioner may also issue a charter to a bank  
16 that is owned exclusively by other depository institutions  
17 or depository institution holding companies and is  
18 organized to engage exclusively in providing services to or  
19 for other financial institutions, their holding companies,  
20 and the officers, directors, and employees of such  
21 institutions and companies, and in providing services at  
22 the request of other financial institutions or their  
23 holding companies (also referred to as a "bankers' bank").  
24 The bank may also provide products and services to its  
25 officers, directors, and employees.

26 (2) A bank chartered pursuant to paragraph (1) shall,

1           except as otherwise specifically determined or limited by  
2           the Commissioner in an order or pursuant to a rule, be  
3           vested with the same rights and privileges and subject to  
4           the same duties, restrictions, penalties, and liabilities  
5           now or hereafter imposed under this Act.

6           (c) A bank chartered under this Act shall ~~after November 1,~~  
7 ~~1985, and an out of state bank that merges with a State bank~~  
8 ~~and establishes or maintains a branch in this State after May~~  
9 ~~31, 1997, shall obtain from and, at all times while it accepts~~  
10 or retains deposits, maintain with the Federal Deposit  
11 Insurance Corporation, or such other instrumentality of or  
12 corporation chartered by the United States, deposit insurance  
13 as authorized under federal law.

14           (d) (i) A bank that has a banking charter issued by the  
15 Commissioner under this Act may, pursuant to a written  
16 purchase and assumption agreement, transfer substantially  
17 all of its assets to another State bank or national bank in  
18 consideration, in whole or in part, for the transferee  
19 banks' assumption of any part or all of its liabilities.  
20 Such a transfer shall in no way be deemed to impair the  
21 charter of the transferor bank or cause the transferor bank  
22 to forfeit any of its rights, powers, interests,  
23 franchises, or privileges as a State bank, nor shall any  
24 voluntary reduction in the transferor bank's activities  
25 resulting from the transfer have any such effect; provided,  
26 however, that a State bank that transfers substantially all

1 of its assets pursuant to this subsection (d) and following  
2 the transfer does not accept deposits and make loans, shall  
3 not have any rights, powers, interests, franchises, or  
4 privileges under subsection (15) of Section 5 of this Act  
5 until the bank has resumed accepting deposits and making  
6 loans.

7 (ii) The fact that a State bank does not resume  
8 accepting deposits and making loans for a period of 24  
9 months commencing on September 11, 1989 or on a date of the  
10 transfer of substantially all of a State bank's assets,  
11 whichever is later, or such longer period as the  
12 Commissioner may allow in writing, may be the basis for a  
13 finding by the Commissioner under Section 51 of this Act  
14 that the bank is unable to continue operations.

15 (iii) The authority provided by subdivision (i) of this  
16 subsection (d) shall terminate on May 31, 1997, and no bank  
17 that has transferred substantially all of its assets  
18 pursuant to this subsection (d) shall continue in existence  
19 after May 31, 1997.

20 (Source: P.A. 95-924, eff. 8-26-08.)

21 (205 ILCS 5/32) (from Ch. 17, par. 339)

22 Sec. 32. Basic loaning limits. The liabilities outstanding  
23 at one time to a state bank of a person for money borrowed,  
24 including the liabilities of a partnership or joint venture in  
25 the liabilities of the several members thereof, shall not

1 exceed 25% of the amount of the unimpaired capital and  
2 unimpaired surplus of the bank.

3 The liabilities to any state bank of a person may exceed  
4 25% of the unimpaired capital and unimpaired surplus of the  
5 bank, provided that (i) the excess amount from time to time  
6 outstanding is fully secured by readily marketable collateral  
7 having a market value, as determined by reliable and  
8 continuously available quotations, at least equal to the excess  
9 amount outstanding; and (ii) the total liabilities shall not  
10 exceed 30% of the unimpaired capital and unimpaired surplus of  
11 the bank.

12 The following shall not be considered as money borrowed  
13 within the meaning of this Section:

14 (1) The purchase or discount of bills of exchange drawn  
15 in good faith against actually existing values.

16 (2) The purchase or discount of commercial or business  
17 paper actually owned by the person negotiating the same.

18 (3) The purchase of or loaning money in exchange for  
19 evidences of indebtedness which shall be secured by  
20 mortgage or trust deed upon productive real estate the  
21 value of which, as ascertained by the oath of 2 qualified  
22 appraisers, neither of whom shall be an officer, director,  
23 or employee of the bank or of any subsidiary or affiliate  
24 of the bank, is double the amount of the principal debt  
25 secured at the time of the original purchase of evidence of  
26 indebtedness or loan of money and which is still double the

1 amount of the principal debt secured at the time of any  
2 renewal of the indebtedness or loan, and which mortgage or  
3 trust deed is shown, either by a guaranty policy of a title  
4 guaranty company approved by the Commissioner or by a  
5 registrar's certificate of title in any county having  
6 adopted the provisions of the Registered Titles (Torrens)  
7 Act, or by the opinion of an attorney-at-law, to be a first  
8 lien upon the real estate therein described, and real  
9 estate shall not be deemed to be encumbered within the  
10 meaning of this subsection (3) by reason of the existence  
11 of instruments reserving rights-of-way, sewer rights and  
12 rights in wells, building restrictions or other  
13 restrictive covenants, nor by reason of the fact it is  
14 subject to lease under which rents or profits are reserved  
15 by the owners.

16 (4) The purchase of marketable investment securities.

17 (5) The liability to a state bank of a person who is an  
18 accommodation party to, or guarantor of payment for, any  
19 evidence of indebtedness of another person who obtains a  
20 loan from or discounts paper with or sells paper to the  
21 state bank; but the total liability to a state bank of a  
22 person as an accommodation party or guarantor of payment in  
23 respect of such evidences of indebtedness shall not exceed  
24 25% of the amount of the unimpaired capital and unimpaired  
25 surplus of the bank; provided however that the liability of  
26 an accommodation party to paper excepted under subsection 2

1 of this Section shall not be included in the computation of  
2 this limitation.

3 (6) The liability to a state bank of a person, who as a  
4 guarantor, guarantees collection of the obligation or  
5 indebtedness of another person.

6 The total liabilities of any one person, for money  
7 borrowed, or otherwise, shall not exceed 25% of the deposits of  
8 the bank, and those total liabilities shall at no time exceed  
9 50% of the amount of the unimpaired capital and unimpaired  
10 surplus of the bank. Absent an actual unremedied breach, the  
11 obligation or responsibility for breach of warranties or  
12 representations, express or implied, of a person transferring  
13 negotiable or non-negotiable paper to a bank without recourse  
14 and without guaranty of payment, shall not be included in  
15 determining the amount of liabilities of the person to the bank  
16 for borrowed money or otherwise; and in the event of and to the  
17 extent of an unremedied breach, the amount remaining unpaid for  
18 principal and interest on the paper in respect of which the  
19 unremedied breach exists shall thereafter for the purpose of  
20 determining whether subsequent transactions giving rise to  
21 additional liability of the person to the state bank for  
22 borrowed money or otherwise are within the limitations of  
23 Sections 32 through 34 of this Act, be included in computing  
24 the amount of liabilities of the person for borrowed money or  
25 otherwise.

26 The liability of a person to a state bank on account of

1 acceptances made or issued by the state bank on behalf of the  
2 person shall be included in the computation of the total  
3 liabilities of the person for money borrowed except to the  
4 extent the acceptances grow out of transactions of the  
5 character described in subsection (6) of Section 34 of this Act  
6 and are otherwise within the limitations of that subsection;  
7 provided nevertheless that any such excepted acceptances  
8 acquired by the state bank which accepted the same shall be  
9 included in the computation of the liabilities of the person to  
10 the state bank for money borrowed.

11 The Secretary may adopt rules to address the funding by  
12 banks of any loan commitment, when such funding would involve  
13 additional extensions of credit to be made after the unimpaired  
14 capital and unimpaired surplus of the bank have decreased and  
15 the Secretary determines that such decrease in unimpaired  
16 capital and unimpaired surplus would cause the additional  
17 extensions of credit to result in an unsafe and unsound  
18 condition.

19 (Source: P.A. 92-336, eff. 8-10-01; 92-573, eff. 6-26-02.)

20 (205 ILCS 5/40) (from Ch. 17, par. 350)

21 Sec. 40. Prohibited activities. The Commissioner, deputy  
22 commissioners, and employees of the Office of Banks and Real  
23 Estate shall be subject to the restrictions provided in Section  
24 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
25 Act including, without limitation, the restrictions on (i)



1 owning shares of stock or holding any other equity interest in  
2 an entity regulated under this Act or in any corporation or  
3 company that owns or controls an entity regulated under this  
4 Act; (ii) being an officer, director, employee, or agent of an  
5 entity regulated under this Act; and (iii) obtaining a loan or  
6 accepting a gratuity from an entity regulated under this Act.

7 (Source: P.A. 89-208, eff. 9-29-95; 89-508, eff. 7-3-96.)

8 (205 ILCS 5/48) (from Ch. 17, par. 359)

9 Sec. 48. Secretary's powers; duties. The Secretary shall  
10 have the powers and authority, and is charged with the duties  
11 and responsibilities designated in this Act, and a State bank  
12 shall not be subject to any other visitorial power other than  
13 as authorized by this Act, except those vested in the courts,  
14 or upon prior consultation with the Secretary, a foreign bank  
15 regulator with an appropriate supervisory interest in the  
16 parent or affiliate of a state bank. In the performance of the  
17 Secretary's duties:

18 (1) The Commissioner shall call for statements from all  
19 State banks as provided in Section 47 at least one time during  
20 each calendar quarter.

21 (2) (a) The Commissioner, as often as the Commissioner  
22 shall deem necessary or proper, and no less frequently than 18  
23 months following the preceding examination, shall appoint a  
24 suitable person or persons to make an examination of the  
25 affairs of every State bank, except that for every eligible

1 State bank, as defined by regulation, the Commissioner in lieu  
2 of the examination may accept on an alternating basis the  
3 examination made by the eligible State bank's appropriate  
4 federal banking agency pursuant to Section 111 of the Federal  
5 Deposit Insurance Corporation Improvement Act of 1991,  
6 provided the appropriate federal banking agency has made such  
7 an examination. A person so appointed shall not be a  
8 stockholder or officer or employee of any bank which that  
9 person may be directed to examine, and shall have powers to  
10 make a thorough examination into all the affairs of the bank  
11 and in so doing to examine any of the officers or agents or  
12 employees thereof on oath and shall make a full and detailed  
13 report of the condition of the bank to the Commissioner. In  
14 making the examination the examiners shall include an  
15 examination of the affairs of all the affiliates of the bank,  
16 as defined in subsection (b) of Section 35.2 of this Act, or  
17 subsidiaries of the bank as shall be necessary to disclose  
18 fully the conditions of the subsidiaries or affiliates, the  
19 relations between the bank and the subsidiaries or affiliates  
20 and the effect of those relations upon the affairs of the bank,  
21 and in connection therewith shall have power to examine any of  
22 the officers, directors, agents, or employees of the  
23 subsidiaries or affiliates on oath. After May 31, 1997, the  
24 Commissioner may enter into cooperative agreements with state  
25 regulatory authorities of other states to provide for  
26 examination of State bank branches in those states, and the

1 Commissioner may accept reports of examinations of State bank  
2 branches from those state regulatory authorities. These  
3 cooperative agreements may set forth the manner in which the  
4 other state regulatory authorities may be compensated for  
5 examinations prepared for and submitted to the Commissioner.

6 (b) After May 31, 1997, the Commissioner is authorized to  
7 examine, as often as the Commissioner shall deem necessary or  
8 proper, branches of out-of-state banks. The Commissioner may  
9 establish and may assess fees to be paid to the Commissioner  
10 for examinations under this subsection (b). The fees shall be  
11 borne by the out-of-state bank, unless the fees are borne by  
12 the state regulatory authority that chartered the out-of-state  
13 bank, as determined by a cooperative agreement between the  
14 Commissioner and the state regulatory authority that chartered  
15 the out-of-state bank.

16 (2.5) Whenever any State bank, any subsidiary or affiliate  
17 of a State bank, or after May 31, 1997, any branch of an  
18 out-of-state bank causes to be performed, by contract or  
19 otherwise, any bank services for itself, whether on or off its  
20 premises:

21 (a) that performance shall be subject to examination by  
22 the Commissioner to the same extent as if services were  
23 being performed by the bank or, after May 31, 1997, branch  
24 of the out-of-state bank itself on its own premises; and

25 (b) the bank or, after May 31, 1997, branch of the  
26 out-of-state bank shall notify the Commissioner of the

1 existence of a service relationship. The notification  
2 shall be submitted with the first statement of condition  
3 (as required by Section 47 of this Act) due after the  
4 making of the service contract or the performance of the  
5 service, whichever occurs first. The Commissioner shall be  
6 notified of each subsequent contract in the same manner.

7 For purposes of this subsection (2.5), the term "bank  
8 services" means services such as sorting and posting of checks  
9 and deposits, computation and posting of interest and other  
10 credits and charges, preparation and mailing of checks,  
11 statements, notices, and similar items, or any other clerical,  
12 bookkeeping, accounting, statistical, or similar functions  
13 performed for a State bank, including but not limited to  
14 electronic data processing related to those bank services.

15 (3) The expense of administering this Act, including the  
16 expense of the examinations of State banks as provided in this  
17 Act, shall to the extent of the amounts resulting from the fees  
18 provided for in paragraphs (a), (a-2), and (b) of this  
19 subsection (3) be assessed against and borne by the State  
20 banks:

21 (a) Each bank shall pay to the Secretary a Call Report  
22 Fee which shall be paid in quarterly installments equal to  
23 one-fourth of the sum of the annual fixed fee of \$800, plus  
24 a variable fee based on the assets shown on the quarterly  
25 statement of condition delivered to the Secretary in  
26 accordance with Section 47 for the preceding quarter

1 according to the following schedule: 16¢ per \$1,000 of the  
2 first \$5,000,000 of total assets, 15¢ per \$1,000 of the  
3 next \$20,000,000 of total assets, 13¢ per \$1,000 of the  
4 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next  
5 \$400,000,000 of total assets, 7¢ per \$1,000 of the next  
6 \$500,000,000 of total assets, and 5¢ per \$1,000 of all  
7 assets in excess of \$1,000,000,000, of the State bank. The  
8 Call Report Fee shall be calculated by the Secretary and  
9 billed to the banks for remittance at the time of the  
10 quarterly statements of condition provided for in Section  
11 47. The Secretary may require payment of the fees provided  
12 in this Section by an electronic transfer of funds or an  
13 automatic debit of an account of each of the State banks.  
14 In case more than one examination of any bank is deemed by  
15 the Secretary to be necessary in any examination frequency  
16 cycle specified in subsection 2(a) of this Section, and is  
17 performed at his direction, the Secretary may assess a  
18 reasonable additional fee to recover the cost of the  
19 additional examination; provided, however, that an  
20 examination conducted at the request of the State Treasurer  
21 pursuant to the Uniform Disposition of Unclaimed Property  
22 Act shall not be deemed to be an additional examination  
23 under this Section. In lieu of the method and amounts set  
24 forth in this paragraph (a) for the calculation of the Call  
25 Report Fee, the Secretary may specify by rule that the Call  
26 Report Fees provided by this Section may be assessed

1           semiannually or some other period and may provide in the  
2           rule the formula to be used for calculating and assessing  
3           the periodic Call Report Fees to be paid by State banks.

4           (a-1) If in the opinion of the Commissioner an  
5           emergency exists or appears likely, the Commissioner may  
6           assign an examiner or examiners to monitor the affairs of a  
7           State bank with whatever frequency he deems appropriate,  
8           including but not limited to a daily basis. The reasonable  
9           and necessary expenses of the Commissioner during the  
10          period of the monitoring shall be borne by the subject  
11          bank. The Commissioner shall furnish the State bank a  
12          statement of time and expenses if requested to do so within  
13          30 days of the conclusion of the monitoring period.

14          (a-2) On and after January 1, 1990, the reasonable and  
15          necessary expenses of the Commissioner during examination  
16          of the performance of electronic data processing services  
17          under subsection (2.5) shall be borne by the banks for  
18          which the services are provided. An amount, based upon a  
19          fee structure prescribed by the Commissioner, shall be paid  
20          by the banks or, after May 31, 1997, branches of  
21          out-of-state banks receiving the electronic data  
22          processing services along with the Call Report Fee assessed  
23          under paragraph (a) of this subsection (3).

24          (a-3) After May 31, 1997, the reasonable and necessary  
25          expenses of the Commissioner during examination of the  
26          performance of electronic data processing services under

1 subsection (2.5) at or on behalf of branches of  
2 out-of-state banks shall be borne by the out-of-state  
3 banks, unless those expenses are borne by the state  
4 regulatory authorities that chartered the out-of-state  
5 banks, as determined by cooperative agreements between the  
6 Commissioner and the state regulatory authorities that  
7 chartered the out-of-state banks.

8 (b) "Fiscal year" for purposes of this Section 48 is  
9 defined as a period beginning July 1 of any year and ending  
10 June 30 of the next year. The Commissioner shall receive  
11 for each fiscal year, commencing with the fiscal year  
12 ending June 30, 1987, a contingent fee equal to the lesser  
13 of the aggregate of the fees paid by all State banks under  
14 paragraph (a) of subsection (3) for that year, or the  
15 amount, if any, whereby the aggregate of the administration  
16 expenses, as defined in paragraph (c), for that fiscal year  
17 exceeds the sum of the aggregate of the fees payable by all  
18 State banks for that year under paragraph (a) of subsection  
19 (3), plus any amounts transferred into the Bank and Trust  
20 Company Fund from the State Pensions Fund for that year,  
21 plus all other amounts collected by the Commissioner for  
22 that year under any other provision of this Act, plus the  
23 aggregate of all fees collected for that year by the  
24 Commissioner under the Corporate Fiduciary Act, excluding  
25 the receivership fees provided for in Section 5-10 of the  
26 Corporate Fiduciary Act, and the Foreign Banking Office

1 Act. The aggregate amount of the contingent fee thus  
2 arrived at for any fiscal year shall be apportioned  
3 amongst, assessed upon, and paid by the State banks and  
4 foreign banking corporations, respectively, in the same  
5 proportion that the fee of each under paragraph (a) of  
6 subsection (3), respectively, for that year bears to the  
7 aggregate for that year of the fees collected under  
8 paragraph (a) of subsection (3). The aggregate amount of  
9 the contingent fee, and the portion thereof to be assessed  
10 upon each State bank and foreign banking corporation,  
11 respectively, shall be determined by the Commissioner and  
12 shall be paid by each, respectively, within 120 days of the  
13 close of the period for which the contingent fee is  
14 computed and is payable, and the Commissioner shall give 20  
15 days advance notice of the amount of the contingent fee  
16 payable by the State bank and of the date fixed by the  
17 Commissioner for payment of the fee.

18 (c) The "administration expenses" for any fiscal year  
19 shall mean the ordinary and contingent expenses for that  
20 year incident to making the examinations provided for by,  
21 and for otherwise administering, this Act, the Corporate  
22 Fiduciary Act, excluding the expenses paid from the  
23 Corporate Fiduciary Receivership account in the Bank and  
24 Trust Company Fund, the Foreign Banking Office Act, the  
25 Electronic Fund Transfer Act, and the Illinois Bank  
26 Examiners' Education Foundation Act, including all



1 salaries and other compensation paid for personal services  
2 rendered for the State by officers or employees of the  
3 State, including the Commissioner and the Deputy  
4 Commissioners, communication equipment and services,  
5 office furnishings ~~all expenditures for telephone and~~  
6 ~~telegraph charges, postage and postal charges, office~~  
7 ~~stationery, supplies and services, and office furniture~~  
8 ~~and equipment, including typewriters and copying and~~  
9 ~~duplicating machines and filing equipment,~~ surety bond  
10 premiums, and travel expenses of those officers and  
11 employees, employees, expenditures or charges for the  
12 acquisition, enlargement or improvement of, or for the use  
13 of, any office space, building, or structure, or  
14 expenditures for the maintenance thereof or for furnishing  
15 heat, light, or power with respect thereto, all to the  
16 extent that those expenditures are directly incidental to  
17 such examinations or administration. The Commissioner  
18 shall not be required by paragraphs (c) or (d-1) of this  
19 subsection (3) to maintain in any fiscal year's budget  
20 appropriated reserves for accrued vacation and accrued  
21 sick leave that is required to be paid to employees of the  
22 Commissioner upon termination of their service with the  
23 Commissioner in an amount that is more than is reasonably  
24 anticipated to be necessary for any anticipated turnover in  
25 employees, whether due to normal attrition or due to  
26 layoffs, terminations, or resignations.

1           (d) The aggregate of all fees collected by the  
2 Secretary under this Act, the Corporate Fiduciary Act, or  
3 the Foreign Banking Office Act on and after July 1, 1979,  
4 shall be paid promptly after receipt of the same,  
5 accompanied by a detailed statement thereof, into the State  
6 treasury and shall be set apart in a special fund to be  
7 known as the "Bank and Trust Company Fund", except as  
8 provided in paragraph (c) of subsection (11) of this  
9 Section. All earnings received from investments of funds in  
10 the Bank and Trust Company Fund shall be deposited in the  
11 Bank and Trust Company Fund and may be used for the same  
12 purposes as fees deposited in that Fund. The amount from  
13 time to time deposited into the Bank and Trust Company Fund  
14 shall be used: (i) to offset the ordinary administrative  
15 expenses of the Secretary as defined in this Section or  
16 (ii) as a credit against fees under paragraph (d-1) of this  
17 subsection (3). Nothing in this amendatory Act of 1979  
18 shall prevent continuing the practice of paying expenses  
19 involving salaries, retirement, social security, and  
20 State-paid insurance premiums of State officers by  
21 appropriations from the General Revenue Fund. However, the  
22 General Revenue Fund shall be reimbursed for those payments  
23 made on and after July 1, 1979, by an annual transfer of  
24 funds from the Bank and Trust Company Fund. Moneys in the  
25 Bank and Trust Company Fund may be transferred to the  
26 Professions Indirect Cost Fund, as authorized under

1 Section 2105-300 of the Department of Professional  
2 Regulation Law of the Civil Administrative Code of  
3 Illinois.

4 Notwithstanding provisions in the State Finance Act,  
5 as now or hereafter amended, or any other law to the  
6 contrary, the sum of \$18,788,847 shall be transferred from  
7 the Bank and Trust Company Fund to the Financial  
8 Institutions Settlement of 2008 Fund on the effective date  
9 of this amendatory Act of the 95th General Assembly, or as  
10 soon thereafter as practical.

11 Notwithstanding provisions in the State Finance Act,  
12 as now or hereafter amended, or any other law to the  
13 contrary, the Governor may, during any fiscal year through  
14 January 10, 2011, from time to time direct the State  
15 Treasurer and Comptroller to transfer a specified sum not  
16 exceeding 10% of the revenues to be deposited into the Bank  
17 and Trust Company Fund during that fiscal year from that  
18 Fund to the General Revenue Fund in order to help defray  
19 the State's operating costs for the fiscal year.  
20 Notwithstanding provisions in the State Finance Act, as now  
21 or hereafter amended, or any other law to the contrary, the  
22 total sum transferred during any fiscal year through  
23 January 10, 2011, from the Bank and Trust Company Fund to  
24 the General Revenue Fund pursuant to this provision shall  
25 not exceed during any fiscal year 10% of the revenues to be  
26 deposited into the Bank and Trust Company Fund during that

1 fiscal year. The State Treasurer and Comptroller shall  
2 transfer the amounts designated under this Section as soon  
3 as may be practicable after receiving the direction to  
4 transfer from the Governor.

5 (d-1) Adequate funds shall be available in the Bank and  
6 Trust Company Fund to permit the timely payment of  
7 administration expenses. In each fiscal year the total  
8 administration expenses shall be deducted from the total  
9 fees collected by the Commissioner and the remainder  
10 transferred into the Cash Flow Reserve Account, unless the  
11 balance of the Cash Flow Reserve Account prior to the  
12 transfer equals or exceeds one-fourth of the total initial  
13 appropriations from the Bank and Trust Company Fund for the  
14 subsequent year, in which case the remainder shall be  
15 credited to State banks and foreign banking corporations  
16 and applied against their fees for the subsequent year. The  
17 amount credited to each State bank and foreign banking  
18 corporation shall be in the same proportion as the Call  
19 Report Fees paid by each for the year bear to the total  
20 Call Report Fees collected for the year. If, after a  
21 transfer to the Cash Flow Reserve Account is made or if no  
22 remainder is available for transfer, the balance of the  
23 Cash Flow Reserve Account is less than one-fourth of the  
24 total initial appropriations for the subsequent year and  
25 the amount transferred is less than 5% of the total Call  
26 Report Fees for the year, additional amounts needed to make

1 the transfer equal to 5% of the total Call Report Fees for  
2 the year shall be apportioned amongst, assessed upon, and  
3 paid by the State banks and foreign banking corporations in  
4 the same proportion that the Call Report Fees of each,  
5 respectively, for the year bear to the total Call Report  
6 Fees collected for the year. The additional amounts  
7 assessed shall be transferred into the Cash Flow Reserve  
8 Account. For purposes of this paragraph (d-1), the  
9 calculation of the fees collected by the Commissioner shall  
10 exclude the receivership fees provided for in Section 5-10  
11 of the Corporate Fiduciary Act.

12 (e) The Commissioner may upon request certify to any  
13 public record in his keeping and shall have authority to  
14 levy a reasonable charge for issuing certifications of any  
15 public record in his keeping.

16 (f) In addition to fees authorized elsewhere in this  
17 Act, the Commissioner may, in connection with a review,  
18 approval, or provision of a service, levy a reasonable  
19 charge to recover the cost of the review, approval, or  
20 service.

21 (4) Nothing contained in this Act shall be construed to  
22 limit the obligation relative to examinations and reports of  
23 any State bank, deposits in which are to any extent insured by  
24 the United States or any agency thereof, nor to limit in any  
25 way the powers of the Commissioner with reference to  
26 examinations and reports of that bank.

1           (5) The nature and condition of the assets in or investment  
2 of any bonus, pension, or profit sharing plan for officers or  
3 employees of every State bank or, after May 31, 1997, branch of  
4 an out-of-state bank shall be deemed to be included in the  
5 affairs of that State bank or branch of an out-of-state bank  
6 subject to examination by the Commissioner under the provisions  
7 of subsection (2) of this Section, and if the Commissioner  
8 shall find from an examination that the condition of or  
9 operation of the investments or assets of the plan is unlawful,  
10 fraudulent, or unsafe, or that any trustee has abused his  
11 trust, the Commissioner shall, if the situation so found by the  
12 Commissioner shall not be corrected to his satisfaction within  
13 60 days after the Commissioner has given notice to the board of  
14 directors of the State bank or out-of-state bank of his  
15 findings, report the facts to the Attorney General who shall  
16 thereupon institute proceedings against the State bank or  
17 out-of-state bank, the board of directors thereof, or the  
18 trustees under such plan as the nature of the case may require.

19           (6) The Commissioner shall have the power:

20           (a) To promulgate reasonable rules for the purpose of  
21 administering the provisions of this Act.

22           (a-5) To impose conditions on any approval issued by  
23 the Commissioner if he determines that the conditions are  
24 necessary or appropriate. These conditions shall be  
25 imposed in writing and shall continue in effect for the  
26 period prescribed by the Commissioner.

1           (b) To issue orders against any person, if the  
2 Commissioner has reasonable cause to believe that an unsafe  
3 or unsound banking practice has occurred, is occurring, or  
4 is about to occur, if any person has violated, is  
5 violating, or is about to violate any law, rule, or written  
6 agreement with the Commissioner, or for the purpose of  
7 administering the provisions of this Act and any rule  
8 promulgated in accordance with this Act.

9           (b-1) To enter into agreements with a bank establishing  
10 a program to correct the condition of the bank or its  
11 practices.

12           (c) To appoint hearing officers to execute any of the  
13 powers granted to the Commissioner under this Section for  
14 the purpose of administering this Act and any rule  
15 promulgated in accordance with this Act and otherwise to  
16 authorize, in writing, an officer or employee of the Office  
17 of Banks and Real Estate to exercise his powers under this  
18 Act.

19           (d) To subpoena witnesses, to compel their attendance,  
20 to administer an oath, to examine any person under oath,  
21 and to require the production of any relevant books,  
22 papers, accounts, and documents in the course of and  
23 pursuant to any investigation being conducted, or any  
24 action being taken, by the Commissioner in respect of any  
25 matter relating to the duties imposed upon, or the powers  
26 vested in, the Commissioner under the provisions of this

1 Act or any rule promulgated in accordance with this Act.

2 (e) To conduct hearings.

3 (7) Whenever, in the opinion of the Commissioner, any  
4 director, officer, employee, or agent of a State bank or any  
5 subsidiary or bank holding company of the bank or, after May  
6 31, 1997, of any branch of an out-of-state bank or any  
7 subsidiary or bank holding company of the bank shall have  
8 violated any law, rule, or order relating to that bank or any  
9 subsidiary or bank holding company of the bank, shall have  
10 obstructed or impeded any examination or investigation by the  
11 Commissioner, shall have engaged in an unsafe or unsound  
12 practice in conducting the business of that bank or any  
13 subsidiary or bank holding company of the bank, or shall have  
14 violated any law or engaged or participated in any unsafe or  
15 unsound practice in connection with any financial institution  
16 or other business entity such that the character and fitness of  
17 the director, officer, employee, or agent does not assure  
18 reasonable promise of safe and sound operation of the State  
19 bank, the Commissioner may issue an order of removal. If, in  
20 the opinion of the Commissioner, any former director, officer,  
21 employee, or agent of a State bank or any subsidiary or bank  
22 holding company of the bank, prior to the termination of his or  
23 her service with that bank or any subsidiary or bank holding  
24 company of the bank, violated any law, rule, or order relating  
25 to that State bank or any subsidiary or bank holding company of  
26 the bank, obstructed or impeded any examination or



1 investigation by the Commissioner, engaged in an unsafe or  
2 unsound practice in conducting the business of that bank or any  
3 subsidiary or bank holding company of the bank, or violated any  
4 law or engaged or participated in any unsafe or unsound  
5 practice in connection with any financial institution or other  
6 business entity such that the character and fitness of the  
7 director, officer, employee, or agent would not have assured  
8 reasonable promise of safe and sound operation of the State  
9 bank, the Commissioner may issue an order prohibiting that  
10 person from further service with a bank or any subsidiary or  
11 bank holding company of the bank as a director, officer,  
12 employee, or agent. An order issued pursuant to this subsection  
13 shall be served upon the director, officer, employee, or agent.  
14 A copy of the order shall be sent to each director of the bank  
15 affected by registered mail. The person affected by the action  
16 may request a hearing before the State Banking Board within 10  
17 days after receipt of the order. The hearing shall be held by  
18 the Board within 30 days after the request has been received by  
19 the Board. The Board shall make a determination approving,  
20 modifying, or disapproving the order of the Commissioner as its  
21 final administrative decision. If a hearing is held by the  
22 Board, the Board shall make its determination within 60 days  
23 from the conclusion of the hearing. Any person affected by a  
24 decision of the Board under this subsection (7) of Section 48  
25 of this Act may have the decision reviewed only under and in  
26 accordance with the Administrative Review Law and the rules

1 adopted pursuant thereto. A copy of the order shall also be  
2 served upon the bank of which he is a director, officer,  
3 employee, or agent, whereupon he shall cease to be a director,  
4 officer, employee, or agent of that bank. The Commissioner may  
5 institute a civil action against the director, officer, or  
6 agent of the State bank or, after May 31, 1997, of the branch  
7 of the out-of-state bank against whom any order provided for by  
8 this subsection (7) of this Section 48 has been issued, and  
9 against the State bank or, after May 31, 1997, out-of-state  
10 bank, to enforce compliance with or to enjoin any violation of  
11 the terms of the order. Any person who has been the subject of  
12 an order of removal or an order of prohibition issued by the  
13 Commissioner under this subsection or Section 5-6 of the  
14 Corporate Fiduciary Act may not thereafter serve as director,  
15 officer, employee, or agent of any State bank or of any branch  
16 of any out-of-state bank, or of any corporate fiduciary, as  
17 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of  
18 any other entity that is subject to licensure or regulation by  
19 the Commissioner or the Office of Banks and Real Estate unless  
20 the Commissioner has granted prior approval in writing.

21 For purposes of this paragraph (7), "bank holding company"  
22 has the meaning prescribed in Section 2 of the Illinois Bank  
23 Holding Company Act of 1957.

24 (8) The Commissioner may impose civil penalties of up to  
25 \$100,000 ~~\$10,000~~ against any person for each violation of any  
26 provision of this Act, any rule promulgated in accordance with

1 this Act, any order of the Commissioner, or any other action  
2 which in the Commissioner's discretion is an unsafe or unsound  
3 banking practice.

4 (9) The Commissioner may impose civil penalties of up to  
5 \$100 against any person for the first failure to comply with  
6 reporting requirements set forth in the report of examination  
7 of the bank and up to \$200 for the second and subsequent  
8 failures to comply with those reporting requirements.

9 (10) All final administrative decisions of the  
10 Commissioner hereunder shall be subject to judicial review  
11 pursuant to the provisions of the Administrative Review Law.  
12 For matters involving administrative review, venue shall be in  
13 either Sangamon County or Cook County.

14 (11) The endowment fund for the Illinois Bank Examiners'  
15 Education Foundation shall be administered as follows:

16 (a) (Blank).

17 (b) The Foundation is empowered to receive voluntary  
18 contributions, gifts, grants, bequests, and donations on  
19 behalf of the Illinois Bank Examiners' Education  
20 Foundation from national banks and other persons for the  
21 purpose of funding the endowment of the Illinois Bank  
22 Examiners' Education Foundation.

23 (c) The aggregate of all special educational fees  
24 collected by the Commissioner and property received by the  
25 Commissioner on behalf of the Illinois Bank Examiners'  
26 Education Foundation under this subsection (11) on or after

1 June 30, 1986, shall be either (i) promptly paid after  
2 receipt of the same, accompanied by a detailed statement  
3 thereof, into the State Treasury and shall be set apart in  
4 a special fund to be known as "The Illinois Bank Examiners'  
5 Education Fund" to be invested by either the Treasurer of  
6 the State of Illinois in the Public Treasurers' Investment  
7 Pool or in any other investment he is authorized to make or  
8 by the Illinois State Board of Investment as the board of  
9 trustees of the Illinois Bank Examiners' Education  
10 Foundation may direct or (ii) deposited into an account  
11 maintained in a commercial bank or corporate fiduciary in  
12 the name of the Illinois Bank Examiners' Education  
13 Foundation pursuant to the order and direction of the Board  
14 of Trustees of the Illinois Bank Examiners' Education  
15 Foundation.

16 (12) (Blank).

17 (13) The Secretary may borrow funds from the General  
18 Revenue Fund on behalf of the Bank and Trust Company Fund if  
19 the Director of Banking certifies to the Governor that there is  
20 an economic emergency affecting banking that requires a  
21 borrowing to provide additional funds to the Bank and Trust  
22 Company Fund. The borrowed funds shall be paid back within 3  
23 years and shall not exceed the total funding appropriated to  
24 the Agency in the previous year.

25 (Source: P.A. 94-91, eff. 7-1-05; 95-1047, eff. 4-6-09.)

1 (205 ILCS 5/51) (from Ch. 17, par. 363)

2 Sec. 51. Capital impairment, etc.; correction.

3 (a) If the Commissioner with respect to a State bank shall  
4 find:

5 (1) its capital is impaired or it is otherwise in an  
6 unsound condition; or

7 (2) its business is being conducted in an unlawful,  
8 including, without limitation, in violation of any  
9 provisions of State or federal law ~~this Act~~, or in a  
10 fraudulent or unsafe manner; or

11 (3) it is unable to continue operations; or

12 (4) its examination has been obstructed or impeded; or

13 (5) that losses have occurred or are likely to occur  
14 that have or will deplete all or substantially all of the  
15 State bank's capital;

16 the Commissioner may give notice to the board of directors of  
17 ~~or~~ his or her finding or findings. If the situation so found by  
18 the Commissioner shall not be corrected to his satisfaction  
19 within a period of at least 60 ~~sixty~~ but no more than 180 ~~one~~  
20 ~~hundred and eighty~~ days after receipt of such notice, which  
21 period shall be determined by the Commissioner and set forth in  
22 the notice, the Commissioner at the termination of said period  
23 may ~~shall~~ take possession and control of the bank and its  
24 assets as in this Act provided for the purpose of examination,  
25 reorganization or liquidation through receivership.

26 (b) If the Commissioner has given notice to the board of

1 directors of his findings, as provided in subsection (a), and  
2 the time period prescribed in that notice has expired, the  
3 Commissioner may extend the time period prescribed in that  
4 notice for such period as the Commissioner deems appropriate.  
5 (Source: P.A. 92-483, eff. 8-23-01.)

6 (205 ILCS 5/52) (from Ch. 17, par. 364)

7 Sec. 52. Capital impairment, etc.; emergency. If, in  
8 addition to a finding as provided in Section 51, the  
9 Commissioner shall be of the opinion and shall find that an  
10 emergency exists which may result in the inability of the bank  
11 to continue in its operations, meet the demands of its  
12 depositors, or pay its obligations in the normal course of  
13 business ~~serious losses to the depositors~~, he may, in his  
14 discretion, without having given the notice provided for in  
15 Section 51, and whether or not proceedings under Section 51  
16 have been instituted or are then pending, forthwith take  
17 possession and control of the bank and its assets for the  
18 purpose of examination, reorganization or liquidation through  
19 receivership. For purposes of this Section, an emergency  
20 includes, but is not limited to, when the bank is in an unsafe  
21 or unsound condition that precludes continued operations or  
22 when the interests of the bank's depositors are prejudiced.

23 (Source: Laws 1965, p. 2020.)

24 Section 20. The Illinois Bank Holding Company Act of 1957

1 is amended by changing Sections 2 and 3.074 as follows:

2 (205 ILCS 10/2) (from Ch. 17, par. 2502)

3 Sec. 2. Unless the context requires otherwise:

4 (a) "Bank" means any national banking association or any  
5 bank, banking association or savings bank, whether organized  
6 under the laws of Illinois, another state, the United States,  
7 the District of Columbia, any territory of the United States,  
8 Puerto Rico, Guam, American Samoa or the Virgin Islands, which  
9 (1) accepts deposits that the depositor has a legal right to  
10 withdraw on demand by check or other negotiable order and (2)  
11 engages in the business of making commercial loans. "Bank" does  
12 not include any organization operating under Sections 25 or 25  
13 (a) of the Federal Reserve Act, or any organization which does  
14 not do business within the United States except as an incident  
15 to its activities outside the United States or any foreign  
16 bank.

17 (b) "Bank holding company" means any company that controls  
18 or has control over any bank or over any company that is or  
19 becomes a bank holding company by virtue of this Act.

20 (c) "Banking office" means the principal office of a bank,  
21 any branch of a bank, or any other office at which a bank  
22 accepts deposits, provided, however, that "banking office"  
23 shall not mean:

24 (1) unmanned automatic teller machines, point of sale  
25 terminals or other similar unmanned electronic banking

1 facilities at which deposits may be accepted; or

2 (2) offices located outside the United States.

3 (d) "Cause to be chartered", with respect to a specified  
4 bank, means the acquisition of control of such bank prior to  
5 the time it commences to engage in the banking business.

6 (e) "Commissioner" means the Secretary of Financial and  
7 Professional Regulation ~~Commissioner of Banks and Real Estate~~  
8 or a person authorized by the Secretary ~~Commissioner~~, the  
9 Division of Banking ~~Office of Banks and Real Estate Act~~, or  
10 this Act to act in the Secretary's ~~Commissioner's~~ stead.

11 (f) "Community" means the contiguous area served by the  
12 banking offices of a bank, but need not be limited or expanded  
13 to conform to the geographic boundaries of units of local  
14 government.

15 (g) "Company" means any corporation, business trust,  
16 voting trust, association, partnership, joint venture, similar  
17 organization or any other trust unless by its terms it must  
18 terminate within 25 years or not later than 21 years and 10  
19 months after the death of individuals living on the effective  
20 date of the trust, but shall not include (1) an individual or  
21 (2) any corporation the majority of the shares of which are  
22 owned by the United States or by any state or any corporation  
23 or community chest fund, organized and operated exclusively for  
24 religious, charitable, scientific, literary or educational  
25 purposes, no part of the net earnings of which inure to the  
26 benefit of any private shareholder or individual and no



1 substantial part of the activities of which is carrying on  
2 propaganda or otherwise attempting to influence legislation.

3 (h) A company "controls or has control over" a bank or  
4 company if (1) it directly or indirectly owns or controls or  
5 has the power to vote, 25% or more of the voting shares of any  
6 class of voting securities of such bank or company or (2) it  
7 controls in any manner the election of a majority of the  
8 directors or trustees of such bank or company or (3) a trustee  
9 holds for the benefit of its shareholders, members or  
10 employees, 25% or more of the voting shares of such bank or  
11 company or (4) it directly or indirectly exercises a  
12 controlling influence over the management or policies of such  
13 bank or company that is a bank holding company and the Board of  
14 Governors of the Federal Reserve System has so determined under  
15 the federal Bank Holding Company Act. In determining whether  
16 any company controls or has control over a bank or company: (i)  
17 shares owned or controlled by any subsidiary of a company shall  
18 be deemed to be indirectly owned or controlled by such company;  
19 (ii) shares held or controlled, directly or indirectly, by a  
20 trustee or trustees for the benefit of a company, the  
21 shareholders or members of a company or the employees (whether  
22 exclusively or not) of a company, shall be deemed to be  
23 controlled by such company; and (iii) shares transferred,  
24 directly or indirectly, by any bank holding company (or by any  
25 company which, but for such transfer, would be a bank holding  
26 company) to any transferee that is indebted to the transferor

1 or that has one or more officers, directors, trustees or  
2 beneficiaries in common with or subject to control by the  
3 transferor, shall be deemed to be indirectly owned or  
4 controlled by the transferor unless the Board of Governors of  
5 the Federal Reserve System has determined, under the federal  
6 Bank Holding Company Act, that the transferor is not in fact  
7 capable of controlling the transferee. Notwithstanding the  
8 foregoing, no company shall be deemed to have control of or  
9 over a bank or bank holding company (A) by virtue of its  
10 ownership or control of shares in a fiduciary capacity arising  
11 in the ordinary course of its business; (B) by virtue of its  
12 ownership or control of shares acquired by it in connection  
13 with its underwriting of securities which are held only for  
14 such period of time as will permit the sale thereof upon a  
15 reasonable basis; (C) by virtue of its holding any shares as  
16 collateral taken in the ordinary course of securing a debt or  
17 other obligation; (D) by virtue of its ownership or control of  
18 shares acquired in the ordinary course of collecting a debt or  
19 other obligation previously contracted in good faith, until 5  
20 years after the date acquired; or (E) by virtue of its voting  
21 rights with respect to shares of any bank or bank holding  
22 company acquired in the course of a proxy solicitation in the  
23 case of a company formed and operated for the sole purpose of  
24 participating in a proxy solicitation.

25 (h-5) "Division" means the Division of Banking within the  
26 Department of Financial and Professional Regulation.

1 (i) "Federal Bank Holding Company Act" means the federal  
2 Bank Holding Company Act of 1956, as now or hereafter amended.

3 (j) "Foreign bank" means any company organized under the  
4 laws of a foreign country which engages in the business of  
5 banking or any subsidiary or affiliate of any such company,  
6 organized under such laws. "Foreign bank" includes, without  
7 limitation, foreign merchant banks and other foreign  
8 institutions that engage in banking activities usual in  
9 connection with the business of banking in the countries where  
10 such foreign institutions are organized or operating.

11 (k) "Home state" means the home state of a foreign bank as  
12 determined pursuant to the federal International Banking Act of  
13 1978.

14 (l) "Illinois bank" means a bank:

15 (1) that is organized under the laws of this State or  
16 of the United States; and

17 (2) whose main banking premises is located in Illinois.

18 (m) "Illinois bank holding company" means a bank holding  
19 company:

20 (1) whose principal place of business is Illinois; and

21 (2) that is not directly or indirectly controlled by  
22 another bank holding company whose principal place of  
23 business is a state other than Illinois or by a foreign  
24 bank whose Home State is a state other than Illinois.

25 An out of state bank holding company that acquires control  
26 of one or more Illinois banks or Illinois bank holding

1 companies pursuant to Sections 3.061 or 3.071 shall not be  
2 deemed an Illinois bank holding company.

3 (n) "Main banking premises" means the location that is  
4 designated in a bank's charter as its main office and that is  
5 within the state in which the total deposits held by all of the  
6 banking offices of such bank are the largest, as shown in the  
7 most recent reports of condition or similar reports filed by  
8 such bank with state or federal regulatory authorities.

9 (o) "Out of state bank" means a bank:

10 (1) that is not an Illinois bank; and

11 (2) whose main banking premises is located in a state  
12 other than Illinois.

13 (p) "Out of state bank holding company" means a bank  
14 holding company:

15 (1) that is not an Illinois bank holding company;

16 (2) whose principal place of business is a state other  
17 than Illinois the laws of which expressly authorize the  
18 acquisition by an Illinois bank holding company of a bank  
19 or bank holding company in that state under qualifications  
20 and conditions which are not unduly restrictive, as  
21 determined by the Commissioner, when compared to those  
22 imposed by the laws of Illinois.

23 (q) "Principal place of business" means, with respect to a  
24 bank holding company, the state in which the total deposits  
25 held by all of the banking offices of all of the bank  
26 subsidiaries of such bank holding company are the largest, as

1 shown in the most recent reports of condition or similar  
2 reports filed by the bank holding company's bank subsidiaries  
3 with state or federal regulatory authorities.

4 (r) "State" or "states" when used in this Act means any  
5 State of the United States, the District of Columbia, any  
6 territory of the United States, Puerto Rico, Guam, American  
7 Samoa or the Virgin Islands.

8 (s) "Subsidiary", with respect to a specified bank holding  
9 company, means any bank or company controlled by such bank  
10 holding company.

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

12 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

13 Sec. 3.074. Powers; administrative review.

14 (a) The Commissioner shall have the power and authority:

15 (1) to promulgate reasonable ~~procedural~~ rules for the  
16 purposes of administering the provisions of this Act. The  
17 Commissioner shall specify the form of any application,  
18 report or document that is required to be filed with the  
19 Commissioner pursuant to this Act;

20 (2) to issue orders for the purpose of administering  
21 the provisions of this Act and any rule promulgated in  
22 accordance with this Act;

23 (3) to appoint hearing officers to execute any of the  
24 powers granted to the Commissioner under this Section for  
25 the purpose of administering this Act or any rule

1 promulgated in accordance with this Act; ~~and~~

2 (4) to subpoena witnesses, to compel their attendance,  
3 to administer an oath, to examine any person under oath and  
4 to require the production of any relevant books, papers,  
5 accounts and documents in the course of and pursuant to any  
6 investigation or hearing being conducted or any action  
7 being taken by the Commissioner in respect to any matter  
8 relating to the duties imposed upon or the powers vested in  
9 the Commissioner under the provisions of this Act or any  
10 rule promulgated in accordance with this Act; and

11 (5) to do any other act authorized to the Commissioner  
12 under the Division of Banking Act.

13 (b) Whenever, in the opinion of the Commissioner, any  
14 director, officer, employee, or agent of any bank holding  
15 company or subsidiary or affiliate of that company shall have  
16 violated any law, rule, or order relating to that bank holding  
17 company or subsidiary or affiliate of that company, shall have  
18 obstructed or impeded any examination or investigation by the  
19 Commissioner, shall have engaged in an unsafe or unsound  
20 practice in conducting the business of that bank holding  
21 company or subsidiary or affiliate of that company, or shall  
22 have violated any law or engaged or participated in any unsafe  
23 or unsound practice in connection with any financial  
24 institution or other business entity such that the character  
25 and fitness of the director, officer, employee, or agent does  
26 not assure reasonable promise of safe and sound operation of

1 the bank holding company, the Commissioner may issue an order  
2 of removal. If, in the opinion of the Commissioner, any former  
3 director, officer, employee, or agent of a bank holding company  
4 or subsidiary or affiliate of that company, prior to the  
5 termination of his or her service with that holding company or  
6 subsidiary or affiliate of that company, violated any law,  
7 rule, or order relating to that bank holding company or  
8 subsidiary or affiliate of that company, obstructed or impeded  
9 any examination or investigation by the Commissioner, engaged  
10 in an unsafe or unsound practice in conducting the business of  
11 that bank holding company or subsidiary or affiliate of that  
12 company, or violated any law or engaged or participated in any  
13 unsafe or unsound practice in connection with any financial  
14 institution or other business entity such that the character  
15 and fitness of the director, officer, employee, or agent would  
16 not have assured reasonable promise of safe and sound operation  
17 of the bank holding company, the Commissioner may issue an  
18 order prohibiting that person from further service with a bank  
19 holding company or subsidiary or affiliate of that company as a  
20 director, officer, employee, or agent.

21 An order issued pursuant to this subsection shall be served  
22 upon the director, officer, employee, or agent. A copy of the  
23 order shall be sent to each director of the bank holding  
24 company affected by registered mail. The person affected by the  
25 action may request a hearing before the State Banking Board  
26 within 10 days after receipt of the order. The hearing shall be

1 held by the State Banking Board within 30 days after the  
2 request has been received by the State Banking Board. The State  
3 Banking Board shall make a determination approving, modifying,  
4 or disapproving the order of the Commissioner as its final  
5 administrative decision. If a hearing is held by the State  
6 Banking Board, the State Banking Board shall make its  
7 determination within 60 days from the conclusion of the  
8 hearing. Any person affected by a decision of the State Banking  
9 Board under this subsection may have the decision reviewed only  
10 under and in accordance with the Administrative Review Law and  
11 the rules adopted pursuant thereto. A copy of the order shall  
12 also be served upon the bank holding company of which he is a  
13 director, officer, employee, or agent, whereupon he shall cease  
14 to be a director, officer, employee, or agent of that bank  
15 holding company.

16 The Commissioner may institute a civil action against the  
17 director, officer, employee, or agent of the bank holding  
18 company, against whom any order provided for by this subsection  
19 has been issued, to enforce compliance with or to enjoin any  
20 violation of the terms of the order.

21 Any person who has been the subject of an order of removal  
22 or an order of prohibition issued by the Commissioner under  
23 this subsection, subdivision (7) of Section 48 of the Illinois  
24 Banking Act, or Section 5-6 of the Corporate Fiduciary Act may  
25 not thereafter serve as director, officer, employee, or agent  
26 of any holding company, State bank, or branch of any



1 out-of-state bank, of any corporate fiduciary, as defined in  
2 Section 1-5.05 of the Corporate Fiduciary Act, or of any other  
3 entity that is subject to licensure or regulation by the  
4 Commissioner or the Office of Banks and Real Estate unless the  
5 Commissioner has granted prior approval in writing.

6 (c) All final administrative decisions of the Commissioner  
7 under this Act shall be subject to judicial review pursuant to  
8 provisions of the Administrative Review Law. For matters  
9 involving administrative review, venue shall be in either  
10 Sangamon County or Cook County.

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

12 Section 25. The Illinois Savings and Loan Act of 1985 is  
13 amended by changing Sections 1-10.04, 3-7, 7-1, 7-3, 7-4, 7-5,  
14 7-20, 7-22, 10-1, and 11-1 and by adding Sections 1-10.065,  
15 10-15, 10-20, 10-25, 10-30, 10-35, 10-40, 10-45, 10-50, 10-55,  
16 10-60, 10-65, 10-70, 10-75, 10-80, 10-85, 10-90, 10-95, and  
17 10-100 as follows:

18 (205 ILCS 105/1-10.04) (from Ch. 17, par. 3301-10.04)

19 Sec. 1-10.04. "Commissioner": the Secretary of Financial  
20 and Professional Regulation ~~Commissioner of Banks and Real~~  
21 ~~Estate~~ or some person authorized by the Secretary ~~Commissioner~~,  
22 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
23 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

1 (205 ILCS 105/1-10.065 new)

2 Sec. 1-10.065. Division. "Division" means the Division of  
3 Banking within the Department of Financial and Professional  
4 Regulation.

5 (205 ILCS 105/3-7) (from Ch. 17, par. 3303-7)

6 Sec. 3-7. Bonds of officers and employees.

7 (a) Every person appointed or elected to any position  
8 requiring the receipt, payment, management or use of money  
9 belonging to an association, or whose duties permit him to have  
10 access to or custody of any of its money or securities or whose  
11 duties permit him regularly to make entries in the books or  
12 other records of the association, before assuming his duties  
13 shall become bonded in some trust or company authorized to  
14 issue bonds in this state, or in a fidelity insurance company  
15 licensed to do business in this State. Each such bond shall be  
16 on a form or forms as the Commissioner shall require and in  
17 such amount as the board of directors shall fix and approve.  
18 Each such bond, payable to the association, shall be an  
19 indemnity for any loss the association may sustain in money or  
20 other property through any dishonest or criminal act or  
21 omission by any person required to be bonded, committed either  
22 alone or in concert with others. Such bond shall be in the form  
23 and amount prescribed by the Commissioner, who may at any time  
24 require one or more additional bonds. ~~A true copy of every~~

1 ~~bond, including all riders and endorsements executed~~  
2 ~~subsequent to the effective date of the bond, shall be filed at~~  
3 ~~all times with the Commissioner.~~ Each bond shall provide that a  
4 cancellation thereof either by the surety or by the insured  
5 shall not become effective unless and until 30 days notice in  
6 writing first shall have been given to the Commissioner, unless  
7 he shall have approved such cancellation earlier.

8 (b) Nothing contained herein shall preclude the  
9 Commissioner from proceeding against an association as  
10 provided in this Act should he believe that it is being  
11 conducted in an unsafe manner in that the form or amount of  
12 bonds so fixed and approved by the board of directors is  
13 inadequate to give reasonable protection to the association.

14 (Source: P.A. 85-1271.)

15 (205 ILCS 105/7-1) (from Ch. 17, par. 3307-1)

16 Sec. 7-1. Office of the Commissioner of Savings and  
17 Residential Finance abolished. The Office of the Commissioner  
18 of Savings and Residential Finance is abolished and its  
19 functions are transferred to the Office of Banks and Real  
20 Estate as provided in the Division of Banking ~~Office of Banks~~  
21 ~~and Real Estate~~ Act.

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

23 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

24 Sec. 7-3. Personnel, records, files, actions and duties,

1 etc.

2 (a) The Secretary shall appoint, subject to applicable  
3 provisions of the Personnel Code, a supervisor, such examiners,  
4 employees, experts and special assistants as may be necessary  
5 to carry out effectively this Act. ~~The Secretary shall require~~  
6 ~~each supervisor, examiner, expert and special assistant~~  
7 ~~employed or appointed by him to give bond, with security to be~~  
8 ~~approved by the Secretary, not less in any case than \$15,000,~~  
9 ~~conditioned for the faithful discharge of his duties. The~~  
10 ~~premium on such bond shall be paid by the Secretary from funds~~  
11 ~~appropriated for that purpose. The bond, along with~~  
12 ~~verification of payment of the premium on such bond, shall be~~  
13 ~~filed in the office of the Secretary of State.~~

14 (b) The Secretary shall have the following duties and  
15 powers:

16 (1) To exercise the rights, powers and duties set forth  
17 in this Act or in any other related Act;

18 (2) To establish such regulations as may be reasonable  
19 or necessary to accomplish the purposes of this Act;

20 (3) To direct and supervise all the administrative and  
21 technical activities of this office and create an Advisory  
22 Committee which upon request will make recommendations to  
23 him;

24 (4) To make an annual report regarding the work of his  
25 office as he may consider desirable to the Governor, or as  
26 the Governor may request;

1           (5) To cause a suit to be filed in his name to enforce  
2 any law of this State that applies to an association,  
3 subsidiary of an association, or holding company operating  
4 under this Act and shall include the enforcement of any  
5 obligation of the officers, directors or employees of any  
6 association;

7           (6) To prescribe a uniform manner in which the books  
8 and records of every association are to be maintained; and

9           (7) To establish reasonable and rationally based fee  
10 structures for each association and holding company  
11 operating under this Act and for their service corporations  
12 and subsidiaries, which fees shall include but not be  
13 limited to annual fees, application fees, regular and  
14 special examination fees, and such other fees as the  
15 Secretary establishes and demonstrates to be directly  
16 resultant from his responsibilities under this Act and as  
17 are directly attributable to individual entities operating  
18 under this Act. The Secretary may require payment of the  
19 fees under this Act by an electronic transfer of funds or  
20 an automatic debit of an account of each of the  
21 associations.

22 (Source: P.A. 95-1047, eff. 4-6-09.)

23 (205 ILCS 105/7-4) (from Ch. 17, par. 3307-4)

24 Sec. 7-4. Prohibited activities. The Commissioner, deputy  
25 commissioners, and employees of the Office of Banks and Real

1 Estate shall be subject to the restrictions provided in Section  
2 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
3 Act including, without limitation, the restrictions on (i)  
4 owning shares of stock or holding any other equity interest in  
5 an entity regulated under this Act or in any corporation or  
6 company that owns or controls an entity regulated under this  
7 Act; (ii) being an officer, director, employee, or agent of an  
8 entity regulated under this Act; and (iii) obtaining a loan or  
9 accepting a gratuity from an entity regulated under this Act.

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

11 (205 ILCS 105/7-5) (from Ch. 17, par. 3307-5)

12 Sec. 7-5. Examination.

13 (a) The Commissioner, at least once every 18 months, but  
14 more often if he deems it necessary or expedient, with or  
15 without previous notice, shall cause an examination to be made  
16 of the affairs of every association, including any holding  
17 company and subsidiary thereof. If an association or holding  
18 company has not been audited at least once in the preceding 12  
19 months in accordance with this Act, the examination shall  
20 include an audit by licensed public accountants employed or  
21 appointed by the Commissioner. Such examination shall be made  
22 by competent examiners appointed for that purpose who are not  
23 officers or agents of, or in any manner interested in, any  
24 association or holding company which they examine, except that  
25 they may be holders of withdrawable capital. Notwithstanding

1 any other provision of this Act, every eligible association, as  
2 defined by regulation, or, if not so defined, to an equivalent  
3 extent as would be permitted in the case of a State bank, the  
4 Secretary, in lieu of the examination, may accept on an  
5 alternating basis the examination made by the appropriate  
6 federal banking regulator, or its successor, pursuant to the  
7 federal Home Owners' Loan Act, provided the appropriate federal  
8 banking regulator, or its successor, has made an examination.

9 (b) The officers, agents or directors of any such  
10 association or holding company shall cause the books of the  
11 association or holding company to be opened for inspection by  
12 the Commissioner or his examiners and otherwise assist in such  
13 examination when requested; and for the purpose of examination,  
14 the examiner in charge thereof shall have power to administer  
15 oaths and to examine under oath any officers, employees, agents  
16 or directors of such association or holding company and such  
17 other witnesses as he deems necessary relative to the business  
18 of the association or holding company.

19 (c) The Commissioner shall make a report of each  
20 examination to the board of directors of the association or  
21 holding company examined, which report shall be read by each  
22 director, who will then execute a signed affidavit to be filed  
23 and preserved by the association or holding company  
24 acknowledging that he has read the Commissioner's report. If  
25 the affairs of the association or holding company are not being  
26 conducted in accordance with this Act, the Commissioner shall

1 require the directors, officers or employees to take any  
2 necessary corrective action. If the necessary corrective  
3 action is not made, the Commissioner may issue a formal order  
4 to the directors of the association or holding company  
5 delivered either personally or by registered or certified mail,  
6 specifying a date which may be immediate or may be at a later  
7 date for the performance by the association or holding company  
8 of the corrective action. Such order or any part thereof shall  
9 be subject to Sections 7-24 through 7-27 of this Act. If the  
10 formal order of the Commissioner in whole or in part contains a  
11 finding that the business of the association or holding company  
12 is being conducted in a fraudulent, illegal or unsafe manner,  
13 or that the violation thereof or the continuance by the  
14 association or holding company of the practice to be corrected  
15 could cause insolvency or substantial dissipation of assets or  
16 earnings or the impairment of its capital, such order or part  
17 thereof shall be complied with promptly on and after the  
18 effective date thereof until modified or withdrawn by the  
19 Commissioner, the Board, or modified or terminated by a circuit  
20 court. The Commissioner may apply to the circuit court of the  
21 county in which the association or holding company is located  
22 for enforcement of any such order requiring prompt compliance.  
23 If no hearing has been requested within the time specified by  
24 this Act, the Commissioner may, at any time within 90 days  
25 after the effective date of the order, institute suit in the  
26 Circuit Court of Sangamon County or the circuit court of the



1 county in which the association or holding company is located  
2 to compel the directors, officers or employees to make the  
3 required corrective action. Such court shall, after due process  
4 of law, adjudicate the question and enter the proper order or  
5 orders and enforce them. In the interests of the members of the  
6 association or holding company, the Commissioner may prepare a  
7 statement of the condition of the association or holding  
8 company and may mail the statement to the members or may  
9 require a single publication thereof.

10 (Source: P.A. 85-335.)

11 (205 ILCS 105/7-20) (from Ch. 17, par. 3307-20)

12 Sec. 7-20. Board of Savings Institutions; appointment. The  
13 Savings and Loan Board is hereby redesignated the Board of  
14 Savings Institutions. The Board shall be composed of 7 persons  
15 appointed by the Governor. Four persons shall represent the  
16 public interest. Three persons shall have been engaged actively  
17 in savings and loan or savings bank management in this State  
18 for at least 5 years immediately prior to appointment. Each  
19 member of the Board shall be reimbursed for ordinary and  
20 necessary expenses incurred in attending the meetings of the  
21 Board ~~receive compensation of \$50 per day for each day actually~~  
22 ~~and necessarily consumed in the performance of the duties of~~  
23 ~~office, plus necessary expenses incurred in the performance of~~  
24 ~~those duties.~~ The members of the Board serving immediately  
25 before the effective date of this amendatory Act of 1996 shall

1 continue to serve for the balance of their respective terms.  
2 Members shall be appointed for 4-year terms to expire on the  
3 third Monday in January. Except as otherwise provided in this  
4 Section, members of the Board shall serve until their  
5 respective successors are appointed and qualified. A member who  
6 tenders a written resignation shall serve only until the  
7 resignation is accepted by the Chairman. A member who fails to  
8 attend 3 consecutive Board meetings without an excused absence  
9 shall no longer serve as a member. The Governor shall fill any  
10 vacancy by the appointment of a member for the unexpired term  
11 in the same manner as in the making of original appointments.

12 (Source: P.A. 89-508, eff. 7-3-96; 89-603, eff. 8-2-96.)

13 (205 ILCS 105/7-22) (from Ch. 17, par. 3307-22)

14 Sec. 7-22. Board of Savings Institutions; powers. The  
15 Board shall have the following powers:

16 (a) To advise the Governor and Secretary on all matters  
17 relating to the regulation of savings and loan associations and  
18 savings banks; consider, hold public or private hearings and  
19 act upon appeals from any order, decision or action of the  
20 Commissioner by any aggrieved person except as otherwise  
21 specifically provided in this Act or the Savings Bank Act;

22 (b) (Blank) To advise the Governor and the Commissioner  
23 upon appointments and employment of personnel in connection  
24 with the supervision of savings and loan associations and  
25 savings banks; and

1 (c) To advise the Governor on legislation proposed to amend  
2 this Act, the Savings Bank Act, or any related Act.

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

4 (205 ILCS 105/10-1) (from Ch. 17, par. 3310-1)

5 Sec. 10-1. Appointment of a receiver following taking of  
6 custody ~~Commissioner to appoint receiver~~. If ~~the Commissioner,~~  
7 after taking custody of an association, the Secretary  
8 determines that the appointment of a receiver is appropriate,  
9 then the Secretary shall follow the provisions regarding  
10 receivership outlined under this Article ~~under the Section of~~  
11 ~~this Act concerning Commissioner's Authority to Take Custody,~~  
12 ~~finds that any one or more of the reasons for taking custody~~  
13 ~~continues to exist through the period of his custody, then he~~  
14 ~~shall appoint any qualified person, firm or corporation as~~  
15 ~~receiver or coreceiver of such association or trust for the~~  
16 ~~purpose of liquidation. In the case of an insured association,~~  
17 ~~he may appoint the insurance corporation or its nominee as such~~  
18 ~~receiver or as a coreceiver; and the insurance corporation may~~  
19 ~~be permitted to serve without bond. The receiver shall take~~  
20 ~~possession of and title to the books, records and assets of~~  
21 ~~every description of the association or trust.~~

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

23 (205 ILCS 105/10-15 new)

24 Sec. 10-15. Secretary's proceedings exclusive. Except by

1 the authority of the Secretary, represented by the Attorney  
2 General, or the Federal Deposit Insurance Corporation pursuant  
3 to the Federal Deposit Insurance Act, no complaint shall be  
4 filed or proceedings commenced in any court for the dissolution  
5 of, the winding up of the affairs of, or the appointment of a  
6 receiver for any association on the grounds that:

7 (1) it is insolvent;

8 (2) its capital is impaired or it is otherwise in an  
9 unsound condition;

10 (3) its business is being conducted in an unlawful,  
11 fraudulent, or unsafe manner;

12 (4) it is unable to continue operations; or

13 (5) its examination has been obstructed or impaired.

14 (205 ILCS 105/10-20 new)

15 Sec. 10-20. Capital impairment; correction.

16 (a) If the Secretary, with respect to an association,  
17 finds:

18 (1) its capital is impaired or it is otherwise in an  
19 unsound condition;

20 (2) its business is being conducted in an unlawful  
21 manner, including without limitation in violation of any  
22 provision of this Act, or in a fraudulent or unsafe manner;

23 (3) it is unable to continue operations; or

24 (4) its examination has been obstructed or impeded;

25 then the Secretary may give notice to the board of directors of

1 his or her finding or findings. If the situation so found by  
2 the Secretary shall not be corrected to his or her satisfaction  
3 within a period of at least 60 but no more than 180 days after  
4 receipt of that notice, which period shall be determined by the  
5 Secretary and set forth in the notice, then the Secretary, at  
6 the termination of that period, may take possession and control  
7 of the association and its assets as provided for in this Act  
8 provided for the purpose of examination, reorganization or  
9 liquidation through receivership.

10 (b) If the Secretary has given notice to the board of  
11 directors of his or her findings, as provided in subsection (a)  
12 of this Section, and the time period prescribed in that notice  
13 has expired, then the Secretary may extend the time period  
14 prescribed in that notice for such period as the Secretary  
15 deems appropriate.

16 (205 ILCS 105/10-25 new)

17 Sec. 10-25. Capital impairment; emergency. If, in addition  
18 to a finding as provided in Section 10-20 of this Act, the  
19 Secretary is of the opinion and finds that an emergency exists  
20 that may result in serious losses to the depositors or the  
21 inability of the association to continue in operations, meet  
22 the demands of its depositors, or pay its obligations in the  
23 normal course of business, he or she may, in his or her  
24 discretion, without having given the notice provided for in  
25 Section 10-20 of this Act, and whether or not proceedings under

1 Section 10-20 of this Act have been instituted or are then  
2 pending, take possession and control of the association and its  
3 assets for the purpose of examination, reorganization, or  
4 liquidation through receivership.

5 (205 ILCS 105/10-30 new)

6 Sec. 10-30. Secretary's possession; power. The Secretary  
7 may take possession and control of an association and its  
8 assets by posting upon the premises a notice reciting that the  
9 Secretary is assuming possession pursuant to this Act and the  
10 time when his or her possession shall be deemed to commence,  
11 which time shall not pre-date the posting of the notice.  
12 Promptly after taking possession and control of an association,  
13 if the Federal Deposit Insurance Corporation is not appointed  
14 as receiver, the Secretary shall file a copy of the notice  
15 posted upon the premises in the circuit court in the county in  
16 which the association is located, and thereupon the clerk of  
17 such court shall note the filing of the notice upon the records  
18 of the court, and shall enter such cause as a court action upon  
19 the dockets of such court under the name and style of "In the  
20 matter of the possession and control of the Secretary of  
21 (insert the name of such association)", and thereupon the court  
22 wherein such cause is docketed shall be vested with  
23 jurisdiction to hear and determine all issues and matters  
24 pertaining to or connected with the Secretary's possession and  
25 control of such association as provided in this Act, and such

1 further issues and matters pertaining to or connected with the  
2 Secretary's possession and control as may be submitted to such  
3 court for its adjudication by the Secretary. When the Secretary  
4 has taken possession and control of an association and its  
5 assets, he or she shall be vested with the full powers of  
6 management and control, including without limitation the  
7 following:

8 (1) the power to continue or to discontinue the  
9 business;

10 (2) the power to stop or to limit the payment of its  
11 obligations; provided, however, with respect to a  
12 qualified financial contract between any party and an  
13 association or a branch or agency of which the Secretary  
14 has taken possession and control, which party has a  
15 perfected security interest in collateral or other valid  
16 lien or security interest in collateral enforceable  
17 against third parties pursuant to a security arrangement  
18 related to that qualified financial contract, the party may  
19 retain all of the collateral and upon repudiation or  
20 termination of that qualified financial contract in  
21 accordance with its terms apply the collateral in  
22 satisfaction of any claims secured by the collateral; in no  
23 event shall the total amount so applied exceed the global  
24 net payment obligation, if any;

25 (3) the power to collect and to use its assets and to  
26 give valid receipts and acquittances;

1           (4) the power to employ and to pay any necessary  
2           assistants;

3           (5) the power to execute any instrument in the name of  
4           the association;

5           (6) the power to commence, defend, and conduct in its  
6           name any action or proceeding in which it may be a party;

7           (7) the power, upon the order of the court, to sell and  
8           convey its assets in whole or in part, and to sell or  
9           compound bad or doubtful debts upon such terms and  
10          conditions as may be fixed in such order;

11          (8) the power, upon the order of the court, to make and  
12          to carry out agreements with other associations or with the  
13          United States or any agency thereof that shall insure the  
14          association's deposits, in whole or in part, for the  
15          payment or assumption of the association's liabilities, in  
16          whole or in part, and to transfer assets and to make  
17          guaranties, in whole or in part, and to transfer assets and  
18          to make guaranties in connection therewith;

19          (9) the power, upon the order of the court, to borrow  
20          money in the name of the association and to pledge its  
21          assets as security for the loan;

22          (10) the power to terminate his or her possession and  
23          control by restoring the association to its board of  
24          directors;

25          (11) the power to reorganize the association as  
26          provided in this Act;



1           (12) the power to appoint a receiver and to order  
2           liquidation of the association as provided in this Act; and

3           (13) the power, upon the order of the court and without  
4           the appointment of a receiver, to determine that the  
5           association has been closed for the purpose of liquidation  
6           without adequate provision being made for payment of its  
7           depositors, and thereupon the association shall be deemed  
8           to have been closed on account of inability to meet the  
9           demands of its depositors.

10          As soon as practical after taking possession, the Secretary  
11          shall make his or her examination of the condition of the  
12          association and an inventory of the assets. Unless the time  
13          shall be extended by order of the court, and unless the  
14          Secretary shall have otherwise settled the affairs of an  
15          association pursuant to the provisions of this Act, at the  
16          termination of 30 days after the time of taking possession and  
17          control of an association for the purpose of examination,  
18          reorganization, or liquidation through receivership, the  
19          Secretary shall either terminate his or her possession and  
20          control by restoring the association to its board of directors  
21          or appoint a receiver and order the liquidation of the  
22          association as provided in this Act. All necessary and  
23          reasonable expenses of the Secretary's possession and control  
24          and of its reorganization shall be borne by the association and  
25          may be paid by the Secretary from its assets. If the Federal  
26          Deposit Insurance Corporation is appointed by the Secretary as

1 receiver of an association, or the Federal Deposit Insurance  
2 Corporation takes possession of the association, then the  
3 receivership proceedings and the powers and duties of the  
4 Federal Deposit Insurance Corporation shall be governed by the  
5 Federal Deposit Insurance Act and regulations promulgated  
6 under that Act rather than the provisions of this Act.

7 (205 ILCS 105/10-35 new)

8 Sec. 10-35. Secretary's possession; limitation of actions.  
9 Except when the Federal Deposit Insurance Corporation has taken  
10 possession of the association or is acting as receiver, if the  
11 Secretary has taken possession and control of an association  
12 and its assets, then there shall be a postponement until 6  
13 months after the commencement of the possession of the date  
14 upon which any period of limitation fixed by a statute or  
15 agreement would otherwise expire on a claim or right of action  
16 of the association, or upon which an appeal must be taken or a  
17 pleading or other document must be filed by the association in  
18 any pending action or proceeding. No judgment, lien, levy,  
19 attachment, or other similar legal process shall be enforced  
20 upon or satisfied in whole or in part from any asset of the  
21 association while it is in the possession of the Secretary,  
22 except upon the order of the court referred to in Section 10-30  
23 entered in due course pursuant to Section 10-90 of this Act.  
24 The provisions of this Section shall continue to apply and  
25 shall govern notwithstanding the appointment of and the

1 possession by a receiver pursuant to Section 10-55 of this Act.

2 (205 ILCS 105/10-40 new)

3 Sec. 10-40. Reorganization. The Secretary, while in  
4 possession and control of an association and its assets, after  
5 according a hearing to interested parties as he or she may  
6 determine and upon the order of the court, may propose a  
7 reorganization plan. Such reorganization plan shall become  
8 effective only (1) when the requirements of Section 10-45 are  
9 satisfied, and (2) when, after reasonable notice of such  
10 reorganization, as the case may require (A) depositors and  
11 other creditors of such association representing at least 75%  
12 in amount of its total deposits and other liabilities as shown  
13 by the books of the association, (B) stockholders owning at  
14 least two-thirds of its outstanding capital stock as shown by  
15 the books of the association, or (C) both depositors and other  
16 creditors representing at least 75% in amount of the total  
17 deposits and other liabilities and stockholders owning at least  
18 two-thirds of its outstanding capital stock as shown by the  
19 books of the association, shall have consented in writing to  
20 the plan of reorganization; provided, however, that claims of  
21 depositors or other creditors that will be satisfied in full on  
22 demand under the provisions of the plan of reorganization shall  
23 not be included among the total deposits and other liabilities  
24 of the association in determining the 75% required under this  
25 Section. When such reorganization becomes effective, all

1 books, records, and assets of the association shall be disposed  
2 of in accordance with the provisions of the plan, and the  
3 affairs of the association shall be conducted by its board of  
4 directors in the manner provided by the plan and under the  
5 conditions, restrictions, and limitations prescribed by the  
6 Secretary. In any reorganization approved and effective as  
7 provided in this Section, all depositors and other creditors  
8 and stockholders of the association, whether or not they shall  
9 have consented to such plan of reorganization, shall be fully  
10 and in all respects subject to and bound by its provisions, and  
11 claims of all depositors and other creditors shall be treated  
12 as if they have consented to the plan of reorganization. A  
13 department, agency, or political subdivision of this State  
14 holding a claim that will not be paid in full is authorized to  
15 participate in a plan of reorganization as any other creditor  
16 and shall be subject to and bound by its provisions as any  
17 other creditor.

18 (205 ILCS 105/10-45 new)

19 Sec. 10-45. Requirements of reorganization plan. A plan of  
20 reorganization for an association shall not be proposed under  
21 this Act unless:

22 (1) the plan is feasible and fair to all classes of  
23 depositors, creditors and stockholders;

24 (2) the face amount of the interest accorded to any  
25 class of depositors, creditors, and stockholders under the

1 plan does not exceed the value of the assets upon  
2 liquidation less the full amount of the claims of all prior  
3 classes, subject, however, to any fair adjustment for new  
4 capital that any class will pay in under the plan;

5 (3) the plan assures the removal of any director,  
6 officer, or employee responsible for any unsound or  
7 unlawful action or the existence of an unsound condition;

8 (4) any merger or consolidation provided by the plan  
9 conforms to the requirements of this Act; and

10 (5) any reorganized association provided by the plan  
11 conforms to the requirements of this Act for the  
12 organization of an association.

13 (205 ILCS 105/10-50 new)

14 Sec. 10-50. Reorganization; emergency. Whenever, in the  
15 course of reorganization, supervening conditions render the  
16 plan of reorganization unfair or its execution impractical, the  
17 Secretary may modify the plan, provided the modification is  
18 with the written consent of the depositors and other creditors  
19 representing at least 75% in amount of the total deposits and  
20 other liabilities that are impaired or lessened by the  
21 modification, or may, provided the Federal Deposit Insurance  
22 has not been appointed, appoint a receiver for liquidation as  
23 provided in this Act.

24 (205 ILCS 105/10-55 new)

1       Sec. 10-55. Appointment of receiver; court proceeding.

2       (a) If the Secretary determines, which determination may be  
3 made at the time of or any time subsequent to his or her taking  
4 possession and control of an association and its assets, that  
5 no practical possibility exists to reorganize the association  
6 after reasonable efforts have been made and that it should be  
7 liquidated through receivership, then the Secretary shall  
8 appoint a receiver and require of the receiver a bond and  
9 security as the Secretary deems proper, and the Secretary,  
10 represented by the Attorney General, shall, if the Federal  
11 Deposit Insurance Corporation is not acting as receiver, file a  
12 complaint for the dissolution or winding up of the affairs of  
13 an association in the circuit court of the county where such  
14 association is located.

15       (b) Unless the Federal Deposit Insurance Corporation is  
16 acting as receiver for the association, the Secretary, upon  
17 taking possession and control of an association and its assets,  
18 may and, if he or she has not previously done so, shall,  
19 immediately upon filing a complaint for dissolution, make an  
20 examination of the affairs of the trust department of the  
21 association or appoint a corporate fiduciary or other suitable  
22 person to make the examination as the Secretary's agent. The  
23 examination shall be conducted in accordance with and pursuant  
24 to the authority granted under Section 5-2 of the Corporate  
25 Fiduciary Act and the corporate fiduciary or other suitable  
26 person conducting the examination shall have and may exercise

1 on behalf of the Secretary all of the powers and authority  
2 granted to the Secretary. The report of examination shall, to  
3 the extent reasonably possible, identify those governing  
4 instruments with specific instructions concerning the  
5 appointment of a successor fiduciary. A copy of the report  
6 shall be filed in any dissolution proceeding filed by the  
7 Secretary. The reasonable fees and necessary expenses of the  
8 examining corporate fiduciary or other suitable person, as  
9 approved by the Secretary or as recommended by the Secretary  
10 and approved by the court if a dissolution proceeding has been  
11 filed, shall be borne by the subject association and shall have  
12 the same priority for payment as the reasonable and necessary  
13 expenses of the Secretary in conducting an examination.

14 As soon as reasonably can be done, the Secretary, if he or  
15 she deems it advisable, shall seek the advice and instruction  
16 of the court concerning the removal of the corporate fiduciary  
17 as to all of its fiduciary accounts and the appointment of a  
18 successor fiduciary, which may be the examining corporate  
19 fiduciary, to take over and administer all of the fiduciary  
20 accounts being administered by the trust department of the  
21 association. The corporate fiduciary or other suitable person  
22 appointed to make the examination shall make a proper  
23 accounting, in the manner and scope as determined by the  
24 Secretary to be practical and advisable under the  
25 circumstances, on behalf of the trust department of the  
26 association and no guardian ad litem need be appointed to

1 review the accounting.

2 (205 ILCS 105/10-60 new)

3 Sec. 10-60. Notice of receivership. Upon appointing a  
4 receiver, other than the Federal Deposit Insurance  
5 Corporation, and upon the filing of a complaint for the  
6 dissolution or winding up of the affairs of an association, the  
7 Secretary shall cause notice to be given in that newspaper as  
8 he or she directs once each week for 12 consecutive weeks  
9 calling on all persons who may have claims against such  
10 association to present the same to such receiver and to make  
11 legal proof thereof and notifying all such persons and all to  
12 whom it may concern of the filing of a complaint for the  
13 dissolution or winding up of the affairs of the association and  
14 stating the name and location of the court. All persons who may  
15 have claims against the association and the receiver to whom  
16 the persons have presented their claims may present them to the  
17 clerk of the court, and the allowance or disallowance of the  
18 claims by the court in connection with the proceedings shall be  
19 deemed an adjudication in a court of competent jurisdiction.

20 (205 ILCS 105/10-65 new)

21 Sec. 10-65. Receiver's powers; duties. Other than the  
22 Federal Deposit Insurance Corporation, which shall derive its  
23 powers and perform its duties pursuant to the Federal Deposit  
24 Insurance Act and regulations promulgated thereunder, the



1 receiver for an association, under the direction of the  
2 Secretary, shall have the power and authority and is charged  
3 with the duties and responsibilities as follows:

4 (1) He or she shall take possession of and, for the  
5 purpose of the receivership, the title to the books,  
6 records, and assets of every description of the  
7 association.

8 (2) He or she shall proceed to collect all debts, dues,  
9 and claims belonging to the association.

10 (3) He or she shall file with the Secretary a copy of  
11 each report that he or she makes to the court, together  
12 with other reports and records as the Secretary may  
13 require.

14 (4) He or she shall have authority to sue and defend in  
15 his or her own name with respect to the affairs, assets,  
16 claims, debts, and choses in action of the association.

17 (5) He or she shall have authority, and it shall be his  
18 or her duty, to surrender to the customers of such  
19 association their private papers and valuables left with  
20 the association for safekeeping, upon satisfactory proof  
21 of ownership.

22 (6) He or she shall have authority to redeem or take  
23 down collateral hypothecated by the association to secure  
24 its notes or other evidence of indebtedness whenever the  
25 Secretary deems it to the best interest of the creditors of  
26 the association to do so.

1           (7) Whenever he or she finds it necessary in his or her  
2           opinion to use and employ money of the association in order  
3           to protect fully and benefit the association, by the  
4           purchase or redemption of any property, real or personal,  
5           in which the association may have any rights by reason of  
6           any bond, mortgage, assignment, or other claim thereto, he  
7           or she may certify the facts together with his or her  
8           opinions as to the value of the property involved, and the  
9           value of the equity the association may have in the  
10           property to the Secretary, together with a request for the  
11           right and authority to use and employ so much of the money  
12           of the association as may be necessary to purchase the  
13           property, or to redeem the same from a sale if there was a  
14           sale, and if such request is granted, the receiver may use  
15           so much of the money of the association as the Secretary  
16           may have authorized to purchase the property at such sale.

17           (8) He or she shall deposit daily all moneys collected  
18           by him or her in any state or national association selected  
19           by the Secretary, who may require of (and the association  
20           so selected may furnish) the depository satisfactory  
21           securities or satisfactory surety bond for the safekeeping  
22           and prompt payment of the money so deposited. The deposits  
23           shall be made in the name of the Secretary in trust for the  
24           association and be subject to withdrawal upon his or her  
25           order or upon the order of persons as the Secretary may  
26           designate. The moneys may be deposited without interest,

1 unless otherwise agreed. However, if any interest was paid  
2 by such depository, it shall accrue to the benefit of the  
3 particular trust to which the deposit belongs.

4 (9) He or she shall do such things and take steps from  
5 time to time under the direction and approval of the  
6 Secretary as may reasonably appear to be necessary to  
7 conserve the association's assets and secure the best  
8 interests of the creditors of the association.

9 (10) He or she shall record any judgment of dissolution  
10 entered in a dissolution proceeding and then deliver to the  
11 Secretary a certified copy thereof, together with all books  
12 of accounts and ledgers of the association for  
13 preservation.

14 (205 ILCS 105/10-70 new)

15 Sec. 10-70. Receiver's powers; court directions. Upon the  
16 order of the court where the Secretary's complaint for the  
17 dissolution or winding up of the affairs of the association was  
18 filed, the receiver for the association shall have the power  
19 and authority and is charged with the duties and  
20 responsibilities as follows:

21 (1) He or she may sell and compound all bad and  
22 doubtful debts on such terms as the court shall direct.

23 (2) He or she may sell the real and personal property  
24 of the association on such terms as the court shall direct.

25 (3) He or she may petition the court for the authority

1       to borrow money, and to pledge the assets of the  
2       association as security therefor, whereupon the practice  
3       and procedure shall be as follows:

4               (A) Upon the filing of the petition, the court  
5               shall set a date for the hearing of the petition and  
6               shall prescribe the form and manner of the notice to be  
7               given to the officers, stockholders, creditors, or  
8               other persons interested in such association.

9               (B) Upon a hearing, any officer, stockholder,  
10              creditor, or person interested shall have the right to  
11              be heard.

12              (C) If the court grants such authority, then the  
13              receiver may borrow money and issue evidences of  
14              indebtedness therefor and may secure the payment of  
15              such loan by the mortgage, pledge, transfer in trust,  
16              or hypothecation of any or all property and assets of  
17              such association, whether real, personal, or mixed,  
18              superior to any charge thereon for the expenses of  
19              liquidation.

20              (D) Loans may be obtained in such amounts upon such  
21              terms and conditions and with provisions for repayment  
22              as may be deemed necessary or expedient.

23              (E) Loans may be obtained for the purpose of  
24              facilitating liquidation, protecting or preserving the  
25              assets, expediting the making of distributions to  
26              depositors and other creditors, providing for the

1 expenses of administration and liquidation, and in  
2 aiding in the reopening or reorganization of such  
3 association or its merger or consolidation with  
4 another association, or in the sale of its assets.

5 (F) The receiver shall be under no personal  
6 obligation to repay any such loan and shall have  
7 authority to take any action necessary or proper to  
8 consummate such loan and to provide for the repayment  
9 thereof, and may, when required, give bond for the  
10 faithful performance of all undertakings in connection  
11 therewith.

12 (G) Prior to petitioning the court for authority to  
13 make any loan, the receiver may make application for or  
14 negotiate any loan subject to obtaining an order of the  
15 court approving the same.

16 (4) He or she may make and carry out agreements with  
17 other associations or with the United States or any agency  
18 thereof that has insured the association's deposits, in  
19 whole or in part, for the payment or assumption of the  
20 association's liabilities, in whole or in part, and he or  
21 she may transfer assets and make guaranties in connection  
22 therewith.

23 (5) After the expiration of 12 weeks after the first  
24 publication of the Secretary's notice as provided in  
25 Section 10-60, he or she shall file with the court a  
26 correct list of all creditors of the association, as shown

1 by its books, who have not presented their claims and the  
2 amount of their respective claims after allowing all just  
3 credits, deductions and set-offs as shown by the books of  
4 the association. Claims filed shall be deemed proven,  
5 unless objections are filed thereto by a party or parties  
6 interested therein within the time fixed by the court.

7 (6) At the termination of his or her administration, he  
8 or she shall petition the court for the entry of a judgment  
9 of dissolution. After a hearing upon notice as the court  
10 may prescribe, the court may enter a judgment of  
11 dissolution whereupon the association's charter is  
12 terminated.

13 The provisions of this Section do not apply to the Federal  
14 Deposit Insurance Corporation as receiver, which shall derive  
15 its powers and perform its duties pursuant to the Federal  
16 Deposit Insurance Act.

17 (205 ILCS 105/10-75 new)

18 Sec. 10-75. Change of receiver. At any time after a  
19 receiver, other than the Federal Deposit Insurance  
20 Corporation, is appointed by the Secretary, whenever  
21 two-thirds of the creditors of an association petition the  
22 Secretary for the appointment of any person nominated by them  
23 as receiver, who is a reputable person and a resident of the  
24 county in which such association is located, it shall be the  
25 duty of the Secretary to make such appointment and all rights

1 and duties of his or her predecessor shall at once devolve upon  
2 such appointee. The Secretary may remove any receiver appointed  
3 by him or her, except the Federal Deposit Insurance Corporation  
4 or such receiver as shall have been appointed through  
5 nomination by the creditors. Such a receiver may be removed by  
6 the court upon a petition for his or her removal filed by the  
7 Secretary after hearing had upon such notice as the court may  
8 prescribe. Upon the death, inability to act, resignation, or  
9 removal of a receiver, the Secretary may appoint his or her  
10 successor and, upon such appointment, all rights and duties of  
11 his predecessor shall at once devolve upon such appointee.

12 (205 ILCS 105/10-80 new)

13 Sec. 10-80. Insured deposits; subrogation. The right of an  
14 agency of the United States insuring deposits to be subrogated  
15 to the rights of depositors upon payment of their claim shall  
16 not be less extensive than the law of the United States  
17 requires as a condition of the authority to issue insurance or  
18 make the payment.

19 (205 ILCS 105/10-85 new)

20 Sec. 10-85. Expenses and fees. All expenses of a  
21 receivership, including reasonable receiver's and attorney's  
22 fees, approved by the Secretary shall be paid out of the assets  
23 of the association. All expenses of any preliminary or other  
24 examination into the condition of any such association or

1 receivership and all expenses incident to and in connection  
2 with the possession and control of the association and its  
3 assets for the purpose of examination, reorganization, or  
4 liquidation through receivership shall be paid out of the  
5 assets of that association. The payment authorized under this  
6 Section may be made by the Secretary with moneys and property  
7 of the association in his or her possession and control and  
8 shall have priority over all claims.

9 (205 ILCS 105/10-90 new)

10 Sec. 10-90. Dividends; dissolution. From time to time  
11 during a receivership other than a receivership conducted by  
12 the Federal Deposit Insurance Corporation, the Secretary shall  
13 make and pay from moneys of the association a ratable dividend  
14 on all claims as may be proved to his or her satisfaction or  
15 adjudicated by the court. Claims so proven or adjudicated shall  
16 bear interest at the rate of 3% per annum from the date of the  
17 appointment of the receiver to the date of payment, but all  
18 dividends on a claim shall be applied first to principal. In  
19 computing the amount of any dividend to be paid, if the  
20 Secretary deems it desirable in the interests of economy of  
21 administration and to the interest of the association and its  
22 creditors, he or she may pay up to the amount of \$10 of each  
23 claim or unpaid portion thereof in full. As the proceeds of the  
24 assets of the association are collected in the course of  
25 liquidation, the Secretary shall make and pay further dividends



1 on all claims previously proven or adjudicated. After one year  
2 from the entry of a judgment of dissolution, all unclaimed  
3 dividends shall be remitted to the State Treasurer in  
4 accordance with the Uniform Disposition of Unclaimed Property  
5 Act, together with a list of all unpaid claimants, their last  
6 known addresses, and the amounts unpaid.

7 (205 ILCS 105/10-95 new)

8 Sec. 10-95. Validation of dividends; destruction of  
9 records. In all cases where the Secretary, prior to this  
10 Section taking effect, has made ratable dividends of money on  
11 claims that have been proven to the satisfaction of the  
12 Secretary or adjudicated in any court of this State, the  
13 dividends are hereby ratified and confirmed and made valid and  
14 legal in all respects. All records of receiverships heretofore  
15 and hereafter received by the Secretary or by a receiver  
16 appointed by the Secretary shall be held by the Secretary or  
17 such receiver for the period of 2 years after the close of the  
18 receivership and, at the termination of the 2-year period, may  
19 then be destroyed.

20 (205 ILCS 105/10-100 new)

21 Sec. 10-100. Judicial review. Whenever the Secretary shall  
22 have taken possession and control of an association and its  
23 assets for the purpose of examination, reorganization, or  
24 liquidation through receivership, or whenever the Secretary

1 shall have appointed a receiver for an association, other than  
2 the Federal Deposit Insurance Corporation, and filed a  
3 complaint for the dissolution or for the winding up of the  
4 affairs of an association, and the association denies the  
5 grounds for such actions, it may, at any time within 10 days,  
6 apply to the Circuit Court of Sangamon County, Illinois, to  
7 enjoin further proceedings in the premises; and such court  
8 shall cite the Secretary to show cause why further proceedings  
9 should not be enjoined, and if the court shall find that such  
10 grounds do not exist, the court shall make an order enjoining  
11 the Secretary and any receiver acting under his or her  
12 direction from all further proceedings on account of such  
13 alleged grounds, provided that neither the 10 days allowed by  
14 this Section for judicial review nor the pendency of any  
15 proceedings for judicial review shall operate to defer, delay,  
16 impede, or prevent the payment or acquisition by the Federal  
17 Deposit Insurance Corporation of the deposit liabilities of the  
18 association that are insured by the Federal Deposit Insurance  
19 Corporation, and during said period allowed for judicial review  
20 and during the pendency of any proceedings for judicial review  
21 under this Section, the Secretary or, as the case may be, the  
22 receiver shall make available to the Federal Deposit Insurance  
23 Corporation the facilities in or of the association and books,  
24 records, and other relevant data of the association as may be  
25 necessary or appropriate to enable the Federal Deposit  
26 Insurance Corporation to pay out or to acquire the insured

1 deposit liabilities of the association, and said Federal  
2 Deposit Insurance Corporation and its directors, officers,  
3 agents, and employees, and the Secretary and his agents and  
4 employees, including the receiver, if any, shall be free from  
5 any liability to the association and its stockholders and  
6 creditors for or on account of any matter or thing in this  
7 proviso referred to or provided for.

8 (205 ILCS 105/11-1) (from Ch. 17, par. 3311-1)

9 Sec. 11-1. Offenses and penalties. Any person who violates  
10 the provisions of Sections 3-9, 3-10, 5-11 or 5-12 (b) of this  
11 Act is guilty of a Business Offense.

12 The Commissioner, in addition to any other powers granted  
13 in this Act, shall have the power and authority to impose civil  
14 penalties of up to \$100,000 against any person for each  
15 violation of any provision of this Act, any rule promulgated in  
16 accordance with this Act, any order of the Commissioner, or any  
17 other action that in the Commissioner's discretion is an unsafe  
18 or unsound banking practice.

19 (Source: P.A. 86-137.)

20 Section 30. The Savings Bank Act is amended by changing  
21 Sections 1003, 1007.30, 4009, 9001, 9002, 9003, 9004, and 11006  
22 by changing the heading to Article 10, and by adding Sections  
23 1007.57, 10011, 10015, 10020, 10025, 10030, 10035, 10040,  
24 10045, 10050, 10055, 10060, 10065, 10070, 10075, 10080, 10085,

1 10090, 10095, and 10100 as follows:

2 (205 ILCS 205/1003) (from Ch. 17, par. 7301-3)

3 Sec. 1003. Administration. This Act shall be administered  
4 by the Commissioner ~~of Banks and Real Estate~~ as provided in the  
5 Division of Banking ~~Office of Banks and Real Estate~~ Act.

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

7 (205 ILCS 205/1007.30) (from Ch. 17, par. 7301-7.30)

8 Sec. 1007.30. "Commissioner" means the Secretary of  
9 Financial and Professional Regulation ~~Commissioner of Banks~~  
10 ~~and Real Estate~~ or a person authorized by the Secretary  
11 ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real~~  
12 ~~Estate~~ Act, or this Act to act in the Secretary's  
13 ~~Commissioner's~~ stead.

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

15 (205 ILCS 205/1007.57 new)

16 Sec. 1007.57. Division. "Division" means the Division of  
17 Banking within the Department of Financial and Professional  
18 Regulation.

19 (205 ILCS 205/4009) (from Ch. 17, par. 7304-9)

20 Sec. 4009. Bonds of officers and directors.

21 (a) Every person appointed or elected to any position  
22 requiring the receipt, payment, management, or use of money

1 belonging to a savings bank or whose duties permit or require  
2 access to or custody of any of the savings bank's money or  
3 securities or whose duties permit the regular making of entries  
4 in the books or other records of the savings bank shall become  
5 bonded in some trust or company authorized to issue bonds in  
6 this State or in a fidelity insurance company licensed to do  
7 business in this State before assuming any duties. Each bond  
8 shall be on a form or forms as the Commissioner shall require  
9 and in the amount as the board of directors shall fix and  
10 approve. Each bond, payable to the savings bank, shall be an  
11 indemnity for any loss the savings bank may sustain in money or  
12 other property through any dishonest or criminal act or  
13 omission by any person required to be bonded, committed either  
14 alone or in concert with others. The bond shall be in the form  
15 and amount prescribed by the Commissioner, who may at any time  
16 require one or more additional bonds. ~~A true copy of every~~  
17 ~~bond, including all riders and endorsements executed~~  
18 ~~subsequent to the effective date of the bond, shall be filed at~~  
19 ~~all times with the Commissioner.~~ Each bond shall provide that a  
20 cancellation thereof either by the surety or by the insured  
21 shall not become effective unless and until 30 days notice in  
22 writing first shall have been given to the Commissioner, unless  
23 he shall have approved the cancellation earlier.

24 (b) Nothing contained in this Section shall preclude the  
25 Commissioner from proceeding against a savings bank as provided  
26 in this Act should he believe that it is being conducted in an

1 unsafe manner in that the form or amount of bonds so fixed and  
2 approved by the board of directors is inadequate to give  
3 reasonable protection to the savings bank.

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

5 (205 ILCS 205/9001) (from Ch. 17, par. 7309-1)

6 Sec. 9001. Personnel, records, files, actions, and duties.

7 The Commissioner shall appoint, subject to applicable  
8 provisions of the Personnel Code, a supervisor, examiners,  
9 employees, experts, and special assistants as may be necessary  
10 to effectively carry out this Act. ~~The Commissioner shall~~  
11 ~~require each supervisor, examiner, expert, and special~~  
12 ~~assistant employed or appointed by him to give bond, with~~  
13 ~~security to be approved by the Commissioner, not in any case~~  
14 ~~less than \$15,000, conditioned upon the faithful discharge of~~  
15 ~~their duties. The premium on the bond shall be paid by the~~  
16 ~~Commissioner from funds appropriated for that purpose. The~~  
17 ~~bond, along with verification of payment of the premium on the~~  
18 ~~bond, shall be filed in the office of the Secretary of State.~~

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

20 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

21 Sec. 9002. Powers of Secretary. The Secretary shall have  
22 the following powers and duties:

23 (1) To exercise the rights, powers, and duties set forth in  
24 this Act or in any related Act.

1           (2) To establish regulations as may be reasonable or  
2 necessary to accomplish the purposes of this Act.

3           (3) To make an annual report regarding the work of his  
4 office under this Act as he may consider desirable to the  
5 Governor, or as the Governor may request.

6           (4) To cause a suit to be filed in his name to enforce any  
7 law of this State that applies to savings banks, their service  
8 corporations, subsidiaries, affiliates, or holding companies  
9 operating under this Act, including the enforcement of any  
10 obligation of the officers, directors, agents, or employees of  
11 any savings bank.

12           (5) To prescribe a uniform manner in which the books and  
13 records of every savings bank are to be maintained.

14           (6) To establish a reasonable fee structure for savings  
15 banks and holding companies operating under this Act and for  
16 their service corporations and subsidiaries. The fees shall  
17 include, but not be limited to, annual fees, application fees,  
18 regular and special examination fees, and other fees as the  
19 Secretary establishes and demonstrates to be directly  
20 resultant from the Secretary's responsibilities under this Act  
21 and as are directly attributable to individual entities  
22 operating under this Act. The aggregate of all fees collected  
23 by the Secretary on and after the effective date of this Act  
24 shall be paid promptly after receipt of the same, accompanied  
25 by a detailed statement thereof, into the Savings and  
26 Residential Finance Regulatory Fund subject to the provisions

1 of Section 7-19.1 of the Illinois Savings and Loan Act of 1985  
2 including without limitation the provision for credits against  
3 regulatory fees. The amounts deposited into the Fund shall be  
4 used for the ordinary and contingent expenses of the Office of  
5 Banks and Real Estate. Nothing in this Act shall prevent  
6 continuing the practice of paying expenses involving salaries,  
7 retirement, social security, and State-paid insurance of State  
8 officers by appropriation from the General Revenue Fund. The  
9 Secretary may require payment of the fees under this Act by an  
10 electronic transfer of funds or an automatic debit of an  
11 account of each of the savings banks.

12 (Source: P.A. 95-1047, eff. 4-6-09.)

13 (205 ILCS 205/9003) (from Ch. 17, par. 7309-3)

14 Sec. 9003. Prohibited activities. The Commissioner, deputy  
15 commissioners, and employees of the Office of Banks and Real  
16 Estate shall be subject to the restrictions provided in Section  
17 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
18 Act including, without limitation, the restrictions on (i)  
19 owning shares of stock or holding any other equity interest in  
20 an entity regulated under this Act or in any corporation or  
21 company that owns or controls an entity regulated under this  
22 Act; (ii) being an officer, director, employee, or agent of an  
23 entity regulated under this Act; and (iii) obtaining a loan or  
24 accepting a gratuity from an entity regulated under this Act.

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



1 (205 ILCS 205/9004) (from Ch. 17, par. 7309-4)

2 Sec. 9004. Examination.

3 (a) At least once every 18 months or more often if it is  
4 deemed necessary or expedient, the Commissioner shall examine  
5 the books, records, operations, and affairs of each savings  
6 bank operating under this Act. In the course of the  
7 examination, the Commissioner shall also examine in the same  
8 manner all entities, companies, and individuals which or whom  
9 the Commissioner determines may have a relationship with the  
10 savings bank or any subsidiary or entity affiliated with it, if  
11 the relationship may adversely affect the affairs, activities,  
12 and safety and soundness of the savings bank, including: (i)  
13 companies controlled by the savings bank; (ii) entities,  
14 including companies controlled by the company, individual, or  
15 individuals that control the savings bank; and (iii) the  
16 company or other entity which controls or owns the savings  
17 bank. For purposes of this subsection, the Commissioner shall  
18 deem it necessary or expedient to conduct an examination more  
19 often than every 18 months if a required report from a savings  
20 bank indicates a material change in financial condition or a  
21 material violation of a law or regulation. In that event, the  
22 Commissioner shall initiate an examination within 30 days of  
23 receipt of that information. In the event that the condition is  
24 grounds for taking custody of the savings bank under Section  
25 10001 of this Act, the examination shall be initiated

1 immediately. Notwithstanding any other provision of this Act,  
2 every savings bank, as defined by rule, or, if not defined, to  
3 the same extent as would be permitted in the case of a State  
4 bank, the Secretary, in lieu of the examination, may accept on  
5 an alternating basis the examination made by the eligible  
6 savings bank's appropriate federal banking agency pursuant to  
7 Section 111 of the Federal Deposit Insurance Corporation  
8 Improvement Act of 1991, provided the appropriate federal  
9 banking agency has made an examination.

10 (b) The Commissioner shall examine to determine:

11 (1) Quality of financial condition, including safety  
12 and soundness and investment and loan quality.

13 (2) Compliance with this Act and other applicable  
14 statutes and regulations.

15 (3) Quality of management policies.

16 (4) Overall safety and soundness of the savings bank,  
17 its parent, subsidiaries, and affiliates.

18 (5) Remedial actions required to correct and to restore  
19 compliance with applicable statutes, regulations, and  
20 proper business policies.

21 (c) The Commissioner shall promulgate regulations to  
22 implement and administer this Section.

23 (d) If a savings bank, its holding company, or any of its  
24 corporate subsidiaries has not been audited at least once in  
25 the 12 months prior to the Commissioner's examination, the  
26 Commissioner shall cause an audit of the savings bank's books

1 and records to be made by an independent licensed public  
2 accountant selected by the Commissioner from a list composed of  
3 certified public accountants who have experience in savings  
4 bank audits. The cost of the audit shall be paid for by the  
5 entity being audited.

6 (e) The Commissioner or the Commissioner's examiners or  
7 other formally designated agents are authorized to administer  
8 oaths and to examine and to take and preserve testimony under  
9 oath as to anything in the affairs or ownership of any savings  
10 bank or institution or affiliate thereof.

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

12 (205 ILCS 205/Art. 10 heading)

13 ARTICLE 10. Involuntary Liquidation ~~Custody and~~  
14 ~~Conservatorship~~

15 (205 ILCS 205/10011 new)

16 Sec. 10011. Appointment of a receiver following taking of  
17 custody. If, following the taking of custody of a savings bank,  
18 the Secretary determines that the appointment of a receiver is  
19 appropriate, then the provisions of this Article shall apply.

20 (205 ILCS 205/10015 new)

21 Sec. 10015. Secretary's proceedings exclusive. Except by  
22 the authority of the Secretary, represented by the Attorney  
23 General, or the Federal Deposit Insurance Corporation pursuant

1 to the Federal Deposit Insurance Act, no complaint shall be  
2 filed or proceedings commenced in any court for the dissolution  
3 of, the winding up of the affairs of, or the appointment of a  
4 receiver for any savings bank on the grounds that:

5 (1) it is insolvent;

6 (2) its capital is impaired or it is otherwise in an  
7 unsound condition;

8 (3) its business is being conducted in an unlawful,  
9 fraudulent or unsafe manner;

10 (4) it is unable to continue operations; or

11 (5) its examination has been obstructed or impaired.

12 (205 ILCS 205/10020 new)

13 Sec. 10020. Capital impairment; correction.

14 (a) If the Secretary, with respect to a savings bank,  
15 shall find:

16 (1) its capital is impaired or it is otherwise in an  
17 unsound condition;

18 (2) its business is being conducted in an unlawful  
19 manner, including, without limitation, in violation of any  
20 provisions of this Act, or in a fraudulent or unsafe  
21 manner;

22 (3) it is unable to continue operations; or

23 (4) its examination has been obstructed or impeded;

24 then the Secretary may give notice to the board of directors of  
25 his or her finding or findings. If the situation so found by

1 the Secretary shall not be corrected to his or her satisfaction  
2 within a period of at least 60 but no more than 180 days after  
3 receipt of the notice, which period shall be determined by the  
4 Secretary and set forth in the notice, then the Secretary, at  
5 the termination of that period, may take possession and control  
6 of the savings bank and its assets as provided for in this Act  
7 for the purpose of examination, reorganization, or liquidation  
8 through receivership.

9 (b) If the Secretary has given notice to the board of  
10 directors of his or her findings, as provided in subsection  
11 (a), and the time period prescribed in that notice has expired,  
12 the Secretary may extend the time period prescribed in that  
13 notice for such period as the Secretary deems appropriate.

14 (205 ILCS 205/10025 new)

15 Sec. 10025. Capital impairment; emergency. If, in addition  
16 to a finding as provided in Section 10020 of this Act, the  
17 Secretary is of the opinion and finds that an emergency exists  
18 that may result in serious losses to the depositors or the  
19 inability of the savings bank to continue in operations, meet  
20 the demands of its depositors, or pay its obligations in the  
21 normal course of business, he or she may, in his or her  
22 discretion, without having given the notice provided for in  
23 Section 10020, and whether or not proceedings under Section  
24 10020 have been instituted or are then pending, take possession  
25 and control of the savings bank and its assets for the purpose

1 of examination, reorganization, or liquidation through  
2 receivership.

3 (205 ILCS 205/10030 new)

4 Sec. 10030. Secretary's possession; power. The Secretary  
5 may take possession and control of a savings bank and its  
6 assets by posting upon the premises a notice reciting that the  
7 Secretary is assuming possession pursuant to this Act and the  
8 time when his or her possession shall be deemed to commence,  
9 which time shall not pre-date the posting of the notice.  
10 Promptly after taking possession and control of a savings bank,  
11 if the Federal Deposit Insurance Corporation is not appointed  
12 as receiver, the Secretary shall file a copy of the notice  
13 posted upon the premises in the circuit court in the county in  
14 which the savings bank is located, and thereupon the clerk of  
15 such court shall note the filing of the notice upon the records  
16 of the court, and shall enter such cause as a court action upon  
17 the dockets of such court under the name and style of "In the  
18 matter of the possession and control of the Secretary of  
19 (insert the name of such savings bank)", and thereupon the  
20 court wherein the cause is docketed shall be vested with  
21 jurisdiction to hear and determine all issues and matters  
22 pertaining to or connected with the Secretary's possession and  
23 control of the savings bank as provided in this Act, and such  
24 further issues and matters pertaining to or connected with the  
25 Secretary's possession and control as may be submitted to the

1 court for its adjudication by the Secretary. When the Secretary  
2 has taken possession and control of a savings bank and its  
3 assets, then he or she shall be vested with the full powers of  
4 management and control, including without limitation the  
5 following:

6 (1) the power to continue or to discontinue the  
7 business;

8 (2) the power to stop or to limit the payment of its  
9 obligations; provided, however with respect to a qualified  
10 financial contract between any party and a savings bank or  
11 a branch or agency of which the Secretary has taken  
12 possession and control, which party has a perfected  
13 security interest in collateral or other valid lien or  
14 security interest in collateral enforceable against third  
15 parties pursuant to a security arrangement related to that  
16 qualified financial contract, the party may retain all of  
17 the collateral and upon repudiation or termination of that  
18 qualified financial contract in accordance with its terms  
19 apply the collateral in satisfaction of any claims secured  
20 by the collateral; in no event shall the total amount so  
21 applied exceed the global net payment obligation, if any;

22 (3) the power to collect and to use its assets and to  
23 give valid receipts and acquittances therefore;

24 (4) the power to employ and to pay any necessary  
25 assistants;

26 (5) the power to execute any instrument in the name of

1       the savings bank;

2           (6) the power to commence, defend, and conduct in its  
3 name any action or proceeding in which it may be a party;

4           (7) the power, upon the order of the court, to sell and  
5 convey its assets in whole or in part, and to sell or  
6 compound bad or doubtful debts upon terms and conditions as  
7 may be fixed in such order;

8           (8) the power, upon the order of the court, to make and  
9 to carry out agreements with other savings banks or with  
10 the United States or any agency thereof that shall insure  
11 the savings bank's deposits, in whole or in part, for the  
12 payment or assumption of the savings bank's liabilities, in  
13 whole or in part, and to transfer assets and to make  
14 guaranties, in whole or in part, and to transfer assets and  
15 to make guaranties in connection therewith;

16           (9) the power, upon the order of the court, to borrow  
17 money in the name of the savings bank and to pledge its  
18 assets as security for the loan;

19           (10) the power to terminate his or her possession and  
20 control by restoring the savings bank to its board of  
21 directors;

22           (11) the power to reorganize the savings bank as  
23 provided in this Act;

24           (12) the power to appoint a receiver and to order  
25 liquidation of the savings bank as provided in this Act;  
26 and



1           (13) the power, upon the order of the court and without  
2           the appointment of a receiver, to determine that the  
3           savings bank has been closed for the purpose of liquidation  
4           without adequate provision being made for payment of its  
5           depositors, and thereupon the savings bank shall be deemed  
6           to have been closed on account of inability to meet the  
7           demands of its depositors.

8           As soon as practical after taking possession, the Secretary  
9           shall make his or her examination of the condition of the  
10           savings bank and an inventory of the assets. Unless the time  
11           shall be extended by order of the court, and unless the  
12           Secretary shall have otherwise settled the affairs of a savings  
13           bank pursuant to the provisions of this Act, at the termination  
14           of 30 days from the time of taking possession and control of a  
15           savings bank for the purpose of examination, reorganization or  
16           liquidation through receivership, the Secretary shall either  
17           terminate his or her possession and control by restoring the  
18           savings bank to its board of directors or appoint a receiver  
19           and order the liquidation of the savings bank as provided in  
20           this Act. All necessary and reasonable expenses of the  
21           Secretary's possession and control and of its reorganization  
22           shall be borne by the savings bank and may be paid by the  
23           Secretary from its assets. If the Federal Deposit Insurance  
24           Corporation is appointed by the Secretary as receiver of a  
25           savings bank, or the Federal Deposit Insurance Corporation  
26           takes possession of the savings bank, the receivership

1 proceedings and the powers and duties of the Federal Deposit  
2 Insurance Corporation shall be governed by the Federal Deposit  
3 Insurance Act and regulations promulgated under that Act rather  
4 than the provisions of this Act.

5 (205 ILCS 205/10035 new)

6 Sec. 10035. Secretary's possession; limitation of actions.  
7 Except when the Federal Deposit Insurance Corporation has taken  
8 possession of the savings bank or is acting as receiver, if the  
9 Secretary has taken possession and control of a savings bank  
10 and its assets, there shall be a postponement until 6 months  
11 after the commencement of the possession of the date upon which  
12 any period of limitation fixed by a statute or agreement would  
13 otherwise expire on a claim or right of action of the savings  
14 bank, or upon which an appeal must be taken or a pleading or  
15 other document must be filed by the savings bank in any pending  
16 action or proceeding. No judgment, lien, levy, attachment, or  
17 other similar legal process shall be enforced upon or satisfied  
18 in whole or in part from any asset of the savings bank while it  
19 is in the possession of the Secretary, except upon the order of  
20 the court referred to in Section 10030 entered in due course  
21 pursuant to Section 10090 of this Act. The provisions of this  
22 Section shall continue to apply and shall govern  
23 notwithstanding the appointment of and the possession by a  
24 receiver pursuant to Section 10055 of this Act.

1 (205 ILCS 205/10040 new)

2 Sec. 10040. Reorganization. The Secretary, while in  
3 possession and control of a savings bank and its assets, after  
4 according a hearing to interested parties as he or she may  
5 determine and upon the order of the court, may propose a  
6 reorganization plan. The reorganization plan shall become  
7 effective only (1) when the requirements of Section 10045 are  
8 satisfied, and (2) when, after reasonable notice of such  
9 reorganization, as the case may require (A) depositors and  
10 other creditors of such savings bank representing at least 75%  
11 in amount of its total deposits and other liabilities as shown  
12 by the books of the savings bank, (B) stockholders owning at  
13 least two-thirds of its outstanding capital stock as shown by  
14 the books of the savings bank, or (C) both depositors and other  
15 creditors representing at least 75% in amount of the total  
16 deposits and other liabilities and stockholders owning at least  
17 two-thirds of its outstanding capital stock as shown by the  
18 books of the savings bank, shall have consented in writing to  
19 the plan of reorganization; provided, however, that claims of  
20 depositors or other creditors that will be satisfied in full on  
21 demand under the provisions of the plan of reorganization shall  
22 not be included among the total deposits and other liabilities  
23 of the savings bank in determining the 75% required under this  
24 Section. When such reorganization becomes effective, all  
25 books, records, and assets of the savings bank shall be  
26 disposed of in accordance with the provisions of the plan and

1 the affairs of the savings bank shall be conducted by its board  
2 of directors in the manner provided by the plan and under the  
3 conditions, restrictions, and limitations prescribed by the  
4 Secretary. In any reorganization approved and effective as  
5 provided in this Section, all depositors and other creditors  
6 and stockholders of the savings bank, whether or not they shall  
7 have consented to the plan of reorganization, shall be fully  
8 and in all respects subject to and bound by its provisions, and  
9 claims of all depositors and other creditors shall be treated  
10 as if they have consented to the plan of reorganization. A  
11 department, agency, or political subdivision of this State  
12 holding a claim that will not be paid in full is authorized to  
13 participate in a plan of reorganization as any other creditor  
14 and shall be subject to and bound by its provisions as any  
15 other creditor.

16 (205 ILCS 205/10045 new)

17 Sec. 10045. Requirements of reorganization plan. A plan of  
18 reorganization for a savings bank shall not be proposed under  
19 this Act unless all of the following are met:

20 (1) the plan is feasible and fair to all classes of  
21 depositors, creditors and stockholders;

22 (2) the face amount of the interest accorded to any  
23 class of depositors, creditors and stockholders under the  
24 plan does not exceed the value of the assets upon  
25 liquidation less the full amount of the claims of all prior

1 classes, subject, however, to any fair adjustment for new  
2 capital that any class will pay in under the plan;

3 (3) the plan assures the removal of any director,  
4 officer, or employee responsible for any unsound or  
5 unlawful action or the existence of an unsound condition;

6 (4) any merger or consolidation provided by the plan  
7 conforms to the requirements of this Act; and

8 (5) any reorganized savings bank provided by the plan  
9 conforms to the requirements of this Act for the  
10 organization of a savings bank.

11 (205 ILCS 205/10050 new)

12 Sec. 10050. Reorganization; emergency. Whenever, in the  
13 course of reorganization, supervening conditions render the  
14 plan of reorganization unfair or its execution impractical, the  
15 Secretary may modify the plan, provided the modification is  
16 with the written consent of the depositors and other creditors  
17 representing at least 75% in amount of the total deposits and  
18 other liabilities which are impaired or lessened by the  
19 modification, or may, provided the Federal Deposit Insurance  
20 has not been appointed, appoint a receiver for liquidation as  
21 provided in this Act.

22 (205 ILCS 205/10055 new)

23 Sec. 10055. Appointment of receiver; court proceeding.

24 (a) If the Secretary determines, which determination may be

1 made at the time of or any time subsequent to his or her taking  
2 possession and control of a savings bank and its assets, that  
3 no practical possibility exists to reorganize the savings bank  
4 after reasonable efforts have been made and that it should be  
5 liquidated through receivership, then the Secretary shall  
6 appoint a receiver and require of the receiver the bond and  
7 security as the Secretary deems proper, and the Secretary,  
8 represented by the Attorney General, shall, if the Federal  
9 Deposit Insurance Corporation is not acting as receiver, file a  
10 complaint for the dissolution or winding up of the affairs of  
11 the savings bank in the circuit court of the county where such  
12 savings bank is located.

13 (b) Unless the Federal Deposit Insurance Corporation is  
14 acting as receiver for the savings bank, the Secretary, upon  
15 taking possession and control of a savings bank and its assets,  
16 may and, if he or she has not previously done so, shall,  
17 immediately upon filing a complaint for dissolution, make an  
18 examination of the affairs of the trust department of the  
19 savings bank or appoint a corporate fiduciary or other suitable  
20 person to make the examination as the Secretary's agent. The  
21 examination shall be conducted in accordance with and pursuant  
22 to the authority granted under Section 5-2 of the Corporate  
23 Fiduciary Act, as now or hereafter amended, and the corporate  
24 fiduciary or other suitable person conducting the examination  
25 shall have and may exercise on behalf of the Secretary all of  
26 the powers and authority granted to the Secretary thereunder.

1 The report of examination shall, to the extent reasonably  
2 possible, identify those governing instruments with specific  
3 instructions concerning the appointment of a successor  
4 fiduciary. A copy of the report shall be filed in any  
5 dissolution proceeding filed by the Secretary. The reasonable  
6 fees and necessary expenses of the examining corporate  
7 fiduciary or other suitable person, as approved by the  
8 Secretary or as recommended by the Secretary and approved by  
9 the court if a dissolution proceeding has been filed, shall be  
10 borne by the subject savings bank and shall have the same  
11 priority for payment as the reasonable and necessary expenses  
12 of the Secretary in conducting an examination.

13 As soon as reasonably can be done, the Secretary, if he or  
14 she deems it advisable, shall seek the advice and instruction  
15 of the court concerning the removal of the corporate fiduciary  
16 as to all of its fiduciary accounts and the appointment of a  
17 successor fiduciary, which may be the examining corporate  
18 fiduciary, to take over and administer all of the fiduciary  
19 accounts being administered by the trust department of the  
20 savings bank. The corporate fiduciary or other suitable person  
21 appointed to make the examination shall make a proper  
22 accounting, in the manner and scope as determined by the  
23 Secretary to be practical and advisable under the  
24 circumstances, on behalf of the trust department of the savings  
25 bank and no guardian ad litem need be appointed to review the  
26 accounting.

1 (205 ILCS 205/10060 new)

2 Sec. 10060. Notice of receivership. Upon appointing a  
3 receiver, other than the Federal Deposit Insurance  
4 Corporation, and upon the filing of a complaint for the  
5 dissolution or winding up of the affairs of a savings bank, the  
6 Secretary shall cause notice to be given in such newspaper as  
7 he or she directs once each week for twelve consecutive weeks  
8 calling on all persons who may have claims against such savings  
9 bank to present the same to the receiver and to make legal  
10 proof thereof and notifying all such persons and all to whom it  
11 may concern of the filing of a complaint for the dissolution or  
12 winding up of the affairs of the savings bank and stating the  
13 name and location of said court. All persons who may have  
14 claims against such savings bank and the receiver to whom the  
15 persons have presented their claims may present them to the  
16 clerk of the court, and the allowance or disallowance of the  
17 claims by the court in connection with such proceedings shall  
18 be deemed an adjudication in a court of competent jurisdiction.

19 (205 ILCS 205/10065 new)

20 Sec. 10065. Receiver's powers; duties. Other than the  
21 Federal Deposit Insurance Corporation, which shall derive its  
22 powers and perform its duties pursuant to the Federal Deposit  
23 Insurance Act and regulations promulgated thereunder, the  
24 receiver for a savings bank, under the direction of the



1 Secretary, shall have the power and authority and is charged  
2 with the duties and responsibilities as follows:

3 (1) He or she shall take possession of and, for the  
4 purpose of the receivership, the title to the books,  
5 records, and assets of every description of the savings  
6 bank.

7 (2) He or she shall proceed to collect all debts, dues  
8 and claims belonging to the savings bank.

9 (3) He or she shall file with the Secretary a copy of  
10 each report that he or she makes to the court, together  
11 with such other reports and records as the Secretary may  
12 require.

13 (4) He or she shall have authority to sue and defend in  
14 his or her own name with respect to the affairs, assets,  
15 claims, debts, and choses in action of the savings bank.

16 (5) He or she shall have authority, and it shall be his  
17 or her duty, to surrender to the customers of such savings  
18 bank their private papers and valuables left with the  
19 savings bank for safekeeping, upon satisfactory proof of  
20 ownership.

21 (6) He or she shall have authority to redeem or take  
22 down collateral hypothecated by the savings bank to secure  
23 its notes or other evidence of indebtedness whenever the  
24 Secretary deems it to the best interest of the creditors of  
25 the savings bank to do so.

26 (7) Whenever he or she finds it necessary in his or her

1 opinion to use and employ money of the savings bank, in  
2 order to protect fully and benefit the savings bank, by the  
3 purchase or redemption of any property, real or personal,  
4 in which the savings bank may have any rights by reason of  
5 any bond, mortgage, assignment, or other claim thereto, he  
6 or she may certify the facts together with his or her  
7 opinions as to the value of the property involved, and the  
8 value of the equity the savings bank may have in the  
9 property to the Secretary, together with a request for the  
10 right and authority to use and employ so much of the money  
11 of the savings bank as may be necessary to purchase the  
12 property, or to redeem the same from a sale if there was a  
13 sale, and if the request is granted, the receiver may use  
14 so much of the money of the savings bank as the Secretary  
15 may have authorized to purchase the property at such sale.

16 (8) He or she shall deposit daily all monies collected  
17 by him or her in any savings bank selected by the  
18 Secretary, who may require of (and the savings bank so  
19 selected may furnish) such depository satisfactory  
20 securities or satisfactory surety bond for the safekeeping  
21 and prompt payment of the money so deposited. The deposits  
22 shall be made in the name of the Secretary in trust for the  
23 savings bank and be subject to withdrawal upon his or her  
24 order or upon the order of such persons as the Secretary  
25 may designate. Such monies may be deposited without  
26 interest, unless otherwise agreed. However, if any

1 interest was paid by such depository, it shall accrue to  
2 the benefit of the particular trust to which the deposit  
3 belongs.

4 (9) He or she shall do things and take such steps from  
5 time to time under the direction and approval of the  
6 Secretary as may reasonably appear to be necessary to  
7 conserve the savings bank's assets and secure the best  
8 interests of the creditors of the savings bank.

9 (10) He or she shall record any judgment of dissolution  
10 entered in a dissolution proceeding and thereupon deliver  
11 to the Secretary a certified copy thereof, together with  
12 all books of accounts and ledgers of the savings bank for  
13 preservation.

14 (205 ILCS 205/10070 new)

15 Sec. 10070. Receiver's powers; court directions. Upon the  
16 order of the court wherein the Secretary's complaint for the  
17 dissolution or winding up of the affairs of the savings bank  
18 was filed, the receiver for the savings bank shall have the  
19 power and authority and is charged with the duties and  
20 responsibilities as follows:

21 (1) He or she may sell and compound all bad and  
22 doubtful debts on terms as the court shall direct.

23 (2) He or she may sell the real and personal property  
24 of the savings bank on such terms as the court shall  
25 direct.

1           (3) He or she may petition the court for the authority  
2           to borrow money, and to pledge the assets of the savings  
3           bank as security therefor, whereupon the practice and  
4           procedure shall be as follows:

5                   (A) Upon the filing of the petition, the court  
6                   shall set a date for the hearing of the petition and  
7                   shall prescribe the form and manner of the notice to be  
8                   given to the officers, stockholders, creditors, or  
9                   other persons interested in such savings bank.

10                   (B) Upon such hearing, any officer, stockholder,  
11                   creditor, or person interested shall have the right to  
12                   be heard.

13                   (C) If the court grants such authority, then the  
14                   receiver may borrow money and issue evidences of  
15                   indebtedness therefor and may secure the payment of  
16                   such loan by the mortgage, pledge, transfer in trust,  
17                   or hypothecation of any or all property and assets of  
18                   such savings bank, whether real, personal, or mixed,  
19                   superior to any charge thereon for the expenses of  
20                   liquidation.

21                   (D) The loan may be obtained in such amounts upon  
22                   such terms and conditions, and with provisions for  
23                   repayment as may be deemed necessary or expedient.

24                   (E) The loan may be obtained for the purpose of  
25                   facilitating liquidation, protecting or preserving the  
26                   assets, expediting the making of distributions to

1           depositors and other creditors, providing for the  
2           expenses of administration and liquidation, and aiding  
3           in the reopening or reorganization of such savings bank  
4           or its merger or consolidation with another savings  
5           bank, or in the sale of its assets.

6           (F) The receiver shall be under no personal  
7           obligation to repay any such loan and shall have  
8           authority to take any action necessary or proper to  
9           consummate such loan and to provide for the repayment  
10           thereof, and may, when required, give bond for the  
11           faithful performance of all undertakings in connection  
12           therewith.

13           (G) Prior to petitioning the court for authority to  
14           make any such loan, the receiver may make application  
15           for or negotiate any loan subject to obtaining an order  
16           of the court approving the same.

17           (4) He or she may make and carry out agreements with  
18           other savings banks or with the United States or any agency  
19           thereof that has insured the savings bank's deposits, in  
20           whole or in part, for the payment or assumption of the  
21           savings bank's liabilities, in whole or in part, and he or  
22           she may transfer assets and make guaranties in connection  
23           therewith.

24           (5) After the expiration of 12 weeks after the first  
25           publication of the Secretary's notice as provided in  
26           Section 10060, he or she shall file with the court a

1 correct list of all creditors of the savings bank, as shown  
2 by its books, who have not presented their claims and the  
3 amount of their respective claims after allowing all just  
4 credits, deductions and set-offs as shown by the books of  
5 the savings bank. Claims that are filed shall be deemed  
6 proven, unless objections are filed thereto by a party or  
7 parties interested therein within such time as is fixed by  
8 the court.

9 (6) At the termination of his or her administration, he  
10 or she shall petition the court for the entry of a judgment  
11 of dissolution. After a hearing upon such notice as the  
12 court may prescribe, the court may enter a judgment of  
13 dissolution whereupon the savings bank's charter is  
14 terminated. The provisions of this Section do not apply to  
15 the Federal Deposit Insurance Corporation as receiver,  
16 which shall derive its powers and perform its duties  
17 pursuant to the Federal Deposit Insurance Act.

18 (205 ILCS 205/10075 new)

19 Sec. 10075. Change of receiver. At any time after a  
20 receiver, other than the Federal Deposit Insurance  
21 Corporation, is appointed by the Secretary, whenever  
22 two-thirds of the creditors of a savings bank petition the  
23 Secretary for the appointment of any person nominated by them  
24 as receiver, who is a reputable person and a resident of the  
25 county in which such savings bank is located, it shall be the

1 duty of the Secretary to make such appointment and all rights  
2 and duties of his or her predecessor shall at once devolve upon  
3 such appointee. The Secretary may remove any receiver appointed  
4 by him or her, except the Federal Deposit Insurance Corporation  
5 or such receiver as shall have been appointed through  
6 nomination by the creditors. Such a receiver may be removed by  
7 the court upon a petition for his or her removal filed by the  
8 Secretary after hearing had upon such notice as the court may  
9 prescribe. Upon the death, inability to act, resignation, or  
10 removal of a receiver the Secretary may appoint his or her  
11 successor and, upon the appointment, all rights and duties of  
12 his or her predecessor shall at once devolve upon such  
13 appointee.

14 (205 ILCS 205/10080 new)

15 Sec. 10080. Insured deposits; subrogation. The right of an  
16 agency of the United States insuring deposits to be subrogated  
17 to the rights of depositors upon payment of their claim shall  
18 not be less extensive than the law of the United States  
19 requires as a condition of the authority to issue such  
20 insurance or make such payment.

21 (205 ILCS 205/10085 new)

22 Sec. 10085. Expenses and fees. All expenses of a  
23 receivership, including reasonable receiver's and attorney's  
24 fees approved by the Secretary shall be paid out of the assets

1 of the savings bank. All expenses of any preliminary or other  
2 examination into the condition of any such savings bank or  
3 receivership and all expenses incident to and in connection  
4 with the possession and control of the bank and its assets for  
5 the purpose of examination, reorganization, or liquidation  
6 through receivership shall be paid out of the assets of the  
7 savings bank. The payment authorized under this Section may be  
8 made by the Secretary with moneys and property of the bank in  
9 his or her possession and control and shall have priority over  
10 all claims.

11 (205 ILCS 205/10090 new)

12 Sec. 10090. Dividends; dissolution. From time to time  
13 during a receivership other than a receivership conducted by  
14 the Federal Deposit Insurance Corporation, the Secretary shall  
15 make and pay from moneys of the savings bank a ratable dividend  
16 on all claims as may be proved to his or her satisfaction or  
17 adjudicated by the court. Claims so proven or adjudicated shall  
18 bear interest at the rate of 3% per annum from the date of the  
19 appointment of the receiver to the date of payment, but all  
20 dividends on a claim shall be applied first to principal. In  
21 computing the amount of any dividend to be paid, if the  
22 Secretary deems it desirable in the interests of economy of  
23 administration and to the interest of the savings bank and its  
24 creditors, he or she may pay up to the amount of \$10 of each  
25 claim or unpaid portion thereof in full. As the proceeds of the



1 assets of the savings bank are collected in the course of  
2 liquidation, the Secretary shall make and pay further dividends  
3 on all claims previously proven or adjudicated. After one year  
4 from the entry of a judgment of dissolution, all unclaimed  
5 dividends shall be remitted to the State Treasurer in  
6 accordance with the Uniform Disposition of Unclaimed Property  
7 Act, as now or hereafter amended, together with a list of all  
8 unpaid claimants, their last known addresses and the amounts  
9 unpaid.

10 (205 ILCS 205/10095 new)

11 Sec. 10095. Validation of dividends; destruction of  
12 records. In all cases where the Secretary, prior to this  
13 Section taking effect, has made ratable dividends of money on  
14 claims that have been proven to the satisfaction of the  
15 Secretary or adjudicated in any court of this State, such  
16 dividends are hereby ratified and confirmed and made valid and  
17 legal in all respects. All records of receiverships heretofore  
18 and hereafter received by the Secretary or by a receiver  
19 appointed by the Secretary shall be held by the Secretary or  
20 the receiver for the period of 2 years after the close of the  
21 receivership and, at the termination of the 2-year period, may  
22 then be destroyed.

23 (205 ILCS 205/10100 new)

24 Sec. 10100. Judicial review. Whenever the Secretary shall

1 have taken possession and control of a savings bank and its  
2 assets for the purpose of examination, reorganization, or  
3 liquidation through receivership, or whenever the Secretary  
4 shall have appointed a receiver for a savings bank, other than  
5 the Federal Deposit Insurance Corporation, and filed a  
6 complaint for the dissolution or for the winding up of the  
7 affairs of a savings bank, and the savings bank denies the  
8 grounds for such actions, it may, at any time within 10 days,  
9 apply to the Circuit Court of Sangamon County, Illinois, to  
10 enjoin further proceedings in the premises; and such court  
11 shall cite the Secretary to show cause why further proceedings  
12 should not be enjoined, and if the court shall find that the  
13 grounds do not exist, the court shall make an order enjoining  
14 the Secretary and any receiver acting under his or her  
15 direction from all further proceedings on account of such  
16 alleged grounds, provided that neither the 10 days allowed by  
17 this Section 10100 for judicial review nor the pendency of any  
18 proceedings for judicial review shall operate to defer, delay,  
19 impede, or prevent the payment or acquisition by the Federal  
20 Deposit Insurance Corporation of the deposit liabilities of the  
21 savings bank that are insured by the Federal Deposit Insurance  
22 Corporation, and during the period allowed for judicial review  
23 and during the pendency of any proceedings for judicial review  
24 under this Section 10100, the Secretary or, as the case may be,  
25 the receiver shall make available to the Federal Deposit  
26 Insurance Corporation such facilities in or of the savings bank

1 and the books, records, and other relevant data of the savings  
2 bank as may be necessary or appropriate to enable the Federal  
3 Deposit Insurance Corporation to pay out or to acquire the  
4 insured deposit liabilities of the savings bank, and said  
5 Federal Deposit Insurance Corporation and its directors,  
6 officers, agents, and employees, and the Secretary and his  
7 agents and employees, including the receiver, if any, shall be  
8 free from any liability to the savings bank and its  
9 stockholders and creditors for or on account of any matter or  
10 thing in this proviso referred to or provided for.

11 (205 ILCS 205/11006) (from Ch. 17, par. 7311-6)

12 Sec. 11006. Civil penalties. The Commissioner, in addition  
13 to any other powers granted in this Act, shall have the power  
14 and authority to:

15 (1) Impose civil penalties of up to \$100,000 ~~\$10,000~~  
16 against any person for each violation of any provision of  
17 this Act, any rule promulgated in accordance with this Act,  
18 any order of the Commissioner, or any other action that in  
19 the Commissioner's discretion, is an unsafe or unsound  
20 banking practice.

21 (2) Impose civil penalties of up to \$100 against any  
22 person for the first failure to comply with reporting  
23 requirements set forth in the report of examination of the  
24 bank and up to \$200 for the second and subsequent failures  
25 to comply with those reporting requirements.

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

2 Section 35. The Pawnbroker Regulation Act is amended by  
3 changing Sections 0.05 and 1 and by adding Sections 5.5 and 12  
4 as follows:

5 (205 ILCS 510/0.05)

6 Sec. 0.05. Administration of Act.

7 (a) This Act shall be administered by the Commissioner of  
8 Banks and Real Estate, except that beginning on the effective  
9 date of this amendatory Act of the 96th General Assembly, all  
10 references in this Act to the Commissioner of Banks and Real  
11 Estate are deemed, in appropriate contexts, to be references to  
12 the Secretary of Financial and Professional Regulation, who  
13 shall have all of the following powers and duties in  
14 administering this Act:

15 (1) To promulgate reasonable rules for the purpose of  
16 administering the provisions of this Act.

17 (2) To issue orders for the purpose of administering  
18 the provisions of this Act and any rule promulgated in  
19 accordance with this Act.

20 (2.5) To order restitution to consumers suffering  
21 damages resulting from violations of this Act, rules  
22 promulgated in accordance with this Act, or other laws or  
23 regulations related to the operation of a pawnshop.

24 (3) To appoint hearing officers and to hire employees

1 or to contract with appropriate persons to execute any of  
2 the powers granted to the Commissioner under this Section  
3 for the purpose of administering this Act and any rule  
4 promulgated in accordance with this Act.

5 (4) To subpoena witnesses, to compel their attendance,  
6 to administer an oath, to examine any person under oath,  
7 and to require the production of any relevant books,  
8 papers, accounts, and documents in the course of and  
9 pursuant to any investigation being conducted, or any  
10 action being taken, by the Commissioner in respect of any  
11 matter relating to the duties imposed upon, or the powers  
12 vested in, the Commissioner under the provisions of this  
13 Act or any rule promulgated in accordance with this Act.

14 (5) To conduct hearings.

15 (6) To impose civil penalties graduated up to \$1,000  
16 against any person for each violation of any provision of  
17 this Act, any rule promulgated in accordance with this Act,  
18 or any order of the Commissioner based upon the seriousness  
19 of the violation.

20 (6.5) To initiate, through the Attorney General,  
21 injunction proceedings whenever it appears to the  
22 Commissioner that any person, whether licensed under this  
23 Act or not, is engaged or about to engage in an act or  
24 practice that constitutes or will constitute a violation of  
25 this Act or any rule prescribed under the authority of this  
26 Act. The Commissioner may, in his or her discretion,

1 through the Attorney General, apply for an injunction, and  
2 upon a proper showing, any circuit court may enter a  
3 permanent or preliminary injunction or a temporary  
4 restraining order without bond to enforce this Act in  
5 addition to the penalties and other remedies provided for  
6 in this Act.

7 (7) To issue a cease and desist order and, for  
8 violations of this Act, any order issued by the  
9 Commissioner pursuant to this Act, any rule promulgated in  
10 accordance with this Act, or any other applicable law in  
11 connection with the operation of a pawnshop, to suspend a  
12 license issued under this Act for up to 30 days.

13 (8) To determine compliance with applicable law and  
14 rules related to the operation of pawnshops and to verify  
15 the accuracy of reports filed with the Commissioner, the  
16 Commissioner, not more than one time every 2 years, may,  
17 but is not required to, conduct a routine examination of a  
18 pawnshop, and in addition, the Commissioner may examine the  
19 affairs of any pawnshop at any time if the Commissioner has  
20 reasonable cause to believe that unlawful or fraudulent  
21 activity is occurring, or has occurred, therein.

22 (9) In response to a complaint, to address any  
23 inquiries to any pawnshop in relation to its affairs, and  
24 it shall be the duty of the pawnshop to promptly reply in  
25 writing to such inquiries. The Commissioner may also  
26 require reports or information from any pawnshop at any

1 time the Commissioner may deem desirable.

2 (10) To revoke a license issued under this Act if the  
3 Commissioner determines that (a) a licensee has been  
4 convicted of a felony in connection with the operations of  
5 a pawnshop; (b) a licensee knowingly, recklessly, or  
6 continuously violated this Act or State or federal law or  
7 regulation, a rule promulgated in accordance with this Act,  
8 or any order of the Commissioner; (c) a fact or condition  
9 exists that, if it had existed or had been known at the  
10 time of the original application, would have justified  
11 license refusal; ~~or~~ (d) the licensee knowingly submits  
12 materially false or misleading documents with the intent to  
13 deceive the Commissioner or any other party; or (e) the  
14 licensee is unable or ceases to continue to operate the  
15 pawnshop.

16 (10.2) To remove or prohibit the employment of any  
17 officer, director, employee, or agent of the pawnshop who  
18 engages in or has engaged in unlawful activities that  
19 relate to the operation of a pawnshop.

20 (10.7) To prohibit the hiring of employees who have  
21 been convicted of a financial crime or any crime involving  
22 breach of trust who do not meet exceptions as established  
23 by rule of the Secretary.

24 (11) Following license revocation, to take possession  
25 and control of a pawnshop for the purpose of examination,  
26 reorganization, or liquidation through receivership and to

1           appoint a receiver, which may be the Commissioner, a  
2           pawnshop, or another suitable person.

3           (b) After consultation with local law enforcement  
4           officers, the Attorney General, and the industry, the  
5           Commissioner may by rule require that pawnbrokers operate video  
6           camera surveillance systems to record photographic  
7           representations of customers and retain the tapes produced for  
8           up to 30 days.

9           (c) Pursuant to rule, the Commissioner shall issue licenses  
10          on an annual or multi-year basis for operating a pawnshop. Any  
11          person currently operating or who has operated a pawnshop in  
12          this State during the 2 years preceding the effective date of  
13          this amendatory Act of 1997 shall be issued a license upon  
14          payment of the fee required under this Act. New applicants  
15          shall meet standards for a license as established by the  
16          Commissioner. Except with the prior written consent of the  
17          Commissioner, no individual, either a new applicant or a person  
18          currently operating a pawnshop, may be issued a license to  
19          operate a pawnshop if the individual has been convicted of a  
20          felony or of any criminal offense relating to dishonesty or  
21          breach of trust in connection with the operations of a  
22          pawnshop. The Commissioner shall establish license fees. The  
23          fees shall not exceed the amount reasonably required for  
24          administration of this Act. It shall be unlawful to operate a  
25          pawnshop without a license issued by the Commissioner.

26          (d) In addition to license fees, the Commissioner may, by



1 rule, establish fees in connection with a review, approval, or  
2 provision of a service, and levy a reasonable charge to recover  
3 the cost of the review, approval, or service (such as a change  
4 in control, change in location, or renewal of a license). The  
5 Commissioner may also levy a reasonable charge to recover the  
6 cost of an examination if the Commissioner determines that  
7 unlawful or fraudulent activity has occurred. The Commissioner  
8 may require payment of the fees and charges provided in this  
9 Act by certified check, money order, an electronic transfer of  
10 funds, or an automatic debit of an account.

11 (e) The Pawnbroker Regulation Fund is established as a  
12 special fund in the State treasury. Moneys collected under this  
13 Act shall be deposited into the Fund and used for the  
14 administration of this Act. In the event that General Revenue  
15 Funds are appropriated to the Office of the Commissioner of  
16 Banks and Real Estate for the initial implementation of this  
17 Act, the Governor may direct the repayment from the Pawnbroker  
18 Regulation Fund to the General Revenue Fund of such advance in  
19 an amount not to exceed \$30,000. The Governor may direct this  
20 interfund transfer at such time as he deems appropriate by  
21 giving appropriate written notice. Moneys in the Pawnbroker  
22 Regulation Fund may be transferred to the Professions Indirect  
23 Cost Fund, as authorized under Section 2105-300 of the  
24 Department of Professional Regulation Law of the Civil  
25 Administrative Code of Illinois.

26 (f) The Commissioner may, by rule, require all pawnshops to

1 provide for the expenses that would arise from the  
2 administration of the receivership of a pawnshop under this Act  
3 through the assessment of fees, the requirement to pledge  
4 surety bonds, or such other methods as determined by the  
5 Commissioner.

6 (g) All final administrative decisions of the Commissioner  
7 under this Act shall be subject to judicial review pursuant to  
8 the provisions of the Administrative Review Law. For matters  
9 involving administrative review, venue shall be in either  
10 Sangamon County or Cook County.

11 (Source: P.A. 94-91, eff. 7-1-05.)

12 (205 ILCS 510/1) (from Ch. 17, par. 4651)

13 Sec. 1. (a) Every individual or business entity which lends  
14 money on the deposit or pledge of physically delivered personal  
15 property, other than property the ownership of which is subject  
16 to a legal dispute, securities, printed evidence of  
17 indebtedness or printed evidence of ownership of the personal  
18 property, or who deals in the purchase of such property on the  
19 condition of selling the property back again at a stipulated  
20 price, shall be held and is hereby declared and defined to be a  
21 pawnbroker. The business of a pawnbroker does not include the  
22 lending of money on deposit or pledge of title to property.

23 (b) The Secretary may require employees of pawnshops who  
24 have the authority to act in a managerial capacity to obtain a  
25 license from the Department. For the purposes of this Section,

1 "managerial capacity" shall mean the ability to direct the  
2 operations or activities of the pawnshop. If the Secretary  
3 determines a pawnshop employee's duties and responsibilities  
4 or other factors amount to acting in a managerial capacity, the  
5 Secretary may require licensing. The license shall be valid for  
6 2 years. The Secretary may by rule specify the form of the  
7 application for licensure, fees to be imposed and conditions  
8 for licensure. The licensed employees shall report their places  
9 of employment to the Secretary.

10 (Source: P.A. 90-602, eff. 7-1-98.)

11 (205 ILCS 510/5.5 new)

12 Sec. 5.5. Replacement of articles or property; insurance.  
13 In the event that any articles or property pledged are lost or  
14 rendered inoperable, the pawnbroker shall replace the articles  
15 or property with identical articles or property, except that if  
16 the pawnbroker cannot reasonably obtain identical articles or  
17 property, the pawnbroker shall replace the articles or property  
18 with like articles or property.

19 No pawnbroker shall conduct business in this State, unless  
20 the pawnbroker maintains insurance coverage covering all  
21 hazards equal to at least 2 times the aggregate value of the  
22 outstanding loans for items held in pawn. Such insurance shall  
23 be obtained from an insurance company authorized to do business  
24 in Illinois.

25 The pawnbroker shall file a copy of proof of insurance

1 coverage with the Secretary. A pawnbroker or an insurance  
2 company shall not cancel the insurance coverage except upon  
3 notice to the Secretary by certified mail, return receipt  
4 requested. The cancellation is not effective prior to 30 days  
5 after the Secretary receives the notice.

6 (205 ILCS 510/12 new)

7 Sec. 12. Hold order.

8 (a) For the purposes of this Section, "hold order" means a  
9 written legal instrument issued to a pawnbroker by a law  
10 enforcement officer commissioned by the law enforcement agency  
11 of the municipality or county that licenses and regulates the  
12 pawnbroker, ordering the pawnbroker to retain physical  
13 possession of pledged goods in the possession of the pawnbroker  
14 or property purchased by and in the possession of the  
15 pawnbroker and not to return, sell, or otherwise dispose of  
16 such property as such property is believed to be  
17 misappropriated goods.

18 (b) Upon written notice from a law enforcement officer  
19 indicating that property in the possession of a pawnbroker and  
20 subject to a hold order is needed for the purpose of furthering  
21 a criminal investigation and prosecution, the pawnbroker shall  
22 release the property subject to the hold order to the custody  
23 of the law enforcement officer for such purpose and the officer  
24 shall provide a written acknowledgment that the property has  
25 been released to the officer. The release of the property to

1 the custody of the law enforcement officer shall not be  
2 considered a waiver or release of the pawnbroker's property  
3 rights or interest in the property. Upon completion of the  
4 criminal investigation, the property shall be returned to the  
5 pawnbroker who consented to its release; except that, if the  
6 law enforcement officer has not completed the criminal  
7 investigation within 120 days after its release, the officer  
8 shall immediately return the property to the pawnbroker or  
9 obtain and furnish to the pawnbroker a warrant for the  
10 continued custody of the property.

11 The pawnbroker shall not release or dispose of the property  
12 except pursuant to a court order or the expiration of the  
13 holding period of the hold order, including all extensions.

14 In cases where criminal charges have been filed and the  
15 property may be needed as evidence, the prosecuting attorney  
16 shall notify the pawnbroker in writing. The notice shall  
17 contain the case number, the style of the case, and a  
18 description of the property. The pawnbroker shall hold such  
19 property until receiving notice of the disposition of the case  
20 from the prosecuting attorney. The prosecuting attorney shall  
21 notify the pawnbroker and claimant in writing within 15 days  
22 after the disposition of the case.

23 Section 40. The Banking Emergencies Act is amended by  
24 changing Sections 1 and 2 as follows:

1 (205 ILCS 610/1) (from Ch. 17, par. 1001)

2 Sec. 1. Definitions. As used in this Act, unless the  
3 context otherwise requires:

4 (1) "Commissioner" means the officer of this State  
5 designated by law to exercise supervision over banks and trust  
6 companies, and any other person lawfully exercising such  
7 powers, except that beginning on the effective date of this  
8 amendatory Act of the 96th General Assembly, all references in  
9 this Act to the Commissioner of Banks and Real Estate are  
10 deemed, in appropriate contexts, to be references to the  
11 Secretary of Financial and Professional Regulation.

12 (2) "Bank" includes commercial banks, savings banks,  
13 savings and loan associations, trust companies, and any branch  
14 thereof lawfully carrying on the business of banking and, to  
15 the extent that the provisions hereof are not inconsistent with  
16 and do not infringe upon paramount Federal law, also includes  
17 national banks and federal savings banks.

18 (3) "Officers" means the person or persons designated by  
19 the board of directors, to act for the bank in carrying out the  
20 provisions of this Act or, in the absence of any such  
21 designation or of the officer or officers so designated, the  
22 president or any other officer currently in charge of the bank  
23 or of the office or offices in question.

24 (4) "Office" means any place at which a bank transacts its  
25 business or conducts operations related to its business.

26 (5) "Emergency" means any condition or occurrence which may

1 interfere physically with the conduct of normal business  
2 operations at one or more or all of the offices of a bank, or  
3 which poses an imminent or existing threat to the safety or  
4 security of persons or property, or both at one or more or all  
5 of the offices of a bank. Without limiting the generality of  
6 the foregoing, an emergency may arise as a result of any one or  
7 more of the following: natural disasters; civil strife; power  
8 failures; computer failures; interruption of communication  
9 facilities; robbery or attempted robbery.

10 (6) "Division" means the Division of Banking within the  
11 Department of Financial and Professional Regulation.

12 (Source: P.A. 92-483, eff. 8-23-01; 92-651, eff. 7-11-02.)

13 (205 ILCS 610/2) (from Ch. 17, par. 1002)

14 Sec. 2. Power of Commissioner.

15 (a) Whenever the Commissioner is notified by any officer of  
16 a bank or by any other means becomes aware that an emergency  
17 exists, or is impending, he may, by proclamation, authorize all  
18 banks in the State of Illinois to close or alter the hours at  
19 any or all of their offices, or if only a bank or banks, or  
20 offices thereof, in a particular area or areas of the State of  
21 Illinois are affected by the emergency or impending emergency,  
22 the Commissioner may authorize only the affected bank, banks,  
23 or offices thereof, to close. The office or offices so closed  
24 may remain closed until the Commissioner declares, by further  
25 proclamation, that the emergency or impending emergency has

1 ended. The Commissioner during an emergency or while an  
2 impending emergency exists, which affects, or may affect, a  
3 particular bank or banks, or a particular office or offices  
4 thereof, but not banks located in the area generally of the  
5 said county or municipality, may authorize the particular bank  
6 or banks, or office or offices so affected, to close. The  
7 office or offices so closed shall remain closed until the  
8 Commissioner is notified by a bank officer of the closed bank  
9 that the emergency has ended. The Commissioner shall notify, at  
10 such time, the officers of the bank that one or more offices,  
11 heretofore closed because of the emergency, should reopen and,  
12 in either event, for such further time thereafter as may  
13 reasonably be required to reopen.

14 (b) Whenever the Secretary ~~Commissioner~~ becomes aware that  
15 an emergency exists, or is impending, he or she may, by  
16 proclamation, waive any requirements to the notices,  
17 applications, or reports required to be filed and authorize any  
18 bank organized under the laws of this State, of another state,  
19 or of the United States, to open and operate offices in this  
20 State, notwithstanding any other laws of this State to the  
21 contrary. Any office or offices opened in accordance with this  
22 subsection may remain open until the Commissioner declares, by  
23 further proclamation, that the emergency or impending  
24 emergency has ended. The Department of Financial and  
25 Professional Regulation may ~~shall~~ adopt rules to implement this  
26 subsection (b).



1 (Source: P.A. 95-77, eff. 8-13-07.)

2 Section 45. The Electronic Fund Transfer Act is amended by  
3 changing Section 10 as follows:

4 (205 ILCS 616/10)

5 Sec. 10. Definitions. For purposes of this Act, the words  
6 and phrases defined in this Section shall have the meanings  
7 ascribed to them unless the context requires otherwise.  
8 Whenever the terms "network" and "switch" are used, they shall  
9 be deemed interchangeable unless, from the context and facts,  
10 the intention is plain to apply only to one type of entity.

11 "Access device" means a card, code, or other means of  
12 access to an account, or any combination thereof, that may be  
13 used by a customer to initiate an electronic fund transfer at a  
14 terminal.

15 "Account" means a demand deposit, savings deposit, share,  
16 member, or other customer asset account held by a financial  
17 institution.

18 An "affiliate" of, or a person "affiliated" with, a  
19 specified person, means a person that directly, or indirectly  
20 through one or more intermediaries, controls, is controlled by,  
21 or is under common control with, the person specified.

22 "Commissioner" means the Secretary of Financial and  
23 Professional Regulation ~~Commissioner of Banks and Real Estate~~  
24 or a person authorized by the Secretary ~~Commissioner~~, the

1 ~~Division of Banking Office of Banks and Real Estate Act~~, or  
2 this Act to act in the Secretary's Commissioner's stead.

3 "Division" means the Division of Banking within the  
4 Department of Financial and Professional Regulation.

5 "Electronic fund transfer" means a transfer of funds, other  
6 than a transaction originated by check, draft, or similar paper  
7 instrument, that is initiated through a terminal for the  
8 purpose of ordering, instructing, or authorizing a financial  
9 institution to debit or credit an account.

10 "Financial institution" means a bank established under the  
11 laws of this or any other state or established under the laws  
12 of the United States, a savings and loan association or savings  
13 bank established under the laws of this or any other state or  
14 established under the laws of the United States, a credit union  
15 established under the laws of this or any other state or  
16 established under the laws of the United States, or a licensee  
17 under the Consumer Installment Loan Act or the Sales Finance  
18 Agency Act.

19 "Interchange transaction" means an electronic fund  
20 transfer that results in exchange of data and settlement of  
21 funds between 2 or more unaffiliated financial institutions.

22 "Network" means an electronic information communication  
23 and processing system that processes interchange transactions.

24 "Person" means a natural person, corporation, unit of  
25 government or governmental subdivision or agency, trust,  
26 estate, partnership, cooperative, or association.

1 "Seller of goods and services" means a business entity  
2 other than a financial institution.

3 "Switch" means an electronic information and communication  
4 processing facility that processes interchange transactions on  
5 behalf of a network. This term does not include an electronic  
6 information and communication processing company (1) that is  
7 owned by a bank holding company or an affiliate of a bank  
8 holding company and used solely for transmissions among  
9 affiliates of the bank holding company or (2) to the extent  
10 that the facility, by virtue of a contractual relationship, is  
11 used solely for transmissions among affiliates of a bank  
12 holding company, regardless of whether the facility is an  
13 affiliate of the bank holding company or operates as a switch  
14 with respect to one or more networks under an independent  
15 contractual relationship.

16 "Terminal" means an electronic device through which a  
17 consumer may initiate an interchange transaction. This term  
18 does not include (1) a telephone, (2) an electronic device  
19 located in a personal residence, (3) a personal computer or  
20 other electronic device used primarily for personal, family, or  
21 household purposes, (4) an electronic device owned or operated  
22 by a seller of goods and services unless the device is  
23 connected either directly or indirectly to a financial  
24 institution and is operated in a manner that provides access to  
25 an account by means of a personal and confidential code or  
26 other security mechanism (other than signature), (5) an

1 electronic device that is not accessible to persons other than  
2 employees of a financial institution or affiliate of a  
3 financial institution, or (6) an electronic device that is  
4 established by a financial institution on a proprietary basis  
5 that is identified as such and that cannot be accessed by  
6 customers of other financial institutions. The Commissioner  
7 may issue a written rule that excludes additional electronic  
8 devices from the definition of the term "terminal".

9 (Source: P.A. 89-310, eff. 1-1-96; 89-508, eff. 7-3-96.)

10 Section 50. The Corporate Fiduciary Act is amended by  
11 changing Sections 1-5.03, 5-1, and 5-10 and by adding Section  
12 1-5.075 as follows:

13 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

14 Sec. 1-5.03. "Commissioner" means the Secretary of  
15 Financial and Professional Regulation ~~Commissioner of Banks~~  
16 ~~and Real Estate~~ or a person authorized by the Secretary  
17 ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real~~  
18 ~~Estate~~ Act, or this Act to act in the Secretary's  
19 ~~Commissioner's~~ stead.

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

21 (205 ILCS 620/1-5.075 new)

22 Sec. 1-5.075. Division. "Division" means the Division of  
23 Banking within the Department of Financial and Professional

1 Regulation.

2 (205 ILCS 620/5-1) (from Ch. 17, par. 1555-1)

3 Sec. 5-1. Commissioner's powers. The Commissioner of Banks  
4 and Real Estate shall have the following powers and authority  
5 and is charged with the duties and responsibilities designated  
6 in this Act:

7 (a) To promulgate, in accordance with the Illinois  
8 Administrative Procedure Act, reasonable rules for the purpose  
9 of administering the provisions of this Act and for the purpose  
10 of incorporating by reference rules promulgated by the Federal  
11 Deposit Insurance Corporation, the Board of Governors of the  
12 Federal Reserve System, the Office of the Comptroller of the  
13 Currency, the Office of Thrift Supervision, or their successors  
14 that pertain to corporate fiduciaries, including, but not  
15 limited to, standards for the operation and conduct of the  
16 affairs of corporate fiduciaries;

17 (b) To issue orders for the purpose of administering the  
18 provisions of this Act and any rule promulgated in accordance  
19 with this Act;

20 (c) To appoint hearing officers to conduct hearings held  
21 pursuant to any of the powers granted to the Commissioner under  
22 this Section for the purpose of administering this Act and any  
23 rule promulgated in accordance with this Act;

24 (d) To subpoena witnesses, to compel their attendance, to  
25 administer an oath, to examine any person under oath and to

1 require the production of any relevant books, papers, accounts  
2 and documents in the course of and pursuant to any  
3 investigation being conducted, or any action being taken, by  
4 the Commissioner in respect of any matter relating to the  
5 duties imposed upon, or the powers vested in, the Commissioner  
6 under the provisions of this Act, or any rule or regulation  
7 promulgated in accordance with this Act;

8 (e) To conduct hearings;

9 (f) To promulgate the form and content of any applications  
10 required under this Act;

11 (g) To impose civil penalties of up to \$100,000 ~~\$10,000~~  
12 against any person or corporate fiduciary for each violation of  
13 any provision of this Act, any rule promulgated in accordance  
14 with this Act, any order of the Commissioner or any other  
15 action which, in the Commissioner's discretion, is a detriment  
16 or impediment to accepting or executing trusts; and

17 (h) To address any inquiries to any corporate fiduciary, or  
18 the officers thereof, in relation to its doings and conditions,  
19 or any other matter connected with its affairs, and it shall be  
20 the duty of any corporate fiduciary or person so addressed, to  
21 promptly reply in writing to such inquiries. The Commissioner  
22 may also require reports from any corporate fiduciary at any  
23 time he may deem desirable.

24 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

25 (205 ILCS 620/5-10) (from Ch. 17, par. 1555-10)

1           Sec. 5-10. Fees; receivership account.

2           (a) There shall be paid to the Commissioner by every  
3 corporate fiduciary including each trust company, bank,  
4 savings and loan association, and savings bank to which this  
5 Act shall apply, reasonable fees that the Commissioner shall  
6 assess to recover the costs of administration, certification,  
7 examination and supervision of trusts authorized under this  
8 Act.

9           (b) In addition to the fees authorized in subsection (a) of  
10 this Section the Commissioner shall assess reasonable  
11 receivership fees and establish a Non-insured Institutions  
12 Receivership ~~Corporate Fiduciary Receivership~~ account in the  
13 Bank and Trust Company Fund to provide for the expenses that  
14 arise from the administration of the receivership of a  
15 corporate fiduciary under this Act. The aggregate of such  
16 assessments shall be paid into the Non-insured Institutions  
17 Receivership ~~Corporate Fiduciary Receivership~~ account in the  
18 Bank and Trust Company Fund. The assessments for this account  
19 shall be levied until the sum of \$4,000,000 has been deposited  
20 into the account from assessments authorized herein, whereupon  
21 the Non-insured Institutions Receivership ~~Corporate Fiduciary~~  
22 ~~Receivership~~ account assessment shall be abated. If a  
23 receivership of a corporate fiduciary under this Act requires  
24 expenditures from this account, assessments may be  
25 reinstated until the balance in the Non-insured Institutions  
26 Receivership ~~Corporate Fiduciary Receivership~~ account arising

1 from assessments is restored to \$4,000,000.

2 (c) The Commissioner may, by rule, establish a reasonable  
3 manner of assessing the receivership assessments under this  
4 Section.

5 (Source: P.A. 92-485, eff. 8-23-01.)

6 Section 55. The Residential Mortgage License Act of 1987 is  
7 amended by changing Section 4-2 as follows:

8 (205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

9 Sec. 4-2. Examination; prohibited activities.

10 (a) The business affairs of a licensee under this Act shall  
11 be examined for compliance with this Act as often as the  
12 Commissioner deems necessary and proper. The Commissioner  
13 shall promulgate rules with respect to the frequency and manner  
14 of examination. The Commissioner shall appoint a suitable  
15 person to perform such examination. The Commissioner and his  
16 appointees may examine the entire books, records, documents,  
17 and operations of each licensee and its subsidiary, affiliate,  
18 or agent, and may examine any of the licensee's or its  
19 subsidiary's, affiliate's, or agent's officers, directors,  
20 employees and agents under oath. For purposes of this Section,  
21 "agent" includes service providers such as accountants,  
22 closing services providers, providers of outsourced services  
23 such as call centers, marketing consultants, and loan  
24 processors, even if exempt from licensure under this Act. This



1 Section does not apply to an attorney's privileged work product  
2 or communications.

3 (b) The Commissioner shall prepare a sufficiently detailed  
4 report of each licensee's examination, shall issue a copy of  
5 such report to each licensee's principals, officers, or  
6 directors and shall take appropriate steps to ensure correction  
7 of violations of this Act.

8 (c) Affiliates of a licensee shall be subject to  
9 examination by the Commissioner on the same terms as the  
10 licensee, but only when reports from, or examination of a  
11 licensee provides for documented evidence of unlawful activity  
12 between a licensee and affiliate benefiting, affecting or  
13 deriving from the activities regulated by this Act.

14 (d) The expenses of any examination of the licensee and  
15 affiliates shall be borne by the licensee and assessed by the  
16 Commissioner as established by regulation.

17 (e) Upon completion of the examination, the Commissioner  
18 shall issue a report to the licensee. All confidential  
19 supervisory information, including the examination report and  
20 the work papers of the report, shall belong to the  
21 Commissioner's office and may not be disclosed to anyone other  
22 than the licensee, law enforcement officials or other  
23 regulatory agencies that have an appropriate regulatory  
24 interest as determined by the Commissioner, or to a party  
25 presenting a lawful subpoena to the Office of the Commissioner.  
26 The Commissioner may immediately appeal to the court of

1 jurisdiction the disclosure of such confidential supervisory  
2 information and seek a stay of the subpoena pending the outcome  
3 of the appeal. Reports required of licensees by the  
4 Commissioner under this Act and results of examinations  
5 performed by the Commissioner under this Act shall be the  
6 property of only the Commissioner, but may be shared with the  
7 licensee. Access under this Act to the books and records of  
8 each licensee shall be limited to the Commissioner and his  
9 agents as provided in this Act and to the licensee and its  
10 authorized agents and designees. No other person shall have  
11 access to the books and records of a licensee under this Act.  
12 Any person upon whom a demand for production of confidential  
13 supervisory information is made, whether by subpoena, order, or  
14 other judicial or administrative process, must withhold  
15 production of the confidential supervisory information and  
16 must notify the Commissioner of the demand, at which time the  
17 Commissioner is authorized to intervene for the purpose of  
18 enforcing the limitations of this Section or seeking the  
19 withdrawal or termination of the attempt to compel production  
20 of the confidential supervisory information. The Commissioner  
21 may impose any conditions and limitations on the disclosure of  
22 confidential supervisory information that are necessary to  
23 protect the confidentiality of such information. Except as  
24 authorized by the Commissioner, no person obtaining access to  
25 confidential supervisory information may make a copy of the  
26 confidential supervisory information. The Commissioner may

1 condition a decision to disclose confidential supervisory  
2 information on entry of a protective order by the court or  
3 administrative tribunal presiding in the particular case or on  
4 a written agreement of confidentiality. In a case in which a  
5 protective order or agreement has already been entered between  
6 parties other than the Commissioner, the Commissioner may  
7 nevertheless condition approval for release of confidential  
8 supervisory information upon the inclusion of additional or  
9 amended provisions in the protective order. The Commissioner  
10 may authorize a party who obtained the records for use in one  
11 case to provide them to another party in another case, subject  
12 to any conditions that the Commissioner may impose on either or  
13 both parties. The requestor shall promptly notify other parties  
14 to a case of the release of confidential supervisory  
15 information obtained and, upon entry of a protective order,  
16 shall provide copies of confidential supervisory information  
17 to the other parties.

18 (f) The Commissioner, deputy commissioners, and employees  
19 of the Office of Banks and Real Estate shall be subject to the  
20 restrictions provided in Section 2.5 of the Division of Banking  
21 ~~Office of Banks and Real Estate~~ Act including, without  
22 limitation, the restrictions on (i) owning shares of stock or  
23 holding any other equity interest in an entity regulated under  
24 this Act or in any corporation or company that owns or controls  
25 an entity regulated under this Act; (ii) being an officer,  
26 director, employee, or agent of an entity regulated under this

1 Act; and (iii) obtaining a loan or accepting a gratuity from an  
2 entity regulated under this Act.

3 (g) After the initial examination for those licensees whose  
4 only mortgage activity is servicing fewer than 1,000 Illinois  
5 residential loans, the examination required in subsection (a)  
6 may be waived upon submission of a letter from the licensee's  
7 independent certified auditor that the licensee serviced fewer  
8 than 1,000 Illinois residential loans during the year in which  
9 the audit was performed.

10 (Source: P.A. 96-112, eff. 7-31-09.)

11 Section 60. The Foreign Banking Office Act is amended by  
12 changing Sections 2.01 and 17 and by adding Section 2.08 as  
13 follows:

14 (205 ILCS 645/2.01) (from Ch. 17, par. 2703)

15 Sec. 2.01. "Commissioner" means the Secretary of Financial  
16 and Professional Regulation ~~Commissioner of Banks and Real~~  
17 ~~Estate~~ or a person authorized by the Secretary ~~Commissioner~~,  
18 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
19 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

21 (205 ILCS 645/2.08 new)

22 Sec. 2.08. Division. "Division" means the Division of  
23 Banking within the Department of Financial and Professional

1 Regulation.

2 (205 ILCS 645/17) (from Ch. 17, par. 2724)

3 Sec. 17. Fees; examination; receivership. Upon applying  
4 for a certificate of authority to open and maintain a banking  
5 office, a foreign banking corporation shall pay to the  
6 Commissioner an application fee equivalent to the reasonable  
7 expenses of examination for a charter payable by a State bank  
8 under Section 13 of the Illinois Banking Act.

9 In addition, a foreign banking corporation holding a  
10 certificate of authority and maintaining a banking office shall  
11 be subject to examination and other fees (comparable to those  
12 payable by a State bank) imposed by the Commissioner pursuant  
13 to Section 48 of the Illinois Banking Act based on the assets  
14 of such foreign banking corporation located in the State of  
15 Illinois.

16 (b) In addition to the fees authorized in subsection (a) of  
17 this Section, the Secretary shall assess reasonable  
18 receivership fees and establish a Non-insured Institutions  
19 Receivership account in the Bank and Trust Company Fund to  
20 provide for the expenses that arise from the administration of  
21 the receivership of a foreign banking corporation under this  
22 Act. The aggregate of such assessments shall be paid into the  
23 Non-insured Institutions Receivership account in the Bank and  
24 Trust Company Fund. The assessments for this account shall be  
25 levied until the sum of \$4,000,000 has been deposited into the

1 account from assessments authorized herein, whereupon the  
2 Non-insured Institutions Receivership account assessment shall  
3 be abated. If a receivership of a non-insured institution under  
4 this Act requires expenditures from this account, then  
5 assessments may be reinstated until the balance in the  
6 Non-insured Institutions Receivership account arising from  
7 assessments is restored to \$4,000,000.

8 (c) The Secretary may by rule establish a reasonable manner  
9 of assessing the receivership assessments under this Section.

10 (Source: P.A. 88-271; 89-208, eff. 6-1-97.)

11 Section 65. The Foreign Bank Representative Office Act is  
12 amended by changing Section 2 as follows:

13 (205 ILCS 650/2) (from Ch. 17, par. 2852)

14 Sec. 2. Definitions. As used in this Act, unless the  
15 context requires otherwise:

16 (a) "Commissioner" means the Secretary of Financial and  
17 Professional Regulation ~~Commissioner of Banks and Real Estate~~  
18 or a person authorized by the Secretary ~~Commissioner~~, the  
19 Division of Banking ~~Office of Banks and Real Estate Act~~, or  
20 this Act to act in the Secretary's ~~Commissioner's~~ stead.

21 (b) "Foreign bank" means (1) a bank or trust company which  
22 is organized under the laws of any state or territory of the  
23 United States, including the District of Columbia, other than  
24 the State of Illinois; (2) a national bank having its principal

1 place of business in any state or territory of the United  
2 States, including the District of Columbia, other than the  
3 State of Illinois; or (3) a bank or trust company organized and  
4 operating under the laws of a country other than the United  
5 States of America.

6 (c) "Representative office" means an office in the State of  
7 Illinois at which a foreign bank engages in representational  
8 functions but does not conduct a commercial banking business.

9 (d) "Division" means the Division of Banking within the  
10 Department of Financial and Professional Regulation.

11 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

12 Section 70. The Financial Institution Activity Reporting  
13 Act is amended by changing Section 10.25 and by adding Section  
14 10.33 as follows:

15 (205 ILCS 680/10.25) (from Ch. 17, par. 7401-10.25)

16 Sec. 10.25. Commissioner. "Commissioner" means the  
17 Secretary of Financial and Professional Regulation  
18 ~~Commissioner of Banks and Real Estate~~ or a person authorized by  
19 the Secretary Commissioner, the Division of Banking ~~Office of~~  
20 ~~Banks and Real Estate~~ Act, or this Act to act in the  
21 Secretary's ~~Commissioner's~~ stead.

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

23 (205 ILCS 680/10.33 new)

1       Sec. 10.33. Division. "Division" means the Division of  
2       Banking within the Department of Financial and Professional  
3       Regulation.

4       Section 75. The Real Estate Regulation Transfer Act is  
5       amended by changing Sections 5, 10, and 15 as follows:

6           (225 ILCS 456/5)

7       Sec. 5. Transfer of powers.

8       (a) On July 1, 1995, All the rights, powers, and duties  
9       vested by the Real Estate License Act of 1983, the Land Sales  
10       Registration Act of 1989, and the Illinois Real Estate  
11       Time-Share Act in the Department of Professional Regulation  
12       shall be transferred to the Office of the Commissioner of  
13       Savings and Residential Finance to be hereafter known as the  
14       Office of the Commissioner of Savings, Real Estate Professions,  
15       and Mortgage Finance. Wherever, in the Real Estate License Act  
16       of 1983, the Land Sales Registration Act of 1989, or the  
17       Illinois Real Estate Time-Share Act, there is a reference to  
18       the Department of Professional Regulation or to an officer,  
19       employee, or agent of the Illinois Department of Professional  
20       Regulation, that reference, beginning July 1, 1995, means the  
21       Office of the Commissioner of Savings, Real Estate Professions,  
22       and Mortgage Finance or an officer, employee, or agent of the  
23       Office of the Commissioner of Savings, Real Estate Professions,  
24       and Mortgage Finance.



1 (b) All books, records, property (real and personal),  
2 pending business, and funds pertaining to the rights, powers,  
3 and duties transferred from the Department of Professional  
4 Regulation under this Act and in the custody of the Department  
5 of Professional Regulation on July 1, 1995 shall be delivered  
6 and transferred to the Office of the Commissioner of Savings,  
7 Real Estate Professions, and Mortgage Finance. All officers and  
8 employees of the Department of Professional Regulation on July  
9 1, 1995 who devoted substantially all of their time to tasks  
10 performed in connection with the Real Estate License Act of  
11 1983, the Land Sales Registration Act of 1989, or the Illinois  
12 Real Estate Time-Share Act shall on that date become officers  
13 and employees of the Office of the Commissioner of Savings,  
14 Real Estate Professions, and Mortgage Finance. Notwithstanding  
15 the preceding sentence, no rights of State employees under the  
16 Personnel Code, the Illinois Pension Code or any pension,  
17 retirement, or annuity plan, or any collective bargaining  
18 agreement or other contract or agreement are affected by the  
19 transfer of rights, powers, and duties under this Act.

20 (c) The provisions of subsections (a) and (b) of this  
21 Section are superseded by the applicable transfer and savings  
22 provisions of the Division of Banking ~~Office of Banks and Real~~  
23 ~~Estate~~ Act.

24 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

1           Sec. 10. Savings provisions.

2           (a) Beginning July 1, 1995, the rights, powers, and duties  
3 transferred by this Act to the Office of the Commissioner of  
4 Savings, Real Estate Professions, and Mortgage Finance shall be  
5 vested in and shall be exercised by the Office of the  
6 Commissioner of Savings, Real Estate Professions, and Mortgage  
7 Finance subject to the provisions of this Act. Each act done in  
8 exercise of those rights, powers, and the duties shall have the  
9 same legal effect as if done by the Department of Professional  
10 Regulation.

11           (b) Beginning July 1, 1995, every person, corporation, or  
12 other entity shall be subject to the same obligations and  
13 duties and any penalties, civil or criminal, arising from those  
14 obligations and duties, and shall have the same rights arising  
15 from the exercise of rights, powers, and duties by the Office  
16 of the Commissioner of Savings, Real Estate Professions, and  
17 Mortgage Finance as if those rights, powers, and duties have  
18 been exercised by the Department of Professional Regulation or  
19 an officer, employee, or agent of the Department of  
20 Professional Regulation.

21           (c) Beginning July 1, 1995, every officer and employee of  
22 the Office of the Commissioner of Savings, Real Estate  
23 Professions, and Mortgage Finance shall, for any offense, be  
24 subject to the same penalty or penalties, civil or criminal, as  
25 are prescribed by existing law for the same offense by any  
26 officer or employee of the Department of Professional

1 Regulation whose powers or duties were transferred under this  
2 Act.

3 (d) Whenever reports or notices are now required to be made  
4 or given or papers or documents furnished or served by any  
5 person to or upon the Department of Professional Regulation in  
6 relation to the powers or duties transferred by this Act, those  
7 reports or notices shall, on and after July 1, 1995, be made,  
8 given, furnished, or served in the same manner to or upon the  
9 Office of the Commissioner of Savings, Real Estate Professions,  
10 and Mortgage Finance.

11 (e) This Act does not affect any act done, ratified, or  
12 cancelled, or any right occurring or established, or any action  
13 or proceeding had or commenced in an administrative, civil, or  
14 criminal cause before July 1, 1995, by the Department of  
15 Professional Regulation under the Real Estate License Act of  
16 1983, the Land Sales Registration Act of 1989, or the Illinois  
17 Real Estate Time-Share Act, and those actions or proceedings  
18 may be prosecuted and continued by the Office of the  
19 Commissioner of Savings, Real Estate Professions, and Mortgage  
20 Finance.

21 (f) This Act does affect any license, certificate, permit,  
22 or other form of licensure or authorization issued by the  
23 Department of Professional Regulation in the exercise of a  
24 right, power, or duty that has been transferred to the Office  
25 of the Commissioner of Savings, Real Estate Professions, and  
26 Mortgage Finance under this Act and all such licenses,

1 certificates, permits, or other form of licensure or  
2 authorization shall continue to be valid under the terms and  
3 conditions of the Acts under which they were issued or granted  
4 and shall become those of the Office of the Commissioner of  
5 Savings, Real Estate Professions, and Mortgage Finance.

6 (g) The rules adopted by the Department of Professional  
7 Regulation relating to the powers and or duties transferred to  
8 the Office of the Commissioner of Savings, Real Estate  
9 Professions, and Mortgage Finance under this Act are not  
10 affected by this Act, except that on July 1, 1995, those rules  
11 become the rules of the Office of the Commissioner of Savings,  
12 Real Estate Professions, and Mortgage Finance.

13 (h) The provisions of subsections (a) through (g) of this  
14 Section are superseded by the applicable transfer and savings  
15 provisions of the Division of Banking ~~Office of Banks and Real~~  
16 ~~Estate~~ Act.

17 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

18 (225 ILCS 456/15)

19 Sec. 15. Transfer of appropriations. Appropriations to the  
20 Department of Professional Regulation from the Real Estate  
21 License Administration Fund and the Real Estate Appraisal  
22 Administration Fund for State fiscal year 1996 for the purpose  
23 of administering and enforcing the Real Estate License Act of  
24 1983, the Land Sales Registration Act of 1989, and the Illinois  
25 Real Estate Time-Share Act shall be transferred to the Office

1 of the Commissioner of Savings, Real Estate Professions, and  
2 Mortgage Finance to be used to conduct those same activities  
3 for that fiscal year.

4 The other provisions of this Section are superseded by the  
5 applicable transfer provisions of the Division of Banking  
6 ~~Office of Banks and Real Estate Act.~~

7 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

8 (205 ILCS 105/10-2 rep.)

9 (205 ILCS 105/10-3 rep.)

10 (205 ILCS 105/10-4 rep.)

11 (205 ILCS 105/10-5 rep.)

12 (205 ILCS 105/10-6 rep.)

13 (205 ILCS 105/10-7 rep.)

14 Section 90. The Illinois Savings and Loan Act of 1985 is  
15 amended by repealing Sections 10-2, 10-3, 10-4, 10-5, 10-6, and  
16 10-7.

17 (205 ILCS 205/9005 rep.)

18 (205 ILCS 205/9007 rep.)

19 (205 ILCS 205/10001 rep.)

20 (205 ILCS 205/10002 rep.)

21 (205 ILCS 205/10003 rep.)

22 (205 ILCS 205/10004 rep.)

23 (205 ILCS 205/10005 rep.)

24 (205 ILCS 205/10006 rep.)

1 (205 ILCS 205/10007 rep.)

2 (205 ILCS 205/10008 rep.)

3 Section 95. The Savings Bank Act is amended by repealing  
4 Sections 9005, 9007, 10001, 10002, 10003, 10004, 10005, 10006,  
5 10007, and 10008.

6 (205 ILCS 680/Act rep.)

7 Section 100. The Financial Institution Activity Reporting  
8 Act is repealed.

9 Section 999. Effective date. This Act takes effect upon  
10 becoming law.