



Sen. Kimberly A. Lightford

Filed: 3/15/2010

09600SB2996sam001

LRB096 16388 RPM 38923 a

1 AMENDMENT TO SENATE BILL 2996

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2996 by replacing  
3 everything after the enacting clause with the following:

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

1 Division of Banking Act, or by this Act to act in the  
2 Secretary's ~~Commissioner's~~ stead.

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

5 "Office" means the Division of Banking within the  
6 Department of Financial and Professional Regulation ~~Office of~~  
7 ~~Banks and Real Estate.~~

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

9 (20 ILCS 3205/5) (from Ch. 17, par. 455)

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

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

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

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

1       (c-5) To exercise all of the rights, powers, and duties  
2 granted to the Director or Secretary under the Illinois Banking  
3 Act, the Corporate Fiduciary Act, the Electronic Fund Transfer  
4 Act, the Illinois Bank Holding Company Act of 1957, the Savings  
5 Bank Act, the Illinois Savings and Loan Act of 1985, the  
6 Savings and Loan Share and Account Act, the Residential  
7 Mortgage License Act of 1987, and the Pawnbroker Regulation  
8 Act.

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

1 bank regulatory agency, or any other government agency has  
2 caused such investigations to have been conducted previously  
3 unless such additional investigations are otherwise required  
4 by law or unless the Commissioner deems such additional  
5 investigations to be necessary for the purposes of carrying out  
6 the Commissioner's statutory powers and responsibilities. The  
7 Department of State Police shall provide, on the Commissioner's  
8 request, information concerning criminal charges and their  
9 disposition currently on file with respect to a relevant  
10 individual. Information obtained as a result of an  
11 investigation under this Section shall be used in determining  
12 eligibility to be an incorporator, director, management  
13 personnel, or other relevant individual in relation to a  
14 financial institution or other entity supervised by the  
15 Commissioner. Upon request and payment of fees in conformance  
16 with the requirements of Section 2605-400 of the Department of  
17 State Police Law (20 ILCS 2605/2605-400), the Department of  
18 State Police is authorized to furnish, pursuant to positive  
19 identification, such information contained in State files as is  
20 necessary to fulfill the request.

21 (e) When issuing charters, permits, licenses, or other  
22 authorizations, the Commissioner may impose such terms and  
23 conditions on the issuance as he deems necessary or  
24 appropriate. Failure to abide by those terms and conditions may  
25 result in the revocation of the issuance, the imposition of  
26 corrective orders, or the imposition of civil money penalties.

1 (f) If the Commissioner has reasonable cause to believe  
2 that any entity that has not submitted an application for  
3 authorization or licensure is conducting any activity that  
4 would otherwise require authorization or licensure by the  
5 Commissioner, the Commissioner shall have the power to subpoena  
6 witnesses, to compel their attendance, ~~and~~ to require the  
7 production of any relevant books, papers, accounts, and  
8 documents, and to conduct an examination of the entity in order  
9 to determine whether the entity is subject to authorization or  
10 licensure by the Commissioner or the Division Office of Banks  
11 and Real Estate. If the Secretary determines that the entity is  
12 subject to authorization or licensure by the Secretary, then  
13 the Secretary shall have the power to issue orders against or  
14 take any other action, including initiating a receivership  
15 against the unauthorized or unlicensed entity.

16 (g) The Commissioner may, through the Attorney General,  
17 request the circuit court of any county to issue an injunction  
18 to restrain any person from violating the provisions of any Act  
19 administered by the Commissioner.

20 (h) Whenever the Commissioner is authorized to take any  
21 action or required by law to consider or make findings, the  
22 Commissioner may delegate or appoint, in writing, an officer or  
23 employee of the Division Office of Banks and Real Estate to  
24 take that action or make that finding.

25 (i) Whenever the Secretary determines that it is in the  
26 public's interest, he or she may publish any cease and desist

1 order or other enforcement action issued by the Division.

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

3 Section 10. The Illinois Bank Examiners' Education  
4 Foundation Act is amended by changing Section 3.02 and by  
5 adding Section 3.025 as follows:

6 (20 ILCS 3210/3.02) (from Ch. 17, par. 403.2)

7 Sec. 3.02. "Commissioner" means the Secretary of Financial  
8 and Professional Regulation ~~Commissioner of Banks and Real~~  
9 ~~Estate~~ or a person authorized by the Secretary ~~Commissioner~~,  
10 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
11 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

13 (20 ILCS 3210/3.025 new)

14 Sec. 3.025. Division. "Division" means the Division of  
15 Banking within the Department of Financial and Professional  
16 Regulation.

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

19 (205 ILCS 5/13) (from Ch. 17, par. 320)

20 Sec. 13. Issuance of charter.

21 (a) When the directors have organized as provided in

1 Section 12 of this Act, and the capital stock and the preferred  
2 stock, if any, together with a surplus of not less than 50% of  
3 the capital, has been all fully paid in and a record of the  
4 same filed with the Commissioner, the Commissioner or some  
5 competent person of the Commissioner's appointment shall make a  
6 thorough examination into the affairs of the proposed bank, and  
7 if satisfied (i) that all the requirements of this Act have  
8 been complied with, (ii) that no intervening circumstance has  
9 occurred to change the Commissioner's findings made pursuant to  
10 Section 10 of this Act, and (iii) that the prior involvement by  
11 any stockholder who will own a sufficient amount of stock to  
12 have control, as defined in Section 18 of this Act, of the  
13 proposed bank with any other financial institution, whether as  
14 stockholder, director, officer, or customer, was conducted in a  
15 safe and sound manner, upon payment into the Commissioner's  
16 office of the reasonable expenses of the examination, as  
17 determined by the Commissioner, the Commissioner shall issue a  
18 charter authorizing the bank to commence business as authorized  
19 in this Act. All charters issued by the Commissioner or any  
20 predecessor agency which chartered State banks, including any  
21 charter outstanding as of September 1, 1989, shall be  
22 perpetual. For the 2 years after the Commissioner has issued a  
23 charter to a bank, the bank shall request and obtain from the  
24 Commissioner prior written approval before it may change senior  
25 management personnel or directors.

26 The original charter, duly certified by the Commissioner,

1 or a certified copy shall be evidence in all courts and places  
2 of the existence and authority of the bank to do business. Upon  
3 the issuance of the charter by the Commissioner, the bank shall  
4 be deemed fully organized and may proceed to do business. The  
5 Commissioner may, in the Commissioner's discretion, withhold  
6 the issuing of the charter when the Commissioner has reason to  
7 believe that the bank is organized for any purpose other than  
8 that contemplated by this Act. The Commissioner shall revoke  
9 the charter and order liquidation in the event that the bank  
10 does not commence a general banking business within one year  
11 from the date of the issuance of the charter, unless a request  
12 has been submitted, in writing, to the Commissioner for an  
13 extension and the request has been approved. After commencing a  
14 general banking business, a bank may change its name by filing  
15 written notice with the Commissioner at least 30 days prior to  
16 the effective date of such change. A bank chartered under this  
17 Act may change its main banking premises by filing written  
18 application with the Commissioner, on forms prescribed by the  
19 Commissioner, provided (i) the change shall not be a removal to  
20 a new location without complying with the capital requirements  
21 of Section 7 and of subsection (1) of Section 10 of this Act;  
22 (ii) the Commissioner approves the relocation or change; and  
23 (iii) the bank complies with any applicable federal law or  
24 regulation. The application shall be deemed to be approved if  
25 the Commissioner has not acted on the application within 30  
26 days after receipt of the application, unless within the 30-day



1 time frame the Commissioner informs the bank that an extension  
2 of time is necessary prior to the Commissioner's action on the  
3 application.

4 (b) (1) The Commissioner may also issue a charter to a bank  
5 that is owned exclusively by other depository institutions  
6 or depository institution holding companies and is  
7 organized to engage exclusively in providing services to or  
8 for other financial institutions, their holding companies,  
9 and the officers, directors, and employees of such  
10 institutions and companies, and in providing services at  
11 the request of other financial institutions or their  
12 holding companies (also referred to as a "bankers' bank").  
13 The bank may also provide products and services to its  
14 officers, directors, and employees.

15 (2) A bank chartered pursuant to paragraph (1) shall,  
16 except as otherwise specifically determined or limited by  
17 the Commissioner in an order or pursuant to a rule, be  
18 vested with the same rights and privileges and subject to  
19 the same duties, restrictions, penalties, and liabilities  
20 now or hereafter imposed under this Act.

21 (c) A bank chartered under this Act ~~shall after November 1,~~  
22 ~~1985, and an out-of-state bank that merges with a State bank~~  
23 ~~and establishes or maintains a branch in this State after May~~  
24 ~~31, 1997, shall obtain from and,~~ at all times while it accepts  
25 or retains deposits, maintain with the Federal Deposit  
26 Insurance Corporation, or such other instrumentality of or

1 corporation chartered by the United States, deposit insurance  
2 as authorized under federal law.

3 (d) (i) A bank that has a banking charter issued by the  
4 Commissioner under this Act may, pursuant to a written  
5 purchase and assumption agreement, transfer substantially  
6 all of its assets to another State bank or national bank in  
7 consideration, in whole or in part, for the transferee  
8 banks' assumption of any part or all of its liabilities.  
9 Such a transfer shall in no way be deemed to impair the  
10 charter of the transferor bank or cause the transferor bank  
11 to forfeit any of its rights, powers, interests,  
12 franchises, or privileges as a State bank, nor shall any  
13 voluntary reduction in the transferor bank's activities  
14 resulting from the transfer have any such effect; provided,  
15 however, that a State bank that transfers substantially all  
16 of its assets pursuant to this subsection (d) and following  
17 the transfer does not accept deposits and make loans, shall  
18 not have any rights, powers, interests, franchises, or  
19 privileges under subsection (15) of Section 5 of this Act  
20 until the bank has resumed accepting deposits and making  
21 loans.

22 (ii) The fact that a State bank does not resume  
23 accepting deposits and making loans for a period of 24  
24 months commencing on September 11, 1989 or on a date of the  
25 transfer of substantially all of a State bank's assets,  
26 whichever is later, or such longer period as the

1 Commissioner may allow in writing, may be the basis for a  
2 finding by the Commissioner under Section 51 of this Act  
3 that the bank is unable to continue operations.

4 (iii) The authority provided by subdivision (i) of this  
5 subsection (d) shall terminate on May 31, 1997, and no bank  
6 that has transferred substantially all of its assets  
7 pursuant to this subsection (d) shall continue in existence  
8 after May 31, 1997.

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

10 (205 ILCS 5/32) (from Ch. 17, par. 339)

11 Sec. 32. Basic loaning limits.

12 (a) For purposes of this Section, the Secretary may  
13 prescribe the definition of "liabilities outstanding" by rule.

14 (b) The liabilities outstanding at one time to a state bank  
15 of a person for money borrowed, including the liabilities of a  
16 partnership or joint venture in the liabilities of the several  
17 members thereof, shall not exceed 25% of the amount of the  
18 unimpaired capital and unimpaired surplus of the bank.

19 The liabilities to any state bank of a person may exceed  
20 25% of the unimpaired capital and unimpaired surplus of the  
21 bank, provided that (i) the excess amount from time to time  
22 outstanding is fully secured by readily marketable collateral  
23 having a market value, as determined by reliable and  
24 continuously available quotations, at least equal to the excess  
25 amount outstanding; and (ii) the total liabilities shall not

1 exceed 30% of the unimpaired capital and unimpaired surplus of  
2 the bank.

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

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

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

9 (3) The purchase of or loaning money in exchange for  
10 evidences of indebtedness which shall be secured by  
11 mortgage or trust deed upon productive real estate the  
12 value of which, as ascertained by the oath of 2 qualified  
13 appraisers, neither of whom shall be an officer, director,  
14 or employee of the bank or of any subsidiary or affiliate  
15 of the bank, is double the amount of the principal debt  
16 secured at the time of the original purchase of evidence of  
17 indebtedness or loan of money and which is still double the  
18 amount of the principal debt secured at the time of any  
19 renewal of the indebtedness or loan, and which mortgage or  
20 trust deed is shown, either by a guaranty policy of a title  
21 guaranty company approved by the Commissioner or by a  
22 registrar's certificate of title in any county having  
23 adopted the provisions of the Registered Titles (Torrens)  
24 Act, or by the opinion of an attorney-at-law, to be a first  
25 lien upon the real estate therein described, and real  
26 estate shall not be deemed to be encumbered within the

1 meaning of this subsection (3) by reason of the existence  
2 of instruments reserving rights-of-way, sewer rights and  
3 rights in wells, building restrictions or other  
4 restrictive covenants, nor by reason of the fact it is  
5 subject to lease under which rents or profits are reserved  
6 by the owners.

7 (4) The purchase of marketable investment securities.

8 (5) The liability to a state bank of a person who is an  
9 accommodation party to, or guarantor of payment for, any  
10 evidence of indebtedness of another person who obtains a  
11 loan from or discounts paper with or sells paper to the  
12 state bank; but the total liability to a state bank of a  
13 person as an accommodation party or guarantor of payment in  
14 respect of such evidences of indebtedness shall not exceed  
15 25% of the amount of the unimpaired capital and unimpaired  
16 surplus of the bank; provided however that the liability of  
17 an accommodation party to paper excepted under subsection 2  
18 of this Section shall not be included in the computation of  
19 this limitation.

20 (6) The liability to a state bank of a person, who as a  
21 guarantor, guarantees collection of the obligation or  
22 indebtedness of another person.

23 The total liabilities of any one person, for money  
24 borrowed, or otherwise, shall not exceed 25% of the deposits of  
25 the bank, and those total liabilities shall at no time exceed  
26 50% of the amount of the unimpaired capital and unimpaired

1 surplus of the bank. Absent an actual unremedied breach, the  
2 obligation or responsibility for breach of warranties or  
3 representations, express or implied, of a person transferring  
4 negotiable or non-negotiable paper to a bank without recourse  
5 and without guaranty of payment, shall not be included in  
6 determining the amount of liabilities of the person to the bank  
7 for borrowed money or otherwise; and in the event of and to the  
8 extent of an unremedied breach, the amount remaining unpaid for  
9 principal and interest on the paper in respect of which the  
10 unremedied breach exists shall thereafter for the purpose of  
11 determining whether subsequent transactions giving rise to  
12 additional liability of the person to the state bank for  
13 borrowed money or otherwise are within the limitations of  
14 Sections 32 through 34 of this Act, be included in computing  
15 the amount of liabilities of the person for borrowed money or  
16 otherwise.

17 The liability of a person to a state bank on account of  
18 acceptances made or issued by the state bank on behalf of the  
19 person shall be included in the computation of the total  
20 liabilities of the person for money borrowed except to the  
21 extent the acceptances grow out of transactions of the  
22 character described in subsection (6) of Section 34 of this Act  
23 and are otherwise within the limitations of that subsection;  
24 provided nevertheless that any such excepted acceptances  
25 acquired by the state bank which accepted the same shall be  
26 included in the computation of the liabilities of the person to

1 the state bank for money borrowed.

2 The Secretary may adopt rules to address the funding by  
3 banks of any loan commitment, when such funding would involve  
4 additional extensions of credit to be made after the unimpaired  
5 capital and unimpaired surplus of the bank have decreased and  
6 the Secretary determines that such decrease in unimpaired  
7 capital and unimpaired surplus would cause the additional  
8 extensions of credit to result in an unsafe and unsound  
9 condition.

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

11 (205 ILCS 5/40) (from Ch. 17, par. 350)

12 Sec. 40. Prohibited activities. The Commissioner, deputy  
13 commissioners, and employees of the Office of Banks and Real  
14 Estate shall be subject to the restrictions provided in Section  
15 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
16 Act including, without limitation, the restrictions on (i)  
17 owning shares of stock or holding any other equity interest in  
18 an entity regulated under this Act or in any corporation or  
19 company that owns or controls an entity regulated under this  
20 Act; (ii) being an officer, director, employee, or agent of an  
21 entity regulated under this Act; and (iii) obtaining a loan or  
22 accepting a gratuity from an entity regulated under this Act.

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

24 (205 ILCS 5/48) (from Ch. 17, par. 359)

1           Sec. 48. Secretary's powers; duties. The Secretary shall  
2 have the powers and authority, and is charged with the duties  
3 and responsibilities designated in this Act, and a State bank  
4 shall not be subject to any other visitorial power other than  
5 as authorized by this Act, except those vested in the courts,  
6 or upon prior consultation with the Secretary, a foreign bank  
7 regulator with an appropriate supervisory interest in the  
8 parent or affiliate of a state bank. In the performance of the  
9 Secretary's duties:

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

13           (2) (a) The Commissioner, as often as the Commissioner  
14 shall deem necessary or proper, and no less frequently than 18  
15 months following the preceding examination, shall appoint a  
16 suitable person or persons to make an examination of the  
17 affairs of every State bank, except that for every eligible  
18 State bank, as defined by regulation, the Commissioner in lieu  
19 of the examination may accept on an alternating basis the  
20 examination made by the eligible State bank's appropriate  
21 federal banking agency pursuant to Section 111 of the Federal  
22 Deposit Insurance Corporation Improvement Act of 1991,  
23 provided the appropriate federal banking agency has made such  
24 an examination. A person so appointed shall not be a  
25 stockholder or officer or employee of any bank which that  
26 person may be directed to examine, and shall have powers to



1 make a thorough examination into all the affairs of the bank  
2 and in so doing to examine any of the officers or agents or  
3 employees thereof on oath and shall make a full and detailed  
4 report of the condition of the bank to the Commissioner. In  
5 making the examination the examiners shall include an  
6 examination of the affairs of all the affiliates of the bank,  
7 as defined in subsection (b) of Section 35.2 of this Act, or  
8 subsidiaries of the bank as shall be necessary to disclose  
9 fully the conditions of the subsidiaries or affiliates, the  
10 relations between the bank and the subsidiaries or affiliates  
11 and the effect of those relations upon the affairs of the bank,  
12 and in connection therewith shall have power to examine any of  
13 the officers, directors, agents, or employees of the  
14 subsidiaries or affiliates on oath. After May 31, 1997, the  
15 Commissioner may enter into cooperative agreements with state  
16 regulatory authorities of other states to provide for  
17 examination of State bank branches in those states, and the  
18 Commissioner may accept reports of examinations of State bank  
19 branches from those state regulatory authorities. These  
20 cooperative agreements may set forth the manner in which the  
21 other state regulatory authorities may be compensated for  
22 examinations prepared for and submitted to the Commissioner.

23 (b) After May 31, 1997, the Commissioner is authorized to  
24 examine, as often as the Commissioner shall deem necessary or  
25 proper, branches of out-of-state banks. The Commissioner may  
26 establish and may assess fees to be paid to the Commissioner

1 for examinations under this subsection (b). The fees shall be  
2 borne by the out-of-state bank, unless the fees are borne by  
3 the state regulatory authority that chartered the out-of-state  
4 bank, as determined by a cooperative agreement between the  
5 Commissioner and the state regulatory authority that chartered  
6 the out-of-state bank.

7 (2.5) Whenever any State bank, any subsidiary or affiliate  
8 of a State bank, or after May 31, 1997, any branch of an  
9 out-of-state bank causes to be performed, by contract or  
10 otherwise, any bank services for itself, whether on or off its  
11 premises:

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

16 (b) the bank or, after May 31, 1997, branch of the  
17 out-of-state bank shall notify the Commissioner of the  
18 existence of a service relationship. The notification  
19 shall be submitted with the first statement of condition  
20 (as required by Section 47 of this Act) due after the  
21 making of the service contract or the performance of the  
22 service, whichever occurs first. The Commissioner shall be  
23 notified of each subsequent contract in the same manner.

24 For purposes of this subsection (2.5), the term "bank  
25 services" means services such as sorting and posting of checks  
26 and deposits, computation and posting of interest and other

1 credits and charges, preparation and mailing of checks,  
2 statements, notices, and similar items, or any other clerical,  
3 bookkeeping, accounting, statistical, or similar functions  
4 performed for a State bank, including but not limited to  
5 electronic data processing related to those bank services.

6 (3) The expense of administering this Act, including the  
7 expense of the examinations of State banks as provided in this  
8 Act, shall to the extent of the amounts resulting from the fees  
9 provided for in paragraphs (a), (a-2), and (b) of this  
10 subsection (3) be assessed against and borne by the State  
11 banks:

12 (a) Each bank shall pay to the Secretary a Call Report  
13 Fee which shall be paid in quarterly installments equal to  
14 one-fourth of the sum of the annual fixed fee of \$800, plus  
15 a variable fee based on the assets shown on the quarterly  
16 statement of condition delivered to the Secretary in  
17 accordance with Section 47 for the preceding quarter  
18 according to the following schedule: 16¢ per \$1,000 of the  
19 first \$5,000,000 of total assets, 15¢ per \$1,000 of the  
20 next \$20,000,000 of total assets, 13¢ per \$1,000 of the  
21 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next  
22 \$400,000,000 of total assets, 7¢ per \$1,000 of the next  
23 \$500,000,000 of total assets, and 5¢ per \$1,000 of all  
24 assets in excess of \$1,000,000,000, of the State bank. The  
25 Call Report Fee shall be calculated by the Secretary and  
26 billed to the banks for remittance at the time of the

1       quarterly statements of condition provided for in Section  
2       47. The Secretary may require payment of the fees provided  
3       in this Section by an electronic transfer of funds or an  
4       automatic debit of an account of each of the State banks.  
5       In case more than one examination of any bank is deemed by  
6       the Secretary to be necessary in any examination frequency  
7       cycle specified in subsection 2(a) of this Section, and is  
8       performed at his direction, the Secretary may assess a  
9       reasonable additional fee to recover the cost of the  
10      additional examination; provided, however, that an  
11      examination conducted at the request of the State Treasurer  
12      pursuant to the Uniform Disposition of Unclaimed Property  
13      Act shall not be deemed to be an additional examination  
14      under this Section. In lieu of the method and amounts set  
15      forth in this paragraph (a) for the calculation of the Call  
16      Report Fee, the Secretary may specify by rule that the Call  
17      Report Fees provided by this Section may be assessed  
18      semiannually or some other period and may provide in the  
19      rule the formula to be used for calculating and assessing  
20      the periodic Call Report Fees to be paid by State banks.

21       (a-1) If in the opinion of the Commissioner an  
22      emergency exists or appears likely, the Commissioner may  
23      assign an examiner or examiners to monitor the affairs of a  
24      State bank with whatever frequency he deems appropriate,  
25      including but not limited to a daily basis. The reasonable  
26      and necessary expenses of the Commissioner during the

1 period of the monitoring shall be borne by the subject  
2 bank. The Commissioner shall furnish the State bank a  
3 statement of time and expenses if requested to do so within  
4 30 days of the conclusion of the monitoring period.

5 (a-2) On and after January 1, 1990, the reasonable and  
6 necessary expenses of the Commissioner during examination  
7 of the performance of electronic data processing services  
8 under subsection (2.5) shall be borne by the banks for  
9 which the services are provided. An amount, based upon a  
10 fee structure prescribed by the Commissioner, shall be paid  
11 by the banks or, after May 31, 1997, branches of  
12 out-of-state banks receiving the electronic data  
13 processing services along with the Call Report Fee assessed  
14 under paragraph (a) of this subsection (3).

15 (a-3) After May 31, 1997, the reasonable and necessary  
16 expenses of the Commissioner during examination of the  
17 performance of electronic data processing services under  
18 subsection (2.5) at or on behalf of branches of  
19 out-of-state banks shall be borne by the out-of-state  
20 banks, unless those expenses are borne by the state  
21 regulatory authorities that chartered the out-of-state  
22 banks, as determined by cooperative agreements between the  
23 Commissioner and the state regulatory authorities that  
24 chartered the out-of-state banks.

25 (b) "Fiscal year" for purposes of this Section 48 is  
26 defined as a period beginning July 1 of any year and ending

1 June 30 of the next year. The Commissioner shall receive  
2 for each fiscal year, commencing with the fiscal year  
3 ending June 30, 1987, a contingent fee equal to the lesser  
4 of the aggregate of the fees paid by all State banks under  
5 paragraph (a) of subsection (3) for that year, or the  
6 amount, if any, whereby the aggregate of the administration  
7 expenses, as defined in paragraph (c), for that fiscal year  
8 exceeds the sum of the aggregate of the fees payable by all  
9 State banks for that year under paragraph (a) of subsection  
10 (3), plus any amounts transferred into the Bank and Trust  
11 Company Fund from the State Pensions Fund for that year,  
12 plus all other amounts collected by the Commissioner for  
13 that year under any other provision of this Act, plus the  
14 aggregate of all fees collected for that year by the  
15 Commissioner under the Corporate Fiduciary Act, excluding  
16 the receivership fees provided for in Section 5-10 of the  
17 Corporate Fiduciary Act, and the Foreign Banking Office  
18 Act. The aggregate amount of the contingent fee thus  
19 arrived at for any fiscal year shall be apportioned  
20 amongst, assessed upon, and paid by the State banks and  
21 foreign banking corporations, respectively, in the same  
22 proportion that the fee of each under paragraph (a) of  
23 subsection (3), respectively, for that year bears to the  
24 aggregate for that year of the fees collected under  
25 paragraph (a) of subsection (3). The aggregate amount of  
26 the contingent fee, and the portion thereof to be assessed

1 upon each State bank and foreign banking corporation,  
2 respectively, shall be determined by the Commissioner and  
3 shall be paid by each, respectively, within 120 days of the  
4 close of the period for which the contingent fee is  
5 computed and is payable, and the Commissioner shall give 20  
6 days advance notice of the amount of the contingent fee  
7 payable by the State bank and of the date fixed by the  
8 Commissioner for payment of the fee.

9 (c) The "administration expenses" for any fiscal year  
10 shall mean the ordinary and contingent expenses for that  
11 year incident to making the examinations provided for by,  
12 and for otherwise administering, this Act, the Corporate  
13 Fiduciary Act, excluding the expenses paid from the  
14 Corporate Fiduciary Receivership account in the Bank and  
15 Trust Company Fund, the Foreign Banking Office Act, the  
16 Electronic Fund Transfer Act, and the Illinois Bank  
17 Examiners' Education Foundation Act, including all  
18 salaries and other compensation paid for personal services  
19 rendered for the State by officers or employees of the  
20 State, including the Commissioner and the Deputy  
21 Commissioners, communication equipment and services,  
22 office furnishings ~~all expenditures for telephone and~~  
23 ~~telegraph charges, postage and postal charges, office~~  
24 ~~stationery, supplies and services, and office furniture~~  
25 ~~and equipment, including typewriters and copying and~~  
26 ~~duplicating machines and filing equipment,~~ surety bond

1 premiums, and travel expenses of those officers and  
2 employees, employees, expenditures or charges for the  
3 acquisition, enlargement or improvement of, or for the use  
4 of, any office space, building, or structure, or  
5 expenditures for the maintenance thereof or for furnishing  
6 heat, light, or power with respect thereto, all to the  
7 extent that those expenditures are directly incidental to  
8 such examinations or administration. The Commissioner  
9 shall not be required by paragraphs (c) or (d-1) of this  
10 subsection (3) to maintain in any fiscal year's budget  
11 appropriated reserves for accrued vacation and accrued  
12 sick leave that is required to be paid to employees of the  
13 Commissioner upon termination of their service with the  
14 Commissioner in an amount that is more than is reasonably  
15 anticipated to be necessary for any anticipated turnover in  
16 employees, whether due to normal attrition or due to  
17 layoffs, terminations, or resignations.

18 (d) The aggregate of all fees collected by the  
19 Secretary under this Act, the Corporate Fiduciary Act, or  
20 the Foreign Banking Office Act on and after July 1, 1979,  
21 shall be paid promptly after receipt of the same,  
22 accompanied by a detailed statement thereof, into the State  
23 treasury and shall be set apart in a special fund to be  
24 known as the "Bank and Trust Company Fund", except as  
25 provided in paragraph (c) of subsection (11) of this  
26 Section. All earnings received from investments of funds in



1 the Bank and Trust Company Fund shall be deposited in the  
2 Bank and Trust Company Fund and may be used for the same  
3 purposes as fees deposited in that Fund. The amount from  
4 time to time deposited into the Bank and Trust Company Fund  
5 shall be used: (i) to offset the ordinary administrative  
6 expenses of the Secretary as defined in this Section or  
7 (ii) as a credit against fees under paragraph (d-1) of this  
8 subsection (3). Nothing in this amendatory Act of 1979  
9 shall prevent continuing the practice of paying expenses  
10 involving salaries, retirement, social security, and  
11 State-paid insurance premiums of State officers by  
12 appropriations from the General Revenue Fund. However, the  
13 General Revenue Fund shall be reimbursed for those payments  
14 made on and after July 1, 1979, by an annual transfer of  
15 funds from the Bank and Trust Company Fund. Moneys in the  
16 Bank and Trust Company Fund may be transferred to the  
17 Professions Indirect Cost Fund, as authorized under  
18 Section 2105-300 of the Department of Professional  
19 Regulation Law of the Civil Administrative Code of  
20 Illinois.

21 Notwithstanding provisions in the State Finance Act,  
22 as now or hereafter amended, or any other law to the  
23 contrary, the sum of \$18,788,847 shall be transferred from  
24 the Bank and Trust Company Fund to the Financial  
25 Institutions Settlement of 2008 Fund on the effective date  
26 of this amendatory Act of the 95th General Assembly, or as

1 soon thereafter as practical.

2 Notwithstanding provisions in the State Finance Act,  
3 as now or hereafter amended, or any other law to the  
4 contrary, the Governor may, during any fiscal year through  
5 January 10, 2011, from time to time direct the State  
6 Treasurer and Comptroller to transfer a specified sum not  
7 exceeding 10% of the revenues to be deposited into the Bank  
8 and Trust Company Fund during that fiscal year from that  
9 Fund to the General Revenue Fund in order to help defray  
10 the State's operating costs for the fiscal year.  
11 Notwithstanding provisions in the State Finance Act, as now  
12 or hereafter amended, or any other law to the contrary, the  
13 total sum transferred during any fiscal year through  
14 January 10, 2011, from the Bank and Trust Company Fund to  
15 the General Revenue Fund pursuant to this provision shall  
16 not exceed during any fiscal year 10% of the revenues to be  
17 deposited into the Bank and Trust Company Fund during that  
18 fiscal year. The State Treasurer and Comptroller shall  
19 transfer the amounts designated under this Section as soon  
20 as may be practicable after receiving the direction to  
21 transfer from the Governor.

22 (d-1) Adequate funds shall be available in the Bank and  
23 Trust Company Fund to permit the timely payment of  
24 administration expenses. In each fiscal year the total  
25 administration expenses shall be deducted from the total  
26 fees collected by the Commissioner and the remainder

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

1           exclude the receivership fees provided for in Section 5-10  
2           of the Corporate Fiduciary Act.

3           (e) The Commissioner may upon request certify to any  
4           public record in his keeping and shall have authority to  
5           levy a reasonable charge for issuing certifications of any  
6           public record in his keeping.

7           (f) In addition to fees authorized elsewhere in this  
8           Act, the Commissioner may, in connection with a review,  
9           approval, or provision of a service, levy a reasonable  
10          charge to recover the cost of the review, approval, or  
11          service.

12          (4) Nothing contained in this Act shall be construed to  
13          limit the obligation relative to examinations and reports of  
14          any State bank, deposits in which are to any extent insured by  
15          the United States or any agency thereof, nor to limit in any  
16          way the powers of the Commissioner with reference to  
17          examinations and reports of that bank.

18          (5) The nature and condition of the assets in or investment  
19          of any bonus, pension, or profit sharing plan for officers or  
20          employees of every State bank or, after May 31, 1997, branch of  
21          an out-of-state bank shall be deemed to be included in the  
22          affairs of that State bank or branch of an out-of-state bank  
23          subject to examination by the Commissioner under the provisions  
24          of subsection (2) of this Section, and if the Commissioner  
25          shall find from an examination that the condition of or  
26          operation of the investments or assets of the plan is unlawful,

1 fraudulent, or unsafe, or that any trustee has abused his  
2 trust, the Commissioner shall, if the situation so found by the  
3 Commissioner shall not be corrected to his satisfaction within  
4 60 days after the Commissioner has given notice to the board of  
5 directors of the State bank or out-of-state bank of his  
6 findings, report the facts to the Attorney General who shall  
7 thereupon institute proceedings against the State bank or  
8 out-of-state bank, the board of directors thereof, or the  
9 trustees under such plan as the nature of the case may require.

10 (6) The Commissioner shall have the power:

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

13 (a-5) To impose conditions on any approval issued by  
14 the Commissioner if he determines that the conditions are  
15 necessary or appropriate. These conditions shall be  
16 imposed in writing and shall continue in effect for the  
17 period prescribed by the Commissioner.

18 (b) To issue orders against any person, if the  
19 Commissioner has reasonable cause to believe that an unsafe  
20 or unsound banking practice has occurred, is occurring, or  
21 is about to occur, if any person has violated, is  
22 violating, or is about to violate any law, rule, or written  
23 agreement with the Commissioner, or for the purpose of  
24 administering the provisions of this Act and any rule  
25 promulgated in accordance with this Act.

26 (b-1) To enter into agreements with a bank establishing

1 a program to correct the condition of the bank or its  
2 practices.

3 (c) To appoint hearing officers to execute any of the  
4 powers granted to the Commissioner under this Section for  
5 the purpose of administering this Act and any rule  
6 promulgated in accordance with this Act and otherwise to  
7 authorize, in writing, an officer or employee of the Office  
8 of Banks and Real Estate to exercise his powers under this  
9 Act.

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

19 (e) To conduct hearings.

20 (7) Whenever, in the opinion of the Commissioner, any  
21 director, officer, employee, or agent of a State bank or any  
22 subsidiary or bank holding company of the bank or, after May  
23 31, 1997, of any branch of an out-of-state bank or any  
24 subsidiary or bank holding company of the bank shall have  
25 violated any law, rule, or order relating to that bank or any  
26 subsidiary or bank holding company of the bank, shall have

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

1 person from further service with a bank or any subsidiary or  
2 bank holding company of the bank as a director, officer,  
3 employee, or agent. An order issued pursuant to this subsection  
4 shall be served upon the director, officer, employee, or agent.  
5 A copy of the order shall be sent to each director of the bank  
6 affected by registered mail. The person affected by the action  
7 may request a hearing before the State Banking Board within 10  
8 days after receipt of the order. The hearing shall be held by  
9 the Board within 30 days after the request has been received by  
10 the Board. The Board shall make a determination approving,  
11 modifying, or disapproving the order of the Commissioner as its  
12 final administrative decision. If a hearing is held by the  
13 Board, the Board shall make its determination within 60 days  
14 from the conclusion of the hearing. Any person affected by a  
15 decision of the Board under this subsection (7) of Section 48  
16 of this Act may have the decision reviewed only under and in  
17 accordance with the Administrative Review Law and the rules  
18 adopted pursuant thereto. A copy of the order shall also be  
19 served upon the bank of which he is a director, officer,  
20 employee, or agent, whereupon he shall cease to be a director,  
21 officer, employee, or agent of that bank. The Commissioner may  
22 institute a civil action against the director, officer, or  
23 agent of the State bank or, after May 31, 1997, of the branch  
24 of the out-of-state bank against whom any order provided for by  
25 this subsection (7) of this Section 48 has been issued, and  
26 against the State bank or, after May 31, 1997, out-of-state



1 bank, to enforce compliance with or to enjoin any violation of  
2 the terms of the order. Any person who has been the subject of  
3 an order of removal or an order of prohibition issued by the  
4 Commissioner under this subsection or Section 5-6 of the  
5 Corporate Fiduciary Act may not thereafter serve as director,  
6 officer, employee, or agent of any State bank or of any branch  
7 of any out-of-state bank, or of any corporate fiduciary, as  
8 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of  
9 any other entity that is subject to licensure or regulation by  
10 the Commissioner or the Office of Banks and Real Estate unless  
11 the Commissioner has granted prior approval in writing.

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

15 (8) The Commissioner may impose civil penalties of up to  
16 \$100,000 ~~\$10,000~~ against any person for each violation of any  
17 provision of this Act, any rule promulgated in accordance with  
18 this Act, excluding memorandums of understanding and written  
19 agreements ~~any order of the Commissioner~~, or any other action  
20 which in the Commissioner's discretion is an unsafe or unsound  
21 banking practice.

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

1           (10) All final administrative decisions of the  
2 Commissioner hereunder shall be subject to judicial review  
3 pursuant to the provisions of the Administrative Review Law.  
4 For matters involving administrative review, venue shall be in  
5 either Sangamon County or Cook County.

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

8           (a) (Blank).

9           (b) The Foundation is empowered to receive voluntary  
10 contributions, gifts, grants, bequests, and donations on  
11 behalf of the Illinois Bank Examiners' Education  
12 Foundation from national banks and other persons for the  
13 purpose of funding the endowment of the Illinois Bank  
14 Examiners' Education Foundation.

15           (c) The aggregate of all special educational fees  
16 collected by the Commissioner and property received by the  
17 Commissioner on behalf of the Illinois Bank Examiners'  
18 Education Foundation under this subsection (11) on or after  
19 June 30, 1986, shall be either (i) promptly paid after  
20 receipt of the same, accompanied by a detailed statement  
21 thereof, into the State Treasury and shall be set apart in  
22 a special fund to be known as "The Illinois Bank Examiners'  
23 Education Fund" to be invested by either the Treasurer of  
24 the State of Illinois in the Public Treasurers' Investment  
25 Pool or in any other investment he is authorized to make or  
26 by the Illinois State Board of Investment as the board of

1 trustees of the Illinois Bank Examiners' Education  
2 Foundation may direct or (ii) deposited into an account  
3 maintained in a commercial bank or corporate fiduciary in  
4 the name of the Illinois Bank Examiners' Education  
5 Foundation pursuant to the order and direction of the Board  
6 of Trustees of the Illinois Bank Examiners' Education  
7 Foundation.

8 (12) (Blank).

9 (13) The Secretary may borrow funds from the General  
10 Revenue Fund on behalf of the Bank and Trust Company Fund if  
11 the Director of Banking certifies to the Governor that there is  
12 an economic emergency affecting banking that requires a  
13 borrowing to provide additional funds to the Bank and Trust  
14 Company Fund. The borrowed funds shall be paid back within 3  
15 years and shall not exceed the total funding appropriated to  
16 the Agency in the previous year.

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

18 (205 ILCS 5/51) (from Ch. 17, par. 363)

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

20 (a) If the Commissioner with respect to a State bank shall  
21 find:

22 (1) its capital is impaired or it is otherwise in an  
23 unsound condition; or

24 (2) its business is being conducted in an unlawful,  
25 including, without limitation, in violation of any

1 provisions of State or federal law ~~this Act~~, or in a  
2 fraudulent or unsafe manner; or

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

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

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

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

18 (b) If the Commissioner has given notice to the board of  
19 directors of his findings, as provided in subsection (a), and  
20 the time period prescribed in that notice has expired, the  
21 Commissioner may extend the time period prescribed in that  
22 notice for such period as the Commissioner deems appropriate.

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

24 (205 ILCS 5/52) (from Ch. 17, par. 364)

25 Sec. 52. Capital impairment, etc.; emergency. If, in

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

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

17 Section 20. The Illinois Bank Holding Company Act of 1957  
18 is amended by changing Sections 2 and 3.074 as follows:

19 (205 ILCS 10/2) (from Ch. 17, par. 2502)

20 Sec. 2. Unless the context requires otherwise:

21 (a) "Bank" means any national banking association or any  
22 bank, banking association or savings bank, whether organized  
23 under the laws of Illinois, another state, the United States,  
24 the District of Columbia, any territory of the United States,

1 Puerto Rico, Guam, American Samoa or the Virgin Islands, which  
2 (1) accepts deposits that the depositor has a legal right to  
3 withdraw on demand by check or other negotiable order and (2)  
4 engages in the business of making commercial loans. "Bank" does  
5 not include any organization operating under Sections 25 or 25  
6 (a) of the Federal Reserve Act, or any organization which does  
7 not do business within the United States except as an incident  
8 to its activities outside the United States or any foreign  
9 bank.

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

13 (c) "Banking office" means the principal office of a bank,  
14 any branch of a bank, or any other office at which a bank  
15 accepts deposits, provided, however, that "banking office"  
16 shall not mean:

17 (1) unmanned automatic teller machines, point of sale  
18 terminals or other similar unmanned electronic banking  
19 facilities at which deposits may be accepted; or

20 (2) offices located outside the United States.

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

24 (e) "Commissioner" means the Secretary of Financial and  
25 Professional Regulation ~~Commissioner of Banks and Real Estate~~  
26 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 (f) "Community" means the contiguous area served by the  
4 banking offices of a bank, but need not be limited or expanded  
5 to conform to the geographic boundaries of units of local  
6 government.

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

21 (h) A company "controls or has control over" a bank or  
22 company if (1) it directly or indirectly owns or controls or  
23 has the power to vote, 25% or more of the voting shares of any  
24 class of voting securities of such bank or company or (2) it  
25 controls in any manner the election of a majority of the  
26 directors or trustees of such bank or company or (3) a trustee

1 holds for the benefit of its shareholders, members or  
2 employees, 25% or more of the voting shares of such bank or  
3 company or (4) it directly or indirectly exercises a  
4 controlling influence over the management or policies of such  
5 bank or company that is a bank holding company and the Board of  
6 Governors of the Federal Reserve System has so determined under  
7 the federal Bank Holding Company Act. In determining whether  
8 any company controls or has control over a bank or company: (i)  
9 shares owned or controlled by any subsidiary of a company shall  
10 be deemed to be indirectly owned or controlled by such company;  
11 (ii) shares held or controlled, directly or indirectly, by a  
12 trustee or trustees for the benefit of a company, the  
13 shareholders or members of a company or the employees (whether  
14 exclusively or not) of a company, shall be deemed to be  
15 controlled by such company; and (iii) shares transferred,  
16 directly or indirectly, by any bank holding company (or by any  
17 company which, but for such transfer, would be a bank holding  
18 company) to any transferee that is indebted to the transferor  
19 or that has one or more officers, directors, trustees or  
20 beneficiaries in common with or subject to control by the  
21 transferor, shall be deemed to be indirectly owned or  
22 controlled by the transferor unless the Board of Governors of  
23 the Federal Reserve System has determined, under the federal  
24 Bank Holding Company Act, that the transferor is not in fact  
25 capable of controlling the transferee. Notwithstanding the  
26 foregoing, no company shall be deemed to have control of or



1 over a bank or bank holding company (A) by virtue of its  
2 ownership or control of shares in a fiduciary capacity arising  
3 in the ordinary course of its business; (B) by virtue of its  
4 ownership or control of shares acquired by it in connection  
5 with its underwriting of securities which are held only for  
6 such period of time as will permit the sale thereof upon a  
7 reasonable basis; (C) by virtue of its holding any shares as  
8 collateral taken in the ordinary course of securing a debt or  
9 other obligation; (D) by virtue of its ownership or control of  
10 shares acquired in the ordinary course of collecting a debt or  
11 other obligation previously contracted in good faith, until 5  
12 years after the date acquired; or (E) by virtue of its voting  
13 rights with respect to shares of any bank or bank holding  
14 company acquired in the course of a proxy solicitation in the  
15 case of a company formed and operated for the sole purpose of  
16 participating in a proxy solicitation.

17 (h-5) "Division" means the Division of Banking within the  
18 Department of Financial and Professional Regulation

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

21 (j) "Foreign bank" means any company organized under the  
22 laws of a foreign country which engages in the business of  
23 banking or any subsidiary or affiliate of any such company,  
24 organized under such laws. "Foreign bank" includes, without  
25 limitation, foreign merchant banks and other foreign  
26 institutions that engage in banking activities usual in

1 connection with the business of banking in the countries where  
2 such foreign institutions are organized or operating.

3 (k) "Home state" means the home state of a foreign bank as  
4 determined pursuant to the federal International Banking Act of  
5 1978.

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

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

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

10 (m) "Illinois bank holding company" means a bank holding  
11 company:

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

13 (2) that is not directly or indirectly controlled by  
14 another bank holding company whose principal place of  
15 business is a state other than Illinois or by a foreign  
16 bank whose Home State is a state other than Illinois.

17 An out of state bank holding company that acquires control  
18 of one or more Illinois banks or Illinois bank holding  
19 companies pursuant to Sections 3.061 or 3.071 shall not be  
20 deemed an Illinois bank holding company.

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

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

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

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

5 (p) "Out of state bank holding company" means a bank  
6 holding company:

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

8 (2) whose principal place of business is a state other  
9 than Illinois the laws of which expressly authorize the  
10 acquisition by an Illinois bank holding company of a bank  
11 or bank holding company in that state under qualifications  
12 and conditions which are not unduly restrictive, as  
13 determined by the Commissioner, when compared to those  
14 imposed by the laws of Illinois.

15 (q) "Principal place of business" means, with respect to a  
16 bank holding company, the state in which the total deposits  
17 held by all of the banking offices of all of the bank  
18 subsidiaries of such bank holding company are the largest, as  
19 shown in the most recent reports of condition or similar  
20 reports filed by the bank holding company's bank subsidiaries  
21 with state or federal regulatory authorities.

22 (r) "State" or "states" when used in this Act means any  
23 State of the United States, the District of Columbia, any  
24 territory of the United States, Puerto Rico, Guam, American  
25 Samoa or the Virgin Islands.

26 (s) "Subsidiary", with respect to a specified bank holding

1 company, means any bank or company controlled by such bank  
2 holding company.

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

4 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

5 Sec. 3.074. Powers; administrative review.

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

7 (1) to promulgate reasonable ~~procedural~~ rules for the  
8 purposes of administering the provisions of this Act. The  
9 Commissioner shall specify the form of any application,  
10 report or document that is required to be filed with the  
11 Commissioner pursuant to this Act;

12 (2) to issue orders for the purpose of administering  
13 the provisions of this Act and any rule promulgated in  
14 accordance with this Act;

15 (3) to appoint hearing officers to execute any of the  
16 powers granted to the Commissioner under this Section for  
17 the purpose of administering this Act or any rule  
18 promulgated in accordance with this Act; ~~and~~

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

1 the Commissioner under the provisions of this Act or any  
2 rule promulgated in accordance with this Act; and

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

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

1 any examination or investigation by the Commissioner, engaged  
2 in an unsafe or unsound practice in conducting the business of  
3 that bank holding company or subsidiary or affiliate of that  
4 company, or violated any law or engaged or participated in any  
5 unsafe or unsound practice in connection with any financial  
6 institution or other business entity such that the character  
7 and fitness of the director, officer, employee, or agent would  
8 not have assured reasonable promise of safe and sound operation  
9 of the bank holding company, the Commissioner may issue an  
10 order prohibiting that person from further service with a bank  
11 holding company or subsidiary or affiliate of that company as a  
12 director, officer, employee, or agent.

13 An order issued pursuant to this subsection shall be served  
14 upon the director, officer, employee, or agent. A copy of the  
15 order shall be sent to each director of the bank holding  
16 company affected by registered mail. The person affected by the  
17 action may request a hearing before the State Banking Board  
18 within 10 days after receipt of the order. The hearing shall be  
19 held by the State Banking Board within 30 days after the  
20 request has been received by the State Banking Board. The State  
21 Banking Board shall make a determination approving, modifying,  
22 or disapproving the order of the Commissioner as its final  
23 administrative decision. If a hearing is held by the State  
24 Banking Board, the State Banking Board shall make its  
25 determination within 60 days from the conclusion of the  
26 hearing. Any person affected by a decision of the State Banking

1 Board under this subsection may have the decision reviewed only  
2 under and in accordance with the Administrative Review Law and  
3 the rules adopted pursuant thereto. A copy of the order shall  
4 also be served upon the bank holding company of which he is a  
5 director, officer, employee, or agent, whereupon he shall cease  
6 to be a director, officer, employee, or agent of that bank  
7 holding company.

8 The Commissioner may institute a civil action against the  
9 director, officer, employee, or agent of the bank holding  
10 company, against whom any order provided for by this subsection  
11 has been issued, to enforce compliance with or to enjoin any  
12 violation of the terms of the order.

13 Any person who has been the subject of an order of removal  
14 or an order of prohibition issued by the Commissioner under  
15 this subsection, subdivision (7) of Section 48 of the Illinois  
16 Banking Act, or Section 5-6 of the Corporate Fiduciary Act may  
17 not thereafter serve as director, officer, employee, or agent  
18 of any holding company, State bank, or branch of any  
19 out-of-state bank, of any corporate fiduciary, as defined in  
20 Section 1-5.05 of the Corporate Fiduciary Act, or of any other  
21 entity that is subject to licensure or regulation by the  
22 Commissioner or the Office of Banks and Real Estate unless the  
23 Commissioner has granted prior approval in writing.

24 (c) All final administrative decisions of the Commissioner  
25 under this Act shall be subject to judicial review pursuant to  
26 provisions of the Administrative Review Law. For matters

1 involving administrative review, venue shall be in either  
2 Sangamon County or Cook County.

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

4 Section 25. The Illinois Savings and Loan Act of 1985 is  
5 amended by changing Sections 1-10.04, 3-7, 7-1, 7-3, 7-4, 7-5,  
6 7-20, 7-22, and 10-1 and by adding Sections 1-10.065, 10-15,  
7 10-20, 10-25, 10-30, 10-35, 10-40, 10-45, 10-50, 10-55, 10-60,  
8 10-65, 10-70, 10-75, 10-80, 10-85, 10-90, 10-95, and 10-100 as  
9 follows:

10 (205 ILCS 105/1-10.04) (from Ch. 17, par. 3301-10.04)

11 Sec. 1-10.04. "Commissioner": the Secretary of Financial  
12 and Professional Regulation ~~Commissioner of Banks and Real~~  
13 ~~Estate~~ or some person authorized by the Secretary ~~Commissioner~~,  
14 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
15 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

17 (205 ILCS 105/1-10.065 new)

18 Sec. 1-10.065. Division. "Division" means the Division of  
19 Banking within the Department of Financial and Professional  
20 Regulation.

21 (205 ILCS 105/3-7) (from Ch. 17, par. 3303-7)

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



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

26           (b) Nothing contained herein shall preclude the

1 Commissioner from proceeding against an association as  
2 provided in this Act should he believe that it is being  
3 conducted in an unsafe manner in that the form or amount of  
4 bonds so fixed and approved by the board of directors is  
5 inadequate to give reasonable protection to the association.

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

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

8 Sec. 7-1. Office of the Commissioner of Savings and  
9 Residential Finance abolished. The Office of the Commissioner  
10 of Savings and Residential Finance is abolished and its  
11 functions are transferred to the Office of Banks and Real  
12 Estate as provided in the Division of Banking ~~Office of Banks  
13 and Real Estate~~ Act.

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

15 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

16 Sec. 7-3. Personnel, records, files, actions and duties,  
17 etc.

18 (a) The Secretary shall appoint, subject to applicable  
19 provisions of the Personnel Code, a supervisor, such examiners,  
20 employees, experts and special assistants as may be necessary  
21 to carry out effectively this Act. ~~The Secretary shall require  
22 each supervisor, examiner, expert and special assistant  
23 employed or appointed by him to give bond, with security to be  
24 approved by the Secretary, not less in any case than \$15,000,~~

1 ~~conditioned for the faithful discharge of his duties. The~~  
2 ~~premium on such bond shall be paid by the Secretary from funds~~  
3 ~~appropriated for that purpose. The bond, along with~~  
4 ~~verification of payment of the premium on such bond, shall be~~  
5 ~~filed in the office of the Secretary of State.~~

6 (b) The Secretary shall have the following duties and  
7 powers:

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

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

12 (3) To direct and supervise all the administrative and  
13 technical activities of this office and create an Advisory  
14 Committee which upon request will make recommendations to  
15 him;

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

19 (5) To cause a suit to be filed in his name to enforce  
20 any law of this State that applies to an association,  
21 subsidiary of an association, or holding company operating  
22 under this Act and shall include the enforcement of any  
23 obligation of the officers, directors or employees of any  
24 association;

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

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

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

15 (205 ILCS 105/7-4) (from Ch. 17, par. 3307-4)

16 Sec. 7-4. Prohibited activities. The Commissioner, deputy  
17 commissioners, and employees of the Office of Banks and Real  
18 Estate shall be subject to the restrictions provided in Section  
19 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
20 Act including, without limitation, the restrictions on (i)  
21 owning shares of stock or holding any other equity interest in  
22 an entity regulated under this Act or in any corporation or  
23 company that owns or controls an entity regulated under this  
24 Act; (ii) being an officer, director, employee, or agent of an  
25 entity regulated under this Act; and (iii) obtaining a loan or

1 accepting a gratuity from an entity regulated under this Act.

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

3 (205 ILCS 105/7-5) (from Ch. 17, par. 3307-5)

4 Sec. 7-5. Examination.

5 (a) The Commissioner, at least once every 18 months, but  
6 more often if he deems it necessary or expedient, with or  
7 without previous notice, shall cause an examination to be made  
8 of the affairs of every association, including any holding  
9 company and subsidiary thereof. If an association or holding  
10 company has not been audited at least once in the preceding 12  
11 months in accordance with this Act, the examination shall  
12 include an audit by licensed public accountants employed or  
13 appointed by the Commissioner. Such examination shall be made  
14 by competent examiners appointed for that purpose who are not  
15 officers or agents of, or in any manner interested in, any  
16 association or holding company which they examine, except that  
17 they may be holders of withdrawable capital. Notwithstanding  
18 any other provision of this Act, every eligible association, as  
19 defined by regulation, or, if not so defined, to an equivalent  
20 extent as would be permitted in the case of a State bank, the  
21 Secretary, in lieu of the examination, may accept on an  
22 alternating basis the examination made by the appropriate  
23 federal banking regulator, or its successor, pursuant to the  
24 federal Home Owners' Loan Act, provided the appropriate federal  
25 banking regulator, or its successor, has made an examination.

1           (b) The officers, agents or directors of any such  
2 association or holding company shall cause the books of the  
3 association or holding company to be opened for inspection by  
4 the Commissioner or his examiners and otherwise assist in such  
5 examination when requested; and for the purpose of examination,  
6 the examiner in charge thereof shall have power to administer  
7 oaths and to examine under oath any officers, employees, agents  
8 or directors of such association or holding company and such  
9 other witnesses as he deems necessary relative to the business  
10 of the association or holding company.

11           (c) The Commissioner shall make a report of each  
12 examination to the board of directors of the association or  
13 holding company examined, which report shall be read by each  
14 director, who will then execute a signed affidavit to be filed  
15 and preserved by the association or holding company  
16 acknowledging that he has read the Commissioner's report. If  
17 the affairs of the association or holding company are not being  
18 conducted in accordance with this Act, the Commissioner shall  
19 require the directors, officers or employees to take any  
20 necessary corrective action. If the necessary corrective  
21 action is not made, the Commissioner may issue a formal order  
22 to the directors of the association or holding company  
23 delivered either personally or by registered or certified mail,  
24 specifying a date which may be immediate or may be at a later  
25 date for the performance by the association or holding company  
26 of the corrective action. Such order or any part thereof shall

1 be subject to Sections 7-24 through 7-27 of this Act. If the  
2 formal order of the Commissioner in whole or in part contains a  
3 finding that the business of the association or holding company  
4 is being conducted in a fraudulent, illegal or unsafe manner,  
5 or that the violation thereof or the continuance by the  
6 association or holding company of the practice to be corrected  
7 could cause insolvency or substantial dissipation of assets or  
8 earnings or the impairment of its capital, such order or part  
9 thereof shall be complied with promptly on and after the  
10 effective date thereof until modified or withdrawn by the  
11 Commissioner, the Board, or modified or terminated by a circuit  
12 court. The Commissioner may apply to the circuit court of the  
13 county in which the association or holding company is located  
14 for enforcement of any such order requiring prompt compliance.  
15 If no hearing has been requested within the time specified by  
16 this Act, the Commissioner may, at any time within 90 days  
17 after the effective date of the order, institute suit in the  
18 Circuit Court of Sangamon County or the circuit court of the  
19 county in which the association or holding company is located  
20 to compel the directors, officers or employees to make the  
21 required corrective action. Such court shall, after due process  
22 of law, adjudicate the question and enter the proper order or  
23 orders and enforce them. In the interests of the members of the  
24 association or holding company, the Commissioner may prepare a  
25 statement of the condition of the association or holding  
26 company and may mail the statement to the members or may

1 require a single publication thereof.

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

3 (205 ILCS 105/7-20) (from Ch. 17, par. 3307-20)

4 Sec. 7-20. Board of Savings Institutions; appointment. The  
5 Savings and Loan Board is hereby redesignated the Board of  
6 Savings Institutions. The Board shall be composed of 7 persons  
7 appointed by the Governor. Four persons shall represent the  
8 public interest. Three persons shall have been engaged actively  
9 in savings and loan or savings bank management in this State  
10 for at least 5 years immediately prior to appointment. Each  
11 member of the Board shall be reimbursed for ordinary and  
12 necessary expenses incurred in attending the meetings of the  
13 Board ~~receive compensation of \$50 per day for each day actually~~  
14 ~~and necessarily consumed in the performance of the duties of~~  
15 ~~office, plus necessary expenses incurred in the performance of~~  
16 ~~those duties~~. The members of the Board serving immediately  
17 before the effective date of this amendatory Act of 1996 shall  
18 continue to serve for the balance of their respective terms.  
19 Members shall be appointed for 4-year terms to expire on the  
20 third Monday in January. Except as otherwise provided in this  
21 Section, members of the Board shall serve until their  
22 respective successors are appointed and qualified. A member who  
23 tenders a written resignation shall serve only until the  
24 resignation is accepted by the Chairman. A member who fails to  
25 attend 3 consecutive Board meetings without an excused absence



1 shall no longer serve as a member. The Governor shall fill any  
2 vacancy by the appointment of a member for the unexpired term  
3 in the same manner as in the making of original appointments.

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

5 (205 ILCS 105/7-22) (from Ch. 17, par. 3307-22)

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

8 (a) To advise the Governor and Secretary on all matters  
9 relating to the regulation of savings and loan associations and  
10 savings banks; ~~consider, hold public or private hearings and~~  
11 act upon appeals from any order, decision or action of the  
12 Commissioner by any aggrieved person except as otherwise  
13 specifically provided in this Act or the Savings Bank Act;

14 (b) (Blank) ~~To advise the Governor and the Commissioner~~  
15 ~~upon appointments and employment of personnel in connection~~  
16 ~~with the supervision of savings and loan associations and~~  
17 ~~savings banks; and~~

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

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

21 (205 ILCS 105/10-1) (from Ch. 17, par. 3310-1)

22 Sec. 10-1. Appointment of a receiver following taking of  
23 custody ~~Commissioner to appoint receiver.~~ If ~~the Commissioner,~~  
24 after taking custody of an association, the Secretary

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

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

16 (205 ILCS 105/10-15 new)

17 Sec. 10-15. Secretary's proceedings exclusive. Except by  
18 the authority of the Secretary, represented by the Attorney  
19 General, or the Federal Deposit Insurance Corporation pursuant  
20 to the Federal Deposit Insurance Act, no complaint shall be  
21 filed or proceedings commenced in any court for the dissolution  
22 of, the winding up of the affairs of, or the appointment of a  
23 receiver for any association on the grounds that:

24 (1) it is insolvent;

25 (2) its capital is impaired or it is otherwise in an

1       unsound condition;

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

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

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

6       (205 ILCS 105/10-20 new)

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

8       (a) If the Secretary, with respect to an association,  
9       finds:

10           (1) its capital is impaired or it is otherwise in an  
11       unsound condition;

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

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

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

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

1 liquidation through receivership.

2 (b) If the Secretary has given notice to the board of  
3 directors of his or her findings, as provided in subsection (a)  
4 of this Section, and the time period prescribed in that notice  
5 has expired, then the Secretary may extend the time period  
6 prescribed in that notice for such period as the Secretary  
7 deems appropriate.

8 (205 ILCS 105/10-25 new)

9 Sec. 10-25. Capital impairment; emergency. If, in addition  
10 to a finding as provided in Section 10-20 of this Act, the  
11 Secretary is of the opinion and finds that an emergency exists  
12 that may result in serious losses to the depositors or the  
13 inability of the association to continue in operations, meet  
14 the demands of its depositors, or pay its obligations in the  
15 normal course of business, he or she may, in his or her  
16 discretion, without having given the notice provided for in  
17 Section 10-20 of this Act, and whether or not proceedings under  
18 Section 10-20 of this Act have been instituted or are then  
19 pending, take possession and control of the association and its  
20 assets for the purpose of examination, reorganization, or  
21 liquidation through receivership.

22 (205 ILCS 105/10-30 new)

23 Sec. 10-30. Secretary's possession; power. The Secretary  
24 may take possession and control of an association and its

1 assets, by posting upon the premises a notice reciting that the  
2 Secretary is assuming possession pursuant to this Act, and the  
3 time when his or her possession shall be deemed to commence,  
4 which time shall not pre-date the posting of the notice.  
5 Promptly after taking possession and control of an association,  
6 if the Federal Deposit Insurance Corporation is not appointed  
7 as receiver, the Secretary shall file a copy of the notice  
8 posted upon the premises in the circuit court in the county in  
9 which the association is located, and thereupon the clerk of  
10 such court shall note the filing of the notice upon the records  
11 of the court, and shall enter such cause as a court action upon  
12 the dockets of such court under the name and style of "In the  
13 matter of the possession and control of the Secretary of  
14 (insert the name of such association)", and thereupon the court  
15 wherein such cause is docketed shall be vested with  
16 jurisdiction to hear and determine all issues and matters  
17 pertaining to or connected with the Secretary's possession and  
18 control of such association as provided in this Act, and such  
19 further issues and matters pertaining to or connected with the  
20 Secretary's possession and control as may be submitted to such  
21 court for its adjudication by the Secretary. When the Secretary  
22 has taken possession and control of an association and its  
23 assets, he or she shall be vested with the full powers of  
24 management and control, including without limitation the  
25 following:

26 (1) the power to continue or to discontinue the

1       business;

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

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

19           (4) the power to employ and to pay any necessary  
20       assistants;

21           (5) the power to execute any instrument in the name of  
22       the association;

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

25           (7) the power, upon the order of the court, to sell and  
26       convey its assets in whole or in part, and to sell or

1 compound bad or doubtful debts upon such terms and  
2 conditions as may be fixed in such order;

3 (8) the power, upon the order of the court, to make and  
4 to carry out agreements with other associations or with the  
5 United States or any agency thereof that shall insure the  
6 association's deposits, in whole or in part, for the  
7 payment or assumption of the association's liabilities, in  
8 whole or in part, and to transfer assets and to make  
9 guaranties, in whole or in part, and to transfer assets and  
10 to make guaranties in connection therewith;

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

14 (10) the power to terminate his or her possession and  
15 control by restoring the association to its board of  
16 directors;

17 (11) the power to reorganize the association as  
18 provided in this Act;

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

21 (13) the power, upon the order of the court and without  
22 the appointment of a receiver, to determine that the  
23 association has been closed for the purpose of liquidation  
24 without adequate provision being made for payment of its  
25 depositors, and thereupon the association shall be deemed  
26 to have been closed on account of inability to meet the

1       demands of its depositors.

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



1       Sec. 10-35. Secretary's possession; limitation of actions.  
2       Except when the Federal Deposit Insurance Corporation has taken  
3       possession of the association or is acting as receiver, if the  
4       Secretary has taken possession and control of an association  
5       and its assets, then there shall be a postponement until 6  
6       months after the commencement of the possession of the date  
7       upon which any period of limitation fixed by a statute or  
8       agreement would otherwise expire on a claim or right of action  
9       of the association, or upon which an appeal must be taken or a  
10       pleading or other document must be filed by the association in  
11       any pending action or proceeding. No judgment, lien, levy,  
12       attachment, or other similar legal process shall be enforced  
13       upon or satisfied in whole or in part from any asset of the  
14       association while it is in the possession of the Secretary,  
15       except upon the order of the court referred to in Section 10-30  
16       entered in due course pursuant to Section 10-90 of this Act.  
17       The provisions of this Section shall continue to apply and  
18       shall govern notwithstanding the appointment of and the  
19       possession by a receiver pursuant to Section 10-55 of this Act.

20       (205 ILCS 105/10-40 new)

21       Sec. 10-40. Reorganization. The Secretary, while in  
22       possession and control of an association and its assets, after  
23       according a hearing to interested parties as he or she may  
24       determine and upon the order of the court, may propose a  
25       reorganization plan. Such reorganization plan shall become

1 effective only (1) when the requirements of Section 10-45 are  
2 satisfied, and (2) when, after reasonable notice of such  
3 reorganization, as the case may require (A) depositors and  
4 other creditors of such association representing at least 75%  
5 in amount of its total deposits and other liabilities as shown  
6 by the books of the association, (B) stockholders owning at  
7 least two-thirds of its outstanding capital stock as shown by  
8 the books of the association, or (C) both depositors and other  
9 creditors representing at least 75% in amount of the total  
10 deposits and other liabilities and stockholders owning at least  
11 two-thirds of its outstanding capital stock as shown by the  
12 books of the association, shall have consented in writing to  
13 the plan of reorganization; provided, however, that claims of  
14 depositors or other creditors that will be satisfied in full on  
15 demand under the provisions of the plan of reorganization shall  
16 not be included among the total deposits and other liabilities  
17 of the association in determining the 75% required under this  
18 Section. When such reorganization becomes effective, all  
19 books, records, and assets of the association shall be disposed  
20 of in accordance with the provisions of the plan, and the  
21 affairs of the association shall be conducted by its board of  
22 directors in the manner provided by the plan and under the  
23 conditions, restrictions, and limitations prescribed by the  
24 Secretary. In any reorganization approved and effective as  
25 provided in this Section, all depositors and other creditors  
26 and stockholders of the association, whether or not they shall

1 have consented to such plan of reorganization, shall be fully  
2 and in all respects subject to and bound by its provisions, and  
3 claims of all depositors and other creditors shall be treated  
4 as if they have consented to the plan of reorganization. A  
5 department, agency, or political subdivision of this State  
6 holding a claim that will not be paid in full is authorized to  
7 participate in a plan of reorganization as any other creditor  
8 and shall be subject to and bound by its provisions as any  
9 other creditor.

10 (205 ILCS 105/10-45 new)

11 Sec. 10-45. Requirements of reorganization plan. A plan of  
12 reorganization for an association shall not be proposed under  
13 this Act unless:

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

16 (2) the face amount of the interest accorded to any  
17 class of depositors, creditors, and stockholders under the  
18 plan does not exceed the value of the assets upon  
19 liquidation less the full amount of the claims of all prior  
20 classes, subject, however, to any fair adjustment for new  
21 capital that any class will pay in under the plan;

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

25 (4) any merger or consolidation provided by the plan

1 conforms to the requirements of this Act; and

2 (5) any reorganized association provided by the plan  
3 conforms to the requirements of this Act for the  
4 organization of an association.

5 (205 ILCS 105/10-50 new)

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

16 (205 ILCS 105/10-55 new)

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

18 (a) If the Secretary determines, which determination may be  
19 made at the time of or any time subsequent to his or her taking  
20 possession and control of an association and its assets, that  
21 no practical possibility exists to reorganize the association  
22 after reasonable efforts have been made and that it should be  
23 liquidated through receivership, then the Secretary shall  
24 appoint a receiver and require of the receiver a bond and

1 security as the Secretary deems proper, and the Secretary,  
2 represented by the Attorney General, shall, if the Federal  
3 Deposit Insurance Corporation is not acting as receiver, file a  
4 complaint for the dissolution or winding up of the affairs of  
5 an association in the circuit court of the county where such  
6 association is located.

7 (b) Unless the Federal Deposit Insurance Corporation is  
8 acting as receiver for the association, the Secretary, upon  
9 taking possession and control of an association and its assets,  
10 may and, if he or she has not previously done so, shall,  
11 immediately upon filing a complaint for dissolution, make an  
12 examination of the affairs of the trust department of the  
13 association or appoint a corporate fiduciary or other suitable  
14 person to make the examination as the Secretary's agent. The  
15 examination shall be conducted in accordance with and pursuant  
16 to the authority granted under Section 5-2 of the Corporate  
17 Fiduciary Act and the corporate fiduciary or other suitable  
18 person conducting the examination shall have and may exercise  
19 on behalf of the Secretary all of the powers and authority  
20 granted to the Secretary. The report of examination shall, to  
21 the extent reasonably possible, identify those governing  
22 instruments with specific instructions concerning the  
23 appointment of a successor fiduciary. A copy of the report  
24 shall be filed in any dissolution proceeding filed by the  
25 Secretary. The reasonable fees and necessary expenses of the  
26 examining corporate fiduciary or other suitable person, as

1 approved by the Secretary or as recommended by the Secretary  
2 and approved by the court if a dissolution proceeding has been  
3 filed, shall be borne by the subject association and shall have  
4 the same priority for payment as the reasonable and necessary  
5 expenses of the Secretary in conducting an examination.

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

20 (205 ILCS 105/10-60 new)

21 Sec. 10-60. Notice of receivership. Upon appointing a  
22 receiver, other than the Federal Deposit Insurance  
23 Corporation, and upon the filing of a complaint for the  
24 dissolution or winding up of the affairs of an association, the  
25 Secretary shall cause notice to be given in that newspaper as

1 he or she directs once each week for 12 consecutive weeks  
2 calling on all persons who may have claims against such  
3 association to present the same to such receiver and to make  
4 legal proof thereof and notifying all such persons and all to  
5 whom it may concern of the filing of a complaint for the  
6 dissolution or winding up of the affairs of the association and  
7 stating the name and location of the court. All persons who may  
8 have claims against the association and the receiver to whom  
9 the persons have presented their claims may present them to the  
10 clerk of the court, and the allowance or disallowance of the  
11 claims by the court in connection with the proceedings shall be  
12 deemed an adjudication in a court of competent jurisdiction.

13 (205 ILCS 105/10-65 new)

14 Sec. 10-65. Receiver's powers; duties. Other than the  
15 Federal Deposit Insurance Corporation, which shall derive its  
16 powers and perform its duties pursuant to the Federal Deposit  
17 Insurance Act and regulations promulgated thereunder, the  
18 receiver for an association, under the direction of the  
19 Secretary, shall have the power and authority and is charged  
20 with the duties and responsibilities as follows:

21 (1) He or she shall take possession of and, for the  
22 purpose of the receivership, the title to the books,  
23 records, and assets of every description of the  
24 association.

25 (2) He or she shall proceed to collect all debts, dues,

1 and claims belonging to the association.

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

6 (4) He or she shall have authority to sue and defend in  
7 his or her own name with respect to the affairs, assets,  
8 claims, debts, and choses chooses in action of the  
9 association.

10 (5) He or she shall have authority, and it shall be his  
11 or her duty, to surrender to the customers of such  
12 association their private papers and valuables left with  
13 the association for safekeeping, upon satisfactory proof  
14 of ownership.

15 (6) He or she shall have authority to redeem or take  
16 down collateral hypothecated by the association to secure  
17 its notes or other evidence of indebtedness whenever the  
18 Secretary deems it to the best interest of the creditors of  
19 the association to do so.

20 (7) Whenever he or she finds it necessary in his or her  
21 opinion to use and employ money of the association in order  
22 to protect fully and benefit the association, by the  
23 purchase or redemption of any property, real or personal,  
24 in which the association may have any rights by reason of  
25 any bond, mortgage, assignment, or other claim thereto, he  
26 or she may certify the facts together with his or her



1 opinions as to the value of the property involved, and the  
2 value of the equity the association may have in the  
3 property to the Secretary, together with a request for the  
4 right and authority to use and employ so much of the money  
5 of the association as may be necessary to purchase the  
6 property, or to redeem the same from a sale if there was a  
7 sale, and if such request is granted, the receiver may use  
8 so much of the money of the association as the Secretary  
9 may have authorized to purchase the property at such sale.

10 (8) He or she shall deposit daily all moneys collected  
11 by him or her in any state or national association selected  
12 by the Secretary, who may require of (and the association  
13 so selected may furnish) the depository satisfactory  
14 securities or satisfactory surety bond for the safekeeping  
15 and prompt payment of the money so deposited. The deposits  
16 shall be made in the name of the Secretary in trust for the  
17 association and be subject to withdrawal upon his or her  
18 order or upon the order of persons as the Secretary may  
19 designate. The moneys may be deposited without interest,  
20 unless otherwise agreed. However, if any interest was paid  
21 by such depository, it shall accrue to the benefit of the  
22 particular trust to which the deposit belongs.

23 (9) He or she shall do such things and take steps from  
24 time to time under the direction and approval of the  
25 Secretary as may reasonably appear to be necessary to  
26 conserve the association's assets and secure the best

1 interests of the creditors of the association.

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

7 (205 ILCS 105/10-70 new)

8 Sec. 10-70. Receiver's powers; court directions. Upon the  
9 order of the court where the Secretary's complaint for the  
10 dissolution or winding up of the affairs of the association was  
11 filed, the receiver for the association shall have the power  
12 and authority and is charged with the duties and  
13 responsibilities as follows:

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

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

18 (3) He or she may petition the court for the authority  
19 to borrow money, and to pledge the assets of the  
20 association as security therefor, whereupon the practice  
21 and procedure shall be as follows:

22 (A) Upon the filing of the petition, the court  
23 shall set a date for the hearing of the petition and  
24 shall prescribe the form and manner of the notice to be  
25 given to the officers, stockholders, creditors, or

1           other persons interested in such association.

2           (B) Upon a hearing, any officer, stockholder,  
3           creditor, or person interested shall have the right to  
4           be heard.

5           (C) If the court grants such authority, then the  
6           receiver may borrow money and issue evidences of  
7           indebtedness therefor and may secure the payment of  
8           such loan by the mortgage, pledge, transfer in trust,  
9           or hypothecation of any or all property and assets of  
10          such association, whether real, personal, or mixed,  
11          superior to any charge thereon for the expenses of  
12          liquidation.

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

16          (E) Loans may be obtained for the purpose of  
17          facilitating liquidation, protecting or preserving the  
18          assets, expediting the making of distributions to  
19          depositors and other creditors, providing for the  
20          expenses of administration and liquidation, and in  
21          aiding in the reopening or reorganization of such  
22          association or its merger or consolidation with  
23          another association, or in the sale of its assets.

24          (F) The receiver shall be under no personal  
25          obligation to repay any such loan and shall have  
26          authority to take any action necessary or proper to

1           consummate such loan and to provide for the repayment  
2           thereof, and may, when required, give bond for the  
3           faithful performance of all undertakings in connection  
4           therewith.

5           (G) Prior to petitioning the court for authority to  
6           make any loan, the receiver may make application for or  
7           negotiate any loan subject to obtaining an order of the  
8           court approving the same.

9           (4) He or she may make and carry out agreements with  
10          other associations or with the United States or any agency  
11          thereof that has insured the association's deposits, in  
12          whole or in part, for the payment or assumption of the  
13          association's liabilities, in whole or in part, and he or  
14          she may transfer assets and make guaranties in connection  
15          therewith.

16          (5) After the expiration of 12 weeks after the first  
17          publication of the Secretary's notice as provided in  
18          Section 10-60, he or she shall file with the court a  
19          correct list of all creditors of the association, as shown  
20          by its books, who have not presented their claims and the  
21          amount of their respective claims after allowing all just  
22          credits, deductions and set-offs as shown by the books of  
23          the association. Claims filed shall be deemed proven,  
24          unless objections are filed thereto by a party or parties  
25          interested therein within the time fixed by the court.

26          (6) At the termination of his or her administration, he

1       or she shall petition the court for the entry of a judgment  
2       of dissolution. After a hearing upon notice as the court  
3       may prescribe, the court may enter a judgment of  
4       dissolution whereupon the association's charter is  
5       terminated.

6       The provisions of this Section do not apply to the Federal  
7       Deposit Insurance Corporation as receiver, which shall derive  
8       its powers and perform its duties pursuant to the Federal  
9       Deposit Insurance Act.

10       (205 ILCS 105/10-75 new)

11       Sec. 10-75. Change of receiver. At any time after a  
12       receiver, other than the Federal Deposit Insurance  
13       Corporation, is appointed by the Secretary, whenever  
14       two-thirds of the creditors of an association petition the  
15       Secretary for the appointment of any person nominated by them  
16       as receiver, who is a reputable person and a resident of the  
17       county in which such association is located, it shall be the  
18       duty of the Secretary to make such appointment and all rights  
19       and duties of his or her predecessor shall at once devolve upon  
20       such appointee. The Secretary may remove any receiver appointed  
21       by him or her, except the Federal Deposit Insurance Corporation  
22       or such receiver as shall have been appointed through  
23       nomination by the creditors. Such a receiver may be removed by  
24       the court upon a petition for his or her removal filed by the  
25       Secretary after hearing had upon such notice as the court may

1 prescribe. Upon the death, inability to act, resignation, or  
2 removal of a receiver, the Secretary may appoint his or her  
3 successor and, upon such appointment, all rights and duties of  
4 his predecessor shall at once devolve upon such appointee.

5 (205 ILCS 105/10-80 new)

6 Sec. 10-80. Insured deposits; subrogation. The right of an  
7 agency of the United States insuring deposits to be subrogated  
8 to the rights of depositors upon payment of their claim shall  
9 not be less extensive than the law of the United States  
10 requires as a condition of the authority to issue insurance or  
11 make the payment.

12 (205 ILCS 105/10-85 new)

13 Sec. 10-85. Expenses and fees. All expenses of a  
14 receivership, including reasonable receiver's and attorney's  
15 fees, approved by the Secretary shall be paid out of the assets  
16 of the association. All expenses of any preliminary or other  
17 examination into the condition of any such association or  
18 receivership and all expenses incident to and in connection  
19 with the possession and control of the association and its  
20 assets for the purpose of examination, reorganization, or  
21 liquidation through receivership shall be paid out of the  
22 assets of that association. The payment authorized under this  
23 Section may be made by the Secretary with moneys and property  
24 of the association in his or her possession and control and

1 shall have priority over all claims.

2 (205 ILCS 105/10-90 new)

3 Sec. 10-90. Dividends; dissolution. From time to time  
4 during a receivership other than a receivership conducted by  
5 the Federal Deposit Insurance Corporation, the Secretary shall  
6 make and pay from moneys of the association a ratable dividend  
7 on all claims as may be proved to his or her satisfaction or  
8 adjudicated by the court. Claims so proven or adjudicated shall  
9 bear interest at the rate of 3% per annum from the date of the  
10 appointment of the receiver to the date of payment, but all  
11 dividends on a claim shall be applied first to principal. In  
12 computing the amount of any dividend to be paid, if the  
13 Secretary deems it desirable in the interests of economy of  
14 administration and to the interest of the association and its  
15 creditors, he or she may pay up to the amount of \$10 of each  
16 claim or unpaid portion thereof in full. As the proceeds of the  
17 assets of the association are collected in the course of  
18 liquidation, the Secretary shall make and pay further dividends  
19 on all claims previously proven or adjudicated. After one year  
20 from the entry of a judgment of dissolution, all unclaimed  
21 dividends shall be remitted to the State Treasurer in  
22 accordance with the Uniform Disposition of Unclaimed Property  
23 Act, together with a list of all unpaid claimants, their last  
24 known addresses, and the amounts unpaid.

1 (205 ILCS 105/10-95 new)

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

14 (205 ILCS 105/10-100 new)

15 Sec. 10-100. Judicial review. Whenever the Secretary shall  
16 have taken possession and control of an association and its  
17 assets for the purpose of examination, reorganization, or  
18 liquidation through receivership, or whenever the Secretary  
19 shall have appointed a receiver for an association, other than  
20 the Federal Deposit Insurance Corporation, and filed a  
21 complaint for the dissolution or for the winding up of the  
22 affairs of an association, and the association denies the  
23 grounds for such actions, it may, at any time within 10 days,  
24 apply to the Circuit Court of Sangamon County, Illinois, to  
25 enjoin further proceedings in the premises; and such court



1 shall cite the Secretary to show cause why further proceedings  
2 should not be enjoined, and if the court shall find that such  
3 grounds do not exist, the court shall make an order enjoining  
4 the Secretary and any receiver acting under his or her  
5 direction from all further proceedings on account of such  
6 alleged grounds, provided that neither the 10 days allowed by  
7 this Section for judicial review nor the pendency of any  
8 proceedings for judicial review shall operate to defer, delay,  
9 impede, or prevent the payment or acquisition by the Federal  
10 Deposit Insurance Corporation of the deposit liabilities of the  
11 association that are insured by the Federal Deposit Insurance  
12 Corporation, and during said period allowed for judicial review  
13 and during the pendency of any proceedings for judicial review  
14 under this Section, the Secretary or, as the case may be, the  
15 receiver, shall make available to the Federal Deposit Insurance  
16 Corporation the facilities in or of the association and books,  
17 records, and other relevant data of the association as may be  
18 necessary or appropriate to enable the Federal Deposit  
19 Insurance Corporation to pay out or to acquire the insured  
20 deposit liabilities of the association, and said Federal  
21 Deposit Insurance Corporation and its directors, officers,  
22 agents, and employees, and the Secretary and his agents and  
23 employees, including the receiver, if any, shall be free from  
24 any liability to the association and its stockholders and  
25 creditors for or on account of any matter or thing in this  
26 proviso referred to or provided for.

1 Section 30. The Savings Bank Act is amended by changing  
2 Sections 1003, 1007.30, 4009, 9001, 9002, 9003, and 9004, by  
3 changing the heading to Article 10, and by adding Sections  
4 1007.57, 10011, 10015, 10020, 10025, 10030, 10035, 10040,  
5 10045, 10050, 10055, 10060, 10065, 10070, 10075, 10080, 10085,  
6 10090, 10095, and 10100 as follows:

7 (205 ILCS 205/1003) (from Ch. 17, par. 7301-3)

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

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

12 (205 ILCS 205/1007.30) (from Ch. 17, par. 7301-7.30)

13 Sec. 1007.30. "Commissioner" means the Secretary of  
14 Financial and Professional Regulation ~~Commissioner of Banks~~  
15 ~~and Real Estate~~ or a person authorized by the Secretary  
16 ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real~~  
17 ~~Estate Act~~, or this Act to act in the Secretary's  
18 ~~Commissioner's~~ stead.

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

20 (205 ILCS 205/1007.57 new)

21 Sec. 1007.57. Division. "Division" means the Division of  
22 Banking within the Department of Financial and Professional

1 Regulation.

2 (205 ILCS 205/4009) (from Ch. 17, par. 7304-9)

3 Sec. 4009. Bonds of officers and directors.

4 (a) Every person appointed or elected to any position  
5 requiring the receipt, payment, management, or use of money  
6 belonging to a savings bank or whose duties permit or require  
7 access to or custody of any of the savings bank's money or  
8 securities or whose duties permit the regular making of entries  
9 in the books or other records of the savings bank shall become  
10 bonded in some trust or company authorized to issue bonds in  
11 this State or in a fidelity insurance company licensed to do  
12 business in this State before assuming any duties. Each bond  
13 shall be on a form or forms as the Commissioner shall require  
14 and in the amount as the board of directors shall fix and  
15 approve. Each bond, payable to the savings bank, shall be an  
16 indemnity for any loss the savings bank may sustain in money or  
17 other property through any dishonest or criminal act or  
18 omission by any person required to be bonded, committed either  
19 alone or in concert with others. The bond shall be in the form  
20 and amount prescribed by the Commissioner, who may at any time  
21 require one or more additional bonds. ~~A true copy of every~~  
22 ~~bond, including all riders and endorsements executed~~  
23 ~~subsequent to the effective date of the bond, shall be filed at~~  
24 ~~all times with the Commissioner.~~ Each bond shall provide that a  
25 cancellation thereof either by the surety or by the insured

1 shall not become effective unless and until 30 days notice in  
2 writing first shall have been given to the Commissioner, unless  
3 he shall have approved the cancellation earlier.

4 (b) Nothing contained in this Section shall preclude the  
5 Commissioner from proceeding against a savings bank as provided  
6 in this Act should he believe that it is being conducted in an  
7 unsafe manner in that the form or amount of bonds so fixed and  
8 approved by the board of directors is inadequate to give  
9 reasonable protection to the savings bank.

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

11 (205 ILCS 205/9001) (from Ch. 17, par. 7309-1)

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

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

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

1 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

2 Sec. 9002. Powers of Secretary. The Secretary shall have  
3 the following powers and duties:

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

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

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

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

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

19 (6) To establish a reasonable fee structure for savings  
20 banks and holding companies operating under this Act and for  
21 their service corporations and subsidiaries. The fees shall  
22 include, but not be limited to, annual fees, application fees,  
23 regular and special examination fees, and other fees as the  
24 Secretary establishes and demonstrates to be directly  
25 resultant from the Secretary's responsibilities under this Act

1 and as are directly attributable to individual entities  
2 operating under this Act. The aggregate of all fees collected  
3 by the Secretary on and after the effective date of this Act  
4 shall be paid promptly after receipt of the same, accompanied  
5 by a detailed statement thereof, into the Savings and  
6 Residential Finance Regulatory Fund subject to the provisions  
7 of Section 7-19.1 of the Illinois Savings and Loan Act of 1985  
8 including without limitation the provision for credits against  
9 regulatory fees. The amounts deposited into the Fund shall be  
10 used for the ordinary and contingent expenses of the Office of  
11 Banks and Real Estate. Nothing in this Act shall prevent  
12 continuing the practice of paying expenses involving salaries,  
13 retirement, social security, and State-paid insurance of State  
14 officers by appropriation from the General Revenue Fund. The  
15 Secretary may require payment of the fees under this Act by an  
16 electronic transfer of funds or an automatic debit of an  
17 account of each of the savings banks.

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

19 (205 ILCS 205/9003) (from Ch. 17, par. 7309-3)

20 Sec. 9003. Prohibited activities. The Commissioner, deputy  
21 commissioners, and employees of the Office of Banks and Real  
22 Estate shall be subject to the restrictions provided in Section  
23 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~  
24 Act including, without limitation, the restrictions on (i)  
25 owning shares of stock or holding any other equity interest in

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

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

7 (205 ILCS 205/9004) (from Ch. 17, par. 7309-4)

8 Sec. 9004. Examination.

9 (a) At least once every 18 months or more often if it is  
10 deemed necessary or expedient, the Commissioner shall examine  
11 the books, records, operations, and affairs of each savings  
12 bank operating under this Act. In the course of the  
13 examination, the Commissioner shall also examine in the same  
14 manner all entities, companies, and individuals which or whom  
15 the Commissioner determines may have a relationship with the  
16 savings bank or any subsidiary or entity affiliated with it, if  
17 the relationship may adversely affect the affairs, activities,  
18 and safety and soundness of the savings bank, including: (i)  
19 companies controlled by the savings bank; (ii) entities,  
20 including companies controlled by the company, individual, or  
21 individuals that control the savings bank; and (iii) the  
22 company or other entity which controls or owns the savings  
23 bank. For purposes of this subsection, the Commissioner shall  
24 deem it necessary or expedient to conduct an examination more  
25 often than every 18 months if a required report from a savings

1 bank indicates a material change in financial condition or a  
2 material violation of a law or regulation. In that event, the  
3 Commissioner shall initiate an examination within 30 days of  
4 receipt of that information. In the event that the condition is  
5 grounds for taking custody of the savings bank under Section  
6 10001 of this Act, the examination shall be initiated  
7 immediately. Notwithstanding any other provision of this Act,  
8 every savings bank, as defined by rule, or, if not defined, to  
9 the same extent as would be permitted in the case of a State  
10 bank, the Secretary, in lieu of the examination, may accept on  
11 an alternating basis the examination made by the eligible  
12 savings bank's appropriate federal banking agency pursuant to  
13 Section 111 of the Federal Deposit Insurance Corporation  
14 Improvement Act of 1991, provided the appropriate federal  
15 banking agency has made an examination.

16 (b) The Commissioner shall examine to determine:

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

19 (2) Compliance with this Act and other applicable  
20 statutes and regulations.

21 (3) Quality of management policies.

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

24 (5) Remedial actions required to correct and to restore  
25 compliance with applicable statutes, regulations, and  
26 proper business policies.



1 (c) The Commissioner shall promulgate regulations to  
2 implement and administer this Section.

3 (d) If a savings bank, its holding company, or any of its  
4 corporate subsidiaries has not been audited at least once in  
5 the 12 months prior to the Commissioner's examination, the  
6 Commissioner shall cause an audit of the savings bank's books  
7 and records to be made by an independent licensed public  
8 accountant selected by the Commissioner from a list composed of  
9 certified public accountants who have experience in savings  
10 bank audits. The cost of the audit shall be paid for by the  
11 entity being audited.

12 (e) The Commissioner or the Commissioner's examiners or  
13 other formally designated agents are authorized to administer  
14 oaths and to examine and to take and preserve testimony under  
15 oath as to anything in the affairs or ownership of any savings  
16 bank or institution or affiliate thereof.

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

18 (205 ILCS 205/Art. 10 heading)

19 ARTICLE 10. Involuntary Liquidation ~~Custody and~~  
20 ~~Conservatorship~~

21 (205 ILCS 205/10011 new)

22 Sec. 10011. Appointment of a receiver following taking of  
23 custody. If, following the taking of custody of a savings bank,  
24 the Secretary determines that the appointment of a receiver is

1 appropriate, then the provisions of this Article shall apply.

2 (205 ILCS 205/10015 new)

3 Sec. 10015. Secretary's proceedings exclusive. Except by  
4 the authority of the Secretary, represented by the Attorney  
5 General, or the Federal Deposit Insurance Corporation pursuant  
6 to the Federal Deposit Insurance Act, no complaint shall be  
7 filed or proceedings commenced in any court for the dissolution  
8 of, the winding up of the affairs of, or the appointment of a  
9 receiver for any savings bank on the grounds that:

10 (1) it is insolvent;

11 (2) its capital is impaired or it is otherwise in an  
12 unsound condition;

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

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

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

17 (205 ILCS 205/10020 new)

18 Sec. 10020. Capital impairment; correction.

19 (a) If the Secretary, with respect to a savings bank,  
20 shall find:

21 (1) its capital is impaired or it is otherwise in an  
22 unsound condition;

23 (2) its business is being conducted in an unlawful  
24 manner, including, without limitation, in violation of any

1 provisions of this Act, or in a fraudulent or unsafe  
2 manner;

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

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

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

15 (b) If the Secretary has given notice to the board of  
16 directors of his or her findings, as provided in subsection  
17 (a), and the time period prescribed in that notice has expired,  
18 the Secretary may extend the time period prescribed in that  
19 notice for such period as the Secretary deems appropriate.

20 (205 ILCS 205/10025 new)

21 Sec. 10025. Capital impairment; emergency. If, in addition  
22 to a finding as provided in Section 10020 of this Act, the  
23 Secretary is of the opinion and finds that an emergency exists  
24 that may result in serious losses to the depositors or the  
25 inability of the savings bank to continue in operations, meet

1 the demands of its depositors, or pay its obligations in the  
2 normal course of business, he or she may, in his or her  
3 discretion, without having given the notice provided for in  
4 Section 10020, and whether or not proceedings under Section  
5 10020 have been instituted or are then pending, take possession  
6 and control of the savings bank and its assets for the purpose  
7 of examination, reorganization, or liquidation through  
8 receivership.

9 (205 ILCS 205/10030 new)

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

1 court wherein the cause is docketed shall be vested with  
2 jurisdiction to hear and determine all issues and matters  
3 pertaining to or connected with the Secretary's possession and  
4 control of the savings bank as provided in this Act, and such  
5 further issues and matters pertaining to or connected with the  
6 Secretary's possession and control as may be submitted to the  
7 court for its adjudication by the Secretary. When the Secretary  
8 has taken possession and control of a savings bank and its  
9 assets, then he or she shall be vested with the full powers of  
10 management and control, including without limitation the  
11 following:

12 (1) the power to continue or to discontinue the  
13 business;

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

1 applied exceed the global net payment obligation, if any;

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

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

6 (5) the power to execute any instrument in the name of  
7 the savings bank;

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

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

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

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

25 (10) the power to terminate his or her possession and  
26 control by restoring the savings bank to its board of

1       directors;

2           (11) the power to reorganize the savings bank as  
3 provided in this Act;

4           (12) the power to appoint a receiver and to order  
5 liquidation of the savings bank as provided in this Act;  
6 and

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

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

1 Secretary's possession and control and of its reorganization  
2 shall be borne by the savings bank and may be paid by the  
3 Secretary from its assets. If the Federal Deposit Insurance  
4 Corporation is appointed by the Secretary as receiver of a  
5 savings bank, or the Federal Deposit Insurance Corporation  
6 takes possession of the savings bank, the receivership  
7 proceedings and the powers and duties of the Federal Deposit  
8 Insurance Corporation shall be governed by the Federal Deposit  
9 Insurance Act and regulations promulgated under that Act rather  
10 than the provisions of this Act.

11 (205 ILCS 205/10035 new)

12 Sec. 10035. Secretary's possession; limitation of actions.  
13 Except when the Federal Deposit Insurance Corporation has taken  
14 possession of the savings bank or is acting as receiver, if the  
15 Secretary has taken possession and control of a savings bank  
16 and its assets, there shall be a postponement until 6 months  
17 after the commencement of the possession of the date upon which  
18 any period of limitation fixed by a statute or agreement would  
19 otherwise expire on a claim or right of action of the savings  
20 bank, or upon which an appeal must be taken or a pleading or  
21 other document must be filed by the savings bank in any pending  
22 action or proceeding. No judgment, lien, levy, attachment, or  
23 other similar legal process shall be enforced upon or satisfied  
24 in whole or in part from any asset of the savings bank while it  
25 is in the possession of the Secretary, except upon the order of



1 the court referred to in Section 10030 entered in due course  
2 pursuant to Section 10090 of this Act. The provisions of this  
3 Section shall continue to apply and shall govern  
4 notwithstanding the appointment of and the possession by a  
5 receiver pursuant to Section 10055 of this Act.

6 (205 ILCS 205/10040 new)

7 Sec. 10040. Reorganization. The Secretary, while in  
8 possession and control of a savings bank and its assets, after  
9 according the hearing to interested parties as he or she may  
10 determine and upon the order of the court, may propose a  
11 reorganization plan. The reorganization plan shall become  
12 effective only (1) when the requirements of Section 10045 are  
13 satisfied, and (2) when, after reasonable notice of such  
14 reorganization, as the case may require (A) depositors and  
15 other creditors of such savings bank representing at least 75%  
16 in amount of its total deposits and other liabilities as shown  
17 by the books of the savings bank, (B) stockholders owning at  
18 least two-thirds of its outstanding capital stock as shown by  
19 the books of the savings bank, or (C) both depositors and other  
20 creditors representing at least 75% in amount of the total  
21 deposits and other liabilities and stockholders owning at least  
22 two-thirds of its outstanding capital stock as shown by the  
23 books of the savings bank, shall have consented in writing to  
24 the plan of reorganization; provided, however, that claims of  
25 depositors or other creditors that will be satisfied in full on

1 demand under the provisions of the plan of reorganization shall  
2 not be included among the total deposits and other liabilities  
3 of the savings bank in determining the 75% required under this  
4 Section. When such reorganization becomes effective, all  
5 books, records, and assets of the savings bank shall be  
6 disposed of in accordance with the provisions of the plan and  
7 the affairs of the savings bank shall be conducted by its board  
8 of directors in the manner provided by the plan and under the  
9 conditions, restrictions, and limitations prescribed by the  
10 Secretary. In any reorganization approved and effective as  
11 provided in this Section, all depositors and other creditors  
12 and stockholders of the savings bank, whether or not they shall  
13 have consented to the plan of reorganization, shall be fully  
14 and in all respects subject to and bound by its provisions, and  
15 claims of all depositors and other creditors shall be treated  
16 as if they have consented to the plan of reorganization. A  
17 department, agency, or political subdivision of this State  
18 holding a claim that will not be paid in full is authorized to  
19 participate in a plan of reorganization as any other creditor  
20 and shall be subject to and bound by its provisions as any  
21 other creditor.

22 (205 ILCS 205/10045 new)

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

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

3           (2) the face amount of the interest accorded to any  
4           class of depositors, creditors and stockholders under the  
5           plan does not exceed the value of the assets upon  
6           liquidation less the full amount of the claims of all prior  
7           classes, subject, however, to any fair adjustment for new  
8           capital that any class will pay in under the plan;

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

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

14          (5) any reorganized savings bank provided by the plan  
15          conforms to the requirements of this Act for the  
16          organization of a savings bank.

17           (205 ILCS 205/10050 new)

18          Sec. 10050. Reorganization; emergency. Whenever, in the  
19          course of reorganization, supervening conditions render the  
20          plan of reorganization unfair or its execution impractical, the  
21          Secretary may modify the plan, provided the modification is  
22          with the written consent of the depositors and other creditors  
23          representing at least 75% in amount of the total deposits and  
24          other liabilities which are impaired or lessened by the  
25          modification, or may, provided the Federal Deposit Insurance

1 has not been appointed, appoint a receiver for liquidation as  
2 provided in this Act.

3 (205 ILCS 205/10055 new)

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

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

18 (b) Unless the Federal Deposit Insurance Corporation is  
19 acting as receiver for the savings bank, the Secretary, upon  
20 taking possession and control of a savings bank and its assets,  
21 may and, if he or she has not previously done so, shall,  
22 immediately upon filing a complaint for dissolution, make an  
23 examination of the affairs of the trust department of the  
24 savings bank or appoint a corporate fiduciary or other suitable  
25 person to make the examination as the Secretary's agent. The

1 examination shall be conducted in accordance with and pursuant  
2 to the authority granted under Section 5-2 of the Corporate  
3 Fiduciary Act, as now or hereafter amended, and the corporate  
4 fiduciary or other suitable person conducting the examination  
5 shall have and may exercise on behalf of the Secretary all of  
6 the powers and authority granted to the Secretary thereunder.  
7 The report of examination shall, to the extent reasonably  
8 possible, identify those governing instruments with specific  
9 instructions concerning the appointment of a successor  
10 fiduciary. A copy of the report shall be filed in any  
11 dissolution proceeding filed by the Secretary. The reasonable  
12 fees and necessary expenses of the examining corporate  
13 fiduciary or other suitable person, as approved by the  
14 Secretary or as recommended by the Secretary and approved by  
15 the court if a dissolution proceeding has been filed, shall be  
16 borne by the subject savings bank and shall have the same  
17 priority for payment as the reasonable and necessary expenses  
18 of the Secretary in conducting an examination.

19 As soon as reasonably can be done, the Secretary, if he or  
20 she deems it advisable, shall seek the advice and instruction  
21 of the court concerning the removal of the corporate fiduciary  
22 as to all of its fiduciary accounts and the appointment of a  
23 successor fiduciary, which may be the examining corporate  
24 fiduciary, to take over and administer all of the fiduciary  
25 accounts being administered by the trust department of the  
26 savings bank. The corporate fiduciary or other suitable person

1 appointed to make the examination shall make a proper  
2 accounting, in the manner and scope as determined by the  
3 Secretary to be practical and advisable under the  
4 circumstances, on behalf of the trust department of the savings  
5 bank and no guardian ad litem need be appointed to review the  
6 accounting.

7 (205 ILCS 205/10060 new)

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

1 (205 ILCS 205/10065 new)

2 Sec. 10065. Receiver's powers; duties. Other than the  
3 Federal Deposit Insurance Corporation, which shall derive its  
4 powers and perform its duties pursuant to the Federal Deposit  
5 Insurance Act and regulations promulgated thereunder, the  
6 receiver for a savings bank, under the direction of the  
7 Secretary, shall have the power and authority and is charged  
8 with the duties and responsibilities as follows:

9 (1) He or she shall take possession of and, for the  
10 purpose of the receivership, the title to the books,  
11 records, and assets of every description of the savings  
12 bank.

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

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

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

23 (5) He or she shall have authority, and it shall be his  
24 or her duty, to surrender to the customers of such savings  
25 bank their private papers and valuables left with the  
26 savings bank for safekeeping, upon satisfactory proof of

1       ownership.

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

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

23           (8) He or she shall deposit daily all monies collected  
24       by him or her in any savings bank selected by the  
25       Secretary, who may require of (and the savings bank so  
26       selected may furnish) such depository satisfactory



1       securities or satisfactory surety bond for the safekeeping  
2       and prompt payment of the money so deposited. The deposits  
3       shall be made in the name of the Secretary in trust for the  
4       savings bank and be subject to withdrawal upon his or her  
5       order or upon the order of such persons as the Secretary  
6       may designate. Such monies may be deposited without  
7       interest, unless otherwise agreed. However, if any  
8       interest was paid by such depository, it shall accrue to  
9       the benefit of the particular trust to which the deposit  
10       belongs.

11       (9) He or she shall do things and take such steps from  
12       time to time under the direction and approval of the  
13       Secretary as may reasonably appear to be necessary to  
14       conserve the savings bank's assets and secure the best  
15       interests of the creditors of the savings bank.

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

21       (205 ILCS 205/10070 new)

22       Sec. 10070. Receiver's powers; court directions. Upon the  
23       order of the court wherein the Secretary's complaint for the  
24       dissolution or winding up of the affairs of the savings bank  
25       was filed, the receiver for the savings bank shall have the

1 power and authority and is charged with the duties and  
2 responsibilities as follows:

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

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

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

12 (A) Upon the filing of the petition, the court  
13 shall set a date for the hearing of the petition and  
14 shall prescribe the form and manner of the notice to be  
15 given to the officers, stockholders, creditors, or  
16 other persons interested in such savings bank.

17 (B) Upon such hearing, any officer, stockholder,  
18 creditor, or person interested shall have the right to  
19 be heard.

20 (C) If the court grants such authority, then the  
21 receiver may borrow money and issue evidences of  
22 indebtedness therefor and may secure the payment of  
23 such loan by the mortgage, pledge, transfer in trust,  
24 or hypothecation of any or all property and assets of  
25 such savings bank, whether real, personal, or mixed,  
26 superior to any charge thereon for the expenses of

1           liquidation.

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

5           (E) The loan may be obtained for the purpose of  
6 facilitating liquidation, protecting or preserving the  
7 assets, expediting the making of distributions to  
8 depositors and other creditors, providing for the  
9 expenses of administration and liquidation, and aiding  
10 in the reopening or reorganization of such savings bank  
11 or its merger or consolidation with another savings  
12 bank, or in the sale of its assets.

13           (F) The receiver shall be under no personal  
14 obligation to repay any such loan and shall have  
15 authority to take any action necessary or proper to  
16 consummate such loan and to provide for the repayment  
17 thereof, and may, when required, give bond for the  
18 faithful performance of all undertakings in connection  
19 therewith.

20           (G) Prior to petitioning the court for authority to  
21 make any such loan, the receiver may make application  
22 for or negotiate any loan subject to obtaining an order  
23 of the court approving the same.

24           (4) He or she may make and carry out agreements with  
25 other savings banks or with the United States or any agency  
26 thereof that has insured the savings bank's deposits, in

1       whole or in part, for the payment or assumption of the  
2       savings bank's liabilities, in whole or in part, and he or  
3       she may transfer assets and make guaranties in connection  
4       therewith.

5           (5) After the expiration of 12 weeks after the first  
6       publication of the Secretary's notice as provided in  
7       Section 10060, he or she shall file with the court a  
8       correct list of all creditors of the savings bank, as shown  
9       by its books, who have not presented their claims and the  
10       amount of their respective claims after allowing all just  
11       credits, deductions and set-offs as shown by the books of  
12       the savings bank. Claims that are filed shall be deemed  
13       proven, unless objections are filed thereto by a party or  
14       parties interested therein within such time as is fixed by  
15       the court.

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

1       Sec. 10075. Change of receiver. At any time after a  
2 receiver, other than the Federal Deposit Insurance  
3 Corporation, is appointed by the Secretary, whenever  
4 two-thirds of the creditors of a savings bank petition the  
5 Secretary for the appointment of any person nominated by them  
6 as receiver, who is a reputable person and a resident of the  
7 county in which such savings bank is located, it shall be the  
8 duty of the Secretary to make such appointment and all rights  
9 and duties of his or her predecessor shall at once devolve upon  
10 such appointee. The Secretary may remove any receiver appointed  
11 by him or her, except the Federal Deposit Insurance Corporation  
12 or such receiver as shall have been appointed through  
13 nomination by the creditors. Such a receiver may be removed by  
14 the court upon a petition for his or her removal filed by the  
15 Secretary after hearing had upon such notice as the court may  
16 prescribe. Upon the death, inability to act, resignation, or  
17 removal of a receiver the Secretary may appoint his or her  
18 successor and, upon the appointment, all rights and duties of  
19 his or her predecessor shall at once devolve upon such  
20 appointee.

21       (205 ILCS 205/10080 new)

22       Sec. 10080. Insured deposits; subrogation. The right of an  
23 agency of the United States insuring deposits to be subrogated  
24 to the rights of depositors upon payment of their claim shall  
25 not be less extensive than the law of the United States

1 requires as a condition of the authority to issue such  
2 insurance or make such payment.

3 (205 ILCS 205/10085 new)

4 Sec. 10085. Expenses and fees. All expenses of a  
5 receivership, including reasonable receiver's and attorney's  
6 fees approved by the Secretary shall be paid out of the assets  
7 of the savings bank. All expenses of any preliminary or other  
8 examination into the condition of any the savings bank or  
9 receivership and all expenses incident to and in connection  
10 with the possession and control of the bank and its assets for  
11 the purpose of examination, reorganization, or liquidation  
12 through receivership shall be paid out of the assets of the  
13 savings bank. The payment authorized under this Section may be  
14 made by the Secretary with moneys and property of the bank in  
15 his or her possession and control and shall have priority over  
16 all claims.

17 (205 ILCS 205/10090 new)

18 Sec. 10090. Dividends; dissolution. From time to time  
19 during a receivership other than a receivership conducted by  
20 the Federal Deposit Insurance Corporation, the Secretary shall  
21 make and pay from moneys of the savings bank a ratable dividend  
22 on all claims as may be proved to his or her satisfaction or  
23 adjudicated by the court. Claims so proven or adjudicated shall  
24 bear interest at the rate of 3% per annum from the date of the

1 appointment of the receiver to the date of payment, but all  
2 dividends on a claim shall be applied first to principal. In  
3 computing the amount of any dividend to be paid, if the  
4 Secretary deems it desirable in the interests of economy of  
5 administration and to the interest of the savings bank and its  
6 creditors, he or she may pay up to the amount of \$10 of each  
7 claim or unpaid portion thereof in full. As the proceeds of the  
8 assets of the savings bank are collected in the course of  
9 liquidation, the Secretary shall make and pay further dividends  
10 on all claims previously proven or adjudicated. After one year  
11 from the entry of a judgment of dissolution, all unclaimed  
12 dividends shall be remitted to the State Treasurer in  
13 accordance with the Uniform Disposition of Unclaimed Property  
14 Act, as now or hereafter amended, together with a list of all  
15 unpaid claimants, their last known addresses and the amounts  
16 unpaid.

17 (205 ILCS 205/10095 new)

18 Sec. 10095. Validation of dividends; destruction of  
19 records. In all cases where the Secretary, prior to this  
20 Section taking effect, has made ratable dividends of money on  
21 claims that have been proven to the satisfaction of the  
22 Secretary or adjudicated in any court of this State, such  
23 dividends are hereby ratified and confirmed and made valid and  
24 legal in all respects. All records of receiverships heretofore  
25 and hereafter received by the Secretary or by a receiver

1 appointed by the Secretary shall be held by the Secretary or  
2 the receiver for the period of 2 years after the close of the  
3 receivership and, at the termination of the 2-year period, may  
4 then be destroyed.

5 (205 ILCS 205/10100 new)

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



1 Deposit Insurance Corporation of the deposit liabilities of the  
2 savings bank that are insured by the Federal Deposit Insurance  
3 Corporation, and during the period allowed for judicial review  
4 and during the pendency of any proceedings for judicial review  
5 under this Section 10100, the Secretary or, as the case may be,  
6 the receiver, shall make available to the Federal Deposit  
7 Insurance Corporation such facilities in or of the savings bank  
8 and the books, records, and other relevant data of the savings  
9 bank as may be necessary or appropriate to enable the Federal  
10 Deposit Insurance Corporation to pay out or to acquire the  
11 insured deposit liabilities of the savings bank, and said  
12 Federal Deposit Insurance Corporation and its directors,  
13 officers, agents, and employees, and the Secretary and his  
14 agents and employees, including the receiver, if any, shall be  
15 free from any liability to the savings bank and its  
16 stockholders and creditors for or on account of any matter or  
17 thing in this proviso referred to or provided for.

18 Section 35. The Pawnbroker Regulation Act is amended by  
19 changing Sections 0.05 and 1 and by adding Section 5.5 as  
20 follows:

21 (205 ILCS 510/0.05)

22 Sec. 0.05. Administration of Act.

23 (a) This Act shall be administered by the Commissioner of  
24 Banks and Real Estate, except that beginning on the effective

1 date of this amendatory Act of the 96th General Assembly, all  
2 references in this Act to the Commissioner of Banks and Real  
3 Estate are deemed, in appropriate contexts, to be references to  
4 the Secretary of Financial and Professional Regulation, who  
5 shall have all of the following powers and duties in  
6 administering this Act:

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

9 (2) To issue orders for the purpose of administering  
10 the provisions of this Act and any rule promulgated in  
11 accordance with this Act.

12 (3) To appoint hearing officers and to hire employees  
13 or to contract with appropriate persons to execute any of  
14 the powers granted to the Commissioner under this Section  
15 for the purpose of administering this Act and any rule  
16 promulgated in accordance with this Act.

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

26 (5) To conduct hearings.

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

6           (6.5) To initiate, through the Attorney General,  
7 injunction proceedings whenever it appears to the  
8 Commissioner that any person, whether licensed under this  
9 Act or not, is engaged or about to engage in an act or  
10 practice that constitutes or will constitute a violation of  
11 this Act or any rule prescribed under the authority of this  
12 Act. The Commissioner may, in his or her discretion,  
13 through the Attorney General, apply for an injunction, and  
14 upon a proper showing, any circuit court may enter a  
15 permanent or preliminary injunction or a temporary  
16 restraining order without bond to enforce this Act in  
17 addition to the penalties and other remedies provided for  
18 in this Act.

19           (7) To issue a cease and desist order and, for  
20 violations of this Act, any order issued by the  
21 Commissioner pursuant to this Act, any rule promulgated in  
22 accordance with this Act, or any other applicable law in  
23 connection with the operation of a pawnshop, to suspend a  
24 license issued under this Act for up to 30 days.

25           (8) To determine compliance with applicable law and  
26 rules related to the operation of pawnshops and to verify

1 the accuracy of reports filed with the Commissioner, the  
2 Commissioner, not more than one time every 2 years, may,  
3 but is not required to, conduct a routine examination of a  
4 pawnshop, and in addition, the Commissioner may examine the  
5 affairs of any pawnshop at any time if the Commissioner has  
6 reasonable cause to believe that unlawful or fraudulent  
7 activity is occurring, or has occurred, therein.

8 (9) In response to a complaint, to address any  
9 inquiries to any pawnshop in relation to its affairs, and  
10 it shall be the duty of the pawnshop to promptly reply in  
11 writing to such inquiries. The Commissioner may also  
12 require reports or information from any pawnshop at any  
13 time the Commissioner may deem desirable.

14 (10) To revoke a license issued under this Act if the  
15 Commissioner determines that (a) a licensee has been  
16 convicted of a felony in connection with the operations of  
17 a pawnshop; (b) a licensee knowingly, recklessly, or  
18 continuously violated this Act or State or federal law or  
19 regulation, a rule promulgated in accordance with this Act,  
20 or any order of the Commissioner; (c) a fact or condition  
21 exists that, if it had existed or had been known at the  
22 time of the original application, would have justified  
23 license refusal; ~~or~~ (d) the licensee knowingly submits  
24 materially false or misleading documents with the intent to  
25 deceive the Commissioner or any other party; or (e) the  
26 licensee is unable or ceases to continue to operate the

1        pawnshop.

2            (10.2) To remove or prohibit the employment of any  
3            officer, director, or employee who engages or who has  
4            engaged in unsafe, unsound, or unlawful activities.

5            (10.7) To prohibit the hiring of employees who have  
6            been convicted of a financial crime or any crime involving  
7            breach of trust who do not meet exceptions as establish by  
8            rule of the Secretary.

9            (11) Following license revocation, to take possession  
10           and control of a pawnshop for the purpose of examination,  
11           reorganization, or liquidation through receivership and to  
12           appoint a receiver, which may be the Commissioner, a  
13           pawnshop, or another suitable person.

14           (b) After consultation with local law enforcement  
15           officers, the Attorney General, and the industry, the  
16           Commissioner may by rule require that pawnbrokers operate video  
17           camera surveillance systems to record photographic  
18           representations of customers and retain the tapes produced for  
19           up to 30 days.

20           (c) Pursuant to rule, the Commissioner shall issue licenses  
21           on an annual or multi-year basis for operating a pawnshop. Any  
22           person currently operating or who has operated a pawnshop in  
23           this State during the 2 years preceding the effective date of  
24           this amendatory Act of 1997 shall be issued a license upon  
25           payment of the fee required under this Act. New applicants  
26           shall meet standards for a license as established by the

1 Commissioner. Except with the prior written consent of the  
2 Commissioner, no individual, either a new applicant or a person  
3 currently operating a pawnshop, may be issued a license to  
4 operate a pawnshop if the individual has been convicted of a  
5 felony or of any criminal offense relating to dishonesty or  
6 breach of trust in connection with the operations of a  
7 pawnshop. The Commissioner shall establish license fees. The  
8 fees shall not exceed the amount reasonably required for  
9 administration of this Act. It shall be unlawful to operate a  
10 pawnshop without a license issued by the Commissioner.

11 (d) In addition to license fees, the Commissioner may, by  
12 rule, establish fees in connection with a review, approval, or  
13 provision of a service, and levy a reasonable charge to recover  
14 the cost of the review, approval, or service (such as a change  
15 in control, change in location, or renewal of a license). The  
16 Commissioner may also levy a reasonable charge to recover the  
17 cost of an examination if the Commissioner determines that  
18 unlawful or fraudulent activity has occurred. The Commissioner  
19 may require payment of the fees and charges provided in this  
20 Act by certified check, money order, an electronic transfer of  
21 funds, or an automatic debit of an account.

22 (e) The Pawnbroker Regulation Fund is established as a  
23 special fund in the State treasury. Moneys collected under this  
24 Act shall be deposited into the Fund and used for the  
25 administration of this Act. In the event that General Revenue  
26 Funds are appropriated to the Office of the Commissioner of

1 Banks and Real Estate for the initial implementation of this  
2 Act, the Governor may direct the repayment from the Pawnbroker  
3 Regulation Fund to the General Revenue Fund of such advance in  
4 an amount not to exceed \$30,000. The Governor may direct this  
5 interfund transfer at such time as he deems appropriate by  
6 giving appropriate written notice. Moneys in the Pawnbroker  
7 Regulation Fund may be transferred to the Professions Indirect  
8 Cost Fund, as authorized under Section 2105-300 of the  
9 Department of Professional Regulation Law of the Civil  
10 Administrative Code of Illinois.

11 (f) The Commissioner may, by rule, require all pawnshops to  
12 provide for the expenses that would arise from the  
13 administration of the receivership of a pawnshop under this Act  
14 through the assessment of fees, the requirement to pledge  
15 surety bonds, or such other methods as determined by the  
16 Commissioner.

17 (g) All final administrative decisions of the Commissioner  
18 under this Act shall be subject to judicial review pursuant to  
19 the provisions of the Administrative Review Law. For matters  
20 involving administrative review, venue shall be in either  
21 Sangamon County or Cook County.

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

23 (205 ILCS 510/1) (from Ch. 17, par. 4651)

24 Sec. 1. (a) Every individual or business entity which lends  
25 money on the deposit or pledge of physically delivered personal

1 property, other than property the ownership of which is subject  
2 to a legal dispute, securities, printed evidence of  
3 indebtedness or printed evidence of ownership of the personal  
4 property, or who deals in the purchase of such property on the  
5 condition of selling the property back again at a stipulated  
6 price, shall be held and is hereby declared and defined to be a  
7 pawnbroker. The business of a pawnbroker does not include the  
8 lending of money on deposit or pledge of title to property.

9 (b) The Secretary may require employees of pawnshops who  
10 have the authority to act in a managerial capacity to obtain a  
11 license from the Department. For the purposes of this Section,  
12 "managerial capacity" shall mean the ability to direct the  
13 operations or activities of the pawnshop. If the Secretary  
14 determines a pawnshop employees duties and responsibilities or  
15 other factors amount to acting in a managerial capacity, the  
16 Secretary may require licensing. The license shall be valid for  
17 2 years. The Secretary may by rule, specify the form of the  
18 application for licensure, fees to be imposed and conditions  
19 for licensure. The licensed employees shall report their places  
20 of employment to the Secretary.

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

22 (205 ILCS 510/5.5 new)

23 Sec. 5.5. Replacement of articles or property; insurance or  
24 bond. In the event that any articles or property pledged are  
25 lost or rendered inoperable the pawnbroker shall replace the



1 articles or property with identical articles or property,  
2 except that if the pawnbroker cannot reasonably obtain  
3 identical articles or property, the pawnbroker shall replace  
4 the articles or property with like articles or property.

5 No pawnbroker shall conduct business in this State, unless  
6 the pawnbroker:

7 (1) maintains insurance coverage equal to at least 2  
8 times the aggregate value of the outstanding loans for  
9 items held in pawn. Such insurance shall be obtained from  
10 an insurance company authorized to do business in Illinois,  
11 or;

12 (2) obtains a surety bond issued by an insurance  
13 company authorized to do business in this state. The bond  
14 shall be in favor of the Secretary of Financial and  
15 Professional Regulation. Such bond shall at all times meet  
16 or exceed 2 times the aggregate amount of all loans made by  
17 the licensee.

18 The pawnbroker shall file a copy of proof of insurance  
19 coverage or bond with the Secretary. The bond shall be for the  
20 exclusive benefit of any person injured by a pawnbrokers  
21 actions or to compensate persons whose property in pledge is  
22 lost or rendered inoperable.

23 Whenever the sum of the surety bond is reduced by one or  
24 more recoveries or payments, the licensee shall furnish a new  
25 or additional bond under this Section, so that the total or  
26 aggregate penal sum of the bond or bonds equals the sum

1 required by this Section, or shall furnish an endorsement  
2 executed by the surety reinstating the bond to the required  
3 penal sum of the bond.

4 The liability for any act or omission that occurs during  
5 the term of the surety bond shall be maintained and in effect  
6 for at least 6 months after the date on which the surety bond  
7 is terminated or canceled. A pawnbroker shall not cancel the  
8 insurance coverage or surety bond except upon notice to the  
9 Secretary by certified mail, return receipt requested. The  
10 cancellation is not effective prior to 30 days after the  
11 Secretary receives the notice.

12 (205 ILCS 510/10.5 new)

13 Sec. 10.5. Employee license.

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

16 (205 ILCS 610/1) (from Ch. 17, par. 1001)

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

19 (1) "Commissioner" means the officer of this State  
20 designated by law to exercise supervision over banks and trust  
21 companies, and any other person lawfully exercising such  
22 powers, except that beginning on the effective date of this  
23 amendatory Act of the 96th General Assembly, all references in

1 this Act to the Commissioner of Banks and Real Estate are  
2 deemed, in appropriate contexts, to be references to the  
3 Secretary of Financial and Professional Regulation.

4 (2) "Bank" includes commercial banks, savings banks,  
5 savings and loan associations, trust companies, and any branch  
6 thereof lawfully carrying on the business of banking and, to  
7 the extent that the provisions hereof are not inconsistent with  
8 and do not infringe upon paramount Federal law, also includes  
9 national banks and federal savings banks.

10 (3) "Officers" means the person or persons designated by  
11 the board of directors, to act for the bank in carrying out the  
12 provisions of this Act or, in the absence of any such  
13 designation or of the officer or officers so designated, the  
14 president or any other officer currently in charge of the bank  
15 or of the office or offices in question.

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

18 (5) "Emergency" means any condition or occurrence which may  
19 interfere physically with the conduct of normal business  
20 operations at one or more or all of the offices of a bank, or  
21 which poses an imminent or existing threat to the safety or  
22 security of persons or property, or both at one or more or all  
23 of the offices of a bank. Without limiting the generality of  
24 the foregoing, an emergency may arise as a result of any one or  
25 more of the following: natural disasters; civil strife; power  
26 failures; computer failures; interruption of communication

1 facilities; robbery or attempted robbery.

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

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

5 (205 ILCS 610/2) (from Ch. 17, par. 1002)

6 Sec. 2. Power of Commissioner.

7 (a) Whenever the Commissioner is notified by any officer of  
8 a bank or by any other means becomes aware that an emergency  
9 exists, or is impending, he may, by proclamation, authorize all  
10 banks in the State of Illinois to close or alter the hours at  
11 any or all of their offices, or if only a bank or banks, or  
12 offices thereof, in a particular area or areas of the State of  
13 Illinois are affected by the emergency or impending emergency,  
14 the Commissioner may authorize only the affected bank, banks,  
15 or offices thereof, to close. The office or offices so closed  
16 may remain closed until the Commissioner declares, by further  
17 proclamation, that the emergency or impending emergency has  
18 ended. The Commissioner during an emergency or while an  
19 impending emergency exists, which affects, or may affect, a  
20 particular bank or banks, or a particular office or offices  
21 thereof, but not banks located in the area generally of the  
22 said county or municipality, may authorize the particular bank  
23 or banks, or office or offices so affected, to close. The  
24 office or offices so closed shall remain closed until the  
25 Commissioner is notified by a bank officer of the closed bank

1 that the emergency has ended. The Commissioner shall notify, at  
2 such time, the officers of the bank that one or more offices,  
3 heretofore closed because of the emergency, should reopen and,  
4 in either event, for such further time thereafter as may  
5 reasonably be required to reopen.

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

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

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

22 (205 ILCS 616/10)

23 Sec. 10. Definitions. For purposes of this Act, the words  
24 and phrases defined in this Section shall have the meanings

1 ascribed to them unless the context requires otherwise.  
2 Whenever the terms "network" and "switch" are used, they shall  
3 be deemed interchangeable unless, from the context and facts,  
4 the intention is plain to apply only to one type of entity.

5 "Access device" means a card, code, or other means of  
6 access to an account, or any combination thereof, that may be  
7 used by a customer to initiate an electronic fund transfer at a  
8 terminal.

9 "Account" means a demand deposit, savings deposit, share,  
10 member, or other customer asset account held by a financial  
11 institution.

12 An "affiliate" of, or a person "affiliated" with, a  
13 specified person, means a person that directly, or indirectly  
14 through one or more intermediaries, controls, is controlled by,  
15 or is under common control with, the person specified.

16 "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 "Division" means the Division of Banking within the  
22 Department of Financial and Professional Regulation.

23 "Electronic fund transfer" means a transfer of funds, other  
24 than a transaction originated by check, draft, or similar paper  
25 instrument, that is initiated through a terminal for the  
26 purpose of ordering, instructing, or authorizing a financial

1 institution to debit or credit an account.

2 "Financial institution" means a bank established under the  
3 laws of this or any other state or established under the laws  
4 of the United States, a savings and loan association or savings  
5 bank established under the laws of this or any other state or  
6 established under the laws of the United States, a credit union  
7 established under the laws of this or any other state or  
8 established under the laws of the United States, or a licensee  
9 under the Consumer Installment Loan Act or the Sales Finance  
10 Agency Act.

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

14 "Network" means an electronic information communication  
15 and processing system that processes interchange transactions.

16 "Person" means a natural person, corporation, unit of  
17 government or governmental subdivision or agency, trust,  
18 estate, partnership, cooperative, or association.

19 "Seller of goods and services" means a business entity  
20 other than a financial institution.

21 "Switch" means an electronic information and communication  
22 processing facility that processes interchange transactions on  
23 behalf of a network. This term does not include an electronic  
24 information and communication processing company (1) that is  
25 owned by a bank holding company or an affiliate of a bank  
26 holding company and used solely for transmissions among

1 affiliates of the bank holding company or (2) to the extent  
2 that the facility, by virtue of a contractual relationship, is  
3 used solely for transmissions among affiliates of a bank  
4 holding company, regardless of whether the facility is an  
5 affiliate of the bank holding company or operates as a switch  
6 with respect to one or more networks under an independent  
7 contractual relationship.

8 "Terminal" means an electronic device through which a  
9 consumer may initiate an interchange transaction. This term  
10 does not include (1) a telephone, (2) an electronic device  
11 located in a personal residence, (3) a personal computer or  
12 other electronic device used primarily for personal, family, or  
13 household purposes, (4) an electronic device owned or operated  
14 by a seller of goods and services unless the device is  
15 connected either directly or indirectly to a financial  
16 institution and is operated in a manner that provides access to  
17 an account by means of a personal and confidential code or  
18 other security mechanism (other than signature), (5) an  
19 electronic device that is not accessible to persons other than  
20 employees of a financial institution or affiliate of a  
21 financial institution, or (6) an electronic device that is  
22 established by a financial institution on a proprietary basis  
23 that is identified as such and that cannot be accessed by  
24 customers of other financial institutions. The Commissioner  
25 may issue a written rule that excludes additional electronic  
26 devices from the definition of the term "terminal".



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

2 Section 50. The Corporate Fiduciary Act is amended by  
3 changing Sections 1-5.03, 5-1, and 5-10 and by adding Section  
4 1-5.075 as follows:

5 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

6 Sec. 1-5.03. "Commissioner" means the Secretary of  
7 Financial and Professional Regulation ~~Commissioner of Banks~~  
8 ~~and Real Estate~~ or a person authorized by the Secretary  
9 ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real~~  
10 ~~Estate~~ Act, or this Act to act in the Secretary's  
11 ~~Commissioner's~~ stead.

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

13 (205 ILCS 620/1-5.075 new)

14 Sec. 1-5.075. Division. "Division" means the Division of  
15 Banking within the Department of Financial and Professional  
16 Regulation.

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

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

22 (a) To promulgate, in accordance with the Illinois

1 Administrative Procedure Act, reasonable rules for the purpose  
2 of administering the provisions of this Act and for the purpose  
3 of incorporating by reference rules promulgated by the Federal  
4 Deposit Insurance Corporation, the Board of Governors of the  
5 Federal Reserve System, the Office of the Comptroller of the  
6 Currency, the Office of Thrift Supervision, or their successors  
7 that pertain to corporate fiduciaries, including, but not  
8 limited to, standards for the operation and conduct of the  
9 affairs of corporate fiduciaries;

10 (b) To issue orders for the purpose of administering the  
11 provisions of this Act and any rule promulgated in accordance  
12 with this Act;

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

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

26 (e) To conduct hearings;

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

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

9 (h) To address any inquiries to any corporate fiduciary, or  
10 the officers thereof, in relation to its doings and conditions,  
11 or any other matter connected with its affairs, and it shall be  
12 the duty of any corporate fiduciary or person so addressed, to  
13 promptly reply in writing to such inquiries. The Commissioner  
14 may also require reports from any corporate fiduciary at any  
15 time he may deem desirable.

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

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

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

19 (a) There shall be paid to the Commissioner by every  
20 corporate fiduciary including each trust company, bank,  
21 savings and loan association, and savings bank to which this  
22 Act shall apply, reasonable fees that the Commissioner shall  
23 assess to recover the costs of administration, certification,  
24 examination and supervision of trusts authorized under this  
25 Act.

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

20 (c) The Commissioner may, by rule, establish a reasonable  
21 manner of assessing the receivership assessments under this  
22 Section.

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

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

1 (205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

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

3 (a) The business affairs of a licensee under this Act shall  
4 be examined for compliance with this Act as often as the  
5 Commissioner deems necessary and proper. The Commissioner  
6 shall promulgate rules with respect to the frequency and manner  
7 of examination. The Commissioner shall appoint a suitable  
8 person to perform such examination. The Commissioner and his  
9 appointees may examine the entire books, records, documents,  
10 and operations of each licensee and its subsidiary, affiliate,  
11 or agent, and may examine any of the licensee's or its  
12 subsidiary's, affiliate's, or agent's officers, directors,  
13 employees and agents under oath. For purposes of this Section,  
14 "agent" includes service providers such as accountants,  
15 closing services providers, providers of outsourced services  
16 such as call centers, marketing consultants, and loan  
17 processors, even if exempt from licensure under this Act. This  
18 Section does not apply to an attorney's privileged work product  
19 or communications.

20 (b) The Commissioner shall prepare a sufficiently detailed  
21 report of each licensee's examination, shall issue a copy of  
22 such report to each licensee's principals, officers, or  
23 directors and shall take appropriate steps to ensure correction  
24 of violations of this Act.

25 (c) Affiliates of a licensee shall be subject to

1 examination by the Commissioner on the same terms as the  
2 licensee, but only when reports from, or examination of a  
3 licensee provides for documented evidence of unlawful activity  
4 between a licensee and affiliate benefiting, affecting or  
5 deriving from the activities regulated by this Act.

6 (d) The expenses of any examination of the licensee and  
7 affiliates shall be borne by the licensee and assessed by the  
8 Commissioner as established by regulation.

9 (e) Upon completion of the examination, the Commissioner  
10 shall issue a report to the licensee. All confidential  
11 supervisory information, including the examination report and  
12 the work papers of the report, shall belong to the  
13 Commissioner's office and may not be disclosed to anyone other  
14 than the licensee, law enforcement officials or other  
15 regulatory agencies that have an appropriate regulatory  
16 interest as determined by the Commissioner, or to a party  
17 presenting a lawful subpoena to the Office of the Commissioner.  
18 The Commissioner may immediately appeal to the court of  
19 jurisdiction the disclosure of such confidential supervisory  
20 information and seek a stay of the subpoena pending the outcome  
21 of the appeal. Reports required of licensees by the  
22 Commissioner under this Act and results of examinations  
23 performed by the Commissioner under this Act shall be the  
24 property of only the Commissioner, but may be shared with the  
25 licensee. Access under this Act to the books and records of  
26 each licensee shall be limited to the Commissioner and his

1 agents as provided in this Act and to the licensee and its  
2 authorized agents and designees. No other person shall have  
3 access to the books and records of a licensee under this Act.  
4 Any person upon whom a demand for production of confidential  
5 supervisory information is made, whether by subpoena, order, or  
6 other judicial or administrative process, must withhold  
7 production of the confidential supervisory information and  
8 must notify the Commissioner of the demand, at which time the  
9 Commissioner is authorized to intervene for the purpose of  
10 enforcing the limitations of this Section or seeking the  
11 withdrawal or termination of the attempt to compel production  
12 of the confidential supervisory information. The Commissioner  
13 may impose any conditions and limitations on the disclosure of  
14 confidential supervisory information that are necessary to  
15 protect the confidentiality of such information. Except as  
16 authorized by the Commissioner, no person obtaining access to  
17 confidential supervisory information may make a copy of the  
18 confidential supervisory information. The Commissioner may  
19 condition a decision to disclose confidential supervisory  
20 information on entry of a protective order by the court or  
21 administrative tribunal presiding in the particular case or on  
22 a written agreement of confidentiality. In a case in which a  
23 protective order or agreement has already been entered between  
24 parties other than the Commissioner, the Commissioner may  
25 nevertheless condition approval for release of confidential  
26 supervisory information upon the inclusion of additional or

1 amended provisions in the protective order. The Commissioner  
2 may authorize a party who obtained the records for use in one  
3 case to provide them to another party in another case, subject  
4 to any conditions that the Commissioner may impose on either or  
5 both parties. The requestor shall promptly notify other parties  
6 to a case of the release of confidential supervisory  
7 information obtained and, upon entry of a protective order,  
8 shall provide copies of confidential supervisory information  
9 to the other parties.

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

21 (g) After the initial examination for those licensees whose  
22 only mortgage activity is servicing fewer than 1,000 Illinois  
23 residential loans, the examination required in subsection (a)  
24 may be waived upon submission of a letter from the licensee's  
25 independent certified auditor that the licensee serviced fewer  
26 than 1,000 Illinois residential loans during the year in which



1 the audit was performed.

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

3 Section 60. The Foreign Banking Office Act is amended by  
4 changing Sections 2.01 and 17 and by adding Section 2.08 as  
5 follows:

6 (205 ILCS 645/2.01) (from Ch. 17, par. 2703)

7 Sec. 2.01. "Commissioner" means the Secretary of Financial  
8 and Professional Regulation ~~Commissioner of Banks and Real~~  
9 ~~Estate~~ or a person authorized by the Secretary ~~Commissioner~~,  
10 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or  
11 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

13 (205 ILCS 645/2.08 new)

14 Sec. 2.08. Division. "Division" means the Division of  
15 Banking within the Department of Financial and Professional  
16 Regulation.

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

18 Sec. 17. Fees; examination; receivership. Upon applying  
19 for a certificate of authority to open and maintain a banking  
20 office, a foreign banking corporation shall pay to the  
21 Commissioner an application fee equivalent to the reasonable  
22 expenses of examination for a charter payable by a State bank

1 under Section 13 of the Illinois Banking Act.

2 In addition, a foreign banking corporation holding a  
3 certificate of authority and maintaining a banking office shall  
4 be subject to examination and other fees (comparable to those  
5 payable by a State bank) imposed by the Commissioner pursuant  
6 to Section 48 of the Illinois Banking Act based on the assets  
7 of such foreign banking corporation located in the State of  
8 Illinois.

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

26 (c) The Secretary may by rule establish a reasonable manner

1 of assessing the receivership assessments under this Section.

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

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

5 (205 ILCS 650/2) (from Ch. 17, par. 2852)

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

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

13 (b) "Foreign bank" means (1) a bank or trust company which  
14 is organized under the laws of any state or territory of the  
15 United States, including the District of Columbia, other than  
16 the State of Illinois; (2) a national bank having its principal  
17 place of business in any state or territory of the United  
18 States, including the District of Columbia, other than the  
19 State of Illinois; or (3) a bank or trust company organized and  
20 operating under the laws of a country other than the United  
21 States of America.

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

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

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

4           Section 70. The Financial Institution Activity Reporting  
5           Act is amended by changing Section 10.25 and by adding Section  
6           10.33 as follows:

7           (205 ILCS 680/10.25) (from Ch. 17, par. 7401-10.25)

8           Sec. 10.25. Commissioner. "Commissioner" means the  
9           Secretary of Financial and Professional Regulation  
10           ~~Commissioner of Banks and Real Estate~~ or a person authorized by  
11           the Secretary Commissioner, the Division of Banking Office of  
12           ~~Banks and Real Estate~~ Act, or this Act to act in the  
13           Secretary's Commissioner's stead.

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

15           (205 ILCS 680/10.33 new)

16           Sec. 10.33. Division. "Division" means the Division of  
17           Banking within the Department of Financial and Professional  
18           Regulation.

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

21           (225 ILCS 456/5)

1           Sec. 5. Transfer of powers.

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

19           (b) All books, records, property (real and personal),  
20 pending business, and funds pertaining to the rights, powers,  
21 and duties transferred from the Department of Professional  
22 Regulation under this Act and in the custody of the Department  
23 of Professional Regulation on July 1, 1995 shall be delivered  
24 and transferred to the Office of the Commissioner of Savings,  
25 Real Estate Professions, and Mortgage Finance. All officers and  
26 employees of the Department of Professional Regulation on July

1 1, 1995 who devoted substantially all of their time to tasks  
2 performed in connection with the Real Estate License Act of  
3 1983, the Land Sales Registration Act of 1989, or the Illinois  
4 Real Estate Time-Share Act shall on that date become officers  
5 and employees of the Office of the Commissioner of Savings,  
6 Real Estate Professions, and Mortgage Finance. Notwithstanding  
7 the preceding sentence, no rights of State employees under the  
8 Personnel Code, the Illinois Pension Code or any pension,  
9 retirement, or annuity plan, or any collective bargaining  
10 agreement or other contract or agreement are affected by the  
11 transfer of rights, powers, and duties under this Act.

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

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

17 (225 ILCS 456/10)

18 Sec. 10. Savings provisions.

19 (a) Beginning July 1, 1995, the rights, powers, and duties  
20 transferred by this Act to the Office of the Commissioner of  
21 Savings, Real Estate Professions, and Mortgage Finance shall be  
22 vested in and shall be exercised by the Office of the  
23 Commissioner of Savings, Real Estate Professions, and Mortgage  
24 Finance subject to the provisions of this Act. Each act done in  
25 exercise of those rights, powers, and the duties shall have the

1 same legal effect as if done by the Department of Professional  
2 Regulation.

3 (b) Beginning July 1, 1995, every person, corporation, or  
4 other entity shall be subject to the same obligations and  
5 duties and any penalties, civil or criminal, arising from those  
6 obligations and duties, and shall have the same rights arising  
7 from the exercise of rights, powers, and duties by the Office  
8 of the Commissioner of Savings, Real Estate Professions, and  
9 Mortgage Finance as if those rights, powers, and duties have  
10 been exercised by the Department of Professional Regulation or  
11 an officer, employee, or agent of the Department of  
12 Professional Regulation.

13 (c) Beginning July 1, 1995, every officer and employee of  
14 the Office of the Commissioner of Savings, Real Estate  
15 Professions, and Mortgage Finance shall, for any offense, be  
16 subject to the same penalty or penalties, civil or criminal, as  
17 are prescribed by existing law for the same offense by any  
18 officer or employee of the Department of Professional  
19 Regulation whose powers or duties were transferred under this  
20 Act.

21 (d) Whenever reports or notices are now required to be made  
22 or given or papers or documents furnished or served by any  
23 person to or upon the Department of Professional Regulation in  
24 relation to the powers or duties transferred by this Act, those  
25 reports or notices shall, on and after July 1, 1995, be made,  
26 given, furnished, or served in the same manner to or upon the

1 Office of the Commissioner of Savings, Real Estate Professions,  
2 and Mortgage Finance.

3 (e) This Act does not affect any act done, ratified, or  
4 cancelled, or any right occurring or established, or any action  
5 or proceeding had or commenced in an administrative, civil, or  
6 criminal cause before July 1, 1995, by the Department of  
7 Professional Regulation under the Real Estate License Act of  
8 1983, the Land Sales Registration Act of 1989, or the Illinois  
9 Real Estate Time-Share Act, and those actions or proceedings  
10 may be prosecuted and continued by the Office of the  
11 Commissioner of Savings, Real Estate Professions, and Mortgage  
12 Finance.

13 (f) This Act does affect any license, certificate, permit,  
14 or other form of licensure or authorization issued by the  
15 Department of Professional Regulation in the exercise of a  
16 right, power, or duty that has been transferred to the Office  
17 of the Commissioner of Savings, Real Estate Professions, and  
18 Mortgage Finance under this Act and all such licenses,  
19 certificates, permits, or other form of licensure or  
20 authorization shall continue to be valid under the terms and  
21 conditions of the Acts under which they were issued or granted  
22 and shall become those of the Office of the Commissioner of  
23 Savings, Real Estate Professions, and Mortgage Finance.

24 (g) The rules adopted by the Department of Professional  
25 Regulation relating to the powers and or duties transferred to  
26 the Office of the Commissioner of Savings, Real Estate



1 Professions, and Mortgage Finance under this Act are not  
2 affected by this Act, except that on July 1, 1995, those rules  
3 become the rules of the Office of the Commissioner of Savings,  
4 Real Estate Professions, and Mortgage Finance.

5 (h) The provisions of subsections (a) through (g) of this  
6 Section are superseded by the applicable transfer and savings  
7 provisions of the Division of Banking ~~Office of Banks and Real~~  
8 ~~Estate~~ Act.

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

10 (225 ILCS 456/15)

11 Sec. 15. Transfer of appropriations. Appropriations to the  
12 Department of Professional Regulation from the Real Estate  
13 License Administration Fund and the Real Estate Appraisal  
14 Administration Fund for State fiscal year 1996 for the purpose  
15 of administering and enforcing the Real Estate License Act of  
16 1983, the Land Sales Registration Act of 1989, and the Illinois  
17 Real Estate Time-Share Act shall be transferred to the Office  
18 of the Commissioner of Savings, Real Estate Professions, and  
19 Mortgage Finance to be used to conduct those same activities  
20 for that fiscal year.

21 The other provisions of this Section are superseded by the  
22 applicable transfer provisions of the Division of Banking  
23 ~~Office of Banks and Real Estate~~ Act.

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

1 (205 ILCS 105/10-2 rep.)

2 (205 ILCS 105/10-3 rep.)

3 (205 ILCS 105/10-4 rep.)

4 (205 ILCS 105/10-5 rep.)

5 (205 ILCS 105/10-6 rep.)

6 (205 ILCS 105/10-7 rep.)

7 Section 90. The Illinois Savings and Loan Act of 1985 is  
8 amended by repealing Sections 10-2, 10-3, 10-4, 10-5, 10-6, and  
9 10-7.

10 (205 ILCS 205/9005 rep.)

11 (205 ILCS 205/9007 rep.)

12 (205 ILCS 205/10001 rep.)

13 (205 ILCS 205/10002 rep.)

14 (205 ILCS 205/10003 rep.)

15 (205 ILCS 205/10004 rep.)

16 (205 ILCS 205/10005 rep.)

17 (205 ILCS 205/10006 rep.)

18 (205 ILCS 205/10007 rep.)

19 (205 ILCS 205/10008 rep.)

20 Section 95. The Savings Bank Act is amended by repealing  
21 Sections 9005, 9007, 10001, 10002, 10003, 10004, 10005, 10006,  
22 10007, and 10008.

23 (205 ILCS 680/Act rep.)

24 Section 100. The Financial Institution Activity Reporting

1 Act is repealed.

2 Section 999. Effective date. This Act takes effect upon  
3 becoming law.".