



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3583

Introduced 2/10/2012, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

See Index

Repeals the Illinois Savings and Loan Act of 1985. Amends the Savings Bank Act. Provides that any institution organized under the Illinois Savings and Loan Act of 1985 shall be deemed a savings bank under the Illinois Savings Bank Act. Creates a new Article concerning the effect of the repeal of the Illinois Savings and Loan Act of 1985. Makes changes in provisions concerning out-of-state savings banks; reorganization to become a holding company; contents of articles of incorporation; directors; conduct of directors and officers; access to books and records; communication with members and shareholders; investment in loans; loans to one borrower; Secretary's regulations; powers of the Secretary; regulatory fees; and disclosure of reports of examinations and confidential supervisory information. Repeals provisions concerning the impairment of capital. Amends the Illinois Banking Act. Provides a definition for "money borrowed" in a provision concerning basic loaning limits. Provides that the Secretary when appointed as a receiver or any person appointed as a receiver shall have all the powers, rights, and privileges as the Federal Deposit Insurance Corporation. Also makes changes in the Freedom of Information Act, the Division of Banking Act, the State Finance Act, the Pawnbroker Regulation Act, the Corporate Fiduciary Act, the Residential Mortgage License Act of 1987, and the Foreign Bank Representative Office Act.

LRB097 17481 PJG 62684 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory Exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be exempt
9 from inspection and copying:

10 (a) All information determined to be confidential under
11 Section 4002 of the Technology Advancement and Development Act.

12 (b) Library circulation and order records identifying
13 library users with specific materials under the Library Records
14 Confidentiality Act.

15 (c) Applications, related documents, and medical records
16 received by the Experimental Organ Transplantation Procedures
17 Board and any and all documents or other records prepared by
18 the Experimental Organ Transplantation Procedures Board or its
19 staff relating to applications it has received.

20 (d) Information and records held by the Department of
21 Public Health and its authorized representatives relating to
22 known or suspected cases of sexually transmissible disease or
23 any information the disclosure of which is restricted under the

1 Illinois Sexually Transmissible Disease Control Act.

2 (e) Information the disclosure of which is exempted under
3 Section 30 of the Radon Industry Licensing Act.

4 (f) Firm performance evaluations under Section 55 of the
5 Architectural, Engineering, and Land Surveying Qualifications
6 Based Selection Act.

7 (g) Information the disclosure of which is restricted and
8 exempted under Section 50 of the Illinois Prepaid Tuition Act.

9 (h) Information the disclosure of which is exempted under
10 the State Officials and Employees Ethics Act, and records of
11 any lawfully created State or local inspector general's office
12 that would be exempt if created or obtained by an Executive
13 Inspector General's office under that Act.

14 (i) Information contained in a local emergency energy plan
15 submitted to a municipality in accordance with a local
16 emergency energy plan ordinance that is adopted under Section
17 11-21.5-5 of the Illinois Municipal Code.

18 (j) Information and data concerning the distribution of
19 surcharge moneys collected and remitted by wireless carriers
20 under the Wireless Emergency Telephone Safety Act.

21 (k) Law enforcement officer identification information or
22 driver identification information compiled by a law
23 enforcement agency or the Department of Transportation under
24 Section 11-212 of the Illinois Vehicle Code.

25 (l) Records and information provided to a residential
26 health care facility resident sexual assault and death review

1 team or the Executive Council under the Abuse Prevention Review
2 Team Act.

3 (m) Information provided to the predatory lending database
4 created pursuant to Article 3 of the Residential Real Property
5 Disclosure Act, except to the extent authorized under that
6 Article.

7 (n) Defense budgets and petitions for certification of
8 compensation and expenses for court appointed trial counsel as
9 provided under Sections 10 and 15 of the Capital Crimes
10 Litigation Act. This subsection (n) shall apply until the
11 conclusion of the trial of the case, even if the prosecution
12 chooses not to pursue the death penalty prior to trial or
13 sentencing.

14 (o) Information that is prohibited from being disclosed
15 under Section 4 of the Illinois Health and Hazardous Substances
16 Registry Act.

17 (p) Security portions of system safety program plans,
18 investigation reports, surveys, schedules, lists, data, or
19 information compiled, collected, or prepared by or for the
20 Regional Transportation Authority under Section 2.11 of the
21 Regional Transportation Authority Act or the St. Clair County
22 Transit District under the Bi-State Transit Safety Act.

23 (q) Information prohibited from being disclosed by the
24 Personnel Records Review Act.

25 (r) Information prohibited from being disclosed by the
26 Illinois School Student Records Act.

1 (s) Information the disclosure of which is restricted under
2 Section 5-108 of the Public Utilities Act.

3 (t) All identified or deidentified health information in
4 the form of health data or medical records contained in, stored
5 in, submitted to, transferred by, or released from the Illinois
6 Health Information Exchange, and identified or deidentified
7 health information in the form of health data and medical
8 records of the Illinois Health Information Exchange in the
9 possession of the Illinois Health Information Exchange
10 Authority due to its administration of the Illinois Health
11 Information Exchange. The terms "identified" and
12 "deidentified" shall be given the same meaning as in the Health
13 Insurance Accountability and Portability Act of 1996, Public
14 Law 104-191, or any subsequent amendments thereto, and any
15 regulations promulgated thereunder.

16 (u) Records and information provided to an independent team
17 of experts under Brian's Law.

18 (v) Names and information of people who have applied for or
19 received Firearm Owner's Identification Cards under the
20 Firearm Owners Identification Card Act.

21 (w) ~~(v)~~ Personally identifiable information which is
22 exempted from disclosure under subsection (g) of Section 19.1
23 of the Toll Highway Act.

24 (x) Information disclosed pursuant to Section 7 of the
25 Pawnbroker Regulation Act.

26 (Source: P.A. 96-542, eff. 1-1-10; 96-1235, eff. 1-1-11;

1 96-1331, eff. 7-27-10; 97-80, eff. 7-5-11; 97-333, eff.
2 8-12-11; 97-342, eff. 8-12-11; revised 9-2-11.)

3 Section 10. The Division of Banking Act is amended by
4 changing Section 2.5 as follows:

5 (20 ILCS 3205/2.5)

6 Sec. 2.5. Prohibited activities.

7 (a) For the purposes of this Section, "regulated entity"
8 means (1) any person, business, company, corporation,
9 institution, or other entity who is subject to regulation by
10 the Office of Banks and Real Estate under Sections 3 and 46 of
11 the Illinois Banking Act, Section 1-5 of the Illinois Savings
12 and Loan Act of 1985, Section 1004 of the Savings Bank Act,
13 Section 1-3 of the Residential Mortgage License Act of 1987,
14 Section 2-4 of the Corporate Fiduciary Act, Section 3.02 of the
15 Illinois Bank Holding Company Act of 1957, the Savings and Loan
16 Share and Account Act, Section 1.5 of the Pawnbroker Regulation
17 Act, Section 3 of the Foreign Banking Office Act, or Section 30
18 of the Electronic Fund Transfer Act and (2) any person,
19 business, company, corporation, institution, or other entity
20 who the Commissioner determines may have an adverse impact on
21 the affairs, activities, and safety and soundness of any
22 regulated entity examined by the Commissioner.

23 (b) The Commissioner and the deputy commissioners shall not
24 be an officer, director, employee, or agent of a regulated

1 entity or of a corporation or company that owns or controls a
2 regulated entity.

3 The Commissioner and the deputy commissioners shall not own
4 shares of stock or hold any other equity interest in a
5 regulated entity or in a corporation or company that owns or
6 controls a regulated entity. If the Commissioner or a deputy
7 commissioner owns shares of stock or holds an equity interest
8 in a regulated entity at the time of appointment, he or she
9 shall dispose of such shares or other equity interest within
10 120 days from the date of appointment.

11 The Commissioner and the deputy commissioners shall not
12 directly or indirectly obtain a loan from a regulated entity or
13 accept a gratuity from a regulated entity that is intended to
14 influence the performance of official duties.

15 (c) Employees of the Office of Banks and Real Estate shall
16 not be officers, directors, employees, or agents of a regulated
17 entity or of a corporation or company that owns or controls a
18 regulated entity.

19 Except as provided by standards which the Office of Banks
20 and Real Estate may establish, employees of the Office of Banks
21 and Real Estate shall not own shares of stock or hold any other
22 equity interest in a regulated entity or in a corporation or
23 company that owns or controls a regulated entity, or directly
24 or indirectly obtain a loan from a regulated entity, or accept
25 a gratuity from a regulated entity that is intended to
26 influence the performance of official duties. However, in no

1 case shall an employee of the Office of Banks and Real Estate
2 participate in any manner in the examination or direct
3 regulation of a regulated entity in which the employee owns
4 shares of stock or holds any other equity interest, or which is
5 servicing a loan to which the employee is an obligor.

6 (d) If the Commissioner, a deputy commissioner, or any
7 employee of the Office of Banks and Real Estate properly
8 obtains a loan or extension of credit from an entity that is
9 not a regulated entity, and the loan or extension of credit is
10 subsequently acquired by a regulated entity or the entity
11 converts to become a regulated entity after the loan is made,
12 such purchase by or conversion to a regulated entity shall not
13 cause the loan or extension of credit to be deemed a violation
14 of this Section.

15 Nothing in this Section shall be deemed to prevent the
16 ownership of a checking account, a savings deposit account, a
17 money market account, a certificate of deposit, a credit or
18 debit card account, or shares in open-end investment companies
19 registered with the Securities and Exchange Commission
20 pursuant to the federal Investment Company Act of 1940 and the
21 Securities Act of 1933 (commonly referred to as mutual or money
22 market funds).

23 (e) No Commissioner, deputy commissioner, employee, or
24 agent of the Office of Banks and Real Estate shall, either
25 during or after the holding of his or her term of office or
26 employment, disclose confidential information concerning any

1 regulated entity or person except as authorized by law or
2 prescribed by rule. "Confidential information", as used in this
3 Section, means any information that the person or officer
4 obtained during his or her term of office or employment that is
5 not available from the Office of Banks and Real Estate pursuant
6 to a request under the Freedom of Information Act.

7 (f) The Commissioner may subpoena witnesses to compel their
8 attendance, to administer an oath, to examine any person under
9 oath, and to require the production of any relevant books,
10 papers, accounts, and documents in the course of and pursuant
11 to that entity having a relationship with a regulated entity
12 upon determination by the Commissioner that the relationship
13 may have an adverse impact on the affairs, activities, and
14 safety and soundness of any regulated entity.

15 (Source: P.A. 97-492, eff. 1-1-12.)

16 Section 15. The State Finance Act is amended by changing
17 Sections 5.214 and 8.12 as follows:

18 (30 ILCS 105/5.214) (from Ch. 127, par. 141.214)

19 Sec. 5.214. The ~~Savings and~~ Residential Finance Regulatory
20 Fund.

21 (Source: P.A. 85-1209; 86-1213.)

22 (30 ILCS 105/8.12) (from Ch. 127, par. 144.12)

23 Sec. 8.12. State Pensions Fund.

1 (a) The moneys in the State Pensions Fund shall be used
2 exclusively for the administration of the Uniform Disposition
3 of Unclaimed Property Act and for the funding of the unfunded
4 liabilities of the designated retirement systems. Payments to
5 the designated retirement systems under this Section shall be
6 in addition to, and not in lieu of, any State contributions
7 required under the Illinois Pension Code.

8 "Designated retirement systems" means:

9 (1) the State Employees' Retirement System of
10 Illinois;

11 (2) the Teachers' Retirement System of the State of
12 Illinois;

13 (3) the State Universities Retirement System;

14 (4) the Judges Retirement System of Illinois; and

15 (5) the General Assembly Retirement System.

16 (b) Each year the General Assembly may make appropriations
17 from the State Pensions Fund for the administration of the
18 Uniform Disposition of Unclaimed Property Act.

19 Each month, the Commissioner of the Office of Banks and
20 Real Estate shall certify to the State Treasurer the actual
21 expenditures that the Office of Banks and Real Estate incurred
22 conducting unclaimed property examinations under the Uniform
23 Disposition of Unclaimed Property Act during the immediately
24 preceding month. Within a reasonable time following the
25 acceptance of such certification by the State Treasurer, the
26 State Treasurer shall pay from its appropriation from the State

1 Pensions Fund to the Bank and Trust Company Fund, the Savings
2 Institution Regulatory Fund, and the ~~Savings and~~ Residential
3 Finance Regulatory Fund an amount equal to the expenditures
4 incurred by each Fund for that month.

5 Each month, the Director of Financial Institutions shall
6 certify to the State Treasurer the actual expenditures that the
7 Department of Financial Institutions incurred conducting
8 unclaimed property examinations under the Uniform Disposition
9 of Unclaimed Property Act during the immediately preceding
10 month. Within a reasonable time following the acceptance of
11 such certification by the State Treasurer, the State Treasurer
12 shall pay from its appropriation from the State Pensions Fund
13 to the Financial Institutions Fund and the Credit Union Fund an
14 amount equal to the expenditures incurred by each Fund for that
15 month.

16 (c) As soon as possible after the effective date of this
17 amendatory Act of the 93rd General Assembly, the General
18 Assembly shall appropriate from the State Pensions Fund (1) to
19 the State Universities Retirement System the amount certified
20 under Section 15-165 during the prior year, (2) to the Judges
21 Retirement System of Illinois the amount certified under
22 Section 18-140 during the prior year, and (3) to the General
23 Assembly Retirement System the amount certified under Section
24 2-134 during the prior year as part of the required State
25 contributions to each of those designated retirement systems;
26 except that amounts appropriated under this subsection (c) in

1 State fiscal year 2005 shall not reduce the amount in the State
2 Pensions Fund below \$5,000,000. If the amount in the State
3 Pensions Fund does not exceed the sum of the amounts certified
4 in Sections 15-165, 18-140, and 2-134 by at least \$5,000,000,
5 the amount paid to each designated retirement system under this
6 subsection shall be reduced in proportion to the amount
7 certified by each of those designated retirement systems.

8 (c-5) For fiscal years 2006 through 2012, the General
9 Assembly shall appropriate from the State Pensions Fund to the
10 State Universities Retirement System the amount estimated to be
11 available during the fiscal year in the State Pensions Fund;
12 provided, however, that the amounts appropriated under this
13 subsection (c-5) shall not reduce the amount in the State
14 Pensions Fund below \$5,000,000.

15 (c-6) For fiscal year 2013 and each fiscal year thereafter,
16 as soon as may be practical after any money is deposited into
17 the State Pensions Fund from the Unclaimed Property Trust Fund,
18 the State Treasurer shall apportion the deposited amount among
19 the designated retirement systems as defined in subsection (a)
20 to reduce their actuarial reserve deficiencies. The State
21 Comptroller and State Treasurer shall pay the apportioned
22 amounts to the designated retirement systems to fund the
23 unfunded liabilities of the designated retirement systems. The
24 amount apportioned to each designated retirement system shall
25 constitute a portion of the amount estimated to be available
26 for appropriation from the State Pensions Fund that is the same

1 as that retirement system's portion of the total actual reserve
2 deficiency of the systems, as determined annually by the
3 Governor's Office of Management and Budget at the request of
4 the State Treasurer. The amounts apportioned under this
5 subsection shall not reduce the amount in the State Pensions
6 Fund below \$5,000,000.

7 (d) The Governor's Office of Management and Budget shall
8 determine the individual and total reserve deficiencies of the
9 designated retirement systems. For this purpose, the
10 Governor's Office of Management and Budget shall utilize the
11 latest available audit and actuarial reports of each of the
12 retirement systems and the relevant reports and statistics of
13 the Public Employee Pension Fund Division of the Department of
14 Insurance.

15 (d-1) As soon as practicable after the effective date of
16 this amendatory Act of the 93rd General Assembly, the
17 Comptroller shall direct and the Treasurer shall transfer from
18 the State Pensions Fund to the General Revenue Fund, as funds
19 become available, a sum equal to the amounts that would have
20 been paid from the State Pensions Fund to the Teachers'
21 Retirement System of the State of Illinois, the State
22 Universities Retirement System, the Judges Retirement System
23 of Illinois, the General Assembly Retirement System, and the
24 State Employees' Retirement System of Illinois after the
25 effective date of this amendatory Act during the remainder of
26 fiscal year 2004 to the designated retirement systems from the

1 appropriations provided for in this Section if the transfers
2 provided in Section 6z-61 had not occurred. The transfers
3 described in this subsection (d-1) are to partially repay the
4 General Revenue Fund for the costs associated with the bonds
5 used to fund the moneys transferred to the designated
6 retirement systems under Section 6z-61.

7 (e) The changes to this Section made by this amendatory Act
8 of 1994 shall first apply to distributions from the Fund for
9 State fiscal year 1996.

10 (Source: P.A. 96-959, eff. 7-1-10; 97-72, eff. 7-1-11.)

11 Section 20. The Illinois Banking Act is amended by changing
12 Sections 32, 48, 48.05, and 48.3 as follows:

13 (205 ILCS 5/32) (from Ch. 17, par. 339)

14 Sec. 32. Basic loaning limits. The liabilities outstanding
15 at one time to a state bank of a person for money borrowed,
16 including the liabilities of a partnership or joint venture in
17 the liabilities of the several members thereof, shall not
18 exceed 25% of the amount of the unimpaired capital and
19 unimpaired surplus of the bank.

20 The liabilities to any state bank of a person may exceed
21 25% of the unimpaired capital and unimpaired surplus of the
22 bank, provided that (i) the excess amount from time to time
23 outstanding is fully secured by readily marketable collateral
24 having a market value, as determined by reliable and

1 continuously available quotations, at least equal to the excess
2 amount outstanding; and (ii) the total liabilities shall not
3 exceed 30% of the unimpaired capital and unimpaired surplus of
4 the bank.

5 Beginning July 1, 2012, the following shall be considered
6 as money borrowed within the meaning of this Section:

7 (1) all direct or indirect advances of funds to a
8 person made on the basis of any obligation of that person
9 to repay the funds or repayable from specific property
10 pledged by or on behalf of the person;

11 (2) to the extent specified by the Secretary, any
12 liability of a state chartered bank to advance funds to or
13 on behalf of a person pursuant to a contractual commitment;
14 and

15 (3) beginning January 2013, or such other time deemed
16 by the Secretary, any credit exposure to a person arising
17 from a derivative transaction, repurchase agreement,
18 reverse repurchase agreement, securities lending
19 transaction, or securities borrowing transaction between
20 the state bank and the person.

21 The term "derivative transaction" includes any transaction
22 that is a contract, agreement, swap, warrant, note, or option
23 that is based, in whole or in part, on the value of, any
24 interest in, or any quantitative measure or the occurrence of
25 any event relating to, one or more commodities, securities,
26 currencies, interest or other rates, indices, or other assets.

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

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

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

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

1 rights in wells, building restrictions or other
2 restrictive covenants, nor by reason of the fact it is
3 subject to lease under which rents or profits are reserved
4 by the owners.

5 (4) The purchase of marketable investment securities.

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

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

21 The total liabilities of any one person, for money
22 borrowed, or otherwise, shall not exceed 25% of the deposits of
23 the bank, and those total liabilities shall at no time exceed
24 50% of the amount of the unimpaired capital and unimpaired
25 surplus of the bank. Absent an actual unremedied breach, the
26 obligation or responsibility for breach of warranties or

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

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

26 The Secretary may adopt rules to address the funding by

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

8 (Source: P.A. 96-1365, eff. 7-28-10.)

9 (205 ILCS 5/48)

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

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

22 (2) (a) The Secretary ~~Commissioner~~, as often as the
23 Secretary ~~Commissioner~~ shall deem necessary or proper, and no
24 less frequently than 18 months following the preceding
25 examination, shall appoint a suitable person or persons to make

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

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

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

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

24 (a) that performance shall be subject to examination by
25 the Secretary ~~Commissioner~~ to the same extent as if
26 services were being performed by the bank or, after May 31,

1 1997, branch of the out-of-state bank itself on its own
2 premises; and

3 (b) the bank or, after May 31, 1997, branch of the
4 out-of-state bank shall notify the Secretary ~~Commissioner~~
5 of the existence of a service relationship. The
6 notification shall be submitted with the first statement of
7 condition (as required by Section 47 of this Act) due after
8 the making of the service contract or the performance of
9 the service, whichever occurs first. The Secretary
10 ~~Commissioner~~ shall be notified of each subsequent contract
11 in the same manner.

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

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

26 (a) Each bank shall pay to the Secretary a Call Report

1 Fee which shall be paid in quarterly installments equal to
2 one-fourth of the sum of the annual fixed fee of \$800, plus
3 a variable fee based on the assets shown on the quarterly
4 statement of condition delivered to the Secretary in
5 accordance with Section 47 for the preceding quarter
6 according to the following schedule: 16¢ per \$1,000 of the
7 first \$5,000,000 of total assets, 15¢ per \$1,000 of the
8 next \$20,000,000 of total assets, 13¢ per \$1,000 of the
9 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next
10 \$400,000,000 of total assets, 7¢ per \$1,000 of the next
11 \$500,000,000 of total assets, and 5¢ per \$1,000 of all
12 assets in excess of \$1,000,000,000, of the State bank. The
13 Call Report Fee shall be calculated by the Secretary and
14 billed to the banks for remittance at the time of the
15 quarterly statements of condition provided for in Section
16 47. The Secretary may require payment of the fees provided
17 in this Section by an electronic transfer of funds or an
18 automatic debit of an account of each of the State banks.
19 In case more than one examination of any bank is deemed by
20 the Secretary to be necessary in any examination frequency
21 cycle specified in subsection 2(a) of this Section, and is
22 performed at his direction, the Secretary may assess a
23 reasonable additional fee to recover the cost of the
24 additional examination; provided, however, that an
25 examination conducted at the request of the State Treasurer
26 pursuant to the Uniform Disposition of Unclaimed Property

1 Act shall not be deemed to be an additional examination
2 under this Section. In lieu of the method and amounts set
3 forth in this paragraph (a) for the calculation of the Call
4 Report Fee, the Secretary may specify by rule that the Call
5 Report Fees provided by this Section may be assessed
6 semiannually or some other period and may provide in the
7 rule the formula to be used for calculating and assessing
8 the periodic Call Report Fees to be paid by State banks.

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

20 (a-2) On and after January 1, 1990, the reasonable and
21 necessary expenses of the Secretary ~~Commissioner~~ during
22 examination of the performance of electronic data
23 processing services under subsection (2.5) shall be borne
24 by the banks for which the services are provided. An
25 amount, based upon a fee structure prescribed by the
26 Secretary ~~Commissioner~~, shall be paid by the banks or,

1 after May 31, 1997, branches of out-of-state banks
2 receiving the electronic data processing services along
3 with the Call Report Fee assessed under paragraph (a) of
4 this subsection (3).

5 (a-3) After May 31, 1997, the reasonable and necessary
6 expenses of the Secretary ~~Commissioner~~ during examination
7 of the performance of electronic data processing services
8 under subsection (2.5) at or on behalf of branches of
9 out-of-state banks shall be borne by the out-of-state
10 banks, unless those expenses are borne by the state
11 regulatory authorities that chartered the out-of-state
12 banks, as determined by cooperative agreements between the
13 Secretary ~~Commissioner~~ and the state regulatory
14 authorities that chartered the out-of-state banks.

15 (b) "Fiscal year" for purposes of this Section 48 is
16 defined as a period beginning July 1 of any year and ending
17 June 30 of the next year. The Secretary ~~Commissioner~~ shall
18 receive for each fiscal year, commencing with the fiscal
19 year ending June 30, 1987, a contingent fee equal to the
20 lesser of the aggregate of the fees paid by all State banks
21 under paragraph (a) of subsection (3) for that year, or the
22 amount, if any, whereby the aggregate of the administration
23 expenses, as defined in paragraph (c), for that fiscal year
24 exceeds the sum of the aggregate of the fees payable by all
25 State banks for that year under paragraph (a) of subsection
26 (3), plus any amounts transferred into the Bank and Trust

1 Company Fund from the State Pensions Fund for that year,
2 plus all other amounts collected by the Secretary
3 ~~Commissioner~~ for that year under any other provision of
4 this Act, plus the aggregate of all fees collected for that
5 year by the Secretary ~~Commissioner~~ under the Corporate
6 Fiduciary Act, excluding the receivership fees provided
7 for in Section 5-10 of the Corporate Fiduciary Act, and the
8 Foreign Banking Office Act. The aggregate amount of the
9 contingent fee thus arrived at for any fiscal year shall be
10 apportioned amongst, assessed upon, and paid by the State
11 banks and foreign banking corporations, respectively, in
12 the same proportion that the fee of each under paragraph
13 (a) of subsection (3), respectively, for that year bears to
14 the aggregate for that year of the fees collected under
15 paragraph (a) of subsection (3). The aggregate amount of
16 the contingent fee, and the portion thereof to be assessed
17 upon each State bank and foreign banking corporation,
18 respectively, shall be determined by the Secretary
19 ~~Commissioner~~ and shall be paid by each, respectively,
20 within 120 days of the close of the period for which the
21 contingent fee is computed and is payable, and the
22 Secretary ~~Commissioner~~ shall give 20 days advance notice of
23 the amount of the contingent fee payable by the State bank
24 and of the date fixed by the Secretary ~~Commissioner~~ for
25 payment of the fee.

26 (c) The "administration expenses" for any fiscal year

1 shall mean the ordinary and contingent expenses for that
2 year incident to making the examinations provided for by,
3 and for otherwise administering, this Act, the Corporate
4 Fiduciary Act, excluding the expenses paid from the
5 Corporate Fiduciary Receivership account in the Bank and
6 Trust Company Fund, the Foreign Banking Office Act, the
7 Electronic Fund Transfer Act, and the Illinois Bank
8 Examiners' Education Foundation Act, including all
9 salaries and other compensation paid for personal services
10 rendered for the State by officers or employees of the
11 State, including the Secretary Commissioner and his or her
12 designee ~~the Deputy Commissioners~~, communication equipment
13 and services, office furnishings, surety bond premiums,
14 and travel expenses of those officers and employees,
15 employees, expenditures or charges for the acquisition,
16 enlargement or improvement of, or for the use of, any
17 office space, building, or structure, or expenditures for
18 the maintenance thereof or for furnishing heat, light, or
19 power with respect thereto, all to the extent that those
20 expenditures are directly incidental to such examinations
21 or administration. The Secretary Commissioner shall not be
22 required by paragraphs (c) or (d-1) of this subsection (3)
23 to maintain in any fiscal year's budget appropriated
24 reserves for accrued vacation and accrued sick leave that
25 is required to be paid to employees of the Secretary
26 ~~Commissioner~~ upon termination of their service with the

1 Secretary ~~Commissioner~~ in an amount that is more than is
2 reasonably anticipated to be necessary for any anticipated
3 turnover in employees, whether due to normal attrition or
4 due to layoffs, terminations, or resignations.

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

1 made on and after July 1, 1979, by an annual transfer of
2 funds from the Bank and Trust Company Fund. Moneys in the
3 Bank and Trust Company Fund may be transferred to the
4 Professions Indirect Cost Fund, as authorized under
5 Section 2105-300 of the Department of Professional
6 Regulation Law of the Civil Administrative Code of
7 Illinois.

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

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

1 January 10, 2011, from the Bank and Trust Company Fund to
2 the General Revenue Fund pursuant to this provision shall
3 not exceed during any fiscal year 10% of the revenues to be
4 deposited into the Bank and Trust Company Fund during that
5 fiscal year. The State Treasurer and Comptroller shall
6 transfer the amounts designated under this Section as soon
7 as may be practicable after receiving the direction to
8 transfer from the Governor.

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

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

16 (e) The Secretary ~~Commissioner~~ may upon request
17 certify to any public record in his keeping and shall have
18 authority to levy a reasonable charge for issuing
19 certifications of any public record in his keeping.

20 (f) In addition to fees authorized elsewhere in this
21 Act, the Secretary ~~Commissioner~~ may, in connection with a
22 review, approval, or provision of a service, levy a
23 reasonable charge to recover the cost of the review,
24 approval, or service.

25 (4) Nothing contained in this Act shall be construed to
26 limit the obligation relative to examinations and reports of

1 any State bank, deposits in which are to any extent insured by
2 the United States or any agency thereof, nor to limit in any
3 way the powers of the Secretary ~~Commissioner~~ with reference to
4 examinations and reports of that bank.

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

24 (6) The Secretary ~~Commissioner~~ shall have the power:

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

1 (a-5) To impose conditions on any approval issued by
2 the Secretary ~~Commissioner~~ if he determines that the
3 conditions are necessary or appropriate. These conditions
4 shall be imposed in writing and shall continue in effect
5 for the period prescribed by the Secretary ~~Commissioner~~.

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

15 (b-1) To enter into agreements with a bank establishing
16 a program to correct the condition of the bank or its
17 practices.

18 (c) To appoint hearing officers to execute any of the
19 powers granted to the Secretary ~~Commissioner~~ under this
20 Section for the purpose of administering this Act and any
21 rule promulgated in accordance with this Act and otherwise
22 to authorize, in writing, an officer or employee of the
23 Office of Banks and Real Estate to exercise his powers
24 under this Act.

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

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

9 (e) To conduct hearings.

10 (7) Whenever, in the opinion of the Secretary, any
11 director, officer, employee, or agent of a State bank or any
12 subsidiary or bank holding company of the bank or, after May
13 31, 1997, of any branch of an out-of-state bank or any
14 subsidiary or bank holding company of the bank shall have
15 violated any law, rule, or order relating to that bank or any
16 subsidiary or bank holding company of the bank, shall have
17 obstructed or impeded any examination or investigation by the
18 Secretary, shall have engaged in an unsafe or unsound practice
19 in conducting the business of that bank or any subsidiary or
20 bank holding company of the bank, or shall have 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 does not assure
25 reasonable promise of safe and sound operation of the State
26 bank, the Secretary may issue an order of removal. If, in the

1 opinion of the Secretary, any former director, officer,
2 employee, or agent of a State bank or any subsidiary or bank
3 holding company of the bank, prior to the termination of his or
4 her service with that bank or any subsidiary or bank holding
5 company of the bank, violated any law, rule, or order relating
6 to that State bank or any subsidiary or bank holding company of
7 the bank, obstructed or impeded any examination or
8 investigation by the Secretary, engaged in an unsafe or unsound
9 practice in conducting the business of that bank or any
10 subsidiary or bank holding company of the bank, or violated any
11 law or engaged or participated in any unsafe or unsound
12 practice in connection with any financial institution or other
13 business entity such that the character and fitness of the
14 director, officer, employee, or agent would not have assured
15 reasonable promise of safe and sound operation of the State
16 bank, the Secretary may issue an order prohibiting that person
17 from further service with a bank or any subsidiary or bank
18 holding company of the bank as a director, officer, employee,
19 or agent. An order issued pursuant to this subsection shall be
20 served upon the director, officer, employee, or agent. A copy
21 of the order shall be sent to each director of the bank
22 affected by registered mail. A copy of the order shall also be
23 served upon the bank of which he is a director, officer,
24 employee, or agent, whereupon he shall cease to be a director,
25 officer, employee, or agent of that bank. The Secretary may
26 institute a civil action against the director, officer, or

1 agent of the State bank or, after May 31, 1997, of the branch
2 of the out-of-state bank against whom any order provided for by
3 this subsection (7) of this Section 48 has been issued, and
4 against the State bank or, after May 31, 1997, out-of-state
5 bank, to enforce compliance with or to enjoin any violation of
6 the terms of the order. Any person who has been the subject of
7 an order of removal or an order of prohibition issued by the
8 Secretary under this subsection or Section 5-6 of the Corporate
9 Fiduciary Act may not thereafter serve as director, officer,
10 employee, or agent of any State bank or of any branch of any
11 out-of-state bank, or of any corporate fiduciary, as defined in
12 Section 1-5.05 of the Corporate Fiduciary Act, or of any other
13 entity that is subject to licensure or regulation by the
14 Division of Banking unless the Secretary has granted prior
15 approval in writing.

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

19 (8) The Secretary ~~Commissioner~~ may impose civil penalties
20 of up to \$100,000 against any person for each violation of any
21 provision of this Act, any rule promulgated in accordance with
22 this Act, any order of the Secretary ~~Commissioner~~, or any other
23 action which in the Secretary's ~~Commissioner's~~ discretion is an
24 unsafe or unsound banking practice.

25 (9) The Secretary ~~Commissioner~~ may impose civil penalties
26 of up to \$100 against any person for the first failure to

1 comply with reporting requirements set forth in the report of
2 examination of the bank and up to \$200 for the second and
3 subsequent failures to comply with those reporting
4 requirements.

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

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

12 (a) (Blank).

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

19 (c) The aggregate of all special educational fees
20 collected by the Secretary and property received by the
21 Secretary on behalf of the Illinois Bank Examiners'
22 Education Foundation under this subsection (11) on or after
23 June 30, 1986, shall be either (i) promptly paid after
24 receipt of the same, accompanied by a detailed statement
25 thereof, into the State Treasury and shall be set apart in
26 a special fund to be known as "The Illinois Bank Examiners'

1 Education Fund" to be invested by either the Treasurer of
2 the State of Illinois in the Public Treasurers' Investment
3 Pool or in any other investment he is authorized to make or
4 by the Illinois State Board of Investment as the State
5 Banking Board of Illinois may direct or (ii) deposited into
6 an account maintained in a commercial bank or corporate
7 fiduciary in the name of the Illinois Bank Examiners'
8 Education Foundation pursuant to the order and direction of
9 the Board of Trustees of the Illinois Bank Examiners'
10 Education Foundation.

11 (12) (Blank).

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

20 (14) The Secretary when appointed as receiver or any person
21 appointed as receiver shall have all of the powers, rights, and
22 privileges as the Federal Deposit Insurance Corporation, which
23 shall originate at the time of the appointment and continue
24 through the term of the receivership.

25 (Source: P.A. 96-1163, eff. 1-1-11; 96-1365, eff. 7-28-10;
26 97-333, eff. 8-12-11.)

1 (205 ILCS 5/48.05)

2 Sec. 48.05. Regulatory fees. For the fiscal year beginning
3 July 1, 2007 and every year thereafter, each state bank
4 regulated by the Department shall pay a regulatory fee to the
5 Department based upon its total assets as reflected in the most
6 recent quarterly report of condition ~~shown by its year end Call~~
7 ~~Report~~ at the following rates:

8 19.295¢ per \$1,000 of the first \$5,000,000 of total
9 assets;

10 18.16¢ per \$1,000 of the next \$20,000,000 of total
11 assets;

12 15.89¢ per \$1,000 of the next \$75,000,000 of total
13 assets;

14 10.7825¢ per \$1,000 of the next \$400,000,000 of total
15 assets;

16 8.5125¢ per \$1,000 of the next \$500,000,000 of total
17 assets;

18 6.2425¢ per \$1,000 of the next \$19,000,000,000 of total
19 assets;

20 2.27¢ per \$1,000 of the next \$30,000,000,000 of total
21 assets;

22 1.135¢ per \$1,000 of the next \$50,000,000,000 of total
23 assets; and

24 0.5675¢ per \$1,000 of all assets in excess of
25 \$100,000,000,000 of the state bank.

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

2 (205 ILCS 5/48.3) (from Ch. 17, par. 360.2)

3 Sec. 48.3. Disclosure of reports of examinations and
4 confidential supervisory information; limitations.

5 (a) Any report of examination, visitation, or
6 investigation prepared by the Secretary ~~Commissioner~~ under
7 this Act, the Electronic Fund Transfer Act, the Corporate
8 Fiduciary Act, the Illinois Bank Holding Company Act of 1957,
9 and the Foreign Banking Office Act, any report of examination,
10 visitation, or investigation prepared by the state regulatory
11 authority of another state that examines a branch of an
12 Illinois State bank in that state, any document or record
13 prepared or obtained in connection with or relating to any
14 examination, visitation, or investigation, and any record
15 prepared or obtained by the Secretary ~~Commissioner~~ to the
16 extent that the record summarizes or contains information
17 derived from any report, document, or record described in this
18 subsection shall be deemed "confidential supervisory
19 information". Confidential supervisory information shall not
20 include any information or record routinely prepared by a bank
21 or other financial institution and maintained in the ordinary
22 course of business or any information or record that is
23 required to be made publicly available pursuant to State or
24 federal law or rule. Confidential supervisory information
25 shall be the property of the Secretary ~~Commissioner~~ and shall

1 only be disclosed under the circumstances and for the purposes
2 set forth in this Section.

3 The Secretary ~~Commissioner~~ may disclose confidential
4 supervisory information only under the following
5 circumstances:

6 (1) The Secretary ~~Commissioner~~ may furnish
7 confidential supervisory information to the Board of
8 Governors of the Federal Reserve System, the federal
9 reserve bank of the federal reserve district in which the
10 State bank is located or in which the parent or other
11 affiliate of the State bank is located, any official or
12 examiner thereof duly accredited for the purpose, or any
13 other state regulator, federal regulator, or in the case of
14 a foreign bank possessing a certificate of authority
15 pursuant to the Foreign Banking Office Act or a license
16 pursuant to the Foreign Bank Representative Office Act, the
17 bank regulator in the country where the foreign bank is
18 chartered, that the Secretary ~~Commissioner~~ determines to
19 have an appropriate regulatory interest. Nothing contained
20 in this Act shall be construed to limit the obligation of
21 any member State bank to comply with the requirements
22 relative to examinations and reports of the Federal Reserve
23 Act and of the Board of Governors of the Federal Reserve
24 System or the federal reserve bank of the federal reserve
25 district in which the bank is located, nor to limit in any
26 way the powers of the Secretary ~~Commissioner~~ with reference

1 to examinations and reports.

2 (2) The Secretary ~~Commissioner~~ may furnish
3 confidential supervisory information to the United States,
4 any agency thereof that has insured a bank's deposits in
5 whole or in part, or any official or examiner thereof duly
6 accredited for the purpose. Nothing contained in this Act
7 shall be construed to limit the obligation relative to
8 examinations and reports of any State bank, deposits in
9 which are to any extent insured by the United States, any
10 agency thereof, nor to limit in any way the powers of the
11 Secretary ~~Commissioner~~ with reference to examination and
12 reports of such bank.

13 (3) The Secretary ~~Commissioner~~ may furnish
14 confidential supervisory information to the appropriate
15 law enforcement authorities when the Secretary
16 ~~Commissioner~~ reasonably believes a bank, which the
17 Secretary ~~Commissioner~~ has caused to be examined, has been
18 a victim of a crime.

19 (4) The Secretary ~~Commissioner~~ may furnish
20 confidential supervisory information relating to a bank or
21 other financial institution, which the Secretary
22 ~~Commissioner~~ has caused to be examined, to be sent to the
23 administrator of the Uniform Disposition of Unclaimed
24 Property Act.

25 (5) The Secretary ~~Commissioner~~ may furnish
26 confidential supervisory information relating to a bank or

1 other financial institution, which the Secretary
2 ~~Commissioner~~ has caused to be examined, relating to its
3 performance of obligations under the Illinois Income Tax
4 Act and the Illinois Estate and Generation-Skipping
5 Transfer Tax Act to the Illinois Department of Revenue.

6 (6) The Secretary ~~Commissioner~~ may furnish
7 confidential supervisory information relating to a bank or
8 other financial institution, which the Secretary
9 ~~Commissioner~~ has caused to be examined, under the federal
10 Currency and Foreign Transactions Reporting Act, Title 31,
11 United States Code, Section 1051 et seq.

12 (6.5) The Secretary ~~Commissioner~~ may furnish
13 confidential supervisory information to any other agency
14 or entity that the Secretary ~~Commissioner~~ determines to
15 have a legitimate regulatory interest.

16 (7) The Secretary ~~Commissioner~~ may furnish
17 confidential supervisory information under any other
18 statute that by its terms or by regulations promulgated
19 thereunder requires the disclosure of financial records
20 other than by subpoena, summons, warrant, or court order.

21 (8) At the request of the affected bank or other
22 financial institution, the Secretary ~~Commissioner~~ may
23 furnish confidential supervisory information relating to a
24 bank or other financial institution, which the Secretary
25 ~~Commissioner~~ has caused to be examined, in connection with
26 the obtaining of insurance coverage or the pursuit of an

1 insurance claim for or on behalf of the bank or other
2 financial institution; provided that, when possible, the
3 Secretary ~~Commissioner~~ shall disclose only relevant
4 information while maintaining the confidentiality of
5 financial records not relevant to such insurance coverage
6 or claim and, when appropriate, may delete identifying data
7 relating to any person or individual.

8 (9) The Secretary ~~Commissioner~~ may furnish a copy of a
9 report of any examination performed by the Secretary
10 ~~Commissioner~~ of the condition and affairs of any electronic
11 data processing entity to the banks serviced by the
12 electronic data processing entity.

13 (10) In addition to the foregoing circumstances, the
14 Secretary ~~Commissioner~~ may, but is not required to, furnish
15 confidential supervisory information under the same
16 circumstances authorized for the bank or financial
17 institution pursuant to subsection (b) of this Section,
18 except that the Secretary ~~Commissioner~~ shall provide
19 confidential supervisory information under circumstances
20 described in paragraph (3) of subsection (b) of this
21 Section only upon the request of the bank or other
22 financial institution.

23 (b) A bank or other financial institution or its officers,
24 agents, and employees may disclose confidential supervisory
25 information only under the following circumstances:

26 (1) to the board of directors of the bank or other

1 financial institution, as well as the president,
2 vice-president, cashier, and other officers of the bank or
3 other financial institution to whom the board of directors
4 may delegate duties with respect to compliance with
5 recommendations for action, and to the board of directors
6 of a bank holding company that owns at least 80% of the
7 outstanding stock of the bank or other financial
8 institution;

9 (2) to attorneys for the bank or other financial
10 institution and to a certified public accountant engaged by
11 the State bank or financial institution to perform an
12 independent audit provided that the attorney or certified
13 public accountant shall not permit the confidential
14 supervisory information to be further disseminated;

15 (3) to any person who seeks to acquire a controlling
16 interest in, or who seeks to merge with, the bank or
17 financial institution, provided that all attorneys,
18 certified public accountants, officers, agents, or
19 employees of that person shall agree to be bound to respect
20 the confidentiality of the confidential supervisory
21 information and to not further disseminate the information
22 therein contained;

23 (4) (blank); ~~or~~

24 (5) to the bank's insurance company in relation to an
25 insurance claim or the effort by the bank to procure
26 insurance coverage, provided that, when possible, the bank

1 shall disclose only information that is relevant to the
2 insurance claim or that is necessary to procure the
3 insurance coverage, while maintaining the confidentiality
4 of financial information pertaining to customers. When
5 appropriate, the bank may delete identifying data relating
6 to any person; or -

7 (6) to any person conducting a review of the bank on
8 behalf of the bank for purposes of complying with any
9 enforcement action taken by a bank regulatory agency so
10 long as the bank obtains pre-approval for release of said
11 confidential supervisory information by the Secretary and
12 said person agrees to maintain the confidentiality of the
13 confidential supervisory information and to not further
14 disseminate the confidential supervisory information.

15 The disclosure of confidential supervisory information by
16 a bank or other financial institution pursuant to this
17 subsection (b) and the disclosure of information to the
18 Secretary ~~Commissioner~~ or other regulatory agency in
19 connection with any examination, visitation, or investigation
20 shall not constitute a waiver of any legal privilege otherwise
21 available to the bank or other financial institution with
22 respect to the information.

23 (c) (1) Notwithstanding any other provision of this Act or
24 any other law, confidential supervisory information shall be
25 the property of the Secretary ~~Commissioner~~ and shall be
26 privileged from disclosure to any person except as provided in

1 this Section. No person in possession of confidential
2 supervisory information may disclose that information for any
3 reason or under any circumstances not specified in this Section
4 without the prior authorization of the Secretary ~~Commissioner~~.
5 Any person upon whom a demand for production of confidential
6 supervisory information is made, whether by subpoena, order, or
7 other judicial or administrative process, must withhold
8 production of the confidential supervisory information and
9 must notify the Secretary ~~Commissioner~~ of the demand, at which
10 time the Secretary ~~Commissioner~~ is authorized to intervene for
11 the purpose of enforcing the limitations of this Section or
12 seeking the withdrawal or termination of the attempt to compel
13 production of the confidential supervisory information.

14 (2) Any request for discovery or disclosure of confidential
15 supervisory information, whether by subpoena, order, or other
16 judicial or administrative process, shall be made to the
17 Secretary ~~Commissioner~~, and the Secretary ~~Commissioner~~ shall
18 determine within 15 days whether to disclose the information
19 pursuant to procedures and standards that the Secretary
20 ~~Commissioner~~ shall establish by rule. If the Secretary
21 ~~Commissioner~~ determines that such information will not be
22 disclosed, the Secretary's ~~Commissioner's~~ decision shall be
23 subject to judicial review under the provisions of the
24 Administrative Review Law, and venue shall be in either
25 Sangamon County or Cook County.

26 (3) Any court order that compels disclosure of confidential

1 supervisory information may be immediately appealed by the
2 Secretary ~~Commissioner~~, and the order shall be automatically
3 stayed pending the outcome of the appeal.

4 (d) If any officer, agent, attorney, or employee of a bank
5 or financial institution knowingly and willfully furnishes
6 confidential supervisory information in violation of this
7 Section, the Secretary ~~Commissioner~~ may impose a civil monetary
8 penalty up to \$1,000 for the violation against the officer,
9 agent, attorney, or employee.

10 (Source: P.A. 90-301, eff. 8-1-97; 91-201, eff. 1-1-00.)

11 (205 ILCS 105/Act rep.)

12 Section 22. The Illinois Savings and Loan Act of 1985 is
13 repealed.

14 Section 25. The Savings Bank Act is amended by changing
15 Sections 1007.130, 2007, 3003, 4008, 4010, 4013, 6002, 6013,
16 6014, 9002, 9002.5, and 9012 and by adding Articles 12.1 and
17 12.2 and Section 9002.1 as follows:

18 (205 ILCS 205/1007.130)

19 Sec. 1007.130. Out-of-state savings bank. "Out-of-state
20 savings bank" means a savings bank or a savings and loan
21 association chartered under the laws of a state other than
22 Illinois, a territory of the United States, or the District of
23 Columbia.

1 (Source: P.A. 93-965, eff. 8-20-04.)

2 (205 ILCS 205/2007) (from Ch. 17, par. 7302-7)

3 Sec. 2007. Reorganization to become a holding company.

4 (a) A savings bank, including a mutual savings bank
5 operating under this Act, may reorganize so as to become a
6 holding company by:

7 (1) chartering one or more subsidiary savings banks,
8 the ownership of which shall be evidenced by stock shares,
9 to be owned by the chartering parent savings bank; and

10 (2) either of the following:

11 (i) transferring the substantial portion of its
12 assets and all of its insured deposits and part or all
13 of its other liabilities to one or more subsidiary
14 savings banks; or

15 (ii) reorganizing in any other manner as approved
16 by the Secretary.

17 (b) In order to effect reorganization under subsection (a),
18 the board of directors of the original savings bank must
19 approve a plan providing for the reorganization that shall be
20 submitted for approval by a majority of the voting members of
21 the savings bank. Approval must occur in accordance with the
22 savings bank's articles of incorporation and bylaws at a
23 meeting called by the board of directors. The Secretary may
24 charter mutual and stock holding companies in connection with a
25 mutual savings bank reorganization and may promulgate rules to

1 regulate the formation of and the ongoing business of the
2 subsidiaries and the holding company, including the rights of
3 members, levels of investment in holding company subsidiaries,
4 and stock sales.

5 (Source: P.A. 97-492, eff. 1-1-12.)

6 (205 ILCS 205/3003) (from Ch. 17, par. 7303-3)

7 Sec. 3003. Contents of articles of incorporation.

8 (a) The articles of incorporation shall set forth:

9 (1) The name of the savings bank.

10 (2) The initial location of the business office.

11 (3) The duration of existence, which shall be perpetual
12 unless otherwise specified.

13 (4) The initial number of directors, not less than 5.

14 (5) The authorization, if any, to issue deposit
15 accounts, the aggregate amount of which may be unlimited.

16 (6) The authorization, if any, to issue stock, the
17 aggregate number of shares and the par value per share,
18 ~~which shall not be less than \$1.~~

19 (7) The quorum required for action of members if a
20 quorum other than that specified in this Act is desired.

21 (8) Any other provision, not inconsistent with law,
22 which the subscribers or members may desire, for the
23 internal regulation of the affairs of the savings bank.

24 (b) A savings bank may include in its original articles of
25 incorporation or amended articles a requirement that proposed

1 amendments to the articles of incorporation shall be adopted by
2 the affirmative vote of two-thirds of the total number of votes
3 entitled to be cast.

4 (c) The articles of incorporation need not set forth any of
5 the powers that this Act confers.

6 (Source: P.A. 89-74, eff. 6-30-95.)

7 (205 ILCS 205/4008) (from Ch. 17, par. 7304-8)

8 Sec. 4008. Directors. The business and affairs of the
9 savings bank shall be exercised by its elected board of
10 directors. The board of directors shall consist of the number
11 of directors fixed by the bylaws, but shall not be fewer than
12 5. No more than 40% of the directors shall be salaried
13 employees of the savings bank, except that a higher percentage
14 may be allowed with the prior written approval of the Secretary
15 ~~Commissioner. At least two thirds of the directors shall be~~
16 ~~residents of this State.~~

17 (Source: P.A. 90-301, eff. 8-1-97.)

18 (205 ILCS 205/4010) (from Ch. 17, par. 7304-10)

19 Sec. 4010. Conduct of directors and officers.

20 (a) Directors and officers occupy a fiduciary relationship
21 to the savings bank of which they are directors or officers,
22 and a director or officer shall not engage or participate,
23 directly or indirectly, in any business or transaction
24 conducted on behalf of or involving the savings bank that would

1 result in a conflict of their own personal interests with those
2 of the savings bank which they serve, unless: (i) the business
3 or transactions are conducted in good faith and are honest,
4 fair, and reasonable to the savings bank; (ii) a full
5 disclosure of the business or transaction and the nature of the
6 director's or officer's interest is made to the board of
7 directors; and (iii) the business or transaction is approved in
8 good faith by the board of directors with any interested
9 director abstaining. The approval of the business or
10 transaction shall be recorded in the minutes. Any profits
11 inuring to the officer or director shall not be at the expense
12 of the savings bank. The business or transaction shall not
13 represent a breach of the officer's or director's fiduciary
14 duty and shall not be fraudulent or illegal. Notwithstanding
15 any other provisions of this Section, the Secretary
16 ~~Commissioner~~ may require the disclosure by directors,
17 officers, and employees of their personal interest, directly or
18 indirectly, in any business or transaction on behalf of or
19 involving the savings bank and of their control of or active
20 participation in enterprises having activities related to the
21 business of the savings bank. The following restrictions
22 governing the conduct of directors and officers expressly are
23 specified, but that specification does not excuse those persons
24 from the observance of any other aspect of the general
25 fiduciary duty owed by them to the savings bank which they
26 serve:

1 (1) An officer or director of a mutual savings bank
2 shall not hold office or status as a director or officer of
3 another mutual savings bank subject to this Act.

4 (2) A director shall receive as remuneration only
5 reasonable fees for services as a director or for service
6 as a member of a committee of directors. A director who is
7 also an officer or employee of the savings bank may receive
8 compensation for service as an officer or employee.

9 (3) A director or officer shall not have any interest,
10 direct or indirect, in the purchase at less than its face
11 value of any evidence of a savings account, deposit, or
12 other indebtedness issued by the savings bank.

13 (4) A savings bank or director or officer thereof shall
14 not directly or indirectly require, as a condition to the
15 granting of any loan or the extension of any other service
16 by the savings bank or its affiliates that the borrower or
17 any other person undertake a contract of insurance or any
18 other agreement or understanding with respect to the direct
19 or indirect furnishing of any other goods or services with
20 any specific company, agency, or individual.

21 (5) An officer or director acting as proxy for a member
22 of a mutual savings bank shall not exercise, transfer, or
23 delegate that right in any consideration of a private
24 benefit or advantage, direct or indirect, accruing to
25 himself nor surrender control or pass his office to any
26 other for any consideration of a private benefit or

1 advantage, direct or indirect. The voting rights of members
2 shall not be the subject of sale or similar transaction,
3 either directly or indirectly. Any officer or director who
4 violates the provisions of this subsection shall be held
5 accountable to the savings bank for any increment.

6 (6) A director or officer shall not solicit, accept, or
7 agree to accept, directly or indirectly, from any person
8 other than the savings bank any gratuity, compensation, or
9 other personal benefit for any action taken by the savings
10 bank or for endeavoring to procure any action by the
11 savings bank.

12 (7) ~~A Subject to the approval of the Commissioner, a~~
13 savings bank's bylaws may provide for reasonable
14 indemnification to its officers, directors, and employees
15 in connection with the faithful performance of their duties
16 for the savings bank. The Secretary ~~Commissioner~~ may
17 promulgate model indemnification provisions and may
18 consider provisions available under the Business
19 Corporation Act of 1983, the Illinois Banking Act, and
20 those available to national banks.

21 (b) The bylaws of a savings bank may contain a provision
22 providing that a director is not personally liable to the
23 savings bank or its shareholders for monetary damages for a
24 breach of the director's fiduciary duty; provided, however,
25 that such provision may not eliminate or limit the liability of
26 a director for any of the following:

- 1 (1) An act or omission that is grossly negligent.
- 2 (2) A breach of the director's duty of loyalty to the
3 savings bank or its shareholders.
- 4 (3) Acts or omissions not in good faith or that involve
5 intentional misconduct or a knowing violation of law.
- 6 (4) A transaction from which the director derived an
7 improper personal benefit.
- 8 (5) An act or omission occurring before the effective
9 date of the provision in the bylaws authorized by this
10 subsection.

11 (Source: P.A. 89-320, eff. 1-1-96.)

12 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

13 Sec. 4013. Access to books and records; communication with
14 members and shareholders.

15 (a) Every customer ~~member or shareholder~~ shall have the
16 right to inspect financial ~~books and~~ records of the savings
17 bank that pertain to his or her accounts. Otherwise, the right
18 of inspection and examination of the books and records shall be
19 limited as provided in this Act. Only members shall be entitled
20 to a list of members of the savings bank, ~~and no other person~~
21 ~~shall have access to the books and records nor shall be~~
22 ~~entitled to a list of the members or shareholders.~~

23 (b) For the purpose of this Section, the term "financial
24 records" means any original, any copy, or any summary of (1) a
25 document granting signature authority over a deposit or

1 account; (2) a statement, ledger card, or other record on any
2 deposit or account that shows each transaction in or with
3 respect to that account; (3) a check, draft, or money order
4 drawn on a savings bank or issued and payable by a savings
5 bank; or (4) any other item containing information pertaining
6 to any relationship established in the ordinary course of a
7 savings bank's business between a savings bank and its
8 customer, including financial statements or other financial
9 information provided by the customer ~~member or shareholder~~.

10 (b-5) For purposes of this Section, subject to the
11 Secretary's rules, the term "customer" means a person who
12 applies for or is provided with a financial service or product
13 by the savings bank. "Customer" does not include a person who
14 (i) is a customer of another financial institution and the
15 savings bank acts solely as agent for, or provides processing
16 or other services to, that other financial institution; (ii)
17 solely has designated the savings bank as trustee for a trust;
18 (iii) solely is a beneficiary of a trust for which the savings
19 bank is a trustee; or (iv) solely is a participant or a
20 beneficiary of an employee benefit plan that the savings bank
21 sponsors or for which the savings bank acts as a trustee or
22 fiduciary.

23 (c) This Section does not prohibit:

24 (1) The preparation examination, handling, or
25 maintenance of any financial records by any officer,
26 employee, or agent of a savings bank having custody of

1 records or examination of records by a certified public
2 accountant engaged by the savings bank to perform an
3 independent audit.

4 (2) The examination of any financial records by, or the
5 furnishing of financial records by a savings bank to, any
6 officer, employee, or agent of the Secretary ~~Commissioner~~
7 of Banks and Real Estate or the federal depository
8 institution regulator for use solely in the exercise of his
9 duties as an officer, employee, or agent.

10 (3) The publication of data furnished from financial
11 records relating to customers ~~members or holders of capital~~
12 where the data cannot be identified to any particular
13 customer ~~member, shareholder,~~ or account.

14 (4) The making of reports or returns required under
15 Chapter 61 of the Internal Revenue Code of 1986.

16 (5) Furnishing information concerning the dishonor of
17 any negotiable instrument permitted to be disclosed under
18 the Uniform Commercial Code.

19 (6) The exchange in the regular course of business of
20 (i) credit information between a savings bank and other
21 savings banks or financial institutions or commercial
22 enterprises, directly or through a consumer reporting
23 agency or (ii) financial records or information derived
24 from financial records between a savings bank and other
25 savings banks or financial institutions or commercial
26 enterprises for the purpose of conducting due diligence

1 pursuant to a purchase or sale involving the savings bank
2 or assets or liabilities of the savings bank.

3 (7) The furnishing of information to the appropriate
4 law enforcement authorities where the savings bank
5 reasonably believes it has been the victim of a crime.

6 (8) The furnishing of information pursuant to the
7 Uniform Disposition of Unclaimed Property Act.

8 (9) The furnishing of information pursuant to the
9 Illinois Income Tax Act and the Illinois Estate and
10 Generation-Skipping Transfer Tax Act.

11 (10) The furnishing of information pursuant to the
12 federal "Currency and Foreign Transactions Reporting Act",
13 (Title 31, United States Code, Section 1051 et seq.).

14 (11) The furnishing of information pursuant to any
15 other statute which by its terms or by regulations
16 promulgated thereunder requires the disclosure of
17 financial records other than by subpoena, summons,
18 warrant, or court order.

19 (12) The furnishing of information in accordance with
20 the federal Personal Responsibility and Work Opportunity
21 Reconciliation Act of 1996. Any savings bank governed by
22 this Act shall enter into an agreement for data exchanges
23 with a State agency provided the State agency pays to the
24 savings bank a reasonable fee not to exceed its actual cost
25 incurred. A savings bank providing information in
26 accordance with this item shall not be liable to any

1 account holder or other person for any disclosure of
2 information to a State agency, for encumbering or
3 surrendering any assets held by the savings bank in
4 response to a lien or order to withhold and deliver issued
5 by a State agency, or for any other action taken pursuant
6 to this item, including individual or mechanical errors,
7 provided the action does not constitute gross negligence or
8 willful misconduct. A savings bank shall have no obligation
9 to hold, encumber, or surrender assets until it has been
10 served with a subpoena, summons, warrant, court or
11 administrative order, lien, or levy.

12 (13) The furnishing of information to law enforcement
13 authorities, the Illinois Department on Aging and its
14 regional administrative and provider agencies, the
15 Department of Human Services Office of Inspector General,
16 or public guardians: (i) upon subpoena by the investigatory
17 entity or the guardian, or (ii) if there is suspicion by
18 the savings bank that a customer who is an elderly or
19 disabled person has been or may become the victim of
20 financial exploitation. For the purposes of this item (13),
21 the term: (i) "elderly person" means a person who is 60 or
22 more years of age, (ii) "disabled person" means a person
23 who has or reasonably appears to the savings bank to have a
24 physical or mental disability that impairs his or her
25 ability to seek or obtain protection from or prevent
26 financial exploitation, and (iii) "financial exploitation"

1 means tortious or illegal use of the assets or resources of
2 an elderly or disabled person, and includes, without
3 limitation, misappropriation of the elderly or disabled
4 person's assets or resources by undue influence, breach of
5 fiduciary relationship, intimidation, fraud, deception,
6 extortion, or the use of assets or resources in any manner
7 contrary to law. A savings bank or person furnishing
8 information pursuant to this item (13) shall be entitled to
9 the same rights and protections as a person furnishing
10 information under the Elder Abuse and Neglect Act, the
11 Illinois Domestic Violence Act of 1986, and the Abuse of
12 Adults with Disabilities Intervention Act.

13 (14) The disclosure of financial records or
14 information as necessary to effect, administer, or enforce
15 a transaction requested or authorized by the customer
16 ~~member or holder of capital~~, or in connection with:

17 (A) servicing or processing a financial product or
18 service requested or authorized by the customer ~~member~~
19 ~~or holder of capital~~;

20 (B) maintaining or servicing an account of a
21 customer ~~member or holder of capital~~ with the savings
22 bank; or

23 (C) a proposed or actual securitization or
24 secondary market sale (including sales of servicing
25 rights) related to a transaction of a customer ~~member~~
26 ~~or holder of capital~~.

1 Nothing in this item (14), however, authorizes the sale
2 of the financial records or information of a customer
3 ~~member or holder of capital~~ without the consent of the
4 customer ~~member or holder of capital~~.

5 (15) The exchange in the regular course of business of
6 information between a savings bank and any commonly owned
7 affiliate of the savings bank, subject to the provisions of
8 the Financial Institutions Insurance Sales Law.

9 (16) The disclosure of financial records or
10 information as necessary to protect against or prevent
11 actual or potential fraud, unauthorized transactions,
12 claims, or other liability.

13 (17) (a) The disclosure of financial records or
14 information related to a private label credit program
15 between a financial institution and a private label party
16 in connection with that private label credit program. Such
17 information is limited to outstanding balance, available
18 credit, payment and performance and account history,
19 product references, purchase information, and information
20 related to the identity of the customer.

21 (b) (1) For purposes of this paragraph (17) of
22 subsection (c) of Section 4013, a "private label credit
23 program" means a credit program involving a financial
24 institution and a private label party that is used by a
25 customer of the financial institution and the private label
26 party primarily for payment for goods or services sold,

1 manufactured, or distributed by a private label party.

2 (2) For purposes of this paragraph (17) of subsection
3 (c) of Section 4013, a "private label party" means, with
4 respect to a private label credit program, any of the
5 following: a retailer, a merchant, a manufacturer, a trade
6 group, or any such person's affiliate, subsidiary, member,
7 agent, or service provider.

8 (d) A savings bank may not disclose to any person, except
9 to the customer ~~member or holder of capital~~ or his duly
10 authorized agent, any financial records relating to that
11 customer ~~member or shareholder~~ of the savings bank unless:

12 (1) the customer ~~member or shareholder~~ has authorized
13 disclosure to the person; or

14 (2) the financial records are disclosed in response to
15 a lawful subpoena, summons, warrant, citation to discover
16 assets, or court order that meets the requirements of
17 subsection (e) of this Section.

18 (e) A savings bank shall disclose financial records under
19 subsection (d) of this Section pursuant to a lawful subpoena,
20 summons, warrant, citation to discover assets, or court order
21 only after the savings bank mails a copy of the subpoena,
22 summons, warrant, citation to discover assets, or court order
23 to the person establishing the relationship with the savings
24 bank, if living, and otherwise, his personal representative, if
25 known, at his last known address by first class mail, postage
26 prepaid, unless the savings bank is specifically prohibited

1 from notifying the person by order of court.

2 (f) Any officer or employee of a savings bank who knowingly
3 and willfully furnishes financial records in violation of this
4 Section is guilty of a business offense and, upon conviction,
5 shall be fined not more than \$1,000.

6 (g) Any person who knowingly and willfully induces or
7 attempts to induce any officer or employee of a savings bank to
8 disclose financial records in violation of this Section is
9 guilty of a business offense and, upon conviction, shall be
10 fined not more than \$1,000.

11 (h) If any member or shareholder desires to communicate
12 with the other members or shareholders of the savings bank with
13 reference to any question pending or to be presented at an
14 annual or special meeting, the savings bank shall give that
15 person, upon request, a statement of the approximate number of
16 members or shareholders entitled to vote at the meeting and an
17 estimate of the cost of preparing and mailing the
18 communication. The requesting member shall submit the
19 communication to the Secretary ~~Commissioner~~ who, upon finding
20 it to be appropriate and truthful, shall direct that it be
21 prepared and mailed to the members upon the requesting member's
22 or shareholder's payment or adequate provision for payment of
23 the expenses of preparation and mailing.

24 (i) A savings bank shall be reimbursed for costs that are
25 necessary and that have been directly incurred in searching
26 for, reproducing, or transporting books, papers, records, or

1 other data of a customer required to be reproduced pursuant to
2 a lawful subpoena, warrant, citation to discover assets, or
3 court order.

4 (j) Notwithstanding the provisions of this Section, a
5 savings bank may sell or otherwise make use of lists of
6 customers' names and addresses. All other information
7 regarding a customer's account are subject to the disclosure
8 provisions of this Section. At the request of any customer,
9 that customer's name and address shall be deleted from any list
10 that is to be sold or used in any other manner beyond
11 identification of the customer's accounts.

12 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06;
13 95-661, eff. 1-1-08.)

14 (205 ILCS 205/6002) (from Ch. 17, par. 7306-2)

15 Sec. 6002. Investment in loans. Subject to the regulations
16 of the Secretary ~~Commissioner~~, a savings bank may loan funds as
17 follows:

18 (1) On the security of deposit accounts, but no such loan
19 shall exceed the withdrawal value of the pledged account.

20 (2) On the security of real estate:

21 (A) of a value, determined in accordance with this Act,
22 sufficient to provide good and ample security for the loan;

23 (B) with a fee simple title or a leasehold title;

24 (C) with the title established by evidence of title as
25 is consistent with sound lending practices in the locality;

1 (D) with the security interest in the real estate
2 evidenced by an appropriate written instrument and the loan
3 evidenced by a note, bond, or similar written instrument; a
4 loan on the security of the whole of the beneficial
5 interest in a land trust satisfies the requirements of this
6 paragraph if the title to the land is held by a corporate
7 trustee and if the real estate held in the land trust meets
8 the other requirements of this subsection;

9 (E) with a mortgage loan not to exceed 40 years.

10 (3) For the purpose of repair, improvement,
11 rehabilitation, furnishing, or equipment of real estate.

12 (4) For the purpose of financing or refinancing an existing
13 ownership interest in certificates of stock, certificates of
14 beneficial interest, other evidence of an ownership interest
15 in, or a proprietary lease from a corporation, trust, or
16 partnership formed for the purpose of the cooperative ownership
17 of real estate, secured by the assignment or transfer of
18 certificates or other evidence of ownership of the borrower.

19 (5) Through the purchase of loans that, at the time of
20 purchase, the savings bank could make in accordance with this
21 Section and the bylaws.

22 (6) Through the purchase of installment contracts for the
23 sale of real estate and title thereto that is subject to the
24 contracts, but in each instance only if the savings bank, at
25 the time of purchase, could make a mortgage loan of the same
26 amount and for the same length of time on the security of the

1 real estate.

2 (7) Through loans guaranteed or insured, wholly or in part,
3 by the United States or any of its instrumentalities.

4 (8) Subject to regulations adopted by the Secretary
5 ~~Commissioner~~, through secured or unsecured loans for business,
6 corporate, commercial, or agricultural purposes; provided that
7 the total of all loans granted under this paragraph shall not
8 exceed 15% of the savings bank's total assets unless a greater
9 amount is authorized in writing by the Secretary ~~Commissioner~~.

10 (9) For the purpose of mobile home financing subject,
11 however, to the regulation of the Secretary ~~Commissioner~~.

12 (10) Through loans secured by the cash surrender value of
13 any life insurance policy or any collateral that would be a
14 legal investment under the terms of this Act if made by the
15 savings bank.

16 (11) Any provision of this Act or any other law, except for
17 paragraph (18) of Section 6003, to the contrary
18 notwithstanding, but subject to the Financial Institutions
19 Insurance Sales Law and subject to the Secretary's
20 ~~Commissioner's~~ regulations, any savings bank may make any loan
21 or investment or engage in any activity that it could make or
22 engage in if it were organized under State law as a savings and
23 loan association or under federal law as a federal savings and
24 loan association or federal savings bank.

25 (12) A savings bank may issue letters of credit or other
26 similar arrangements only as provided for by regulation of the

1 Secretary ~~Commissioner~~ with regard to aggregate amounts
2 permitted, take out commitments for stand-by letters of credit,
3 underlying documentation and underwriting, legal limitations
4 on loans of the savings bank, control and subsidiary records,
5 and other procedures deemed necessary by the Secretary
6 ~~Commissioner~~.

7 (13) For the purpose of vehicle ~~automobile~~ financing,
8 subject to the regulation of the Secretary. "Vehicle" shall
9 include all motorized forms of transportation that constitute
10 adequate collateral ~~Commissioner~~.

11 (14) For the purpose of financing primary, secondary,
12 undergraduate, or postgraduate education.

13 (15) Through revolving lines of credit on the security of a
14 first or junior lien on the borrower's personal residence,
15 based primarily on the borrower's equity, the proceeds of which
16 may be used for any purpose; those loans being commonly
17 referred to as home equity loans.

18 (16) As secured or unsecured credit to cover the payment of
19 checks, drafts, or other funds transfer orders in excess of the
20 available balance of an account on which they are drawn,
21 subject to the regulations of the Secretary ~~Commissioner~~.

22 (Source: P.A. 90-301, eff. 8-1-97; 91-97, eff. 7-9-99.)

23 (205 ILCS 205/6013) (from Ch. 17, par. 7306-13)

24 Sec. 6013. Loans to one borrower.

25 (a) Except as provided in subsection (c), the total loans

1 and extensions of credit, both direct and indirect, by a
2 savings bank to any person, other than a municipal corporation
3 for money borrowed, outstanding at one time shall not exceed
4 25% of the savings bank's total capital plus general loan loss
5 reserves.

6 (b) Except as provided in subsection (c), the total loans
7 and extensions of credit, both direct and indirect, by a
8 savings bank to any person outstanding at one time and at least
9 100% secured by readily marketable collateral having a market
10 value, as determined by reliable and continuously available
11 price quotations, shall not exceed 10% of the savings bank's
12 total capital plus general loan loss reserves. This limitation
13 shall be separate from and in addition to the limitation
14 contained in subsection (a).

15 (c) If the limit under subsection (a) or (b) on total loans
16 to one borrower is less than \$500,000, a savings bank that
17 meets its minimum capital requirement under this Act may have
18 loan and extensions of credit, both direct and indirect,
19 outstanding to any person at one time not to exceed \$500,000.
20 With the prior written approval of the Secretary ~~Commissioner~~,
21 a savings bank that has capital in excess of 6% of assets may
22 make loans and extensions of credit to one borrower for the
23 development of residential housing properties, located or to be
24 located in this State, not to exceed 30% of the savings bank's
25 total capital plus general loan loss reserves.

26 (d) For purposes of this Section, the term "person" shall

1 be deemed to include an individual, firm, corporation, business
2 trust, partnership, trust, estate, association, joint venture,
3 pool, syndicate, sole proprietorship, unincorporated
4 association, any political subdivision, or any similar entity
5 or organization.

6 (e) For the purposes of this Section any loan or extension
7 of credit granted to one person, the proceeds of which are used
8 for the direct benefit of a second person, shall be deemed a
9 loan or extension of credit to the second person as well as the
10 first person. In addition, a loan or extension of credit to one
11 person shall be deemed a loan or extension of credit to others
12 when a common enterprise exists between the first person and
13 such other persons.

14 (f) For the purposes of this Section, the total liabilities
15 of a firm, partnership, pool, syndicate, or joint venture shall
16 include the liabilities of the members of the entity.

17 (g) For the purposes of this Section, the term "readily
18 marketable collateral" means financial instruments or bullion
19 that are salable under ordinary circumstances with reasonable
20 promptness at a fair market value on an auction or a similarly
21 available daily bid-and-ask price market. "Financial
22 instruments" include stocks, bonds, notes, debentures traded
23 on a national exchange or over the counter, commercial paper,
24 negotiable certificates of deposit, bankers' acceptances, and
25 shares in money market or mutual funds.

26 (h) Each savings bank shall institute adequate procedures

1 to ensure that collateral fully secures the outstanding loan or
2 extension of credit at all times.

3 (i) If collateral values fall below 100% of the outstanding
4 loan or extension of credit to the extent that the loan or
5 extension of credit no longer is in conformance with subsection
6 (b) and exceeds the 25% limitation of subsection (a), the loan
7 must be brought into conformance with this Section within 5
8 business days except where judicial proceedings or other
9 similar extraordinary occurrences prevent the savings bank
10 from taking action.

11 (j) This Section shall not apply to loans or extensions of
12 credit to the United States of America or its agencies or this
13 State or its agencies or to any loan, investment, or extension
14 of credit made pursuant to Section 6003 of this Act.

15 (k) This Section does not apply to the obligations as
16 endorser, whether with or without recourse, or as guarantor,
17 whether conditional or unconditional, of negotiable or
18 nonnegotiable installment consumer paper of the person
19 transferring the same if the bank's files or the knowledge of
20 its officers of the financial condition of each maker of those
21 obligations is reasonably adequate and if an officer of the
22 bank, designated for that purpose by the board of directors of
23 the bank, certifies that the responsibility of each maker of
24 the obligations has been evaluated and that the bank is relying
25 primarily upon each maker for the payment of the obligations.
26 The certification shall be in writing and shall be retained as

1 part of the records of the bank.

2 (1) The following shall be considered a loan or extension
3 of credit within the meaning of this Section:

4 (1) all direct or indirect advances of funds to a
5 person made on the basis of any obligation of that person
6 to repay the funds or repayable from specific property
7 pledged by or on behalf of the person;

8 (2) to the extent specified by the Secretary, any
9 liability of a savings bank to advance funds to or on
10 behalf of a person pursuant to a contractual commitment;
11 and

12 (3) any credit exposure to a person arising from a
13 derivative transaction, repurchase agreement, reverse
14 repurchase agreement, securities lending transaction, or
15 securities borrowing transaction between the savings bank
16 and the person; the term "derivative transaction" includes
17 any transaction that is a contract, agreement, swap,
18 warrant, note, or option that is based, in whole or in
19 part, on the value of, any interest in, or any quantitative
20 measure or the occurrence of any event relating to, one or
21 more commodities, securities, currencies, interest or
22 other rates, indices, or other assets.

23 (m) The Secretary ~~Commissioner~~ may prescribe rules to carry
24 out the purposes of this Section and to establish limits or
25 requirements other than those specified in this Section for
26 particular types of loans and extensions of credit.

1 (Source: P.A. 92-483, eff. 8-23-01; 92-700, eff. 7-19-02.)

2 (205 ILCS 205/6014) (from Ch. 17, par. 7306-14)

3 Sec. 6014. Secretary's ~~Commissioner's~~ regulations.

4 (a) The Secretary may ~~Commissioner shall~~ promulgate rules
5 and regulations to determine permissible levels of investment
6 and permissible concentrations of assets for savings banks
7 applicable to all lending and investment authority granted by
8 this Article 6. The rules and regulations shall give due regard
9 to capital adequacy, operating income, underwriting standards,
10 risk inherent in the investment or loan, and competitive parity
11 with other financial institutions.

12 (b) Violations of any of the provisions of this Article 6
13 shall constitute an unsafe and unsound practice and may subject
14 the savings bank, its directors, officers, or agents to
15 enforcement actions, civil money penalties, or other sanctions
16 as provided in this Act.

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

18 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

19 Sec. 9002. Powers of Secretary. The Secretary shall have
20 the following powers and duties:

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

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

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

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

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

12 (6) To establish a reasonable fee structure for savings
13 banks and holding companies operating under this Act and
14 for their service corporations and subsidiaries. The fees
15 shall include, but not be limited to, annual fees,
16 application fees, regular and special examination fees,
17 and other fees as the Secretary establishes and
18 demonstrates to be directly resultant from the Secretary's
19 responsibilities under this Act and as are directly
20 attributable to individual entities operating under this
21 Act. The aggregate of all moneys collected by the Secretary
22 on and after the effective date of this Act ~~shall be paid~~
23 ~~promptly after receipt of the same, accompanied by a~~
24 ~~detailed statement thereof, into the Savings and~~
25 ~~Residential Finance Regulatory Fund subject to the~~
26 ~~provisions of Section 7 19.1 of the Illinois Savings and~~

1 ~~Loan Act of 1985 including without limitation the provision~~
2 ~~for credits against regulatory fees. The amounts deposited~~
3 ~~into the Fund shall be used for the ordinary and contingent~~
4 ~~expenses of the Office of Banks and Real Estate.~~
5 ~~Notwithstanding any other provision of this paragraph (6),~~
6 ~~the aggregate of all moneys collected by the Secretary~~
7 ~~under this Act shall be paid promptly after receipt of~~
8 same, accompanied by a detailed statement thereof, into the
9 Savings Institutions Regulatory Fund ~~upon the creation of~~
10 ~~that fund under Section 7-19.2 of the Illinois Savings and~~
11 ~~Loan Act of 1985, subject to the provisions of Section~~
12 ~~7-19.2 of the Illinois Savings and Loan Act of 1985,~~
13 ~~including without limitation~~ the provision for credits
14 against regulatory fees. The amounts deposited into the
15 Savings Institutions Regulatory Fund under this paragraph
16 (6) shall be used for the ordinary and contingent expenses
17 of administering and enforcing this Act. Nothing in this
18 Act shall prevent continuing the practice of paying
19 expenses involving salaries, retirement, social security,
20 and State-paid insurance of State officers by
21 appropriation from the General Revenue Fund. The Secretary
22 may require payment of the fees under this Act by an
23 electronic transfer of funds or an automatic debit of an
24 account of each of the savings banks.

25 (7) The Secretary or any person appointed as receiver
26 shall have all of the powers, rights, and privileges as the

1 Federal Deposit Insurance Corporation when appointed as
2 receiver, which shall originate at the time of the
3 appointment and continue through the term of the
4 receivership.

5 (Source: P.A. 96-1365, eff. 7-28-10; 97-492, eff. 1-1-12.)

6 (205 ILCS 205/9002.1 new)

7 Sec. 9002.1. Savings Institutions Regulatory Fund.

8 (a) The aggregate of all moneys collected by the Secretary
9 under this Act shall be paid promptly after receipt of the
10 same, accompanied by a detailed statement thereof, into the
11 State treasury and shall be set apart in the Savings
12 Institutions Regulatory Fund, a special fund created in the
13 State treasury. The amounts deposited into the Fund shall be
14 used for the ordinary and contingent expenses of the Department
15 of Financial and Professional Regulation and the Division of
16 Banking, or their successors, in administering and enforcing
17 the Savings Bank Act and other laws, rules, and regulations as
18 may apply to the administration and enforcement of the
19 foregoing laws, rules, and regulations, as amended from time to
20 time. Nothing in this Act shall prevent continuing the practice
21 of paying expenses involving salaries, retirement, Social
22 Security, and State paid insurance of State officers by
23 appropriation from the General Revenue Fund.

24 (b) Moneys in the Savings Institutions Regulatory Fund may
25 be transferred to the Professions Indirect Cost Fund as

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

4 (c) All earnings received from investments of funds in the
5 Savings Institutions Regulatory Fund shall be deposited into
6 that Fund and may be used for the same purposes as fees
7 deposited into that Fund.

8 (d) When the balance in the Savings Institutions Regulatory
9 Fund at the end of a fiscal year exceeds 25% of the total
10 actual administrative and operational expenses incurred by the
11 State for that fiscal year in administering and enforcing the
12 Savings Bank Act and such other laws, rules, and regulations as
13 may apply to the administration and enforcement of the
14 foregoing laws, rules, and regulations, the excess shall be
15 credited to the appropriate savings banks and entities and
16 applied against their regulatory fees for the subsequent fiscal
17 year. The amount credited to each savings bank or entity shall
18 be in the same proportion that the regulatory fees paid by the
19 savings bank or entity for the fiscal year in which the excess
20 is produced bear to the aggregate amount of all fees collected
21 by the Secretary under the Savings Bank Act for the same fiscal
22 year. For the purpose of this Section, "fiscal year" means the
23 period beginning July 1 of any year and ending June 30 of the
24 next calendar year.

25 (e) Moneys in the Residential Finance Regulatory Fund
26 apportioned to the moneys collected under the Illinois Savings

1 and Loan Act of 1985 and the Savings Bank Act shall be
2 transferred to the Savings Institutions Regulatory Fund. Any
3 amount used or borrowed from the moneys apportioned to the
4 moneys collected under the Illinois Savings and Loan Act of
5 1985 and this Act that would have been required to be returned
6 to that apportionment shall be instead paid into the Savings
7 Institutions Regulatory Fund in the same manner.

8 (205 ILCS 205/9002.5)

9 Sec. 9002.5. Regulatory fees.

10 (a) For the fiscal year beginning July 1, 2007 and every
11 year thereafter, each savings bank and each service corporation
12 operating under this Act shall pay in quarterly installments
13 equal to one-fourth of a fixed fee of \$520, plus a variable fee
14 based on one-fourth of the total assets of the savings bank or
15 service corporation, as shown in the corresponding quarterly
16 statement of condition, at the following rates:

17 24.97¢ per \$1,000 of the first \$2,000,000 of total
18 assets;

19 22.70¢ per \$1,000 of the next \$3,000,000 of total
20 assets;

21 20.43¢ per \$1,000 of the next \$5,000,000 of total
22 assets;

23 17.025¢ per \$1,000 of the next \$15,000,000 of total
24 assets;

25 14.755¢ per \$1,000 of the next \$25,000,000 of total

1 assets;

2 12.485¢ per \$1,000 of the next \$50,000,000 of total

3 assets;

4 10.215¢ per \$1,000 of the next \$400,000,000 of total

5 assets;

6 6.81¢ per \$1,000 of the next \$500,000,000 of total

7 assets; and

8 4.54¢ per \$1,000 of all total assets in excess of

9 \$1,000,000,000 of such savings bank or service

10 corporation.

11 "Quarterly statement of condition" means the Report of

12 Condition and Income (Call Report) filed with the appropriate

13 federal banking agency, as defined by Section 3 of the Federal

14 Deposit Insurance Act (12 U.S.C. 1813).

15 (b) (Blank). ~~The Secretary shall receive and there shall be~~

16 ~~paid to the Secretary an additional fee as an adjustment to the~~

17 ~~supervisory fee, based upon the difference between the total~~

18 ~~assets of each savings bank and each service corporation as~~

19 ~~shown by its financial report filed with the Secretary for the~~

20 ~~reporting period of the calendar year ended December 31 on~~

21 ~~which the supervisory fee was based and the total assets of~~

22 ~~each savings bank and each service corporation as shown by its~~

23 ~~financial report filed with the Secretary for the reporting~~

24 ~~period of the calendar year ended December 31 in which the~~

25 ~~quarterly payments are made according to the following~~

26 ~~schedule:~~

1 ~~24.97¢ per \$1,000 of the first \$2,000,000 of total~~
2 ~~assets;~~

3 ~~22.70¢ per \$1,000 of the next \$3,000,000 of total~~
4 ~~assets;~~

5 ~~20.43¢ per \$1,000 of the next \$5,000,000 of total~~
6 ~~assets;~~

7 ~~17.025¢ per \$1,000 of the next \$15,000,000 of total~~
8 ~~assets;~~

9 ~~14.755¢ per \$1,000 of the next \$25,000,000 of total~~
10 ~~assets;~~

11 ~~12.485¢ per \$1,000 of the next \$50,000,000 of total~~
12 ~~assets;~~

13 ~~10.215¢ per \$1,000 of the next \$400,000,000 of total~~
14 ~~assets;~~

15 ~~6.81¢ per \$1,000 of the next \$500,000,000 of total~~
16 ~~assets; and~~

17 ~~4.54¢ per \$1,000 of all total assets in excess of~~
18 ~~\$1,000,000,000 of such savings bank or service~~
19 ~~corporation.~~

20 (c) (Blank). ~~The Secretary shall receive and there shall be~~
21 ~~paid to the Secretary by each savings bank and each service~~
22 ~~corporation a fee of \$520 for each approved branch office or~~
23 ~~facility office established under the Illinois Administrative~~
24 ~~Code. The determination of the fees shall be made annually as~~
25 ~~of the close of business of the prior calendar year ended~~
26 ~~December 31.~~

1 (d) The Secretary shall receive for each fiscal year,
2 commencing with the fiscal year ending June 30, 2013, a
3 contingent fee equal to the lesser of the aggregate of the fees
4 paid by all savings banks under subsection (a) of this Section
5 for that year, or the amount, if any, whereby the aggregate of
6 the administration expenses, as defined in subsection (e) of
7 this Section, for that fiscal year exceeds the sum of the
8 aggregate of the fees payable by all savings banks for that
9 year under subsection (a) of this Section, plus any amounts
10 transferred into the Savings Institutions Regulatory Fund from
11 the State Pensions Fund for that year, plus all other amounts
12 collected by the Secretary for that year under any other
13 provision of this Act. The aggregate amount of the contingent
14 fee thus arrived at for any fiscal year shall be apportioned
15 amongst, assessed upon, and paid by the savings banks,
16 respectively, in the same proportion that the fee of each under
17 subsection (a) of this Section for that year bears to the
18 aggregate for that year of the fees collected under subsection
19 (a) of this Section. The aggregate amount of the contingent
20 fee, and the portion thereof to be assessed upon each savings
21 bank, respectively, shall be determined by the Secretary and
22 shall be paid by each, respectively, within 120 days after the
23 close of the period for which the contingent fee is computed
24 and is payable, and the Secretary shall give advance notice of
25 the amount of the contingent fee payable by the savings bank
26 and of the date fixed by the Secretary for payment of the fee.

1 (e) For purposes of subsection (d) of this Section, the
2 following terms shall have the following meanings:

3 (1) "administration expenses" means for any fiscal
4 year the ordinary and contingent expenses for that year
5 incident to making the examinations provided for by, and
6 for otherwise administering, this Act, including all
7 salaries and other compensation paid for personal services
8 rendered for the State by officers or employees of the
9 State, including the Secretary and the Director,
10 communication equipment and services, office furnishings,
11 surety bond premiums, and travel expenses of those officers
12 and employees, employees, expenditures or charges for the
13 acquisition, enlargement, or improvement of, or for the use
14 of, any office space, building, or structure, or
15 expenditures for the maintenance thereof or for furnishing
16 heat, light, or power with respect thereto, all to the
17 extent that those expenditures are directly incidental to
18 such examinations or administration; the Secretary shall
19 not be required by this subsection to maintain in any
20 fiscal year's budget appropriated reserves for accrued
21 vacation and accrued sick leave that is required to be paid
22 to employees of the Secretary upon termination of their
23 service with the Secretary in an amount that is more than
24 is reasonably anticipated to be necessary for any
25 anticipated turnover in employees, whether due to normal
26 attrition or due to layoffs, terminations, or

1 resignations; and

2 (2) "fiscal year" means a period beginning July 1 of
3 any year and ending June 30 of the next year.

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

5 (205 ILCS 205/9012) (from Ch. 17, par. 7309-12)

6 Sec. 9012. Disclosure of reports of examinations and
7 confidential supervisory information; limitations.

8 (a) Any report of examination, visitation, or
9 investigation prepared by the Secretary ~~Commissioner~~ under
10 this Act, any report of examination, visitation, or
11 investigation prepared by the state regulatory authority of
12 another state that examines a branch of an Illinois State
13 savings bank in that state, any document or record prepared or
14 obtained in connection with or relating to any examination,
15 visitation, or investigation, and any record prepared or
16 obtained by the Secretary ~~Commissioner~~ to the extent that the
17 record summarizes or contains information derived from any
18 report, document, or record described in this subsection shall
19 be deemed confidential supervisory information. "Confidential
20 supervisory information" shall not include any information or
21 record routinely prepared by a savings bank and maintained in
22 the ordinary course of business or any information or record
23 that is required to be made publicly available pursuant to
24 State or federal law or rule. Confidential supervisory
25 information shall be the property of the Secretary ~~Commissioner~~

1 and shall only be disclosed under the circumstances and for the
2 purposes set forth in this Section.

3 The Secretary ~~Commissioner~~ may disclose confidential
4 supervisory information only under the following
5 circumstances:

6 (1) The Secretary ~~Commissioner~~ may furnish
7 confidential supervisory information to federal and state
8 depository institution regulators, or any official or
9 examiner thereof duly accredited for the purpose. Nothing
10 contained in this Act shall be construed to limit the
11 obligation of any savings bank to comply with the
12 requirements relative to examinations and reports nor to
13 limit in any way the powers of the Secretary ~~Commissioner~~
14 relative to examinations and reports.

15 (2) The Secretary ~~Commissioner~~ may furnish
16 confidential supervisory information to the United States
17 or any agency thereof that to any extent has insured a
18 savings bank's deposits, or any official or examiner
19 thereof duly accredited for the purpose. Nothing contained
20 in this Act shall be construed to limit the obligation
21 relative to examinations and reports of any savings bank in
22 which deposits are to any extent insured by the United
23 States or any agency thereof nor to limit in any way the
24 powers of the Secretary ~~Commissioner~~ with reference to
25 examination and reports of the savings bank.

26 (3) The Secretary ~~Commissioner~~ may furnish

1 confidential supervisory information to the appropriate
2 law enforcement authorities when the Secretary
3 ~~Commissioner~~ reasonably believes a savings bank, which the
4 Secretary ~~Commissioner~~ has caused to be examined, has been
5 a victim of a crime.

6 (4) The Secretary ~~Commissioner~~ may furnish
7 confidential supervisory information related to a savings
8 bank, which the Secretary ~~Commissioner~~ has caused to be
9 examined, to the administrator of the Uniform Disposition
10 of Unclaimed Property Act.

11 (5) The Secretary ~~Commissioner~~ may furnish
12 confidential supervisory information relating to a savings
13 bank, which the Secretary ~~Commissioner~~ has caused to be
14 examined, relating to its performance of obligations under
15 the Illinois Income Tax Act and the Illinois Estate and
16 Generation-Skipping Transfer Tax Act to the Illinois
17 Department of Revenue.

18 (6) The Secretary ~~Commissioner~~ may furnish
19 confidential supervisory information relating to a savings
20 bank, which the Secretary ~~Commissioner~~ has caused to be
21 examined, under the federal Currency and Foreign
22 Transactions Reporting Act, 31 United States Code, Section
23 1051 et seq.

24 (7) The Secretary ~~Commissioner~~ may furnish
25 confidential supervisory information to any other agency
26 or entity that the Secretary ~~Commissioner~~ determines to

1 have a legitimate regulatory interest.

2 (8) The Secretary ~~Commissioner~~ may furnish
3 confidential supervisory information as otherwise
4 permitted or required by this Act and may furnish
5 confidential supervisory information under any other
6 statute that by its terms or by regulations promulgated
7 thereunder requires the disclosure of financial records
8 other than by subpoena, summons, warrant, or court order.

9 (9) At the request of the affected savings bank, the
10 Secretary ~~Commissioner~~ may furnish confidential
11 supervisory information relating to the savings bank,
12 which the Secretary ~~Commissioner~~ has caused to be examined,
13 in connection with the obtaining of insurance coverage or
14 the pursuit of an insurance claim for or on behalf of the
15 savings bank; provided that, when possible, the Secretary
16 ~~Commissioner~~ shall disclose only relevant information
17 while maintaining the confidentiality of financial records
18 not relevant to such insurance coverage or claim and, when
19 appropriate, may delete identifying data relating to any
20 person.

21 (10) The Secretary ~~Commissioner~~ may furnish a copy of a
22 report of any examination performed by the Secretary
23 ~~Commissioner~~ of the condition and affairs of any electronic
24 data processing entity to the savings banks serviced by the
25 electronic data processing entity.

26 (11) In addition to the foregoing circumstances, the

1 Secretary ~~Commissioner~~ may, but is not required to, furnish
2 confidential supervisory information under the same
3 circumstances authorized for the savings bank pursuant to
4 subsection (b) of this Section, except that the Secretary
5 ~~Commissioner~~ shall provide confidential supervisory
6 information under circumstances described in paragraph (3)
7 of subsection (b) of this Section only upon the request of
8 the savings bank.

9 (b) A savings bank or its officers, agents, and employees
10 may disclose confidential supervisory information only under
11 the following circumstances:

12 (1) to the board of directors of the savings bank, as
13 well as the president, vice-president, cashier, and other
14 officers of the savings bank to whom the board of directors
15 may delegate duties with respect to compliance with
16 recommendations for action, and to the board of directors
17 of a savings bank holding company that owns at least 80% of
18 the outstanding stock of the savings bank or other
19 financial institution; -

20 (2) to attorneys for the savings bank and to a
21 certified public accountant engaged by the savings bank to
22 perform an independent audit; provided that the attorney or
23 certified public accountant shall not permit the
24 confidential supervisory information to be further
25 disseminated; -

26 (3) to any person who seeks to acquire a controlling

1 interest in, or who seeks to merge with, the savings bank;
2 provided that the person shall agree to be bound to respect
3 the confidentiality of the confidential supervisory
4 information and to not further disseminate the information
5 other than to attorneys, certified public accountants,
6 officers, agents, or employees of that person who likewise
7 shall agree to be bound to respect the confidentiality of
8 the confidential supervisory information and to not
9 further disseminate the information; or -

10 (4) to the savings bank's insurance company, if the
11 supervisory information contains information that is
12 otherwise unavailable and is strictly necessary to
13 obtaining insurance coverage or pursuing an insurance
14 claim for or on behalf of the savings bank; provided that,
15 when possible, the savings bank shall disclose only
16 information that is relevant to obtaining insurance
17 coverage or pursuing an insurance claim, while maintaining
18 the confidentiality of financial information pertaining to
19 customers; and provided further that, when appropriate,
20 the savings bank may delete identifying data relating to
21 any person; or -

22 (5) to any person conducting a review of the bank on
23 behalf of the bank for purposes of complying with any
24 enforcement action taken by a bank regulatory agency so
25 long as the bank obtains preapproval for release of said
26 confidential supervisory information by the Secretary and

1 said person agrees to maintain the confidentiality of the
2 confidential supervisory information and to not further
3 disseminate the confidential supervisory information.

4 The disclosure of confidential supervisory information by
5 a savings bank pursuant to this subsection (b) and the
6 disclosure of information to the Secretary ~~Commissioner~~ or
7 other regulatory agency in connection with any examination,
8 visitation, or investigation shall not constitute a waiver of
9 any legal privilege otherwise available to the savings bank
10 with respect to the information.

11 (c) (1) Notwithstanding any other provision of this Act or
12 any other law, confidential supervisory information shall be
13 the property of the Secretary ~~Commissioner~~ and shall be
14 privileged from disclosure to any person except as provided in
15 this Section. No person in possession of confidential
16 supervisory information may disclose that information for any
17 reason or under any circumstances not specified in this Section
18 without the prior authorization of the Secretary ~~Commissioner~~.
19 Any person upon whom a demand for production of confidential
20 supervisory information is made, whether by subpoena, order, or
21 other judicial or administrative process, must withhold
22 production of the confidential supervisory information and
23 must notify the Secretary ~~Commissioner~~ of the demand, at which
24 time the Secretary ~~Commissioner~~ is authorized to intervene for
25 the purpose of enforcing the limitations of this Section or
26 seeking the withdrawal or termination of the attempt to compel

1 production of the confidential supervisory information.

2 (2) Any request for discovery or disclosure of confidential
3 supervisory information, whether by subpoena, order, or other
4 judicial or administrative process, shall be made to the
5 Secretary Commissioner, and the Secretary Commissioner shall
6 determine within 15 days whether to disclose the information
7 pursuant to procedures and standards that the Secretary
8 ~~Commissioner~~ shall establish by rule. If the Secretary
9 ~~Commissioner~~ determines that such information will not be
10 disclosed, the Secretary's ~~Commissioner's~~ decision shall be
11 subject to judicial review under the provisions of the
12 Administrative Review Law, and venue shall be in either
13 Sangamon County or Cook County.

14 (3) Any court order that compels disclosure of confidential
15 supervisory information may be immediately appealed by the
16 Secretary Commissioner, and the order shall be automatically
17 stayed pending the outcome of the appeal.

18 (d) If any officer, agent, attorney, or employee of a
19 savings bank knowingly and willfully furnishes confidential
20 supervisory information in violation of this Section, the
21 Secretary Commissioner may impose a civil monetary penalty up
22 to \$1,000 for the violation against the officer, agent,
23 attorney, or employee.

24 (e) Subject to the limits of this Section, the Secretary
25 ~~Commissioner~~ also may promulgate regulations to set procedures
26 and standards for disclosure of the following items:

1 (1) All fixed orders and opinions made in cases of
2 appeals of the Secretary's ~~Commissioner's~~ actions.

3 (2) Statements of policy and interpretations adopted
4 by the Secretary's ~~Commissioner's~~ office, but not
5 otherwise made public.

6 (3) Nonconfidential portions of application files,
7 including applications for new charters. The Secretary
8 ~~Commissioner~~ shall specify by rule as to what part of the
9 files are confidential.

10 (4) Quarterly reports of income, deposits, and
11 financial condition.

12 (Source: P.A. 93-271, eff. 7-22-03.)

13 (205 ILCS 205/Art. 12.1 heading new)

14 ARTICLE 12.1. EFFECT OF REPEAL OF
15 ILLINOIS SAVINGS AND LOAN ACT OF 1985

16 (205 ILCS 205/12101 new)

17 Sec. 12101. Effect of repeal. This Article sets forth the
18 effect of and means of transition necessitated by the repeal of
19 the Illinois Savings and Loan Act of 1985.

20 (205 ILCS 205/12102 new)

21 Sec. 12102. Effect on existing associations. Any existing
22 association organized under the Illinois Savings and Loan Act
23 of 1985 shall be deemed, without approval of the association,

1 its members, or the Secretary, to be a savings bank as if the
2 association had been organized under this Act. The resulting
3 savings bank, from the date of the repeal of the Illinois
4 Savings and Loan Act of 1985, shall be operated in accordance
5 with this Act and the rules established pursuant to this Act.

6 (205 ILCS 205/12103 new)

7 Sec. 12103. Definitions. For purposes of this Article,
8 terms are defined as follows:

9 "Existing association" means an association organized or,
10 except for existing foreign associations, otherwise operating
11 under the Illinois Savings and Loan Act of 1985 at the time
12 that Act was repealed pursuant to Section 12101 of this Act.

13 "Existing foreign association" means an association or
14 savings bank organized under the laws of any other state,
15 territory, or country, but not including an association or
16 savings bank chartered under the laws of the United States,
17 that, at the time of the repeal of the Illinois Savings and
18 Loan Act of 1985, operated in this State under Article 2B of
19 the Illinois Savings and Loan Act of 1985.

20 "Representative office" shall have the meaning ascribed to
21 it in Section 2 of the Foreign Bank Representative Office Act.

22 "Resulting savings bank" means a savings bank under this
23 Act that was an existing association that is deemed to be a
24 savings bank pursuant to Section 12102 of this Act.

1 (205 ILCS 205/12104 new)

2 Sec. 12104. Charter, bylaws, and directors of resulting
3 savings bank.

4 (a) The statement of incorporation, charter, or
5 certificate of complete organization of any existing
6 association shall be deemed to be the charter of the resulting
7 savings bank until such time, which shall be no more than one
8 year after the date of the repeal of the Illinois Savings and
9 Loan Act of 1985, articles of incorporation in compliance with
10 this Act and the rules established pursuant to this Act are
11 proposed by the resulting savings bank and are approved by and
12 a charter issued accordingly by the Secretary.

13 (b) The bylaws of any existing association shall be deemed
14 to be the bylaws of the resulting savings bank until such time,
15 which shall be no more than one year after the date of the
16 repeal of the Illinois Savings and Loan Act of 1985, bylaws in
17 compliance with this Act and the rules established pursuant to
18 this Act are adopted by the resulting savings bank. The
19 resulting savings bank shall promptly notify the Secretary of
20 the adoption of these bylaws.

21 (c) The directors of any existing association shall be
22 deemed to be the directors of the resulting savings bank until
23 the first election of directors after the existing association
24 is deemed a savings bank under Section 12102 of this Act, or
25 until expiration of their terms as directors, and shall have
26 the power to manage the resulting savings bank pursuant to this

1 Act.

2 (d) Except as it relates to the terms of directors, the
3 Secretary for good cause may extend up to one year the time
4 limits imposed by this Section.

5 (e) The Secretary shall charge no fee for actions
6 undertaken by a resulting savings bank to comply with this
7 Section.

8 (205 ILCS 205/12105 new)

9 Sec. 12105. Powers of resulting savings bank. A resulting
10 savings bank shall have all the rights, privileges, and powers
11 granted by this Act and other laws applicable to savings banks,
12 and the entire assets, business, and goodwill of the existing
13 association shall be vested in the resulting savings bank
14 without deed or transfer, provided the resulting savings bank
15 may execute deeds or instruments of conveyance as may be
16 convenient to confirm such transfer, and such resulting savings
17 bank shall assume and be liable for all debts, accounts,
18 undertaking, contractual obligations, and liabilities of the
19 existing association.

20 (205 ILCS 205/12106 new)

21 Sec. 12106. Obligations of resulting savings bank. The
22 resulting savings bank shall be subject to the duties,
23 relations, obligations, trusts, and liabilities of the
24 existing association, whether as debtor, depository,

1 registrar, transfer agent, executor, administrator, trustee,
2 or otherwise and shall be liable to pay and discharge all such
3 debts and liabilities, to perform all such duties, and to
4 administer all such trusts in the same manner and to the same
5 extent as if the resulting savings bank had itself incurred the
6 obligation or liability or assumed the duty, relation, or
7 trust; and all rights of creditors and all liens upon property
8 of the resulting savings bank shall be entitled to receive,
9 accept, collect, hold, and enjoy any and all gifts, bequests,
10 devises, conveyances, trusts, and appointments in favor of or
11 in the name of the existing association, whether made or
12 created to take effect before or after the establishment of the
13 resulting savings bank.

14 (205 ILCS 205/12107 new)

15 Sec. 12107. Effect on special funds.

16 (a) The Savings and Residential Finance Regulatory Fund
17 established under Section 7-19.1 of the Illinois Savings and
18 Loan Act of 1985 is hereby re-designated the Residential
19 Finance Regulatory Fund. The fund shall continue in existence
20 under the Illinois Residential Mortgage License Act of 1987, as
21 amended, without interruption and shall retain all moneys
22 therein, except moneys required to be transferred or returned
23 from the Savings and Residential Finance Regulatory Fund, now
24 designated the Residential Finance Regulatory Fund, to the
25 Savings Institutions Regulatory Fund pursuant to subsection

1 (e) of Section 7-19.2 of the Illinois Savings and Loan Act of
2 1985, shall continue to be required to be transferred or
3 returned to the Savings Institutions Regulatory Fund, as if
4 subsection (e) of Section 7-19.2 of the Illinois Savings and
5 Loan Act of 1985 had not been repealed.

6 (b) The Savings Institutions Regulatory Fund established
7 under Section 7-19.2 of the Illinois Savings and Loan Act of
8 1985 shall continue in existence under Section 9002.1 of this
9 Act without interruption and shall retain all moneys therein.

10 (205 ILCS 205/12108 new)

11 Sec. 12108. Effect on foreign associations. Any existing
12 foreign association shall be deemed to be an out-of-state
13 savings bank under this Act. Notwithstanding any other
14 provision of this Act or the Foreign Bank Representative Office
15 Act, an existing foreign association may retain any branch or
16 office in the State that properly existed in the State at the
17 time of the repeal of the Illinois Savings and Loan Act of 1985
18 and continue to engage in the same activities in the State
19 therefrom as were engaged in at the time of the repeal of the
20 Illinois Savings and Loan Act without further application or
21 notice to or approval of the Secretary. An existing foreign
22 association that maintains a representative office in Illinois
23 at the time of the repeal of the Illinois Savings and Loan Act
24 of 1985 shall be issued a license and shall be subject to the
25 Foreign Bank Representative Office Act in accordance with

1 Section 9 of that Act.

2 (205 ILCS 205/12109 new)

3 Sec. 12109. Effect on the Board of Savings Institutions.

4 The Board shall continue to operate without interruption and as
5 if it had been originally established under Article 12.2 of
6 this Act. The current members of the Board of Savings
7 Institutions shall continue to serve the balance of their
8 terms.

9 (205 ILCS 205/Art. 12.2 heading new)

10 ARTICLE 12.2. Board of Savings Institutions

11 (205 ILCS 205/12201 new)

12 Sec. 12201. Board of Savings Institutions; appointment.

13 The Board of Savings Institutions shall be composed of the
14 Director of Banking, who shall be its chairman and have power
15 to vote, and 7 additional persons appointed by the Governor.
16 Four of the 7 persons appointed by the Governor shall represent
17 the public interest. Three of the 7 additional persons
18 appointed by the Governor shall have been engaged actively in
19 savings and loan or savings bank management in this State for
20 at least 5 years immediately prior to appointment. Each member
21 of the Board appointed by the Governor shall be reimbursed for
22 ordinary and necessary expenses incurred in attending the
23 meetings of the Board. Members, excluding the chairman, shall

1 be appointed for 4-year terms to expire on the third Monday in
2 January. Except as otherwise provided in this Section, members
3 of the Board shall serve until their respective successors are
4 appointed and qualified. A member who tenders a written
5 resignation shall serve only until the resignation is accepted
6 by the chairman. The chairman may remove a member who fails to
7 attend 3 consecutive Board meetings without an excused absence.
8 The Governor shall fill any vacancy by the appointment of a
9 member for the unexpired term in the same manner as in the
10 making of original appointments.

11 (205 ILCS 205/12202 new)

12 Sec. 12202. Board of Savings Institutions; organization
13 and meetings. The Board of Savings Institutions shall adopt
14 bylaws for the holding and conducting of meetings and shall
15 keep a record of all meetings and transactions and make such
16 other provisions for the daily conduct of its business as it
17 deems necessary. A majority of the members of the Board,
18 excluding those members who are no longer serving as members as
19 provided in Section 12201 of this Act, shall constitute a
20 quorum. The act of the majority of the members of the Board
21 present at a meeting at which a quorum is present shall be the
22 act of the Board. Regular meetings shall be held as provided in
23 the bylaws and special meetings may be called by the chairman
24 or upon the request of any 3 members of the Board. The Board
25 shall maintain permanent records of its meetings, hearings, and

1 decisions at the office of the chairman. The chairman shall
2 provide adequate quarters and personnel for use by the Board.

3 (205 ILCS 205/12203 new)

4 Sec. 12203. Board of Savings Institutions; powers. The
5 Board of Savings Institutions shall have the following powers:

6 (1) to advise the Governor and Secretary on all matters
7 relating to the regulation of savings banks; and

8 (2) to advise the Governor on legislation proposed to amend
9 this Act or any related Act.

10 (205 ILCS 205/1007.70 rep.)

11 (205 ILCS 205/9017 rep.)

12 Section 30. The Savings Bank Act is amended by repealing
13 Sections 1007.70 and 9017.

14 Section 35. The Pawnbroker Regulation Act is amended by
15 changing Sections 0.05 and 7 as follows:

16 (205 ILCS 510/0.05)

17 Sec. 0.05. Administration of Act.

18 (a) This Act shall be administered by the Secretary of
19 Financial and Professional Regulation, and, beginning on July
20 28, 2010 (the effective date of Public Act 96-1365), all
21 references in this Act to the Commissioner of Banks and Real
22 Estate are deemed, in appropriate contexts, to be references to

1 the Secretary of Financial and Professional Regulation, who
2 shall have all of the following powers and duties in
3 administering this Act:

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

6 (2) To issue orders for the purpose of administering
7 the provisions of this Act and any rule promulgated in
8 accordance with this Act.

9 (2.5) To order restitution to consumers suffering
10 damages resulting from violations of this Act, rules
11 promulgated in accordance with this Act, or other laws or
12 regulations related to the operation of a pawnshop.

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

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

1 (5) To conduct hearings.

2 (6) To impose civil penalties ~~graduated~~ up to \$10,000
3 ~~\$1,000~~ against any person for each day that person violates
4 ~~violation of~~ any provision of this Act, any rule
5 promulgated in accordance with this Act, any State or
6 federal law affecting pawnbrokers, or any order of the
7 Secretary based upon the seriousness of the violation.

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

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

26 (8) To determine compliance with applicable law and

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

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

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

1 licensee is unable or ceases to continue to operate the
2 pawnshop.

3 (10.2) To remove or prohibit the employment of any
4 officer, director, employee, or agent of the pawnshop who
5 engages in or has engaged in unlawful activities that
6 relate to the operation of a pawnshop.

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

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

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

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

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

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

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

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

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

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

23 (Source: P.A. 96-1038, eff. 7-14-10; 96-1365, eff. 7-28-10;
24 97-333, eff. 8-12-11.)

25 (205 ILCS 510/7) (from Ch. 17, par. 4657)

1 Sec. 7. Daily report.

2 (a) Except as provided in subsection (b), it shall be the
3 duty of every pawnbroker to make out and deliver to the sheriff
4 of the county in which such pawnbroker does business, on each
5 day before the hours of 12 o'clock noon, a legible and exact
6 copy from the standard record book, as required in Section 5 of
7 this Act, that lists all personal property and any other
8 valuable thing received on deposit or purchased during the
9 preceding day, including the exact time when received or
10 purchased, and a description of the person or person by whom
11 left in pledge, or from whom the same were purchased; provided,
12 that in cities or towns having 25,000 or more inhabitants, a
13 copy of the such report shall at the same time also be
14 delivered to the superintendent of police or the chief police
15 officer of such city or town. Such report may be made by
16 computer printout or input memory device if the format has been
17 approved by the local law enforcement agency.

18 (b) In counties with more than 3,000,000 inhabitants, a
19 pawnbroker must provide the daily report to the sheriff only if
20 the pawnshop is located in an unincorporated area of the
21 county. Pawnbrokers located in cities or towns in such counties
22 must deliver such reports to the superintendent of police or
23 the chief police officer of such city or town.

24 (c) All information provided to law enforcement according
25 to the reporting requirements of this Section is confidential
26 and is not subject to disclosure under the Freedom of

1 Information Act.

2 (Source: P.A. 90-477, eff. 7-1-98; 90-602, eff. 7-1-98.)

3 Section 40. The Corporate Fiduciary Act is amended by
4 changing Sections 5-10.5 and 6-5 as follows:

5 (205 ILCS 620/5-10.5)

6 Sec. 5-10.5. Disclosure of records. A corporate fiduciary
7 may not disclose to any person, except to the customer or the
8 customer's duly authorized agent, any records pertaining to the
9 fiduciary relationship between the corporate fiduciary and the
10 customer unless:

11 (1) the instrument or court order establishing the
12 fiduciary relationship permits the record to be disclosed under
13 the circumstances;

14 (2) applicable law authorizes the disclosure;

15 (3) disclosure by the corporate fiduciary is necessary to
16 perform a transaction or act that is authorized by the
17 instrument or court order establishing the fiduciary relation
18 ship; ~~or~~

19 (4) Section 48.1 of the Illinois Banking Act would permit a
20 bank to disclose the record to the same extent under the
21 circumstances; or ~~or~~

22 (5) disclosure by the corporate fiduciary is necessary for
23 any person conducting a review on behalf of the corporate
24 fiduciary for purposes of complying with any enforcement action

1 taken by a bank regulatory agency, so long as the corporate
2 fiduciary obtains pre-approval for release of said
3 confidential supervisory information by the Secretary and said
4 person agrees to maintain the confidentiality of the
5 confidential supervisory information and to not further
6 disseminate the confidential supervisory information.

7 For purposes of this Section, "customer" means the person
8 or individual who contracted to establish the fiduciary
9 relationship or who executed any instrument or document from
10 which the fiduciary relationship was established, a person
11 authorized by the customer to provide such direction or, if the
12 instrument, law, or court order so permits, the beneficiaries
13 of the fiduciary relationship.

14 (Source: P.A. 89-364, eff. 8-18-95.)

15 (205 ILCS 620/6-5) (from Ch. 17, par. 1556-5)

16 Sec. 6-5. When the Secretary ~~Commissioner~~ has taken
17 possession and control of a corporate fiduciary and its assets,
18 he shall be vested with the full powers of management and
19 control, including but not limited to, the following:

20 (1) The power to continue or to discontinue the
21 business;

22 (2) The power to stop or to limit the payment of its
23 obligations;

24 (3) The power to collect and to use its assets and to
25 give valid receipts and acquittances therefor;

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

3 (5) The power to execute any instrument in the name of
4 the corporate fiduciary;

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

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

11 (8) The power, upon the order of the court, to make and
12 to carry out agreements with other corporate fiduciaries,
13 financial institutions or with the United States or any
14 agency thereof, for the payment or assumption of the
15 corporate fiduciaries liabilities, in whole or in part, and
16 to transfer assets and to make guaranties, in whole or in
17 part, and to transfer assets and to make guaranties in
18 connection therewith;

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

22 (10) The power to terminate his possession and control
23 by restoring the corporate fiduciary to its board of
24 directors;

25 (11) The power to reorganize the corporate fiduciary as
26 provided in this Act;

1 (12) The power to appoint a receiver which may be the
2 Office of the Secretary ~~Commissioner~~, a corporate
3 fiduciary or another suitable person and to order
4 liquidation of the corporate fiduciary as provided in this
5 Act; and

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

14 The Secretary or any person appointed as receiver shall
15 have all of the powers, rights, and privileges as the Federal
16 Deposit Insurance Corporation when appointed as receiver,
17 which shall originate at the time of the appointment and
18 continue through the term of the receivership.

19 (Source: P.A. 86-754.)

20 Section 45. The Residential Mortgage License Act of 1987 is
21 amended by changing Section 4-1 and by adding Section 4-1.5 as
22 follows:

23 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

24 Sec. 4-1. Secretary of Financial and Professional

1 ~~Regulation Commissioner of Banks and Real Estate~~; functions,
2 powers, and duties. The functions, powers, and duties of the
3 Secretary of Financial and Professional Regulation
4 ~~Commissioner of Banks and Real Estate~~ shall include the
5 following:

6 (a) to issue or refuse to issue any license as provided
7 by this Act;

8 (b) to revoke or suspend for cause any license issued
9 under this Act;

10 (c) to keep records of all licenses issued under this
11 Act;

12 (d) to receive, consider, investigate, and act upon
13 complaints made by any person in connection with any
14 residential mortgage licensee in this State;

15 (e) to consider and act upon any recommendations from
16 the Residential Mortgage Board;

17 (f) to prescribe the forms of and receive:

18 (1) applications for licenses; and

19 (2) all reports and all books and records required
20 to be made by any licensee under this Act, including
21 annual audited financial statements and annual reports
22 of mortgage activity;

23 (g) to adopt rules and regulations necessary and proper
24 for the administration of this Act;

25 (h) to subpoena documents and witnesses and compel
26 their attendance and production, to administer oaths, and

1 to require the production of any books, papers, or other
2 materials relevant to any inquiry authorized by this Act;

3 (h-1) to issue orders against any person, if the
4 Secretary ~~Commissioner~~ has reasonable cause to believe
5 that an unsafe, unsound, or unlawful practice has occurred,
6 is occurring, or is about to occur, if any person has
7 violated, is violating, or is about to violate any law,
8 rule, or written agreement with the Secretary
9 ~~Commissioner~~, or for the purpose of administering the
10 provisions of this Act and any rule adopted in accordance
11 with the Act;

12 (h-2) to address any inquiries to any licensee, or the
13 officers thereof, in relation to its activities and
14 conditions, or any other matter connected with its affairs,
15 and it shall be the duty of any licensee or person so
16 addressed, to promptly reply in writing to such inquiries.
17 The Secretary ~~Commissioner~~ may also require reports from
18 any licensee at any time the Secretary ~~Commissioner~~ may
19 deem desirable;

20 (i) to require information with regard to any license
21 applicant as he or she may deem desirable, with due regard
22 to the paramount interests of the public as to the
23 experience, background, honesty, truthfulness, integrity,
24 and competency of the license applicant as to financial
25 transactions involving primary or subordinate mortgage
26 financing, and where the license applicant is an entity

1 other than an individual, as to the honesty, truthfulness,
2 integrity, and competency of any officer or director of the
3 corporation, association, or other entity, or the members
4 of a partnership;

5 (j) to examine the books and records of every licensee
6 under this Act at intervals as specified in Section 4-2;

7 (k) to enforce provisions of this Act;

8 (l) to levy fees, fines, and charges for services
9 performed in administering this Act; the aggregate of all
10 fees collected by the Secretary ~~Commissioner~~ on and after
11 the effective date of this Act shall be paid promptly after
12 receipt of the same, accompanied by a detailed statement
13 thereof, into the ~~Savings~~ and Residential Finance
14 Regulatory Fund; the amounts deposited into that Fund shall
15 be used for the ordinary and contingent expenses of the
16 Department of Financial and Professional Regulation in
17 accordance with Section 4-1.5 of this Act ~~Office of Banks~~
18 ~~and Real Estate~~. Nothing in this Act shall prevent
19 continuing the practice of paying expenses involving
20 salaries, retirement, social security, and State-paid
21 insurance of State officers by appropriation from the
22 General Revenue Fund.

23 (m) to appoint examiners, supervisors, experts, and
24 special assistants as needed to effectively and
25 efficiently administer this Act;

26 (n) to conduct hearings for the purpose of:

1 (1) appeals of orders of the Secretary
2 ~~Commissioner~~;

3 (2) suspensions or revocations of licenses, or
4 fining of licensees;

5 (3) investigating:

6 (i) complaints against licensees; or

7 (ii) annual gross delinquency rates; and

8 (4) carrying out the purposes of this Act;

9 (o) to exercise exclusive visitorial power over a
10 licensee unless otherwise authorized by this Act or as
11 vested in the courts, or upon prior consultation with the
12 Secretary ~~Commissioner~~, a foreign residential mortgage
13 regulator with an appropriate supervisory interest in the
14 parent or affiliate of a licensee;

15 (p) to enter into cooperative agreements with state
16 regulatory authorities of other states to provide for
17 examination of corporate offices or branches of those
18 states and to accept reports of such examinations;

19 (q) to assign an examiner or examiners to monitor the
20 affairs of a licensee with whatever frequency the Secretary
21 ~~Commissioner~~ determines appropriate and to charge the
22 licensee for reasonable and necessary expenses of the
23 Secretary ~~Commissioner~~, if in the opinion of the Secretary
24 ~~Commissioner~~ an emergency exists or appears likely to
25 occur;

26 (r) to impose civil penalties of up to \$50 per day

1 against a licensee for failing to respond to a regulatory
2 request or reporting requirement; and

3 (s) to enter into agreements in connection with the
4 Nationwide Mortgage Licensing System and Registry.

5 (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

6 (205 ILCS 635/4-1.5 new)

7 Sec. 4-1.5. Residential Finance Regulatory Fund.

8 (a) The aggregate of all moneys collected by the Secretary
9 under this Act shall be paid promptly after receipt of the
10 same, accompanied by a detailed statement thereof, into the
11 State treasury and shall be set apart in the Residential
12 Finance Regulatory Fund, formerly designated the Savings and
13 Residential Finance Regulatory Fund, a special fund created in
14 the State treasury. The amounts deposited into the Fund shall
15 be used for the ordinary and contingent expenses of the
16 Department of Financial and Professional Regulation and the
17 Division of Banking, or their successors, in administering and
18 enforcing the Residential Mortgage License Act of 1987 and
19 other laws, rules, and regulations as may apply to the
20 administration and enforcement of the foregoing laws, rules,
21 and regulations, as amended from time to time. Nothing in this
22 Act shall prevent continuing the practice of paying expenses
23 involving salaries, retirement, Social Security, and State
24 paid insurance of State officers by appropriation from the
25 General Revenue Fund.

1 (b) Moneys in the Residential Finance Regulatory Fund may
2 be transferred to the Professions Indirect Cost Fund, as
3 authorized under Section 2105-300 of the Department of
4 Professional Regulation Law of the Civil Administrative Code of
5 Illinois.

6 (c) All earnings received from investments of funds in the
7 Residential Finance Regulatory Fund shall be deposited into
8 that Fund and may be used for the same purposes as fees
9 deposited into that Fund.

10 (d) Moneys in the Residential Finance Regulatory Fund,
11 formerly designated the Savings and Residential Finance
12 Regulatory Fund, apportioned to the moneys collected under the
13 Illinois Savings and Loan Act of 1985 and the Savings Bank Act
14 shall be transferred to the Savings Institutions Regulatory
15 Fund. Any amount used or borrowed from the moneys apportioned
16 to the moneys collected under the Illinois Savings and Loan Act
17 of 1985 and the Savings Bank Act that would have been required
18 to be returned to that apportionment shall be instead paid into
19 the Savings Institutions Regulatory Fund in the same manner.

20 Section 50. The Foreign Bank Representative Office Act is
21 amended by changing Section 2 and adding Section 9 as follows:

22 (205 ILCS 650/2) (from Ch. 17, par. 2852)

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

1 (a) "Commissioner" means the Secretary of Financial and
2 Professional Regulation or a person authorized by the
3 Secretary, the Division of Banking Act, or this Act to act in
4 the Secretary's stead.

5 (b) "Foreign bank" means (1) a bank, savings bank, savings
6 and loan association, or trust company which is organized under
7 the laws of any state or territory of the United States,
8 including the District of Columbia, other than the State of
9 Illinois; (2) a national bank, a federal savings bank, or a
10 federal savings and loan association having its principal place
11 of business in any state or territory of the United States,
12 including the District of Columbia, other than the State of
13 Illinois; or (3) a bank, savings bank, savings and loan
14 association, or trust company organized and operating under the
15 laws of a country other than the United States of America.

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

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

21 (Source: P.A. 96-1365, eff. 7-28-10.)

22 (205 ILCS 650/9 new)

23 Sec. 9. Foreign associations. Within 60 days after the
24 effective date of this amendatory Act of the 97th General
25 Assembly, an existing foreign association, as defined in

1 Section 12103 of the Savings Bank Act, that maintains a
2 representative office in Illinois at the time of the repeal of
3 the Illinois Savings and Loan Act of 1985 shall be issued,
4 after submitting the required application and fee, a license in
5 accordance with Section 4 of this Act and, beginning 60 days
6 after the effective date of this amendatory Act of the 97th
7 General Assembly, shall be subject to the provisions of this
8 Act.

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