

1 AMENDMENT TO HOUSE BILL 1903

2 AMENDMENT NO. _____. Amend House Bill 1903 by replacing
3 all of Section 5 of the bill with the following:

4 "Section 5. The Illinois Banking Act is amended by
5 changing Sections 32 and 35.1 as follows:

6 (205 ILCS 5/32) (from Ch. 17, par. 339)

7 Sec. 32. Basic loaning limits. The liabilities
8 outstanding at one time to a state bank of a person for money
9 borrowed, including the liabilities of a partnership or joint
10 venture in the liabilities of the several members thereof,
11 shall not exceed 25% of the amount of the unimpaired capital
12 and unimpaired surplus of the bank.

13 The liabilities to any state bank of a person may exceed
14 25% of the unimpaired capital and unimpaired surplus of the
15 bank, provided that (i) the excess amount from time to time
16 outstanding is fully secured by readily marketable collateral
17 having a market value, as determined by reliable and
18 continuously available quotations, at least equal to the
19 excess amount outstanding; and (ii) the total liabilities
20 shall not exceed 30% of the unimpaired capital and unimpaired
21 surplus of the bank.

22 The following shall not be considered as money borrowed

1 within the meaning of this Section:

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

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

7 (3) The purchase of or loaning money in exchange
8 for 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,
12 director, or employee of the bank or of any subsidiary or
13 affiliate of the bank, is double the amount of the
14 principal debt secured at the time of the original
15 purchase of evidence of indebtedness or loan of money and
16 which is still double the amount of the principal debt
17 secured at the time of any renewal of the indebtedness or
18 loan, and which mortgage or trust deed is shown, either
19 by a guaranty policy of a title guaranty company approved
20 by the Commissioner or by a registrar's certificate of
21 title in any county having adopted the provisions of the
22 Registered Titles (Torrens) Act, or by the opinion of an
23 attorney-at-law, to be a first lien upon the real estate
24 therein described, and real estate shall not be deemed to
25 be encumbered within the meaning of this subsection (3)
26 by reason of the existence of instruments reserving
27 rights-of-way, sewer rights and rights in wells, building
28 restrictions or other restrictive covenants, nor by
29 reason of the fact it is subject to lease under which
30 rents or profits are reserved by the owners.

31 (4) The purchase of marketable investment
32 securities.

33 (5) The liability to a state bank of a person who
34 is an accommodation party to, or guarantor of payment

1 for, any evidence of indebtedness of another person who
2 obtains a loan from or discounts paper with or sells
3 paper to the state bank; but the total liability to a
4 state bank of a person as an accommodation party or
5 guarantor of payment in respect of such evidences of
6 indebtedness shall not exceed 25% 20% of the amount of
7 the unimpaired capital and unimpaired surplus of the
8 bank; provided however that the liability of an
9 accommodation party to paper excepted under subsection 2
10 of this Section shall not be included in the computation
11 of this limitation.

12 (6) The liability to a state bank of a person, who
13 as a guarantor, guarantees collection of the obligation
14 or indebtedness of another person.

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

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

12 (Source: P.A. 92-336, eff. 8-10-01.)

13 (205 ILCS 5/35.1) (from Ch. 17, par. 344)

14 Sec. 35.1. Lease limitations. In exercise of the power
15 conferred by paragraph (14) of Section 5 of this Act to own
16 and lease personal property, a state bank shall be subject to
17 the following limitations and restrictions in addition to
18 those contained in that paragraph:

19 (a) The unamortized investment of the bank in personal
20 property subject to any lease or series of leases which is or
21 are the responsibility of a person shall not, when added to
22 any liability of such person for money borrowed, exceed 25%
23 20% of the unimpaired capital and unimpaired surplus of the
24 bank. The term "unamortized investment" means the total cost
25 of such property to the bank less so much of the payments
26 theretofore received by the bank from the lessee and other
27 sources, which under generally accepted principles of
28 accounting are applicable to amortization of the investment.

29 (b) The amount of unamortized investment of the bank in
30 personal property subject to a lease or leases which are the
31 responsibility of a person shall for the purpose of computing
32 the total permitted amount of liability of such person to the
33 bank for money borrowed or otherwise under Section 32 of this

1 Act be treated as the liability of such person.

2 (c) No such lease or related agreement shall obligate
3 the bank to maintain, repair or service the personal
4 property, or unconditionally obligate the bank to restore or
5 replace the same, or in effect unconditionally place on the
6 bank the risk of such restoration or replacement, in the
7 event of loss, theft or destruction of or damage to such
8 property from any cause other than a wilful act of the bank.

9 The limitations and restrictions set forth in paragraphs
10 (a), (b) and (c) above shall apply and be complied with even
11 though such owning and leasing is carried on by the bank, in
12 whole or in part, through the medium of a subsidiary as
13 permitted by paragraph (12) of Section 5 of this Act.

14 In the event a state bank acquires by purchase or
15 discount a lease, or the sums due and to become due
16 thereunder, of personal property made by a lessor other than
17 the bank or such a subsidiary, paragraph (b) of this Section
18 35.1 shall also apply to the obligation of the lessee under
19 such lease.

20 (Source: P.A. 88-546.)".