

1 AN ACT concerning banking.

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

4 Section 5. The Illinois Banking Act is amended by
5 changing Sections 9 and 46 as follows:

6 (205 ILCS 5/9) (from Ch. 17, par. 316)

7 Sec. 9. Contents of application.

8 (a) The application for a permit to organize shall be in
9 a form specified by the Commissioner and shall be filed with
10 the Commissioner signed by each of the applicants and shall
11 be acknowledged before some officer authorized by law to
12 acknowledge deeds. It shall state:

13 (1) The name, residence, business or occupation and
14 address of each applicant, and a statement of the proposed
15 management;

16 (2) The name for the proposed bank;

17 (3) The location of the proposed bank;

18 (4) The amount of capital and surplus for the proposed
19 bank;

20 (5) The number of shares of capital stock, the number of
21 shares and classes of preferred stock, if any, the par value
22 of the capital stock and preferred stock, and the amount for
23 which each share of capital stock and preferred stock is to
24 be sold;

25 (6) A statement of the financial worth of each of the
26 applicants;

27 (7) (Blank);

28 (8) Such other relevant information as the Commissioner
29 may require.

30 (b) Information provided in the application that is
31 personal or proprietary, including but not limited to the

1 names of proposed management and the statements of financial
2 worth of the applicants, may be submitted in a confidential
3 section of or addendum to the application.

4 (Source: P.A. 90-301, eff. 8-1-97; 90-665, eff. 7-30-98.)

5 (205 ILCS 5/46) (from Ch. 17, par. 357)

6 Sec. 46. Misleading practices and names prohibited;
7 penalty.

8 (a) No person, firm, partnership, or corporation that is
9 not a bank shall transact business in this State in a manner
10 which has a substantial likelihood of misleading the public
11 by implying that the business is a bank, or shall use the
12 word "bank", "banker", or "banking" in connection with the
13 business. Any person, firm, partnership or corporation
14 violating this Section shall be deemed guilty of a Class A
15 misdemeanor, and the Attorney General or State's Attorney of
16 the county in which any such violation occurs may restrain
17 such violation by a complaint for injunctive relief.

18 (b) If the Commissioner is of the opinion and finds that
19 a person, firm, partnership, or corporation that is not a
20 bank has transacted or intends to transact business in this
21 State in a manner which has a substantial likelihood of
22 misleading the public by implying that the business is a
23 bank, or has used or intends to use the word "bank",
24 "banker", or "banking" in connection with the business, then
25 the Commissioner may direct that person, firm, partnership,
26 or corporation to cease and desist from transacting the
27 business or using the word "bank", "banker", or "banking".
28 If that person, firm, partnership, or corporation persists in
29 transacting the business or using the word "bank", "banker",
30 or "banking", then the Commissioner may impose a civil
31 penalty of up to \$10,000 for each violation. Each day that
32 the person, firm, partnership, or corporation continues
33 transacting the business or using the word "bank", "banker",

1 or "banking" in connection with the business shall constitute
2 a separate violation of these provisions.

3 (c) A person, firm, partnership, or corporation that is
4 not a bank, and is not transacting or intending to transact
5 business in this State in a manner that has a substantial
6 likelihood of misleading the public by implying that such
7 business is a bank, may apply to the Commissioner for
8 permission to use the word "bank", "banker", or "banking" in
9 connection with the business. If the Commissioner determines
10 that there is no substantial likelihood of misleading the
11 public, and upon such conditions as the Commissioner may
12 impose to prevent the person, firm, partnership, or
13 corporation from holding itself out in a misleading manner,
14 then such person, firm, partnership, or corporation may use
15 the word "bank", "banker", or "banking".

16 (d) (1) No person, firm, partnership, or
17 corporation may use the name of an existing bank, or a
18 name deceptively similar to that of an existing bank,
19 when marketing to or soliciting business from customers
20 or prospective customers if the reference to the existing
21 bank is made (i) without the consent of the existing bank
22 and (ii) in a manner that could cause a reasonable person
23 to believe that the marketing material or solicitation
24 originated from or is endorsed by the existing bank or
25 that the existing bank is in any other way responsible
26 for the marketing material or solicitation.

27 (2) An existing bank may, in addition to any other
28 remedies available under the law, report an alleged
29 violation of this subsection (d) to the Commissioner. If
30 the Commissioner finds the marketing material or
31 solicitation in question to be in violation of this
32 subsection, the Commissioner may direct the person, firm,
33 partnership, or corporation to cease and desist from
34 using that marketing material or solicitation in

1 Illinois. If that person, firm, partnership, or
2 corporation persists in the use of the marketing material
3 or solicitation, then the Commissioner may impose a civil
4 penalty of up to \$10,000 for each violation. Each
5 instance in which the marketing material or solicitation
6 is sent to a customer or prospective customer shall
7 constitute a separate violation of these provisions.

8 (3) Nothing in this subsection (d) prohibits the
9 use of or reference to the name of an existing bank in
10 marketing materials or solicitations, provided that the
11 use or reference would not deceive or confuse a
12 reasonable person regarding whether the marketing
13 material or solicitation originated from or was endorsed
14 by the existing bank or whether the existing bank was in
15 any other way responsible for the marketing material or
16 solicitation. The Commissioner is authorized to
17 promulgate rules to administer these provisions.

18 (Source: P.A. 89-567, eff. 7-26-96.)

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