

1 AN ACT concerning certain financial institutions.

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

4 Section 5. The Illinois Savings and Loan Act of 1985 is  
5 amended by changing Section 1-6, 2B-2, 2B-5, and 5-16 as  
6 follows:

7 (205 ILCS 105/1-6) (from Ch. 17, par. 3301-6)

8 Sec. 1-6. General corporate powers. An association  
9 operating under this Act shall be a body corporate and  
10 politic and shall have all of the powers conferred by this  
11 Act including, but not limited to, the following powers:

12 (a) To sue and be sued, complain and defend in its  
13 corporate name, and to have a common seal, which it may alter  
14 or renew at pleasure;

15 (b) To obtain and maintain insurance of the  
16 association's withdrawable capital by an insurance  
17 corporation as defined in this Act;

18 (c) Notwithstanding anything to the contrary contained  
19 in this Act, to become a member of the Federal Home Loan  
20 Bank, and to have all of the powers granted to a savings or  
21 thrift institution organized under the laws of the United  
22 States and which is located and doing business in the State  
23 of Illinois, subject to regulations of the Commissioner;

24 (d) To act as a fiscal agent for the United States, the  
25 State of Illinois or any department, branch, arm or agency of  
26 the State or any unit of local government or school district  
27 in the State when duly designated for that purpose, and as  
28 agent to perform the reasonable functions as may be required  
29 of it;

30 (e) To become a member of or deal with any corporation  
31 or agency of the United States or the State of Illinois, to

1 the extent that the agency assists in furthering or  
2 facilitating the association's purposes or powers and to that  
3 end to purchase stock or securities thereof or deposit money  
4 therewith, and to comply with any other conditions of  
5 membership or credit;

6 (f) To make donations in reasonable amounts for the  
7 public welfare or for charitable, scientific, religious or  
8 educational purposes;

9 (g) To adopt and operate reasonable insurance, bonus,  
10 profit sharing, and retirement plans for officers and  
11 employees; likewise, directors who are not officers,  
12 including, but not limited to, advisory, honorary, and  
13 emeritus directors, may participate in those plans;

14 (h) To reject any application for membership, to retire  
15 withdrawable capital by enforced retirement as provided in  
16 this Act and the by-laws, and to limit the issuance of or  
17 payments on withdrawable capital, subject, however, to  
18 contractual obligations;

19 (i) To purchase stock in service corporations and to  
20 invest in any form of indebtedness of any service corporation  
21 as defined in this Act, subject to regulations of the  
22 Commissioner;

23 (j) To purchase stock of a corporation whose principal  
24 purpose is to operate a safe deposit company or escrow  
25 service company;

26 (k) To act as Trustee or Custodian under the Federal  
27 Self-Employed Individuals' Tax Retirement Act of 1962 or any  
28 amendments thereto or any other retirement account and invest  
29 any funds held in such capacity in a savings account of the  
30 institution;

31 (l) (Blank);

32 (m) To establish, maintain and operate terminals as  
33 authorized by the Electronic Fund Transfer Act and by Section  
34 5 of the Illinois Banking Act. The establishment,

1 maintenance, operation and location of such terminals shall  
2 be subject to the approval of the Commissioner;

3 (n) Subject to the approval and regulations of the  
4 Commissioner, an association may purchase or assume all or  
5 any part of the assets or liabilities of an eligible insured  
6 bank;

7 (o) To purchase from a bank, as defined in Section 2 of  
8 the Illinois Banking Act, an insubstantial portion of the  
9 total deposits of an insured bank. For the purpose of this  
10 subparagraph, "insubstantial portion of the total deposits"  
11 shall have the same meaning as provided in Section 5(d)(2)(D)  
12 of the Federal Deposit Insurance Act;

13 (p) To effect an acquisition of or conversion to another  
14 financial institution pursuant to Section 205 of the  
15 Financial Institutions Reform, Recovery and Enforcement Act  
16 of 1989;

17 (q) To pledge its assets:

18 (1) to enable it to act as an agent for the sale of  
19 obligations of the United States;

20 (2) to secure deposits;

21 (3) to secure deposits of money whenever required  
22 by the National Bankruptcy Act;

23 (4) ~~(Blank) to qualify under Section 2-9 of the~~  
24 ~~Corporate Fiduciary Act;~~ and

25 (5) to secure trust funds commingled with the  
26 institution's funds, whether deposited by the institution  
27 or an affiliate of the institution, as required under  
28 Section 2-8 of the Corporate Fiduciary Act;

29 (r) To provide temporary periodic service to persons  
30 residing in a bona fide nursing home, senior citizens'  
31 retirement home, or long-term care facility;

32 (s) To purchase for its own account shares of stock of a  
33 bankers' bank, described in Section 13(b)(1) of the Illinois  
34 Banking Act, on the same terms and conditions as a bank may

1 purchase such shares. In no event shall the total amount of  
2 such stock held by an association in such bankers' bank  
3 exceed 10% of its capital and surplus (including undivided  
4 profits) and in no event shall an association acquire more  
5 than 5% of any class of voting securities of such bankers'  
6 bank;

7 (t) To effect a conversion to a State bank pursuant to  
8 the provisions of the Illinois Banking Act;

9 (u) Subject to Article XLIV of the Illinois Insurance  
10 Code, to act as the agent for any fire, life, or other  
11 insurance company authorized by the State of Illinois, by  
12 soliciting and selling insurance and collecting premiums on  
13 policies issued by such company; and may receive for services  
14 so rendered such fees or commissions as may be agreed upon  
15 between the said association and the insurance company for  
16 which it may act as agent; provided, however, that no such  
17 association shall in any case assume or guarantee the payment  
18 of any premium on insurance policies issued through its  
19 agency by its principal; and provided further, that the  
20 association shall not guarantee the truth of any statement  
21 made by an assured in filing his application for insurance;  
22 and

23 (v) To exercise all powers necessary to qualify as a  
24 trustee or custodian under federal or State law, however, the  
25 authority to accept and execute trusts is subject to the  
26 Corporate Fiduciary Act and to the supervision of those  
27 activities by the Commissioner.

28 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97; 91-97,  
29 eff. 7-9-99.)

30 (205 ILCS 105/2B-2) (from Ch. 17, par. 3302B-2)  
31 Sec. 2B-2. Notice of filing of application; hearing;  
32 renewal of certificate.

33 (a) Whenever such association has complied with the

1 provisions of this Act, and the Commissioner is satisfied  
2 that such association and any subsidiary operating in this  
3 State are is doing business according to the laws of this  
4 State, and are is in sound financial condition, he shall  
5 authorize the association to publish in newspapers of general  
6 circulation in the State of Illinois, notice of filing of its  
7 application, provided that subsections (a) through (e) of  
8 this Section shall not apply in the case of merger,  
9 consolidation, or purchase as set forth in paragraph (c) of  
10 Section 2B-1. Publication in the manner and on forms  
11 prescribed by the Commissioner in the county of the proposed  
12 office of the association shall be made within 15 days of  
13 authorization.

14 (b) Within 10 days following the date of publication of  
15 notice of application any association or person wishing to  
16 object to any application filed pursuant to Section 2B-1  
17 shall:

18 (1) file in triplicate, on forms prescribed by the  
19 Commissioner, its verified objections at the Springfield  
20 Office of the Commissioner; and

21 (2) serve the applicant or its attorney of record  
22 with a copy of the objections and show proof of service  
23 of said copy.

24 (c) If the Commissioner considers the verified  
25 objections to be substantial, he shall so advise the objector  
26 and the applicant within 15 calendar days after receipt of  
27 the objections and shall issue notice of intent to conduct a  
28 hearing on the application. Such notice shall provide for  
29 public examination of the application. A determination that  
30 an objection is substantial shall be based only on data  
31 showing undue injury to properly conducted existing  
32 associations or data disputing the propriety of information  
33 set forth in the application, or both.

34 (d) The Commissioner shall conduct a hearing upon

1 receipt of an objection filed on time and containing the  
2 following:

- 3 (1) a summary of the reasons for the objection;
- 4 (2) the specific matters in the application to  
5 which objection is raised and the reasons for each  
6 objection;
- 7 (3) facts supporting the objection, including  
8 relevant economic or financial data; and
- 9 (4) adverse effects on the objector which may  
10 result from approval of the application.

11 The time and place of said hearing shall be established  
12 by the Commissioner and 20 days notice shall be given to all  
13 parties of record. The hearing shall be conducted in  
14 conformance with administrative hearing procedures  
15 established pursuant to rules and regulations adopted by the  
16 Commissioner. A transcript of any such hearing shall be  
17 taken and made a part of the record in the matter.

18 (e) A certificate of authority shall not be issued  
19 unless the Commissioner finds that a need exists for savings  
20 and loan association services in the community or area of  
21 operations of the applicant association and the applicant  
22 association will satisfy said need or that the association  
23 can be maintained without undue injury to properly conducted  
24 existing associations.

25 (f) Annually thereafter, upon the filing of the annual  
26 statement herein provided for, if the Commissioner finds that  
27 the association and any subsidiary operating in this State  
28 are is doing business in accordance with this Act and are is  
29 otherwise in sound financial condition, he shall issue a  
30 renewal of such certificate of Authority.

31 (Source: P.A. 86-210; 86-952.)

32 (205 ILCS 105/2B-5) (from Ch. 17, par. 3302B-5)  
33 Sec. 2B-5. Cancellation of authority; notice. Should

1 the Commissioner find, upon examination, that any foreign  
2 association or any subsidiary operating in Illinois does not  
3 conduct its business in accordance with the law, or that the  
4 affairs of any such association or subsidiary are in an  
5 unsound condition, or if such association refuses to permit  
6 examination to be made, he may cancel the authority of such  
7 association to do business in this State, and cause a notice  
8 thereof to be sent to the home office of the association, and  
9 to be published in at least one newspaper in the City of  
10 Springfield. After the publication of such notice, it shall  
11 be unlawful for any agent of the association to receive any  
12 further stock deposits from members residing in this State,  
13 except payments on stock on which a loan has been taken.

14 (Source: P.A. 85-1143.)

15 (205 ILCS 105/5-16) (from Ch. 17, par. 3305-16)

16 Sec. 5-16. Limitation on loans to a single borrower.

17 Except for loans to its wholly owned service corporations, an  
18 association may not at any one time hold, directly or  
19 indirectly, loans to any one corporation or person in a total  
20 amount equal to or in excess of 10% of the association's  
21 total withdrawable accounts or an amount equal to the total  
22 net worth of the association, whichever is less. An  
23 association may make loans to a wholly owned service  
24 corporation in an amount equal to the association's net worth  
25 or in an amount that exceeds an association's net worth if  
26 such excess amount is secured by collateral, of a type upon  
27 which the association itself could lend, of a value  
28 determined in accordance with rules and regulations  
29 promulgated by the Commissioner.

30 (a) In computing the total mortgage loans made by an  
31 association to an individual, there shall be included all  
32 mortgage loans made by the association to a partnership or  
33 other unincorporated association of which he is a member, the

1 unpaid balance of mortgage loans made either for his benefit  
2 or for the benefit of such partnership or other  
3 unincorporated association and all mortgage loans to or for  
4 the benefit of a corporation of which he owns or controls 25%  
5 or more of the capital stock.

6 (b) In computing the total mortgage loans made by an  
7 association to a partnership or other unincorporated  
8 association, there shall be included the unpaid balance of  
9 mortgage loans to its individual members, the unpaid balance  
10 of mortgage loans made for the benefit of such partnership or  
11 other unincorporated association, or of any member thereof,  
12 and all mortgage loans to or for the benefit of any  
13 corporation of which the partnership or unincorporated  
14 association, or any member thereof, owns or controls 25% or  
15 more of the capital stock.

16 (c) In computing the total mortgage loans made by an  
17 association to a corporation, there shall be included the  
18 unpaid balance of mortgage loans made for the benefit of the  
19 corporation and all mortgage loans to or for the benefit of  
20 any individual who owns or controls 25% or more of the  
21 capital stock of such corporation.

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



1 part of the records of the association.

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

3 Section 10. The Savings Bank Act is amended by changing  
4 Sections 1007.35, 1008, 4005, 4013, 6013, 8015, 10001, 11003,  
5 11004, and 11008 and adding Section 5010 as follows:

6 (205 ILCS 205/1007.35) (from Ch. 17, par. 7301-7.35)

7 Sec. 1007.35. "Control", unless specified otherwise in  
8 this Act, shall mean:

9 (1) the ability of any person, entity, persons, or  
10 entities acting alone or in concert with one or more persons  
11 or entities, to own, hold, or direct with power to vote, or  
12 to hold proxies representing, 10% or more of the voting  
13 shares or rights of a savings bank, savings bank subsidiary,  
14 savings bank affiliate, or savings bank holding company; or

15 (2) the ability to achieve in any manner the election or  
16 appointment of a majority of the directors of a savings  
17 bank; or

18 (3) the power to direct or exercise significant  
19 influence over the management or policies of the savings bank  
20 or savings bank affiliate.

21 "Control" does not include ~~This--definition--shall--not~~  
22 ~~apply--to~~ the voting of proxies obtained from depositors if  
23 the proxies are voted as directed by a majority of the board  
24 of directors of the savings bank or of a committee of  
25 directors when the committee's composition and powers may be  
26 revoked by a majority vote of the board of directors.

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

28 (205 ILCS 205/1008) (from Ch. 17, par. 7301-8)

29 Sec. 1008. General corporate powers.

30 (a) A savings bank operating under this Act shall be a  
31 body corporate and politic and shall have all of the powers

1 conferred by this Act including, but not limited to, the  
2 following powers:

3 (1) To sue and be sued, complain, and defend in its  
4 corporate name and to have a common seal, which it may  
5 alter or renew at pleasure.

6 (2) To obtain and maintain insurance by a deposit  
7 insurance corporation as defined in this Act.

8 (3) To act as a fiscal agent for the United States,  
9 the State of Illinois or any department, branch, arm, or  
10 agency of the State or any unit of local government or  
11 school district in the State, when duly designated for  
12 that purpose, and as agent to perform reasonable  
13 functions as may be required of it.

14 (4) To become a member of or deal with any  
15 corporation or agency of the United States or the State  
16 of Illinois, to the extent that the agency assists in  
17 furthering or facilitating its purposes or powers and to  
18 that end to purchase stock or securities thereof or  
19 deposit money therewith, and to comply with any other  
20 conditions of membership or credit.

21 (5) To make donations in reasonable amounts for the  
22 public welfare or for charitable, scientific, religious,  
23 or educational purposes.

24 (6) To adopt and operate reasonable insurance,  
25 bonus, profit sharing, and retirement plans for officers  
26 and employees and for directors including, but not  
27 limited to, advisory, honorary, and emeritus directors,  
28 who are not officers or employees.

29 (7) To reject any application for membership; to  
30 retire deposit accounts by enforced retirement as  
31 provided in this Act and the bylaws; and to limit the  
32 issuance of, or payments on, deposit accounts, subject,  
33 however, to contractual obligations.

34 (8) To purchase stock in service corporations and

1 to invest in any form of indebtedness of any service  
2 corporation as defined in this Act, subject to  
3 regulations of the Commissioner.

4 (9) To purchase stock of a corporation whose  
5 principal purpose is to operate a safe deposit company or  
6 escrow service company.

7 (10) To exercise all the powers necessary to  
8 qualify as a trustee or custodian under federal or State  
9 law, provided that the authority to accept and execute  
10 trusts is subject to the provisions of the Corporate  
11 Fiduciary Act and to the supervision of those activities  
12 by the Commissioner.

13 (11) (Blank).

14 (12) To establish, maintain, and operate terminals  
15 as authorized by the Electronic Fund Transfer Act.

16 (13) To pledge its assets:

17 (A) to enable it to act as agent for the sale  
18 of obligations of the United States;

19 (B) to secure deposits;

20 (C) to secure deposits of money whenever  
21 required by the National Bankruptcy Act;

22 (D) (blank) ~~to qualify under Section 2-9 of~~  
23 ~~the Corporate Fiduciary Act;~~ and

24 (E) to secure trust funds commingled with the  
25 savings bank's funds, whether deposited by the  
26 savings bank or an affiliate of the savings bank, as  
27 required under Section 2-8 of the Corporate  
28 Fiduciary Act.

29 (14) To accept for payment at a future date not to  
30 exceed one year from the date of acceptance, drafts drawn  
31 upon it by its customers; and to issue, advise, or  
32 confirm letters of credit authorizing holders thereof to  
33 draw drafts upon it or its correspondents.

34 (15) Subject to the regulations of the

1 Commissioner, to own and lease personal property acquired  
2 by the savings bank at the request of a prospective  
3 lessee and, upon the agreement of that person, to lease  
4 the personal property.

5 (16) To establish temporary service booths at any  
6 International Fair in this State that is approved by the  
7 United States Department of Commerce for the duration of  
8 the international fair for the purpose of providing a  
9 convenient place for foreign trade customers to exchange  
10 their home countries' currency into United States  
11 currency or the converse. To provide temporary periodic  
12 service to persons residing in a bona fide nursing home,  
13 senior citizens' retirement home, or long-term care  
14 facility. These powers shall not be construed as  
15 establishing a new place or change of location for the  
16 savings bank providing the service booth.

17 (17) To indemnify its officers, directors,  
18 employees, and agents, as authorized for corporations  
19 under Section 8.75 of the Business Corporations Act of  
20 1983.

21 (18) To provide data processing services to others  
22 on a for-profit basis.

23 (19) To utilize any electronic technology to  
24 provide customers with home banking services.

25 (20) Subject to the regulations of the  
26 Commissioner, to enter into an agreement to act as a  
27 surety.

28 (21) Subject to the regulations of the  
29 Commissioner, to issue credit cards, extend credit  
30 therewith, and otherwise engage in or participate in  
31 credit card operations.

32 (22) To purchase for its own account shares of  
33 stock of a bankers' bank, described in Section 13(b)(1)  
34 of the Illinois Banking Act, on the same terms and

1 conditions as a bank may purchase such shares. In no  
2 event shall the total amount of such stock held by a  
3 savings bank in such bankers' bank exceed 10% of its  
4 capital and surplus (including undivided profits) and in  
5 no event shall a savings bank acquire more than 5% of any  
6 class of voting securities of such bankers' bank.

7 (23) With respect to affiliate facilities:

8 (A) to conduct at affiliate facilities any of  
9 the following transactions for and on behalf of any  
10 affiliated depository institution, if so authorized  
11 by the affiliate or affiliates: receiving deposits;  
12 renewing deposits; cashing and issuing checks,  
13 drafts, money orders, travelers checks, or similar  
14 instruments; changing money; receiving payments on  
15 existing indebtedness; and conducting ministerial  
16 functions with respect to loan applications,  
17 servicing loans, and providing loan account  
18 information; and

19 (B) to authorize an affiliated depository  
20 institution to conduct for and on behalf of it, any  
21 of the transactions listed in this subsection at one  
22 or more affiliate facilities.

23 A savings bank intending to conduct or to authorize  
24 an affiliated depository institution to conduct at an  
25 affiliate facility any of the transactions specified in  
26 this subsection shall give written notice to the  
27 Commissioner at least 30 days before any such transaction  
28 is conducted at an affiliate facility. All conduct under  
29 this subsection shall be on terms consistent with safe  
30 and sound banking practices and applicable law.

31 (24) Subject to Article XLIV of the Illinois  
32 Insurance Code, to act as the agent for any fire, life,  
33 or other insurance company authorized by the State of  
34 Illinois, by soliciting and selling insurance and

1 collecting premiums on policies issued by such company;  
2 and may receive for services so rendered such fees or  
3 commissions as may be agreed upon between the said  
4 savings bank and the insurance company for which it may  
5 act as agent; provided, however, that no such savings  
6 bank shall in any case assume or guarantee the payment of  
7 any premium on insurance policies issued through its  
8 agency by its principal; and provided further, that the  
9 savings bank shall not guarantee the truth of any  
10 statement made by an assured in filing his application  
11 for insurance.

12 (25) To become a member of the Federal Home Loan  
13 Bank and to have the powers granted to a savings  
14 association organized under the Illinois Savings and Loan  
15 Act of 1985 or the laws of the United States, subject to  
16 regulations of the Commissioner.

17 (26) To offer any product or service that is at the  
18 time authorized or permitted to a bank by applicable law,  
19 but subject always to the same limitations and  
20 restrictions that are applicable to the bank for the  
21 product or service by such applicable law and subject to  
22 the applicable provisions of the Financial Institutions  
23 Insurance Sales Law and rules of the Commissioner.

24 (b) If this Act or the regulations adopted under this  
25 Act fail to provide specific guidance in matters of corporate  
26 governance, the provisions of the Business Corporation Act of  
27 1983 may be used.

28 (Source: P.A. 90-14, eff. 7-1-97; 90-41, eff. 10-1-97;  
29 90-270, eff. 7-30-97; 90-301, eff. 8-1-97; 90-655, eff.  
30 7-30-98; 90-665, eff. 7-30-98; 91-97, eff. 7-9-99; 91-357,  
31 eff. 7-29-99.)

32 (205 ILCS 205/4005) (from Ch. 17, par. 7304-5)  
33 Sec. 4005. Voting.

1 (a) Voting at a meeting may be either in person or by  
2 proxy executed in writing by the member or stockholder or by  
3 his duly authorized attorney-in-fact.

4 (b) In the determination of all questions requiring  
5 ascertainment of who is entitled to vote and of the number of  
6 outstanding shares, the following rules shall apply:

7 (1) The date of determination shall be the record  
8 date for voting provided in this Act.

9 (2) Each person holding one or more withdrawable  
10 accounts in a mutual savings bank shall have the vote of  
11 one share for each \$100 of the aggregate withdrawal value  
12 of the accounts and shall have the vote of one share for  
13 any fraction of \$100; however, subject to regulation of  
14 the Commissioner, a mutual savings bank may in its  
15 by-laws limit the number of votes a person may cast to  
16 1,000 votes. A mutual savings bank may adopt a different  
17 voting arrangement if the Commissioner finds that the  
18 arrangement would not be inequitable to members and if  
19 the members approve the arrangement by an affirmative  
20 vote of at least two-thirds of the votes entitled to be  
21 cast, however, the voting arrangement need not obtain the  
22 foregoing member approval if such voting arrangement is  
23 otherwise approved as part of a corporate change under  
24 this Act.

25 (3) Each holder of capital stock held shall have  
26 one vote for each share held.

27 (4) Shares owned by the savings bank shall not be  
28 counted or voted.

29 (5) A savings bank authorized to issue stock shall  
30 provide in its articles of incorporation that voting  
31 rights shall may be vested exclusively in stockholders.

32 (Source: P.A. 91-97, eff. 7-9-99.)

33 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

1           Sec. 4013. Access to books and records; communication  
2 with members and shareholders.

3           (a) Every member or shareholder shall have the right to  
4 inspect books and records of the savings bank that pertain to  
5 his accounts. Otherwise, the right of inspection and  
6 examination of the books and records shall be limited as  
7 provided in this Act, and no other person shall have access  
8 to the books and records nor shall be entitled to a list of  
9 the members or shareholders.

10          (b) For the purpose of this Section, the term "financial  
11 records" means any original, any copy, or any summary of (1)  
12 a document granting signature authority over a deposit or  
13 account; (2) a statement, ledger card, or other record on any  
14 deposit or account that shows each transaction in or with  
15 respect to that account; (3) a check, draft, or money order  
16 drawn on a savings bank or issued and payable by a savings  
17 bank; or (4) any other item containing information pertaining  
18 to any relationship established in the ordinary course of a  
19 savings bank's business between a savings bank and its  
20 customer.

21          (c) This Section does not prohibit:

22           (1) The preparation examination, handling, or  
23 maintenance of any financial records by any officer,  
24 employee, or agent of a savings bank having custody of  
25 records or examination of records by a certified public  
26 accountant engaged by the savings bank to perform an  
27 independent audit.

28           (2) The examination of any financial records by, or  
29 the furnishing of financial records by a savings bank to,  
30 any officer, employee, or agent of the Commissioner of  
31 Banks and Real Estate or the Federal Deposit Insurance  
32 Corporation for use solely in the exercise of his duties  
33 as an officer, employee, or agent.

34           (3) The publication of data furnished from



1 financial records relating to members or holders of  
2 capital where the data cannot be identified to any  
3 particular member, shareholder, or account.

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

6 (5) Furnishing information concerning the dishonor  
7 of any negotiable instrument permitted to be disclosed  
8 under the Uniform Commercial Code.

9 (6) The exchange in the regular course of business  
10 of credit information between a savings bank and other  
11 savings banks or financial institutions or commercial  
12 enterprises, directly or through a consumer reporting  
13 agency.

14 (7) The furnishing of information to the  
15 appropriate law enforcement authorities where the savings  
16 bank reasonably believes it has been the victim of a  
17 crime.

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

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

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

27 (11) The furnishing of information pursuant to any  
28 other statute which by its terms or by regulations  
29 promulgated thereunder requires the disclosure of  
30 financial records other than by subpoena, summons,  
31 warrant, or court order.

32 (12) The furnishing of information in accordance  
33 with the federal Personal Responsibility and Work  
34 Opportunity Reconciliation Act of 1996. Any savings bank

1 governed by this Act shall enter into an agreement for  
2 data exchanges with a State agency provided the State  
3 agency pays to the savings bank a reasonable fee not to  
4 exceed its actual cost incurred. A savings bank  
5 providing information in accordance with this item shall  
6 not be liable to any account holder or other person for  
7 any disclosure of information to a State agency, for  
8 encumbering or surrendering any assets held by the  
9 savings bank in response to a lien or order to withhold  
10 and deliver issued by a State agency, or for any other  
11 action taken pursuant to this item, including individual  
12 or mechanical errors, provided the action does not  
13 constitute gross negligence or willful misconduct. A  
14 savings bank shall have no obligation to hold, encumber,  
15 or surrender assets until it has been served with a  
16 subpoena, summons, warrant, court or administrative  
17 order, lien, or levy.

18 (13) The furnishing of information to law  
19 enforcement authorities, the Illinois Department on Aging  
20 and its regional administrative and provider agencies,  
21 the Department of Human Services Office of Inspector  
22 General, or public guardians, if the savings bank  
23 suspects that a customer who is an elderly or disabled  
24 person has been or may become the victim of financial  
25 exploitation. For the purposes of this item (13), the  
26 term: (i) "elderly person" means a person who is 60 or  
27 more years of age, (ii) "disabled person" means a person  
28 who has or reasonably appears to the savings bank to have  
29 a physical or mental disability that impairs his or her  
30 ability to seek or obtain protection from or prevent  
31 financial exploitation, and (iii) "financial  
32 exploitation" means tortious or illegal use of the assets  
33 or resources of an elderly or disabled person, and  
34 includes, without limitation, misappropriation of the

1 elderly or disabled person's assets or resources by undue  
2 influence, breach of fiduciary relationship,  
3 intimidation, fraud, deception, extortion, or the use of  
4 assets or resources in any manner contrary to law. A  
5 savings bank or person furnishing information pursuant to  
6 this item (13) shall be entitled to the same rights and  
7 protections as a person furnishing information under the  
8 Elder Abuse and Neglect Act and the Illinois Domestic  
9 Violence Act of 1986.

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

14 (1) the member or shareholder has authorized  
15 disclosure to the person; or

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

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

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

34 (g) Any person who knowingly and willfully induces or

1 attempts to induce any officer or employee of a savings bank  
2 to disclose financial records in violation of this Section is  
3 guilty of a business offense and, upon conviction, shall be  
4 fined not more than \$1,000.

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

18 (i) A savings bank shall be reimbursed for costs that  
19 are necessary and that have been directly incurred in  
20 searching for, reproducing, or transporting books, papers,  
21 records, or other data of a customer required to be  
22 reproduced pursuant to a lawful subpoena, warrant, or court  
23 order.

24 (j) Notwithstanding the provisions of this Section, a  
25 savings bank may sell or otherwise make use of lists of  
26 customers' names and addresses. All other information  
27 regarding a customer's account are subject to the disclosure  
28 provisions of this Section. At the request of any customer,  
29 that customer's name and address shall be deleted from any  
30 list that is to be sold or used in any other manner beyond  
31 identification of the customer's accounts.

32 (k) Notwithstanding any other provision of law, any  
33 disclosure or use of financial records by a savings bank that  
34 complies with subtitle A of Title V of the Gramm-Leach-Bliley

1 Act (15 U.S.C. 6801-6809), as amended, shall be permitted.

2 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

3 (205 ILCS 205/5010 new)

4 Sec. 5010. Final judgment required. Except in an action  
5 brought by the Commissioner or the deposit insurance  
6 corporation, and any other provision of law notwithstanding,  
7 no attachment, injunction, or execution that would have the  
8 effect of reducing the capital of any savings bank below  
9 applicable minimum regulatory requirements shall be issued  
10 against any savings bank or its property in any suit, action,  
11 or proceeding in any court before final judgment, from which  
12 no appeal can be taken, is rendered.

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

14 Sec. 6013. Loans to one borrower.

15 (a) Except as provided in subsection (c), the total  
16 loans and extensions of credit, both direct and indirect, by  
17 a savings bank to any person, other than a municipal  
18 corporation for money borrowed, outstanding at one time shall  
19 not exceed 20% of the savings bank's total capital plus  
20 general loan loss reserves.

21 (b) Except as provided in subsection (c), the total  
22 loans and extensions of credit, both direct and indirect, by  
23 a savings bank to any person outstanding at one time and at  
24 least 100% secured by readily marketable collateral having a  
25 market value, as determined by reliable and continuously  
26 available price quotations, shall not exceed 10% of the  
27 savings bank's total capital plus general loan loss reserves.  
28 This limitation shall be separate from and in addition to the  
29 limitation contained in subsection (a).

30 (c) If the limit under subsection (a) or (b) on total  
31 loans to one borrower is less than \$500,000, a savings bank  
32 that meets its minimum capital requirement under this Act may

1 have loan and extensions of credit, both direct and indirect,  
2 outstanding to any person at one time not to exceed \$500,000.  
3 With the prior written approval of the Commissioner, a  
4 savings bank that has capital in excess of 6% of assets may  
5 make loans and extensions of credit to one borrower for the  
6 development of residential housing properties, located or to  
7 be located in this State, not to exceed 30% of the savings  
8 bank's total capital plus general loan loss reserves.

9 (d) For purposes of this Section, the term "person"  
10 shall be deemed to include an individual, firm, corporation,  
11 business trust, partnership, trust, estate, association,  
12 joint venture, pool, syndicate, sole proprietorship,  
13 unincorporated association, any political subdivision, or any  
14 similar entity or organization.

15 (e) For the purposes of this Section any loan or  
16 extension of credit granted to one person, the proceeds of  
17 which are used for the direct benefit of a second person,  
18 shall be deemed a loan or extension of credit to the second  
19 person as well as the first person. In addition, a loan or  
20 extension of credit to one person shall be deemed a loan or  
21 extension of credit to others when a common enterprise exists  
22 between the first person and such other persons.

23 (f) For the purposes of this Section, the total  
24 liabilities of a firm, partnership, pool, syndicate, or joint  
25 venture shall include the liabilities of the members of the  
26 entity.

27 (g) For the purposes of this Section, the term "readily  
28 marketable collateral" means financial instruments or bullion  
29 that are salable under ordinary circumstances with reasonable  
30 promptness at a fair market value on an auction or a  
31 similarly available daily bid-and-ask price market.  
32 "Financial instruments" include stocks, bonds, notes,  
33 debentures traded on a national exchange or over the counter,  
34 commercial paper, negotiable certificates of deposit,

1 bankers' acceptances, and shares in money market or mutual  
2 funds.

3 (h) Each savings bank shall institute adequate  
4 procedures to ensure that collateral fully secures the  
5 outstanding loan or extension of credit at all times.

6 (i) If collateral values fall below 100% of the  
7 outstanding loan or extension of credit to the extent that  
8 the loan or extension of credit no longer is in conformance  
9 with subsection (b) and exceeds the 20% limitation of  
10 subsection (a), the loan must be brought into conformance  
11 with this Section within 5 business days except where  
12 judicial proceedings or other similar extraordinary  
13 occurrences prevent the savings bank from taking action.

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

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

32 (l) The Commissioner may prescribe rules to carry out  
33 the purposes of this Section and to establish limits or  
34 requirements other than those specified in this Section for

1 particular types of loans and extensions of credit.

2 (Source: P.A. 89-74, eff. 6-30-95; 90-665, eff. 7-30-98.)

3 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)

4 Sec. 8015. Change in control.

5 (a) Any person, whether acting directly or indirectly or  
6 through or in concert with one or more persons, shall give  
7 the Commissioner 60 days written notice of intent to acquire  
8 control ~~of~~ ~~10%~~ ~~of~~ ~~mere~~ of a savings bank or savings bank  
9 affiliate operating under this Act. The Commissioner shall  
10 promulgate rules to implement this provision including  
11 definitions, application, procedures, standards for approval  
12 or disapproval.

13 (b) The Commissioner may examine the books and records  
14 of any person giving notice of intent to acquire control ~~of~~  
15 ~~10%~~ ~~of~~ ~~mere~~ of a savings bank operating under this Act.

16 (c) The Commissioner may approve or disapprove an  
17 application for change of control. In either case, the  
18 decision must be issued within 30 days of the filing of the  
19 initial application or the date of receipt of any additional  
20 information requested by the Commissioner that is necessary  
21 for his decision to be made. The request for additional  
22 information must be made within 20 days of the filing of the  
23 initial application.

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

25 (205 ILCS 205/10001) (from Ch. 17, par. 7310-1)

26 Sec. 10001. Commissioner's authority to take custody and  
27 appoint a conservator or a receiver.

28 (a) The Commissioner, in his discretion, may take  
29 custody of and appoint a conservator for the property,  
30 liabilities, books, records, business, and assets of every  
31 kind and character of any savings bank for any of the  
32 purposes hereinafter enumerated if it appears from reports



1 made to the Commissioner or from examination made by or on  
2 behalf of the Commissioner:

3 (1) That the savings bank has failed to produce an  
4 annual audited financial statement, after receiving one  
5 extension from the Commissioner as permitted by this Act.

6 (2) That the savings bank's books and records,  
7 after at least 2 consecutive notices from the  
8 Commissioner spanning at least 2 consecutive calendar  
9 quarters, are in an inaccurate and incomplete condition  
10 to the extent that the Commissioner is unable, through  
11 the normal supervisory process, to determine the  
12 financial condition of the savings bank or the details or  
13 purpose of any transaction that may materially affect the  
14 savings bank's financial condition.

15 (3) That the savings bank has failed or is about to  
16 fail to meet its capital requirement and can meet its  
17 requirements and restore its capital only with assistance  
18 from its federal insurer.

19 (4) That the savings bank is insolvent in that its  
20 assets are less than its obligations to its creditors,  
21 including its depositors.

22 (5) That the savings bank has experienced  
23 substantial dissipation of assets due to any violation of  
24 a law, regulation, or order of the Commissioner or due to  
25 any unsafe or unsound practice.

26 (6) That there is a likelihood that the savings  
27 bank will not be able to meet the demands of its  
28 depositors or pay its obligations in the normal course of  
29 business.

30 (7) That losses have occurred or are likely to  
31 occur that have or will deplete all or substantially all  
32 of the savings bank's capital and that there is no  
33 reasonable prospect for replenishment of the savings  
34 bank's capital without federal assistance.

1           (8) That the savings bank or its officers,  
2 directors, ~~or~~ employees, or persons in control of the  
3 savings bank are violating a law, regulation, or  
4 supervisory order of the Commissioner or of another of  
5 its financial regulators.

6           (9) That the savings bank is in an unsafe or  
7 unsound condition likely to cause insolvency or a  
8 substantial dissipation of assets or earnings that will  
9 weaken the condition of the savings bank and will  
10 prejudice the interests of its depositors.

11           (10) That the directors, officers, trustees, or  
12 liquidators have neglected, failed, or refused to take  
13 any action that the Commissioner may deem necessary for  
14 the protection of the savings bank, including production  
15 of an annual audited financial statement after an  
16 extension was granted, have continued to maintain the  
17 savings bank's books and records in an inaccurate and  
18 incomplete condition for 2 consecutive quarters after 2  
19 notices from the Commissioner, or have impeded or  
20 obstructed an examination.

21           (11) That the deposit accounts of the savings bank  
22 are impaired to the extent that the realizable value of  
23 its assets is insufficient to pay in full its creditors  
24 and holders of its deposit accounts or meet its  
25 obligations in the normal course of business; or that its  
26 capital stock is impaired.

27           (12) That the savings bank is unable to continue  
28 operation.

29           (13) That the business of the savings bank or  
30 savings bank in liquidation is being conducted in a  
31 fraudulent, illegal, or unsafe or unsound manner.

32           (14) That the officers, employees, trustees, or  
33 liquidators have continued to assume duties or perform  
34 acts without giving bond as required by the provisions of

1           this Act.

2           (b) If any condition exists that would give the  
3 Commissioner authority to take custody of an insured  
4 depository institution, the action of the Commissioner may be  
5 withheld pending a satisfactory resolution of the condition  
6 as suggested by the insurance corporation, provided the  
7 savings bank has sufficient liquidity and has adopted and  
8 implemented an operating plan considered prudent by the  
9 Commissioner.

10          (c) No action or inaction of the Commissioner taken  
11 under this Article shall cause the Commissioner to be  
12 personally liable for that action or inaction unless the  
13 Commissioner's action or inaction is found to be in violation  
14 of a criminal statute.

15          (d) The Commissioner shall promulgate rules and  
16 regulations to govern the determination of a need for a  
17 conservator or receiver, the selection and appointment of a  
18 conservator or receiver, and the conduct of a conservatorship  
19 or receivership, including allocation of the payment of  
20 costs.

21          (e) The proceedings pursuant to this Article shall be  
22 the exclusive remedy and, except for the Federal Deposit  
23 Insurance Corporation acting pursuant to the Federal Deposit  
24 Insurance Act, shall be the only proceedings commenced in any  
25 court for the taking of custody, the dissolution, the winding  
26 up of the affairs, or the appointment of a receiver for a  
27 savings bank.

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

29                 (205 ILCS 205/11003) (from Ch. 17, par. 7311-3)

30                 Sec. 11003. Removal and prohibition authority.

31           (a) In addition to other provisions of this Act  
32 concerning officers and directors, the Commissioner may  
33 remove or suspend from any savings bank operating under this

1 Act any officer, director, employee, or agent of a savings  
 2 bank, and the Commissioner may prohibit participation in the  
 3 affairs of any savings bank by any current, former, or  
 4 prospective officer, director, employee, or agent of a  
 5 savings bank, if he finds that:

6 (1) The person or persons have directly or  
 7 indirectly violated any law, regulation, or order  
 8 including orders, conditions, and agreements between the  
 9 savings bank and the Commissioner or between the savings  
 10 bank and its federal regulators.

11 (2) The person or persons have breached their  
 12 fiduciary or professional responsibilities to the savings  
 13 bank.

14 (3) The person or persons have similarly behaved  
 15 towards any other insured depository institution or  
 16 otherwise regulated entity or that the person or persons  
 17 are the subject of any final order issued by the federal  
 18 insurer, the Office of the Comptroller of the Currency,  
 19 the Federal Reserve Board, a state financial institutions  
 20 regulator, the Securities and Exchange Commission, or by  
 21 a state or federal court of law.

22 (b) The Commissioner may serve upon a party a written  
 23 notice of the Commissioner's intention to remove or suspend  
 24 the party from office in the savings bank or to prohibit any  
 25 further participation in any manner by the party in the  
 26 ~~conduct---of--the~~ affairs of any savings bank ~~financial~~  
 27 ~~institution~~, if the Commissioner finds because of a violation  
 28 of subsection (a) that:

29 (1) Any savings bank, other insured depository  
 30 institution, or other regulated entity has or probably  
 31 will suffer financial loss or other damage.

32 (2) The interests of savings bank's depositors or  
 33 other insured depository institution's depositors have  
 34 been or could be prejudiced.

1           (3) The party has received financial gain or other  
2 benefit by reason of the violation.

3           (4) The violation or breach involves personal  
4 dishonesty on the part of the party or demonstrates  
5 willful or continuing disregard by the party for the  
6 safety and soundness of the savings bank or other insured  
7 depository institution.

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

9           (205 ILCS 205/11004) (from Ch. 17, par. 7311-4)  
10 Sec. 11004. Industrywide prohibition.

11           (a) Except as provided in regulations of the  
12 Commissioner, any person who has been removed or suspended  
13 from office in a savings bank operating under this Act or  
14 prohibited from participating in the ~~conduct-of-the~~ affairs  
15 of a savings bank operating under this Act may not, while an  
16 order is in effect, continue or begin to hold any office in,  
17 or participate in any manner in the ~~conduct-of-the~~ affairs of  
18 any savings bank regulated by the State of Illinois, another  
19 insured depository institution regulated by the State of  
20 Illinois, or any other financial services entity regulated by  
21 the State of Illinois.

22           (b) Any violation of subsection (a) by any person who is  
23 subject to an order described in that subsection shall be  
24 treated as violation of the order.

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

26           (205 ILCS 205/11008) (from Ch. 17, par. 7311-8)  
27 Sec. 11008. Unauthorized participation by convicted  
28 individual.

29           (a) Except with the prior written consent of the  
30 Commissioner, no person who has been convicted of any  
31 criminal offense involving dishonesty or a breach of trust  
32 may own or control directly or indirectly more than 0.001% of

1 the capital stock of, receive benefit directly or indirectly  
2 from, or participate directly or indirectly in any manner in  
3 the ~~conduct-of-the~~ affairs of a savings bank.

4 (b) A savings bank may not permit participation by a  
5 person described in subsection (a).

6 (c) Whoever knowingly violates subsection (a) or (b) is  
7 guilty of a Class 3 felony and may be fined not more than  
8 \$10,000 for each day of violation.

9 (Source: P.A. 91-97, eff. 7-9-99.)

10 Section 15. The Interest Act is amended by changing  
11 Sections 4 and 4a as follows:

12 (815 ILCS 205/4) (from Ch. 17, par. 6404)

13 Sec. 4. General interest rate.

14 (1) In all written contracts it shall be lawful for the  
15 parties to stipulate or agree that 9% per annum, or any less  
16 sum of interest, shall be taken and paid upon every \$100 of  
17 money loaned or in any manner due and owing from any person  
18 to any other person or corporation in this state, and after  
19 that rate for a greater or less sum, or for a longer or  
20 shorter time, except as herein provided.

21 The maximum rate of interest that may lawfully be  
22 contracted for is determined by the law applicable thereto at  
23 the time the contract is made. Any provision in any  
24 contract, whether made before or after July 1, 1969, which  
25 provides for or purports to authorize, contingent upon a  
26 change in the Illinois law after the contract is made, any  
27 rate of interest greater than the maximum lawful rate at the  
28 time the contract is made, is void.

29 It is lawful for a state bank or a branch of an  
30 out-of-state bank, as those terms are defined in Section 2 of  
31 the Illinois Banking Act, to receive or to contract to  
32 receive and collect interest and charges at any rate or rates

1 agreed upon by the bank or branch and the borrower. It is  
2 lawful for a savings bank chartered under the Savings Bank  
3 Act or a savings association chartered under the Illinois  
4 Savings and Loan Act of 1985 to receive or contract to  
5 receive and collect interest and charges at any rate agreed  
6 upon by the savings bank or savings association and the  
7 borrower.

8 It is lawful to receive or to contract to receive and  
9 collect interest and charges as authorized by this Act and as  
10 authorized by the Consumer Installment Loan Act and by the  
11 "Consumer Finance Act", approved July 10, 1935, as now or  
12 hereafter amended. It is lawful to charge, contract for, and  
13 receive any rate or amount of interest or compensation with  
14 respect to the following transactions:

15 (a) Any loan made to a corporation;

16 (b) Advances of money, repayable on demand, to an  
17 amount not less than \$5,000, which are made upon  
18 warehouse receipts, bills of lading, certificates of  
19 stock, certificates of deposit, bills of exchange, bonds  
20 or other negotiable instruments pledged as collateral  
21 security for such repayment, if evidenced by a writing;

22 (c) Any credit transaction between a merchandise  
23 wholesaler and retailer; any business loan to a business  
24 association or copartnership or to a person owning and  
25 operating a business as sole proprietor or to any persons  
26 owning and operating a business as joint venturers, joint  
27 tenants or tenants in common, or to any limited  
28 partnership, or to any trustee owning and operating a  
29 business or whose beneficiaries own and operate a  
30 business, except that any loan which is secured (1) by an  
31 assignment of an individual obligor's salary, wages,  
32 commissions or other compensation for services, or (2) by  
33 his household furniture or other goods used for his  
34 personal, family or household purposes shall be deemed

1 not to be a loan within the meaning of this subsection;  
2 and provided further that a loan which otherwise  
3 qualifies as a business loan within the meaning of this  
4 subsection shall not be deemed as not so qualifying  
5 because of the inclusion, with other security consisting  
6 of business assets of any such obligor, of real estate  
7 occupied by an individual obligor solely as his  
8 residence. The term "business" shall be deemed to mean a  
9 commercial, agricultural or industrial enterprise which  
10 is carried on for the purpose of investment or profit,  
11 but shall not be deemed to mean the ownership or  
12 maintenance of real estate occupied by an individual  
13 obligor solely as his residence;

14 (d) Any loan made in accordance with the provisions  
15 of Subchapter I of Chapter 13 of Title 12 of the United  
16 States Code, which is designated as "Housing Renovation  
17 and Modernization";

18 (e) Any mortgage loan insured or upon which a  
19 commitment to insure has been issued under the provisions  
20 of the National Housing Act, Chapter 13 of Title 12 of  
21 the United States Code;

22 (f) Any mortgage loan guaranteed or upon which a  
23 commitment to guaranty has been issued under the  
24 provisions of the Veterans' Benefits Act, Subchapter II  
25 of Chapter 37 of Title 38 of the United States Code;

26 (g) Interest charged by a broker or dealer  
27 registered under the Securities Exchange Act of 1934, as  
28 amended, or registered under the Illinois Securities Law  
29 of 1953, approved July 13, 1953, as now or hereafter  
30 amended, on a debit balance in an account for a customer  
31 if such debit balance is payable at will without penalty  
32 and is secured by securities as defined in Uniform  
33 Commercial Code-Investment Securities;

34 (h) Any loan made by a participating bank as part



1 of any loan guarantee program which provides for loans  
2 and for the refinancing of such loans to medical  
3 students, interns and residents and which are guaranteed  
4 by the American Medical Association Education and  
5 Research Foundation;

6 (i) Any loan made, guaranteed, or insured in  
7 accordance with the provisions of the Housing Act of  
8 1949, Subchapter III of Chapter 8A of Title 42 of the  
9 United States Code and the Consolidated Farm and Rural  
10 Development Act, Subchapters I, II, and III of Chapter 50  
11 of Title 7 of the United States Code;

12 (j) Any loan by an employee pension benefit plan,  
13 as defined in Section 3 (2) of the Employee Retirement  
14 Income Security Act of 1974 (29 U.S.C.A. Sec. 1002), to  
15 an individual participating in such plan, provided that  
16 such loan satisfies the prohibited transaction exemption  
17 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec.  
18 1108 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975  
19 (d) (1)) of the Employee Retirement Income Security Act  
20 of 1974;

21 (k) Written contracts, agreements or bonds for deed  
22 providing for installment purchase of real estate;

23 (l) Loans secured by a mortgage on real estate;

24 (m) Loans made by a sole proprietorship,  
25 partnership, or corporation to an employee or to a person  
26 who has been offered employment by such sole  
27 proprietorship, partnership, or corporation made for the  
28 sole purpose of transferring an employee or person who  
29 has been offered employment to another office maintained  
30 and operated by the same sole proprietorship,  
31 partnership, or corporation;

32 (n) Loans to or for the benefit of students made by  
33 an institution of higher education.

34 (2) Except for loans described in subparagraph (a), (c),

1 (d), (e), (f) or (i) of subsection (1) of this Section, and  
2 except to the extent permitted by the applicable statute for  
3 loans made pursuant to Section 4a or pursuant to the Consumer  
4 Installment Loan Act:

5 (a) Whenever the rate of interest exceeds 8% per  
6 annum on any written contract, agreement or bond for deed  
7 providing for the installment purchase of residential  
8 real estate, or on any loan secured by a mortgage on  
9 residential real estate, it shall be unlawful to provide  
10 for a prepayment penalty or other charge for prepayment.

11 (b) No agreement, note or other instrument  
12 evidencing a loan secured by a mortgage on residential  
13 real estate, or written contract, agreement or bond for  
14 deed providing for the installment purchase of  
15 residential real estate, may provide for any change in  
16 the contract rate of interest during the term thereof.  
17 However, if the Congress of the United States or any  
18 federal agency authorizes any class of lender to enter,  
19 within limitations, into mortgage contracts or written  
20 contracts, agreements or bonds for deed in which the rate  
21 of interest may be changed during the term of the  
22 contract, any person, firm, corporation or other entity  
23 not otherwise prohibited from entering into mortgage  
24 contracts or written contracts, agreements or bonds for  
25 deed in Illinois may enter into mortgage contracts or  
26 written contracts, agreements or bonds for deed in which  
27 the rate of interest may be changed during the term of  
28 the contract, within the same limitations.

29 (3) In any contract or loan which is secured by a  
30 mortgage, deed of trust, or conveyance in the nature of a  
31 mortgage, on residential real estate, the interest which is  
32 computed, calculated, charged, or collected pursuant to such  
33 contract or loan, or pursuant to any regulation or rule  
34 promulgated pursuant to this Act, may not be computed,

1 calculated, charged or collected for any period of time  
2 occurring after the date on which the total indebtedness,  
3 with the exception of late payment penalties, is paid in  
4 full.

5 For purposes of this Section, a prepayment shall mean the  
6 payment of the total indebtedness, with the exception of late  
7 payment penalties if incurred or charged, on any date before  
8 the date specified in the contract or loan agreement on which  
9 the total indebtedness shall be paid in full, or before the  
10 date on which all payments, if timely made, shall have been  
11 made. In the event of a prepayment of the indebtedness which  
12 is made on a date after the date on which interest on the  
13 indebtedness was last computed, calculated, charged, or  
14 collected but before the next date on which interest on the  
15 indebtedness was to be calculated, computed, charged, or  
16 collected, the lender may calculate, charge and collect  
17 interest on the indebtedness for the period which elapsed  
18 between the date on which the prepayment is made and the date  
19 on which interest on the indebtedness was last computed,  
20 calculated, charged or collected at a rate equal to  $1/360$  of  
21 the annual rate for each day which so elapsed, which rate  
22 shall be applied to the indebtedness outstanding as of the  
23 date of prepayment. The lender shall refund to the borrower  
24 any interest charged or collected which exceeds that which  
25 the lender may charge or collect pursuant to the preceding  
26 sentence. The provisions of this amendatory Act of 1985 shall  
27 apply only to contracts or loans entered into on or after the  
28 effective date of this amendatory Act, but shall not apply to  
29 contracts or loans entered into on or after that date that  
30 are subject to Section 4a of this Act, the Consumer  
31 Installment Loan Act, or the Retail Installment Sales Act, or  
32 that provide for the refund of precomputed interest on  
33 prepayment in the manner provided by such Act.

34 (Source: P.A. 89-208, eff. 9-29-95.)

1 (815 ILCS 205/4a) (from Ch. 17, par. 6410)

2 Sec. 4a. Installment loan rate.

3 (a) On money loaned to or in any manner owing from any  
4 person, whether secured or unsecured, except where the money  
5 loaned or in any manner owing is directly or indirectly for  
6 the purchase price of real estate or an interest therein and  
7 is secured by a lien on or retention of title to that real  
8 estate or interest therein, to an amount not more than  
9 \$25,000 (excluding interest) which is evidenced by a written  
10 instrument providing for the payment thereof in 2 or more  
11 periodic installments over a period of not more than 181  
12 months from the date of the execution of the written  
13 instrument, it is lawful to receive or to contract to receive  
14 and collect either:

15 (i) interest in an amount equivalent to interest  
16 computed at a rate not exceeding 9% per year on the  
17 entire principal amount of the money loaned or in any  
18 manner owing for the period from the date of the making  
19 of the loan or the incurring of the obligation for the  
20 amount owing evidenced by the written instrument until  
21 the date of the maturity of the last installment thereof,  
22 and to add that amount to the principal, except that  
23 there shall be no limit on the rate of interest which may  
24 be received or contracted to be received and collected by  
25 (1) any bank that has its main office or, after May 31,  
26 1997, a branch in this State; (2) a savings and loan  
27 association chartered under the Illinois Savings and Loan  
28 Act of 1985, a savings bank chartered under the Savings  
29 Bank Act, or a federal savings and loan association  
30 established under the laws of the United States and  
31 having its main office in this State; or (3) any lender  
32 licensed under either the Consumer Finance Act or the  
33 Consumer Installment Loan Act, but in any case in which  
34 interest is received, contracted for or collected on the

1 basis of this clause (i), the debtor may satisfy in full  
2 at any time before maturity the debt evidenced by the  
3 written instrument, and in so satisfying must receive a  
4 refund credit against the total amount of interest added  
5 to the principal computed in the manner provided under  
6 Section 15(f)(3) of the Consumer Installment Loan Act for  
7 refunds or credits of applicable interest on payment in  
8 full of precomputed loans before the final installment  
9 due date; or

10 (ii) interest accrued on the principal balance from  
11 time to time remaining unpaid, from the date of making of  
12 the loan or the incurring of the obligation to the date  
13 of the payment of the debt in full, at a rate not  
14 exceeding the annual percentage rate equivalent of the  
15 rate permitted to be charged under clause (i) above, but  
16 in any such case the debtor may, provided that the debtor  
17 shall have paid in full all interest and other charges  
18 accrued to the date of such prepayment, prepay the  
19 principal balance in full or in part at any time, and  
20 interest shall, upon any such prepayment, cease to accrue  
21 on the principal amount which has been prepaid.

22 (b) Whenever the principal amount of an installment loan  
23 is \$300 or more and the repayment period is 6 months or more,  
24 a minimum charge of \$15 may be collected instead of interest,  
25 but only one minimum charge may be collected from the same  
26 person during one year. When the principal amount of the loan  
27 (excluding interest) is \$800 or less, the lender or creditor  
28 may contract for and receive a service charge not to exceed  
29 \$5 in addition to interest; and that service charge may be  
30 collected when the loan is made, but only one service charge  
31 may be contracted for, received, or collected from the same  
32 person during one year.

33 (c) Credit life insurance and credit accident and health  
34 insurance, and any charge therefor which is deducted from the

1 loan or paid by the obligor, must comply with Article IX 1/2  
2 of the Illinois Insurance Code and all lawful requirements of  
3 the Director of Insurance related thereto. When there are 2  
4 or more obligors on the loan contract, only one charge for  
5 credit life insurance and credit accident and health  
6 insurance may be made and only one of the obligors may be  
7 required to be insured. Insurance obtained from, by or  
8 through the lender or creditor must be in effect when the  
9 loan is transacted. The purchase of that insurance from an  
10 agent, broker or insurer specified by the lender or creditor  
11 may not be a condition precedent to the granting of the loan.

12 (d) The lender or creditor may require the obligor to  
13 provide property insurance on security other than household  
14 goods, furniture and personal effects. The amount and term of  
15 the insurance must be reasonable in relation to the amount  
16 and term of the loan contract and the type and value of the  
17 security, and the insurance must be procured in accordance  
18 with the insurance laws of this State. The purchase of that  
19 insurance from an agent, broker or insurer specified by the  
20 lender or creditor may not be a condition precedent to the  
21 granting of the loan.

22 (e) The lender or creditor may, if the contract  
23 provides, collect a delinquency and collection charge on each  
24 installment in default for a period of not less than 10 days  
25 in an amount not exceeding 5% of the installment on  
26 installments in excess of \$200 or \$10 on installments of \$200  
27 or less, but only one delinquency and collection charge may  
28 be collected on any installment regardless of the period  
29 during which it remains in default. In addition, the contract  
30 may provide for the payment by the borrower or debtor of  
31 attorney's fees incurred by the lender or creditor. The  
32 lender or creditor may enforce such a provision to the extent  
33 of the reasonable attorney's fees incurred by him in the  
34 collection or enforcement of the contract or obligation.

1 Whenever interest is contracted for or received under this  
2 Section, no amount in addition to the charges authorized by  
3 this Section may be directly or indirectly charged,  
4 contracted for or received, except lawful fees paid to a  
5 public officer or agency to record, file or release security,  
6 and except costs and disbursements including reasonable  
7 attorney's fees, incurred in legal proceedings to collect a  
8 loan or to realize on a security after default. This Section  
9 does not prohibit the receipt of any commission, dividend or  
10 other benefit by the creditor or an employee, affiliate or  
11 associate of the creditor from the insurance authorized by  
12 this Section.

13 (f) When interest is contracted for or received under  
14 this Section, the lender must disclose the following items to  
15 the obligor in a written statement before the loan is  
16 consummated:

17 (1) the amount and date of the loan contract;

18 (2) the amount of loan credit using the term  
19 "amount financed";

20 (3) every deduction from the amount financed or  
21 payment made by the obligor for insurance and the type of  
22 insurance for which each deduction or payment was made;

23 (4) every other deduction from the loan or payment  
24 made by the obligor in connection with obtaining the  
25 loan;

26 (5) the date on which the finance charge begins to  
27 accrue if different from the date of the transaction;

28 (6) the total amount of the loan charge for the  
29 scheduled term of the loan contract with a description of  
30 each amount included using the term "finance charge";

31 (7) the finance charge expressed as an annual  
32 percentage rate using the term "annual percentage rate".

33 "Annual percentage rate" means the nominal annual  
34 percentage rate of finance charge determined in

1       accordance with the actuarial method of computation with  
2       an accuracy at least to the nearest 1/4 of 1%; or at the  
3       option of the lender by application of the United States  
4       rule so that it may be disclosed with an accuracy at  
5       least to the nearest 1/4 of 1%;

6               (8) the number, amount and due dates or periods of  
7       payments scheduled to repay the loan and the sum of such  
8       payments using the term "total of payments";

9               (9) the amount, or method of computing the amount  
10       of any default, delinquency or similar charges payable in  
11       the event of late payments;

12              (10) the right of the obligor to prepay the loan  
13       and the fact that such prepayment will reduce the charge  
14       for the loan;

15              (11) a description or identification of the type of  
16       any security interest held or to be retained or acquired  
17       by the lender in connection with the loan and a clear  
18       identification of the property to which the security  
19       interest relates. If after-acquired property will be  
20       subject to the security interest, or if other or future  
21       indebtedness is or may be secured by any such property,  
22       this fact shall be clearly set forth in conjunction with  
23       the description or identification of the type of security  
24       interest held, retained or acquired;

25              (12) a description of any penalty charge that may  
26       be imposed by the lender for prepayment of the principal  
27       of the obligation with an explanation of the method of  
28       computation of such penalty and the conditions under  
29       which it may be imposed;

30              (13) unless the contract provides for the accrual  
31       and payment of the finance charge on the balance of the  
32       amount financed from time to time remaining unpaid, an  
33       identification of the method of computing any unearned  
34       portion of the finance charge in the event of prepayment



1 of the loan.

2 The terms "finance charge" and "annual percentage rate"  
3 shall be printed more conspicuously than other terminology  
4 required by this Section.

5 (g) At the time disclosures are made, the lender shall  
6 deliver to the obligor a duplicate of the instrument or  
7 statement by which the required disclosures are made and on  
8 which the lender and obligor are identified and their  
9 addresses stated. All of the disclosures shall be made  
10 clearly, conspicuously and in meaningful sequence and made  
11 together on either:

12 (i) the note or other instrument evidencing the  
13 obligation on the same side of the page and above or  
14 adjacent to the place for the obligor's signature;  
15 however, where a creditor elects to combine disclosures  
16 with the contract, security agreement, and evidence of a  
17 transaction in a single document, the disclosures  
18 required under this Section shall be made on the face of  
19 the document, on the reverse side, or on both sides,  
20 provided that the amount of the finance charge and the  
21 annual percentage rate shall appear on the face of the  
22 document, and, if the reverse side is used, the printing  
23 on both sides of the document shall be equally clear and  
24 conspicuous, both sides shall contain the statement,  
25 "NOTICE: See other side for important information", and  
26 the place for the customer's signature shall be provided  
27 following the full content of the document; or

28 (ii) one side of a separate statement which  
29 identifies the transaction.

30 The amount of the finance charge shall be determined as  
31 the sum of all charges, payable directly or indirectly by the  
32 obligor and imposed directly or indirectly by the lender as  
33 an incident to or as a condition to the extension of credit,  
34 whether paid or payable by the obligor, any other person on

1 behalf of the obligor, to the lender or to a third party,  
2 including any of the following types of charges:

3 (1) Interest, time price differential, and any  
4 amount payable under a discount or other system of  
5 additional charges.

6 (2) Service, transaction, activity, or carrying  
7 charge.

8 (3) Loan fee, points, finder's fee, or similar  
9 charge.

10 (4) Fee for an appraisal, investigation, or credit  
11 report.

12 (5) Charges or premiums for credit life, accident,  
13 health, or loss of income insurance, written in  
14 connection with any credit transaction unless (a) the  
15 insurance coverage is not required by the lender and this  
16 fact is clearly and conspicuously disclosed in writing to  
17 the obligor; and (b) any obligor desiring such insurance  
18 coverage gives specific dated and separately signed  
19 affirmative written indication of such desire after  
20 receiving written disclosure to him of the cost of such  
21 insurance.

22 (6) Charges or premiums for insurance, written in  
23 connection with any credit transaction, against loss of  
24 or damage to property or against liability arising out of  
25 the ownership or use of property, unless a clear,  
26 conspicuous, and specific statement in writing is  
27 furnished by the lender to the obligor setting forth the  
28 cost of the insurance if obtained from or through the  
29 lender and stating that the obligor may choose the person  
30 through which the insurance is to be obtained.

31 (7) Premium or other charges for any other  
32 guarantee or insurance protecting the lender against the  
33 obligor's default or other credit loss.

34 (8) Any charge imposed by a lender upon another

1 lender for purchasing or accepting an obligation of an  
2 obligor if the obligor is required to pay any part of  
3 that charge in cash, as an addition to the obligation, or  
4 as a deduction from the proceeds of the obligation.

5 A late payment, delinquency, default, reinstatement or  
6 other such charge is not a finance charge if imposed for  
7 actual unanticipated late payment, delinquency, default or  
8 other occurrence.

9 (h) Advertising for loans transacted under this Section  
10 may not be false, misleading, or deceptive. That advertising,  
11 if it states a rate or amount of interest, must state that  
12 rate as an annual percentage rate of interest charged. In  
13 addition, if charges other than for interest are made in  
14 connection with those loans, those charges must be separately  
15 stated. No advertising may indicate or imply that the rates  
16 or charges for loans are in any way "recommended",  
17 "approved", "set" or "established" by the State government or  
18 by this Act.

19 (i) A lender or creditor who complies with the federal  
20 Truth in Lending Act, amendments thereto, and any regulations  
21 issued or which may be issued thereunder, shall be deemed to  
22 be in compliance with the provisions of subsections (f), (g)  
23 and (h) of this Section.

24 (Source: P.A. 89-208, eff. 9-29-95; 90-437, eff. 1-1-98.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.