

1 AN ACT concerning bank holding companies.

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

4 Section 5. The Illinois Bank Holding Company Act of 1957  
5 is amended by changing Section 2 as follows:

6 (205 ILCS 10/2) (from Ch. 17, par. 2502)

7 Sec. 2. Definitions. Unless the context requires  
8 otherwise:

9 (a) "Bank" means any national banking association or any  
10 bank, banking association or savings bank, whether organized  
11 under the laws of Illinois, another state, the United States,  
12 the District of Columbia, any territory of the United States,  
13 Puerto Rico, Guam, American Samoa or the Virgin Islands,  
14 which (1) accepts deposits that the depositor has a legal  
15 right to withdraw on demand by check or other negotiable  
16 order and (2) engages in the business of making commercial  
17 loans. "Bank" does not include any organization operating  
18 under Sections 25 or 25 (a) of the Federal Reserve Act, or  
19 any organization which does not do business within the United  
20 States except as an incident to its activities outside the  
21 United States or any foreign bank.

22 (b) "Bank holding company" means any company that  
23 controls or has control over any bank or over any company  
24 that is or becomes a bank holding company by virtue of this  
25 Act.

26 (c) "Banking office" means the principal office of a  
27 bank, any branch of a bank, or any other office at which a  
28 bank accepts deposits, provided, however, that "banking  
29 office" shall not mean:

30 (1) unmanned automatic teller machines, point of  
31 sale terminals or other similar unmanned electronic

1 banking facilities at which deposits may be accepted; or  
2 (2) offices located outside the United States.

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

6 (e) "Commissioner" means the Commissioner of Banks and  
7 Real Estate or a person authorized by the Commissioner, the  
8 Office of Banks and Real Estate Act, or this Act to act in  
9 the Commissioner's stead.

10 (f) "Community" means the contiguous area served by the  
11 banking offices of a bank, but need not be limited or  
12 expanded to conform to the geographic boundaries of units of  
13 local government.

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

29 (h) A company "controls or has control over" a bank or  
30 company if (1) it directly or indirectly owns or controls or  
31 has the power to vote, 25% or more of the voting shares of  
32 any class of voting securities of such bank or company or (2)  
33 it controls in any manner the election of a majority of the  
34 directors or trustees of such bank or company or (3) a

1 trustee holds for the benefit of its shareholders, members or  
2 employees, 25% or more of the voting shares of such bank or  
3 company or (4) it directly or indirectly exercises a  
4 controlling influence over the management or policies of such  
5 bank or company that is a bank holding company and the Board  
6 of Governors of the Federal Reserve System has so determined  
7 under the federal Bank Holding Company Act. In determining  
8 whether any company controls or has control over a bank or  
9 company: (i) shares owned or controlled by any subsidiary of  
10 a company shall be deemed to be indirectly owned or  
11 controlled by such company; (ii) shares held or controlled,  
12 directly or indirectly, by a trustee or trustees for the  
13 benefit of a company, the shareholders or members of a  
14 company or the employees (whether exclusively or not) of a  
15 company, shall be deemed to be controlled by such company;  
16 and (iii) shares transferred, directly or indirectly, by any  
17 bank holding company (or by any company which, but for such  
18 transfer, would be a bank holding company) to any transferee  
19 that is indebted to the transferor or that has one or more  
20 officers, directors, trustees or beneficiaries in common with  
21 or subject to control by the transferor, shall be deemed to  
22 be indirectly owned or controlled by the transferor unless  
23 the Board of Governors of the Federal Reserve System has  
24 determined, under the federal Bank Holding Company Act, that  
25 the transferor is not in fact capable of controlling the  
26 transferee. Notwithstanding the foregoing, no company shall  
27 be deemed to have control of or over a bank or bank holding  
28 company (A) by virtue of its ownership or control of shares  
29 in a fiduciary capacity arising in the ordinary course of its  
30 business; (B) by virtue of its ownership or control of shares  
31 acquired by it in connection with its underwriting of  
32 securities which are held only for such period of time as  
33 will permit the sale thereof upon a reasonable basis; (C) by  
34 virtue of its holding any shares as collateral taken in the

1 ordinary course of securing a debt or other obligation; (D)  
2 by virtue of its ownership or control of shares acquired in  
3 the ordinary course of collecting a debt or other obligation  
4 previously contracted in good faith, until 5 years after the  
5 date acquired; or (E) by virtue of its voting rights with  
6 respect to shares of any bank or bank holding company  
7 acquired in the course of a proxy solicitation in the case of  
8 a company formed and operated for the sole purpose of  
9 participating in a proxy solicitation.

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

13 (j) "Foreign bank" means any company organized under the  
14 laws of a foreign country which engages in the business of  
15 banking or any subsidiary or affiliate of any such company,  
16 organized under such laws. "Foreign bank" includes, without  
17 limitation, foreign merchant banks and other foreign  
18 institutions that engage in banking activities usual in  
19 connection with the business of banking in the countries  
20 where such foreign institutions are organized or operating.

21 (k) "Home state" means the home state of a foreign bank  
22 as determined pursuant to the federal International Banking  
23 Act of 1978.

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

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

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

29 (m) "Illinois bank holding company" means a bank holding  
30 company:

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

33 (2) that is not directly or indirectly controlled  
34 by another bank holding company whose principal place of

1 business is a state other than Illinois or by a foreign  
2 bank whose Home State is a state other than Illinois.

3 An out of state bank holding company that acquires  
4 control of one or more Illinois banks or Illinois bank  
5 holding companies pursuant to Sections 3.061 or 3.071 shall  
6 not be deemed an Illinois bank holding company.

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

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

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

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

17 (p) "Out of state bank holding company" means a bank  
18 holding company:

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

20 (2) whose principal place of business is a state  
21 other than Illinois the laws of which expressly authorize  
22 the acquisition by an Illinois bank holding company of a  
23 bank or bank holding company in that state under  
24 qualifications and conditions which are not unduly  
25 restrictive, as determined by the Commissioner, when  
26 compared to those imposed by the laws of Illinois.

27 (q) "Principal place of business" means, with respect to  
28 a bank holding company, the state in which the total deposits  
29 held by all of the banking offices of all of the bank  
30 subsidiaries of such bank holding company are the largest, as  
31 shown in the most recent reports of condition or similar  
32 reports filed by the bank holding company's bank subsidiaries  
33 with state or federal regulatory authorities.

34 (r) "State" or "states" when used in this Act means any

1 State of the United States, the District of Columbia, any  
2 territory of the United States, Puerto Rico, Guam, American  
3 Samoa or the Virgin Islands.

4 (s) "Subsidiary", with respect to a specified bank  
5 holding company, means any bank or company controlled by such  
6 bank holding company.

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