

1 AN ACT in relation to financial regulation.

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 16, 32, 46, 48, and 48.1 as follows:

6 (205 ILCS 5/16) (from Ch. 17, par. 323)

7 Sec. 16. Directors. The business and affairs of a State  
8 bank shall be managed by its board of directors that shall  
9 exercise its powers as follows:

10 (1) Directors shall be elected as provided in this Act.  
11 Any omission to elect a director or directors shall not  
12 impair any of the rights and privileges of the bank or of any  
13 person in any way interested. The existing directors shall  
14 hold office until their successors are elected and qualify.

15 (2) (a) Notwithstanding the provisions of any charter  
16 heretofore or hereafter issued, the number of directors,  
17 not fewer than 5 nor more than 25, may be fixed from time  
18 to time by the stockholders at any meeting of the  
19 stockholders called for the purpose of electing directors  
20 or changing the number thereof by the affirmative vote of  
21 at least two-thirds of the outstanding stock entitled to  
22 vote at the meeting, and the number so fixed shall be the  
23 board regardless of vacancies until the number of  
24 directors is thereafter changed by similar action.

25 (b) Notwithstanding the minimum number of directors  
26 specified in paragraph (a) of this subsection, a State  
27 bank that has been in existence for 10 years or more and  
28 has less than \$20,000,000 in assets, as of the December  
29 31 immediately preceding the annual meeting of  
30 shareholders at which directors are elected, may, subject  
31 to the approval of the Commissioner, have a minimum of 3

1 directors; provided that if a State bank has fewer than 5  
2 directors, at least one director shall not be an officer  
3 or employee of the bank. The Commissioner shall annually  
4 review the appropriateness of the grant of authority to  
5 have a reduced minimum number of directors pursuant to  
6 this paragraph (b).

7 (3) Except as otherwise provided in this paragraph (3),  
8 directors shall hold office until the next annual meeting of  
9 the stockholders succeeding their election or until their  
10 successors are elected and qualify. If the board of directors  
11 consists of 6 or more members, in lieu of electing the  
12 membership of the whole board of directors annually, the  
13 charter or by-laws of a State bank may provide that the  
14 directors shall be divided into either 2 or 3 classes, each  
15 class to be as nearly equal in number as is possible. The  
16 term of office of directors of the first class shall expire  
17 at the first annual meeting of the stockholders after their  
18 election, that of the second class shall expire at the second  
19 annual meeting after their election, and that of the third  
20 class, if any, shall expire at the third annual meeting after  
21 their election. At each annual meeting after classification,  
22 the number of directors equal to the number of the class  
23 whose terms expire at the time of the meeting shall be  
24 elected to hold office until the second succeeding annual  
25 meeting, if there be 2 classes, or until the third succeeding  
26 annual meeting, if there be 3 classes. Vacancies may be  
27 filled by stockholders at a special meeting called for the  
28 purpose.

29 If authorized by the bank's by-laws or an amendment  
30 thereto, the directors of a State bank may properly fill a  
31 vacancy or vacancies arising between shareholders' meetings,  
32 but at no time may the number of directors selected to fill a  
33 vacancy in this manner during any interim period between  
34 shareholders' meetings exceed 33 1/3% of the total membership

1 of the board of directors.

2 (4) The board of directors shall hold regular meetings  
3 at least once each month, provided that, upon prior written  
4 approval by the Commissioner, the board of directors may hold  
5 regular meetings less frequently than once each month but at  
6 least once each calendar quarter. A special meeting of the  
7 board of directors may be held as provided by the by-laws. A  
8 special meeting of the board of directors may also be held  
9 upon call by the Commissioner or a bank examiner appointed  
10 under the provisions of this Act upon not less than 12 hours  
11 notice of the meeting by personal service of the notice or by  
12 mailing the notice to each of the directors at his residence  
13 as shown by the books of the bank. A majority of the board  
14 of directors shall constitute a quorum for the transaction of  
15 business unless a greater number is required by the charter  
16 or the by-laws. The act of the majority of the directors  
17 present at a meeting at which a quorum is present shall be  
18 the act of the board of directors unless the act of a greater  
19 number is required by the charter or by the by-laws.

20 (5) A member of the board of directors shall be elected  
21 president. The board of directors may appoint other officers,  
22 as the by-laws may provide, and fix their salaries to carry  
23 on the business of the bank. The board of directors may make  
24 and amend by-laws (not inconsistent with this Act) for the  
25 government of the bank and may, by the affirmative vote of a  
26 majority of the board of directors, establish reasonable  
27 compensation of all directors for services to the corporation  
28 as directors, officers, or otherwise. An officer, whether  
29 elected or appointed by the board of directors or appointed  
30 pursuant to the by-laws, may be removed by the board of  
31 directors at any time.

32 (6) The board of directors shall cause suitable books  
33 and records of all the bank's transactions to be kept.

34 (7) (a) In discharging the duties of their respective

1 positions, the board of directors, committees of the  
2 board, and individual directors may, in considering the  
3 best long term and short term interests of the bank,  
4 consider the effects of any action (including, without  
5 limitation, action that may involve or relate to a merger  
6 or potential merger or to a change or potential change in  
7 control of the bank) upon employees, depositors,  
8 suppliers, and customers of the corporation or its  
9 subsidiaries, communities in which the main banking  
10 premises, branches, offices, or other establishments of  
11 the bank or its subsidiaries are located, and all  
12 pertinent factors.

13 (b) In discharging the duties of their respective  
14 positions, the board of directors, committees of the  
15 board, and individual directors shall be entitled to rely  
16 on advice, information, opinions, reports or statements,  
17 including financial statements and financial data,  
18 prepared or presented by: (i) one or more officers or  
19 employees of the bank whom the director believes to be  
20 reliable and competent in the matter presented; (ii) one  
21 or more counsels, accountants, or other consultants as to  
22 matters that the director believes to be within that  
23 person's professional or expert competence; or (iii) a  
24 committee of the board upon which the director does not  
25 serve, as to matters within that committee's designated  
26 authority.

27 (Source: P.A. 90-301, eff. 8-1-97; 91-452, eff. 1-1-00.)

28 (205 ILCS 5/32) (from Ch. 17, par. 339)

29 Sec. 32. Basic loaning limits. The liabilities  
30 outstanding at one time to a state bank of a person for money  
31 borrowed, including the liabilities of a partnership or joint  
32 venture in the liabilities of the several members thereof,  
33 shall not exceed 25% 20% of the amount of the unimpaired

1 capital and unimpaired surplus of the bank.

2 The liabilities to any state bank of a person may exceed  
3 25% 20% of the unimpaired capital and unimpaired surplus of  
4 the bank, provided that (i) the excess amount from time to  
5 time outstanding is fully secured by readily marketable  
6 collateral having a market value, as determined by reliable  
7 and continuously available quotations, at least equal to the  
8 excess amount outstanding; and (ii) the total liabilities  
9 shall not exceed 30% of the unimpaired capital and unimpaired  
10 surplus of the bank.

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

13 (1) The purchase or of discount of bills of  
14 exchange drawn in good faith against actually existing  
15 values.

16 (2) The purchase or discount of commercial or  
17 business paper actually owned by the person negotiating  
18 the same.

19 (3) The purchase of or loaning money in exchange  
20 for evidences of indebtedness which shall be secured by  
21 mortgage or trust deed upon productive real estate the  
22 value of which, as ascertained by the oath of 2 qualified  
23 appraisers, neither of whom shall be an officer,  
24 director, or employee of the bank or of any subsidiary or  
25 affiliate of the bank, is double the amount of the  
26 principal debt secured at the time of the original  
27 purchase of evidence of indebtedness or loan of money and  
28 which is still double the amount of the principal debt  
29 secured at the time of any renewal of the indebtedness or  
30 loan, and which mortgage or trust deed is shown, either  
31 by a guaranty policy of a title guaranty company approved  
32 by the Commissioner or by a registrar's certificate of  
33 title in any county having adopted the provisions of the  
34 Registered Titles (Torrens) Act, or by the opinion of an

1 attorney-at-law, to be a first lien upon the real estate  
2 therein described, and real estate shall not be deemed to  
3 be encumbered within the meaning of this subsection (3)  
4 by reason of the existence of instruments reserving  
5 rights-of-way, sewer rights and rights in wells, building  
6 restrictions or other restrictive covenants, nor by  
7 reason of the fact it is subject to lease under which  
8 rents or profits are reserved by the owners.

9 (4) The purchase of marketable investment  
10 securities.

11 (5) The liability to a state bank of a person who  
12 is an accommodation party to, or guarantor of payment  
13 for, any evidence of indebtedness of another person who  
14 obtains a loan from or discounts paper with or sells  
15 paper to the state bank; but the total liability to a  
16 state bank of a person as an accommodation party or  
17 guarantor of payment in respect of such evidences of  
18 indebtedness shall not exceed 20% of the amount of the  
19 unimpaired capital and unimpaired surplus of the bank;  
20 provided however that the liability of an accommodation  
21 party to paper excepted under subsection 2 of this  
22 Section shall not be included in the computation of this  
23 limitation.

24 (6) The liability to a state bank of a person, who  
25 as a guarantor, guarantees collection of the obligation  
26 or indebtedness of another person.

27 The total liabilities of any one person, for money  
28 borrowed, or otherwise, shall not exceed 25% of the deposits  
29 of the bank, and those total liabilities shall at no time  
30 exceed 50% of the amount of the unimpaired capital and  
31 unimpaired surplus of the bank. Absent an actual unremedied  
32 breach, the obligation or responsibility for breach of  
33 warranties or representations, express or implied, of a  
34 person transferring negotiable or non-negotiable paper to a

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

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

24 (Source: P.A. 89-364, eff. 8-18-95; 90-301, eff. 8-1-97.)

25 (205 ILCS 5/46) (from Ch. 17, par. 357)

26 Sec. 46. Misleading practices and names prohibited;  
27 penalty.

28 (a) No person, firm, partnership, or corporation that is  
29 not a bank shall transact business in this State in a manner  
30 which has a substantial likelihood of misleading the public  
31 by implying that the business is a bank, or shall use the  
32 word "bank", "banker", or "banking" in connection with the  
33 business. Any person, firm, partnership or corporation

1 violating this Section shall be deemed guilty of a Class A  
2 misdemeanor, and the Attorney General or State's Attorney of  
3 the county in which any such violation occurs may restrain  
4 such violation by a complaint for injunctive relief.

5 (b) If the Commissioner is of the opinion and finds that  
6 a person, firm, partnership, or corporation that is not a  
7 bank has transacted or intends to transact business in this  
8 State in a manner which has a substantial likelihood of  
9 misleading the public by implying that the business is a  
10 bank, or has used or intends to use the word "bank",  
11 "banker", or "banking" in connection with the business, then  
12 the Commissioner may direct that person, firm, partnership,  
13 or corporation to cease and desist from transacting the  
14 business or using the word "bank", "banker", or "banking".  
15 If that person, firm, partnership, or corporation persists in  
16 transacting the business or using the word "bank", "banker",  
17 or "banking", then the Commissioner may impose a civil  
18 penalty of up to \$10,000 for each violation. Each day that  
19 the person, firm, partnership, or corporation continues  
20 transacting the business or using the word "bank", "banker",  
21 or "banking" in connection with the business shall constitute  
22 a separate violation of these provisions.

23 (c) A person, firm, partnership, or corporation that is  
24 not a bank, and is not transacting or intending to transact  
25 business in this State in a manner that has a substantial  
26 likelihood of misleading the public by implying that such  
27 business is a bank, may apply to the Commissioner for  
28 permission to use the word "bank", "banker", or "banking" in  
29 connection with the business. If the Commissioner determines  
30 that there is no substantial likelihood of misleading the  
31 public, and upon such conditions as the Commissioner may  
32 impose to prevent the person, firm, partnership, or  
33 corporation from holding itself out in a misleading manner,  
34 then such person, firm, partnership, or corporation may use



1 the word "bank", "banker", or "banking".

2 (d) (1) No person, firm, partnership, or  
3 corporation may use the name of an existing bank, or a  
4 name deceptively similar to that of an existing bank,  
5 when sending, transmitting, or otherwise delivering  
6 marketing material or solicitations to customers or  
7 prospective customers if the reference to the existing  
8 bank is made (i) without the consent of the existing bank  
9 and (ii) in a manner that could cause a reasonable person  
10 to believe that the marketing material or solicitation  
11 originated from or is endorsed by the existing bank or  
12 that the existing bank is in any other way responsible  
13 for the marketing material or solicitation.

14 (2) An existing bank may, in addition to any other  
15 remedies available under the law, report an alleged  
16 violation of this subsection (d) to the Commissioner. If  
17 the Commissioner finds the marketing material or  
18 solicitation in question to be in violation of this  
19 subsection, the Commissioner may direct the person, firm,  
20 partnership, or corporation to cease and desist from  
21 using that marketing material or solicitation in  
22 Illinois. If that person, firm, partnership, or  
23 corporation persists in the use of the marketing material  
24 or solicitation, then the Commissioner may impose a civil  
25 penalty of up to \$10,000 for each violation. Each  
26 instance in which the marketing material or solicitation  
27 is sent to a customer or prospective customer shall  
28 constitute a separate violation of these provisions.

29 (3) Nothing in this subsection (d) prohibits the  
30 use of or reference to the name of an existing bank in  
31 marketing materials or solicitations, provided that the  
32 use or reference would not deceive or confuse a  
33 reasonable person regarding whether the marketing  
34 material or solicitation originated from or was endorsed

1       by the existing bank or whether the existing bank was in  
 2       any other way responsible for the marketing material or  
 3       solicitation. The Commissioner is authorized to  
 4       promulgate rules to administer these provisions.

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

6       (205 ILCS 5/48) (from Ch. 17, par. 359)

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

16       (1) The Commissioner shall call for statements from all  
 17       State banks as provided in Section 47 at least one time  
 18       during each calendar quarter.

19       (2) (a) The Commissioner, as often as the Commissioner  
 20       shall deem necessary or proper, and no less frequently than  
 21       18 months following the preceding examination, shall appoint  
 22       a suitable person or persons to make an examination of the  
 23       affairs of every State bank, except that for every eligible  
 24       State bank, as defined by regulation, the Commissioner in  
 25       lieu of the examination may accept on an alternating basis  
 26       the examination made by the eligible State bank's appropriate  
 27       federal banking agency pursuant to Section 111 of the Federal  
 28       Deposit Insurance Corporation Improvement Act of 1991,  
 29       provided the appropriate federal banking agency has made such  
 30       an examination. A person so appointed shall not be a  
 31       stockholder or officer or employee of any bank which that  
 32       person may be directed to examine, and shall have powers to  
 33       make a thorough examination into all the affairs of the bank

1 and in so doing to examine any of the officers or agents or  
2 employees thereof on oath and shall make a full and detailed  
3 report of the condition of the bank to the Commissioner. In  
4 making the examination the examiners shall include an  
5 examination of the affairs of all the affiliates of the bank,  
6 as defined in subsection (b) of Section 35.2 of this Act, as  
7 shall be necessary to disclose fully the conditions of the  
8 affiliates, the relations between the bank and the affiliates  
9 and the effect of those relations upon the affairs of the  
10 bank, and in connection therewith shall have power to examine  
11 any of the officers, directors, agents, or employees of the  
12 affiliates on oath. After May 31, 1997, the Commissioner may  
13 enter into cooperative agreements with state regulatory  
14 authorities of other states to provide for examination of  
15 State bank branches in those states, and the Commissioner may  
16 accept reports of examinations of State bank branches from  
17 those state regulatory authorities. These cooperative  
18 agreements may set forth the manner in which the other state  
19 regulatory authorities may be compensated for examinations  
20 prepared for and submitted to the Commissioner.

21 (b) After May 31, 1997, the Commissioner is authorized  
22 to examine, as often as the Commissioner shall deem necessary  
23 or proper, branches of out-of-state banks. The Commissioner  
24 may establish and may assess fees to be paid to the  
25 Commissioner for examinations under this subsection (b). The  
26 fees shall be borne by the out-of-state bank, unless the fees  
27 are borne by the state regulatory authority that chartered  
28 the out-of-state bank, as determined by a cooperative  
29 agreement between the Commissioner and the state regulatory  
30 authority that chartered the out-of-state bank.

31 (2.5) Whenever any State bank, any subsidiary or  
32 affiliate of a State bank, or after May 31, 1997, any branch  
33 of an out-of-state bank causes to be performed, by contract  
34 or otherwise, any bank services for itself, whether on or off

1 its premises:

2 (a) that performance shall be subject to  
3 examination by the Commissioner to the same extent as if  
4 services were being performed by the bank or, after May  
5 31, 1997, branch of the out-of-state bank itself on its  
6 own premises; and

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

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

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

31 (a) Each bank shall pay to the Commissioner a Call  
32 Report Fee which shall be paid in quarterly installments  
33 equal to one-fourth of the sum of the annual fixed fee of  
34 \$800, plus a variable fee based on the assets shown on

1 the quarterly statement of condition delivered to the  
2 Commissioner in accordance with Section 47 for the  
3 preceding quarter according to the following schedule:  
4 16¢ per \$1,000 of the first \$5,000,000 of total assets,  
5 15¢ per \$1,000 of the next \$20,000,000 of total assets,  
6 13¢ per \$1,000 of the next \$75,000,000 of total assets,  
7 9¢ per \$1,000 of the next \$400,000,000 of total assets,  
8 7¢ per \$1,000 of the next \$500,000,000 of total assets,  
9 and 5¢ per \$1,000 of all assets in excess of  
10 \$1,000,000,000, of the State bank. The Call Report Fee  
11 shall be calculated by the Commissioner and billed to the  
12 banks for remittance at the time of the quarterly  
13 statements of condition provided for in Section 47. The  
14 Commissioner may require payment of the fees provided in  
15 this Section by an electronic transfer of funds or an  
16 automatic debit of an account of each of the State banks.  
17 In case more than one examination of any bank is deemed  
18 by the Commissioner to be necessary in any examination  
19 frequency cycle specified in subsection 2(a) of this  
20 Section, and is performed at his direction, the  
21 Commissioner may assess a reasonable additional fee to  
22 recover the cost of the additional examination; provided,  
23 however, that an examination conducted at the request of  
24 the State Treasurer pursuant to the Uniform Disposition  
25 of Unclaimed Property Act shall not be deemed to be an  
26 additional examination under this Section. In lieu of the  
27 method and amounts set forth in this paragraph (a) for  
28 the calculation of the Call Report Fee, the Commissioner  
29 may specify by rule that the Call Report Fees provided by  
30 this Section may be assessed semiannually or some other  
31 period and may provide in the rule the formula to be used  
32 for calculating and assessing the periodic Call Report  
33 Fees to be paid by State banks.

34 (a-1) If in the opinion of the Commissioner an

1 emergency exists or appears likely, the Commissioner may  
2 assign an examiner or examiners to monitor the affairs of  
3 a State bank with whatever frequency he deems  
4 appropriate, including but not limited to a daily basis.  
5 The reasonable and necessary expenses of the Commissioner  
6 during the period of the monitoring shall be borne by the  
7 subject bank. The Commissioner shall furnish the State  
8 bank a statement of time and expenses if requested to do  
9 so within 30 days of the conclusion of the monitoring  
10 period.

11 (a-2) On and after January 1, 1990, the reasonable  
12 and necessary expenses of the Commissioner during  
13 examination of the performance of electronic data  
14 processing services under subsection (2.5) shall be borne  
15 by the banks for which the services are provided. An  
16 amount, based upon a fee structure prescribed by the  
17 Commissioner, shall be paid by the banks or, after May  
18 31, 1997, branches of out-of-state banks receiving the  
19 electronic data processing services along with the Call  
20 Report Fee assessed under paragraph (a) of this  
21 subsection (3).

22 (a-3) After May 31, 1997, the reasonable and  
23 necessary expenses of the Commissioner during examination  
24 of the performance of electronic data processing services  
25 under subsection (2.5) at or on behalf of branches of  
26 out-of-state banks shall be borne by the out-of-state  
27 banks, unless those expenses are borne by the state  
28 regulatory authorities that chartered the out-of-state  
29 banks, as determined by cooperative agreements between  
30 the Commissioner and the state regulatory authorities  
31 that chartered the out-of-state banks.

32 (b) "Fiscal year" for purposes of this Section 48  
33 is defined as a period beginning July 1 of any year and  
34 ending June 30 of the next year. The Commissioner shall

1 receive for each fiscal year, commencing with the fiscal  
2 year ending June 30, 1987, a contingent fee equal to the  
3 lesser of the aggregate of the fees paid by all State  
4 banks under paragraph (a) of subsection (3) for that  
5 year, or the amount, if any, whereby the aggregate of the  
6 administration expenses, as defined in paragraph (c), for  
7 that fiscal year exceeds the sum of the aggregate of the  
8 fees payable by all State banks for that year under  
9 paragraph (a) of subsection (3), plus any amounts  
10 transferred into the Bank and Trust Company Fund from the  
11 State Pensions Fund for that year, plus all other amounts  
12 collected by the Commissioner for that year under any  
13 other provision of this Act, plus the aggregate of all  
14 fees collected for that year by the Commissioner under  
15 the Corporate Fiduciary Act, excluding the receivership  
16 fees provided for in Section 5-10 of the Corporate  
17 Fiduciary Act, and the Foreign Banking Office Act. The  
18 aggregate amount of the contingent fee thus arrived at  
19 for any fiscal year shall be apportioned amongst,  
20 assessed upon, and paid by the State banks and foreign  
21 banking corporations, respectively, in the same  
22 proportion that the fee of each under paragraph (a) of  
23 subsection (3), respectively, for that year bears to the  
24 aggregate for that year of the fees collected under  
25 paragraph (a) of subsection (3). The aggregate amount of  
26 the contingent fee, and the portion thereof to be  
27 assessed upon each State bank and foreign banking  
28 corporation, respectively, shall be determined by the  
29 Commissioner and shall be paid by each, respectively,  
30 within 120 days of the close of the period for which the  
31 contingent fee is computed and is payable, and the  
32 Commissioner shall give 20 days advance notice of the  
33 amount of the contingent fee payable by the State bank  
34 and of the date fixed by the Commissioner for payment of

1 the fee.

2 (c) The "administration expenses" for any fiscal  
3 year shall mean the ordinary and contingent expenses for  
4 that year incident to making the examinations provided  
5 for by, and for otherwise administering, this Act, the  
6 Corporate Fiduciary Act, excluding the expenses paid from  
7 the Corporate Fiduciary Receivership account in the Bank  
8 and Trust Company Fund, the Foreign Banking Office Act,  
9 the Electronic Fund Transfer Act, and the Illinois Bank  
10 Examiners' Education Foundation Act, including all  
11 salaries and other compensation paid for personal  
12 services rendered for the State by officers or employees  
13 of the State, including the Commissioner and the Deputy  
14 Commissioners, all expenditures for telephone and  
15 telegraph charges, postage and postal charges, office  
16 stationery, supplies and services, and office furniture  
17 and equipment, including typewriters and copying and  
18 duplicating machines and filing equipment, surety bond  
19 premiums, and travel expenses of those officers and  
20 employees, employees, expenditures or charges for the  
21 acquisition, enlargement or improvement of, or for the  
22 use of, any office space, building, or structure, or  
23 expenditures for the maintenance thereof or for  
24 furnishing heat, light, or power with respect thereto,  
25 all to the extent that those expenditures are directly  
26 incidental to such examinations or administration. The  
27 Commissioner shall not be required by paragraphs (c) or  
28 (d-1) of this subsection (3) to maintain in any fiscal  
29 year's budget appropriated reserves for accrued vacation  
30 and accrued sick leave that is required to be paid to  
31 employees of the Commissioner upon termination of their  
32 service with the Commissioner in an amount that is more  
33 than is reasonably anticipated to be necessary for any  
34 anticipated turnover in employees, whether due to normal



1 attrition or due to layoffs, terminations, or  
2 resignations.

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

27 (d-1) Adequate funds shall be available in the Bank  
28 and Trust Company Fund to permit the timely payment of  
29 administration expenses. In each fiscal year the total  
30 administration expenses shall be deducted from the total  
31 fees collected by the Commissioner and the remainder  
32 transferred into the Cash Flow Reserve Account, unless  
33 the balance of the Cash Flow Reserve Account prior to the  
34 transfer equals or exceeds one-fourth of the total

1 initial appropriations from the Bank and Trust Company  
2 Fund for the subsequent year, in which case the remainder  
3 shall be credited to State banks and foreign banking  
4 corporations and applied against their fees for the  
5 subsequent year. The amount credited to each State bank  
6 and foreign banking corporation shall be in the same  
7 proportion as the Call Report Fees paid by each for the  
8 year bear to the total Call Report Fees collected for the  
9 year. If, after a transfer to the Cash Flow Reserve  
10 Account is made or if no remainder is available for  
11 transfer, the balance of the Cash Flow Reserve Account is  
12 less than one-fourth of the total initial appropriations  
13 for the subsequent year and the amount transferred is  
14 less than 5% of the total Call Report Fees for the year,  
15 additional amounts needed to make the transfer equal to  
16 5% of the total Call Report Fees for the year shall be  
17 apportioned amongst, assessed upon, and paid by the State  
18 banks and foreign banking corporations in the same  
19 proportion that the Call Report Fees of each,  
20 respectively, for the year bear to the total Call Report  
21 Fees collected for the year. The additional amounts  
22 assessed shall be transferred into the Cash Flow Reserve  
23 Account. For purposes of this paragraph (d-1), the  
24 calculation of the fees collected by the Commissioner  
25 shall exclude the receivership fees provided for in  
26 Section 5-10 of the Corporate Fiduciary Act.

27 (e) The Commissioner may upon request certify to  
28 any public record in his keeping and shall have authority  
29 to levy a reasonable charge for issuing certifications of  
30 any public record in his keeping.

31 (f) In addition to fees authorized elsewhere in  
32 this Act, the Commissioner may, in connection with a  
33 review, approval, or provision of a service, levy a  
34 reasonable charge to recover the cost of the review,

1 approval, or service.

2 (4) Nothing contained in this Act shall be construed to  
3 limit the obligation relative to examinations and reports of  
4 any State bank, deposits in which are to any extent insured  
5 by the United States or any agency thereof, nor to limit in  
6 any way the powers of the Commissioner with reference to  
7 examinations and reports of that bank.

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

27 (6) The Commissioner shall have the power:

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

30 (b) To issue orders for the purpose of  
31 administering the provisions of this Act and any rule  
32 promulgated in accordance with this Act.

33 (c) To appoint hearing officers to execute any of  
34 the powers granted to the Commissioner under this Section

1 for the purpose of administering this Act and any rule  
2 promulgated in accordance with this Act.

3 (d) To subpoena witnesses, to compel their  
4 attendance, to administer an oath, to examine any person  
5 under oath, and to require the production of any relevant  
6 books, papers, accounts, and documents in the course of  
7 and pursuant to any investigation being conducted, or any  
8 action being taken, by the Commissioner in respect of any  
9 matter relating to the duties imposed upon, or the powers  
10 vested in, the Commissioner under the provisions of this  
11 Act or any rule promulgated in accordance with this Act.

12 (e) To conduct hearings.

13 (7) Whenever, in the opinion of the Commissioner, any  
14 director, officer, employee, or agent of a State bank or,  
15 after May 31, 1997, of any branch of an out-of-state bank  
16 shall have violated any law, rule, or order relating to that  
17 bank or shall have engaged in an unsafe or unsound practice  
18 in conducting the business of that bank or shall have  
19 violated any law or engaged or participated in any unsafe or  
20 unsound practice in connection with any financial institution  
21 or other business entity such that the character and fitness  
22 of the director, officer, employee, or agent does not assure  
23 reasonable promise of safe and sound operation of the State  
24 bank, the Commissioner may issue an order of removal. If, in  
25 the opinion of the Commissioner, any former director,  
26 officer, employee, or agent of a State bank, prior to the  
27 termination of his or her service with that bank, violated  
28 any law, rule, or order relating to that State bank or  
29 engaged in an unsafe or unsound practice in conducting the  
30 business of that bank or violated any law or engaged or  
31 participated in any unsafe or unsound practice in connection  
32 with any financial institution or other business entity such  
33 that the character and fitness of the director, officer,  
34 employee, or agent would not have assured reasonable promise

1 of safe and sound operation of the State bank, the  
2 Commissioner may issue an order prohibiting that person from  
3 further service with a bank as a director, officer, employee,  
4 or agent. An order issued pursuant to this subsection shall  
5 be served upon the director, officer, employee, or agent. A  
6 copy of the order shall be sent to each director of the bank  
7 affected by registered mail. The person affected by the  
8 action may request a hearing before the State Banking Board  
9 within 10 days after receipt of the order of removal. The  
10 hearing shall be held by the Board within 30 days after the  
11 request has been received by the Board. The Board shall make  
12 a determination approving, modifying, or disapproving the  
13 order of the Commissioner as its final administrative  
14 decision. If a hearing is held by the Board, the Board shall  
15 make its determination within 60 days from the conclusion of  
16 the hearing. Any person affected by a decision of the Board  
17 under this subsection (7) of Section 48 of this Act may have  
18 the decision reviewed only under and in accordance with the  
19 Administrative Review Law and the rules adopted pursuant  
20 thereto. A copy of the order shall also be served upon the  
21 bank of which he is a director, officer, employee, or agent,  
22 whereupon he shall cease to be a director, officer, employee,  
23 or agent of that bank. The Commissioner may institute a  
24 civil action against the director, officer, or agent of the  
25 State bank or, after May 31, 1997, of the branch of the  
26 out-of-state bank against whom any order provided for by this  
27 subsection (7) of this Section 48 has been issued, and  
28 against the State bank or, after May 31, 1997, out-of-state  
29 bank, to enforce compliance with or to enjoin any violation  
30 of the terms of the order. Any person who has been the  
31 subject of an order of removal or an order of prohibition  
32 issued by the Commissioner under this subsection or Section  
33 5-6 of the Corporate Fiduciary Act may not thereafter serve  
34 as director, officer, employee, or agent of any State bank or

1 of any branch of any out-of-state bank, or of any corporate  
2 fiduciary, as defined in Section 1-5.05 of the Corporate  
3 Fiduciary Act, or of any other entity that is subject to  
4 licensure or regulation by the Commissioner or the Office of  
5 Banks and Real Estate unless the Commissioner has granted  
6 prior approval in writing.

7 (8) The Commissioner may impose civil penalties of up to  
8 \$10,000 against any person for each violation of any  
9 provision of this Act, any rule promulgated in accordance  
10 with this Act, any order of the Commissioner, or any other  
11 action which in the Commissioner's discretion is an unsafe or  
12 unsound banking practice.

13 (9) The Commissioner may impose civil penalties of up to  
14 \$100 against any person for the first failure to comply with  
15 reporting requirements set forth in the report of examination  
16 of the bank and up to \$200 for the second and subsequent  
17 failures to comply with those reporting requirements.

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

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

25 (a) (Blank).

26 (b) The Foundation is empowered to receive  
27 voluntary contributions, gifts, grants, bequests, and  
28 donations on behalf of the Illinois Bank Examiners'  
29 Education Foundation from national banks and other  
30 persons for the purpose of funding the endowment of the  
31 Illinois Bank Examiners' Education Foundation.

32 (c) The aggregate of all special educational fees  
33 collected by the Commissioner and property received by  
34 the Commissioner on behalf of the Illinois Bank

1 Examiners' Education Foundation under this subsection  
 2 (11) on or after June 30, 1986, shall be either (i)  
 3 promptly paid after receipt of the same, accompanied by a  
 4 detailed statement thereof, into the State Treasury and  
 5 shall be set apart in a special fund to be known as "The  
 6 Illinois Bank Examiners' Education Fund" to be invested  
 7 by either the Treasurer of the State of Illinois in the  
 8 Public Treasurers' Investment Pool or in any other  
 9 investment he is authorized to make or by the Illinois  
 10 State Board of Investment as the board of trustees of the  
 11 Illinois Bank Examiners' Education Foundation may direct  
 12 or (ii) deposited into an account maintained in a  
 13 commercial bank or corporate fiduciary in the name of the  
 14 Illinois Bank Examiners' Education Foundation pursuant to  
 15 the order and direction of the Board of Trustees of the  
 16 Illinois Bank Examiners' Education Foundation.

17 (12) (Blank).

18 (Source: P.A. 90-14, eff. 7-1-97; 90-301, eff. 8-1-97;  
 19 90-665, eff. 7-30-98; 91-16, eff. 7-1-99.)

20 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

21 Sec. 48.1. Customer financial records; confidentiality.

22 (a) For the purpose of this Section, the term "financial  
 23 records" means any original, any copy, or any summary of:

24 (1) a document granting signature authority over a  
 25 deposit or account;

26 (2) a statement, ledger card or other record on any  
 27 deposit or account, which shows each transaction in or  
 28 with respect to that account;

29 (3) a check, draft or money order drawn on a bank  
 30 or issued and payable by a bank; or

31 (4) any other item containing information  
 32 pertaining to any relationship established in the  
 33 ordinary course of a bank's business between a bank and

1 its customer, including financial statements or other  
2 financial information provided by the customer.

3 (b) This Section does not prohibit:

4 (1) The preparation, examination, handling or  
5 maintenance of any financial records by any officer,  
6 employee or agent of a bank having custody of the  
7 records, or the examination of the records by a certified  
8 public accountant engaged by the bank to perform an  
9 independent audit.

10 (2) The examination of any financial records by, or  
11 the furnishing of financial records by a bank to, any  
12 officer, employee or agent of (i) the Commissioner of  
13 Banks and Real Estate, (ii) after May 31, 1997, a state  
14 regulatory authority authorized to examine a branch of a  
15 State bank located in another state, (iii) the  
16 Comptroller of the Currency, (iv) the Federal Reserve  
17 Board, or (v) the Federal Deposit Insurance Corporation  
18 for use solely in the exercise of his duties as an  
19 officer, employee, or agent.

20 (3) The publication of data furnished from  
21 financial records relating to customers where the data  
22 cannot be identified to any particular customer or  
23 account.

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

26 (5) Furnishing information concerning the dishonor  
27 of any negotiable instrument permitted to be disclosed  
28 under the Uniform Commercial Code.

29 (6) The exchange in the regular course of business  
30 of (i) credit information between a bank and other banks  
31 or financial institutions or commercial enterprises,  
32 directly or through a consumer reporting agency or (ii)  
33 financial records or information derived from financial  
34 records between a bank and other banks or financial



1 institutions or commercial enterprises for the purpose of  
2 conducting due diligence pursuant to a purchase or sale  
3 involving the bank or assets or liabilities of the bank.

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

7 (8) The furnishing of information under the Uniform  
8 Disposition of Unclaimed Property Act.

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

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

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

19 (12) The furnishing of information about the  
20 existence of an account of a person to a judgment  
21 creditor of that person who has made a written request  
22 for that information.

23 (13) The exchange in the regular course of business  
24 of information between commonly owned banks in connection  
25 with a transaction authorized under paragraph (23) of  
26 Section 5 and conducted at an affiliate facility.

27 (14) The furnishing of information in accordance  
28 with the federal Personal Responsibility and Work  
29 Opportunity Reconciliation Act of 1996. Any bank governed  
30 by this Act shall enter into an agreement for data  
31 exchanges with a State agency provided the State agency  
32 pays to the bank a reasonable fee not to exceed its  
33 actual cost incurred. A bank providing information in  
34 accordance with this item shall not be liable to any

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

12 (15) The exchange in the regular course of business  
13 of information between a bank and any commonly owned  
14 affiliate of the bank, subject to the provisions of the  
15 Financial Institutions Insurance Sales Law.

16 (16) The furnishing of information to law  
17 enforcement authorities, the Illinois Department on Aging  
18 and its regional administrative and provider agencies,  
19 the Department of Human Services Office of Inspector  
20 General, or public guardians, if the bank suspects that a  
21 customer who is an elderly or disabled person has been or  
22 may become the victim of financial exploitation. For the  
23 purposes of this item (16), the term: (i) "elderly  
24 person" means a person who is 60 or more years of age,  
25 (ii) "disabled person" means a person who has or  
26 reasonably appears to the bank to have a physical or  
27 mental disability that impairs his or her ability to seek  
28 or obtain protection from or prevent financial  
29 exploitation, and (iii) "financial exploitation" means  
30 tortious or illegal use of the assets or resources of an  
31 elderly or disabled person, and includes, without  
32 limitation, misappropriation of the elderly or disabled  
33 person's assets or resources by undue influence, breach  
34 of fiduciary relationship, intimidation, fraud,

1           deception, extortion, or the use of assets or resources  
 2           in any manner contrary to law. A bank or person  
 3           furnishing information pursuant to this item (16) shall  
 4           be entitled to the same rights and protections as a  
 5           person furnishing information under the Elder Abuse and  
 6           Neglect Act and the Illinois Domestic Violence Act of  
 7           1986.

8           (17) The disclosure of financial records or  
 9           information as necessary to effect, administer, or  
 10          enforce a transaction requested or authorized by the  
 11          customer, or in connection with:

12           (A) servicing or processing a financial  
 13          product or service requested or authorized by the  
 14          customer;

15           (B) maintaining or servicing a customer's  
 16          account with the bank; or

17           (C) a proposed or actual securitization or  
 18          secondary market sale (including sales of servicing  
 19          rights) related to a transaction of a customer.

20          Nothing in this item (17), however, authorizes the  
 21          sale of the financial records or information of a  
 22          customer without the consent of the customer.

23          (c) Except as otherwise provided by this Act, a bank may  
 24          not disclose to any person, except to the customer or his  
 25          duly authorized agent, any financial records or financial  
 26          information obtained from financial records relating to that  
 27          customer of that bank unless:

28           (1) the customer has authorized disclosure to the  
 29          person;

30           (2) the financial records are disclosed in response  
 31          to a lawful subpoena, summons, warrant or court order  
 32          which meets the requirements of subsection (d) of this  
 33          Section; or

34           (3) the bank is attempting to collect an obligation

1           owed to the bank and the bank complies with the  
2           provisions of Section 2I of the Consumer Fraud and  
3           Deceptive Business Practices Act.

4           (d) A bank shall disclose financial records under  
5           paragraph (2) of subsection (c) of this Section under a  
6           lawful subpoena, summons, warrant, or court order only after  
7           the bank mails a copy of the subpoena, summons, warrant, or  
8           court order to the person establishing the relationship with  
9           the bank, if living, and, otherwise his personal  
10          representative, if known, at his last known address by first  
11          class mail, postage prepaid, unless the bank is specifically  
12          prohibited from notifying the person by order of court or by  
13          applicable State or federal law. A bank shall not mail a  
14          copy of a subpoena to any person pursuant to this subsection  
15          if the subpoena was issued by a grand jury under the  
16          Statewide Grand Jury Act.

17          (e) Any officer or employee of a bank who knowingly and  
18          willfully furnishes financial records in violation of this  
19          Section is guilty of a business offense and, upon conviction,  
20          shall be fined not more than \$1,000.

21          (f) Any person who knowingly and willfully induces or  
22          attempts to induce any officer or employee of a bank to  
23          disclose financial records in violation of this Section is  
24          guilty of a business offense and, upon conviction, shall be  
25          fined not more than \$1,000.

26          (g) A bank shall be reimbursed for costs that are  
27          reasonably necessary and that have been directly incurred in  
28          searching for, reproducing, or transporting books, papers,  
29          records, or other data of a customer required or requested to  
30          be produced pursuant to a lawful subpoena, summons, warrant,  
31          or court order. The Commissioner shall determine the rates  
32          and conditions under which payment may be made.

33          (Source: P.A. 90-18, eff. 7-1-97; 90-665, eff. 7-30-98;  
34          91-330, eff. 7-29-99; 91-929, eff. 12-15-00.)

1 Section 10. The Illinois Savings and Loan Act of 1985 is  
2 amended by changing Sections 3-8 and 7-19.1 as follows:

3 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

4 Sec. 3-8. Access to books and records; communication  
5 with members.

6 (a) Every member or holder of capital shall have the  
7 right to inspect the books and records of the association  
8 that pertain to his account. Otherwise, the right of  
9 inspection and examination of the books and records shall be  
10 limited as provided in this Act, and no other person shall  
11 have access to the books and records or shall be entitled to  
12 a list of the members.

13 (b) For the purpose of this Section, the term "financial  
14 records" means any original, any copy, or any summary of (i)  
15 a document granting signature authority over a deposit or  
16 account; (ii) a statement, ledger card, or other record on  
17 any deposit or account that shows each transaction in or with  
18 respect to that account; (iii) a check, draft, or money order  
19 drawn on an association or issued and payable by an  
20 association; or (iv) any other item containing information  
21 pertaining to any relationship established in the ordinary  
22 course of an association's business between an association  
23 and its customer, including financial statements or other  
24 financial information provided by the member or holder of  
25 capital.

26 (c) This Section does not prohibit:

27 (1) The preparation, examination, handling, or  
28 maintenance of any financial records by any officer,  
29 employee, or agent of an association having custody of  
30 those records or the examination of those records by a  
31 certified public accountant engaged by the association to  
32 perform an independent audit;

33 (2) The examination of any financial records by, or

1 the furnishing of financial records by an association to,  
2 any officer, employee, or agent of the Commissioner of  
3 Banks and Real Estate, Federal Savings and Loan Insurance  
4 Corporation and its successors, Federal Deposit Insurance  
5 Corporation, Resolution Trust Corporation and its  
6 successors, Federal Home Loan Bank Board and its  
7 successors, Office of Thrift Supervision, Federal Housing  
8 Finance Board, Board of Governors of the Federal Reserve  
9 System, any Federal Reserve Bank, or the Office of the  
10 Comptroller of the Currency for use solely in the  
11 exercise of his duties as an officer, employee, or agent;

12 (3) The publication of data furnished from  
13 financial records relating to members or holders of  
14 capital where the data cannot be identified to any  
15 particular member, holder of capital, or account;

16 (4) The making of reports or returns required under  
17 Chapter 61 of the Internal Revenue Code of 1986;

18 (5) Furnishing information concerning the dishonor  
19 of any negotiable instrument permitted to be disclosed  
20 under the Uniform Commercial Code;

21 (6) The exchange in the regular course of business  
22 of (i) credit information between an association and  
23 other associations or financial institutions or  
24 commercial enterprises, directly or through a consumer  
25 reporting agency or (ii) financial records or information  
26 derived from financial records between an association and  
27 other associations or financial institutions or  
28 commercial enterprises for the purpose of conducting due  
29 diligence pursuant to a purchase or sale involving the  
30 association or assets or liabilities of the association;

31 (7) The furnishing of information to the  
32 appropriate law enforcement authorities where the  
33 association reasonably believes it has been the victim of  
34 a crime;

1           (8) The furnishing of information pursuant to the  
2 Uniform Disposition of Unclaimed Property Act;

3           (9) The furnishing of information pursuant to the  
4 Illinois Income Tax Act and the Illinois Estate and  
5 Generation-Skipping Transfer Tax Act;

6           (10) The furnishing of information pursuant to the  
7 federal "Currency and Foreign Transactions Reporting  
8 Act", (Title 31, United States Code, Section 1051 et  
9 seq.);

10          (11) The furnishing of information pursuant to any  
11 other statute that by its terms or by regulations  
12 promulgated thereunder requires the disclosure of  
13 financial records other than by subpoena, summons,  
14 warrant, or court order;

15          (12) The exchange of information between an  
16 association and an affiliate of the association; as used  
17 in this item, "affiliate" includes any company,  
18 partnership, or organization that controls, is controlled  
19 by, or is under common control with an association.

20          (13) The furnishing of information in accordance  
21 with the federal Personal Responsibility and Work  
22 Opportunity Reconciliation Act of 1996. Any association  
23 governed by this Act shall enter into an agreement for  
24 data exchanges with a State agency provided the State  
25 agency pays to the association a reasonable fee not to  
26 exceed its actual cost incurred. An association  
27 providing information in accordance with this item shall  
28 not be liable to any account holder or other person for  
29 any disclosure of information to a State agency, for  
30 encumbering or surrendering any assets held by the  
31 association in response to a lien or order to withhold  
32 and deliver issued by a State agency, or for any other  
33 action taken pursuant to this item, including individual  
34 or mechanical errors, provided the action does not

1 constitute gross negligence or willful misconduct. An  
2 association shall have no obligation to hold, encumber,  
3 or surrender assets until it has been served with a  
4 subpoena, summons, warrant, court or administrative  
5 order, lien, or levy.

6 (14) The furnishing of information to law  
7 enforcement authorities, the Illinois Department on Aging  
8 and its regional administrative and provider agencies,  
9 the Department of Human Services Office of Inspector  
10 General, or public guardians, if the association suspects  
11 that a customer who is an elderly or disabled person has  
12 been or may become the victim of financial exploitation.  
13 For the purposes of this item (14), the term: (i)  
14 "elderly person" means a person who is 60 or more years  
15 of age, (ii) "disabled person" means a person who has or  
16 reasonably appears to the association to have a physical  
17 or mental disability that impairs his or her ability to  
18 seek or obtain protection from or prevent financial  
19 exploitation, and (iii) "financial exploitation" means  
20 tortious or illegal use of the assets or resources of an  
21 elderly or disabled person, and includes, without  
22 limitation, misappropriation of the elderly or disabled  
23 person's assets or resources by undue influence, breach  
24 of fiduciary relationship, intimidation, fraud,  
25 deception, extortion, or the use of assets or resources  
26 in any manner contrary to law. An association or person  
27 furnishing information pursuant to this item (14) shall  
28 be entitled to the same rights and protections as a  
29 person furnishing information under the Elder Abuse and  
30 Neglect Act and the Illinois Domestic Violence Act of  
31 1986.

32 (15) The disclosure of financial records or  
33 information as necessary to effect, administer, or  
34 enforce a transaction requested or authorized by the



1 member or holder of capital, or in connection with:

2 (A) servicing or processing a financial  
3 product or service requested or authorized by the  
4 member or holder of capital;

5 (B) maintaining or servicing an account of a  
6 member or holder of capital with the association; or

7 (C) a proposed or actual securitization or  
8 secondary market sale (including sales of servicing  
9 rights) related to a transaction of a member or  
10 holder of capital.

11 Nothing in this item (15), however, authorizes the  
12 sale of the financial records or information of a member  
13 or holder of capital without the consent of the member or  
14 holder of capital.

15 (d) An association may not disclose to any person,  
16 except to the member or holder of capital or his duly  
17 authorized agent, any financial records relating to that  
18 member or holder of capital of that association unless:

19 (1) The member or holder of capital has authorized  
20 disclosure to the person; or

21 (2) The financial records are disclosed in response  
22 to a lawful subpoena, summons, warrant, or court order  
23 that meets the requirements of subsection (e) of this  
24 Section.

25 (e) An association shall disclose financial records  
26 under subsection (d) of this Section pursuant to a lawful  
27 subpoena, summons, warrant, or court order only after the  
28 association mails a copy of the subpoena, summons, warrant,  
29 or court order to the person establishing the relationship  
30 with the association, if living, and, otherwise, his personal  
31 representative, if known, at his last known address by first  
32 class mail, postage prepaid, unless the association is  
33 specifically prohibited from notifying that person by order  
34 of court.

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

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

10 (g) However, if any member desires to communicate with  
11 the other members of the association with reference to any  
12 question pending or to be presented at a meeting of the  
13 members, the association shall give him upon request a  
14 statement of the approximate number of members entitled to  
15 vote at the meeting and an estimate of the cost of preparing  
16 and mailing the communication. The requesting member then  
17 shall submit the communication to the Commissioner who, if he  
18 finds it to be appropriate and truthful, shall direct that it  
19 be prepared and mailed to the members upon the requesting  
20 member's payment or adequate provision for payment of the  
21 expenses of preparation and mailing.

22 (h) An association shall be reimbursed for costs that  
23 are necessary and that have been directly incurred in  
24 searching for, reproducing, or transporting books, papers,  
25 records, or other data of a customer required to be  
26 reproduced pursuant to a lawful subpoena, warrant, or court  
27 order.

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

29 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

30 Sec. 7-19.1. Savings and Residential Finance Regulatory  
31 Fund.

32 (a) The aggregate of all fees collected by the  
33 Commissioner under this Act shall be paid promptly after

1 receipt of the same, accompanied by a detailed statement  
2 thereof, into the State treasury and shall be set apart in  
3 the Savings and Residential Finance Regulatory Fund, a  
4 special fund hereby created in the State treasury. The  
5 amounts deposited into the Fund shall be used for the  
6 ordinary and contingent expenses of the Office of Banks and  
7 Real Estate. Nothing in this Act shall prevent continuing  
8 the practice of paying expenses involving salaries,  
9 retirement, social security, and State-paid insurance of  
10 State officers by appropriation from the General Revenue  
11 Fund.

12 (b) Moneys in the Savings and Residential Finance  
13 Regulatory Fund may not be appropriated, assigned, or  
14 transferred to another State fund. The moneys in the Fund  
15 shall be for the sole benefit of the institutions assessed.

16 (c) All earnings received from investments of funds in  
17 the Savings and Residential Finance Regulatory Fund shall be  
18 deposited into the Savings and Residential Finance Regulatory  
19 Fund and may be used for the same purposes as fees deposited  
20 into that Fund.

21 (Source: P.A. 88-579, eff. 8-12-94; 89-508, eff. 7-3-96.)

22 Section 15. The Savings Bank Act is amended by changing  
23 Section 4013 as follows:

24 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

25 Sec. 4013. Access to books and records; communication  
26 with members and shareholders.

27 (a) Every member or shareholder shall have the right to  
28 inspect books and records of the savings bank that pertain to  
29 his accounts. Otherwise, the right of inspection and  
30 examination of the books and records shall be limited as  
31 provided in this Act, and no other person shall have access  
32 to the books and records nor shall be entitled to a list of

1 the members or shareholders.

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

14 (c) This Section does not prohibit:

15 (1) The preparation examination, handling, or  
16 maintenance of any financial records by any officer,  
17 employee, or agent of a savings bank having custody of  
18 records or examination of records by a certified public  
19 accountant engaged by the savings bank to perform an  
20 independent audit.

21 (2) The examination of any financial records by, or  
22 the furnishing of financial records by a savings bank to,  
23 any officer, employee, or agent of the Commissioner of  
24 Banks and Real Estate or the Federal Deposit Insurance  
25 Corporation for use solely in the exercise of his duties  
26 as an officer, employee, or agent.

27 (3) The publication of data furnished from  
28 financial records relating to members or holders of  
29 capital where the data cannot be identified to any  
30 particular member, shareholder, or account.

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

33 (5) Furnishing information concerning the dishonor  
34 of any negotiable instrument permitted to be disclosed

1 under the Uniform Commercial Code.

2 (6) The exchange in the regular course of business  
3 of (i) credit information between a savings bank and  
4 other savings banks or financial institutions or  
5 commercial enterprises, directly or through a consumer  
6 reporting agency or (ii) financial records or information  
7 derived from financial records between a savings bank and  
8 other savings banks or financial institutions or  
9 commercial enterprises for the purpose of conducting due  
10 diligence pursuant to a purchase or sale involving the  
11 savings bank or assets or liabilities of the savings  
12 bank.

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

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

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

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

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

31 (12) The furnishing of information in accordance  
32 with the federal Personal Responsibility and Work  
33 Opportunity Reconciliation Act of 1996. Any savings bank  
34 governed by this Act shall enter into an agreement for

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

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

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

9 (14) The disclosure of financial records or  
10 information as necessary to effect, administer, or  
11 enforce a transaction requested or authorized by the  
12 member or holder of capital, or in connection with:

13 (A) servicing or processing a financial  
14 product or service requested or authorized by the  
15 member or holder of capital;

16 (B) maintaining or servicing an account of a  
17 member or holder of capital with the savings bank;  
18 or

19 (C) a proposed or actual securitization or  
20 secondary market sale (including sales of servicing  
21 rights) related to a transaction of a member or  
22 holder of capital.

23 Nothing in this item (14), however, authorizes the  
24 sale of the financial records or information of a member  
25 or holder of capital without the consent of the member or  
26 holder of capital.

27 (15) The exchange in the regular course of business  
28 of information between a savings bank and any commonly  
29 owned affiliate of the savings bank, subject to the  
30 provisions of the Financial Institutions Insurance Sales  
31 Law.

32 (d) A savings bank may not disclose to any person,  
33 except to the member or holder of capital or his duly  
34 authorized agent, any financial records relating to that

1 member or shareholder of the savings bank unless:

2 (1) the member or shareholder has authorized  
3 disclosure to the person; or

4 (2) the financial records are disclosed in response  
5 to a lawful subpoena, summons, warrant, or court order  
6 that meets the requirements of subsection (e) of this  
7 Section.

8 (e) A savings bank shall disclose financial records  
9 under subsection (d) of this Section pursuant to a lawful  
10 subpoena, summons, warrant, or court order only after the  
11 savings bank mails a copy of the subpoena, summons, warrant,  
12 or court order to the person establishing the relationship  
13 with the savings bank, if living, and otherwise, his personal  
14 representative, if known, at his last known address by first  
15 class mail, postage prepaid, unless the savings bank is  
16 specifically prohibited from notifying the person by order of  
17 court.

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

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

27 (h) If any member or shareholder desires to communicate  
28 with the other members or shareholders of the savings bank  
29 with reference to any question pending or to be presented at  
30 an annual or special meeting, the savings bank shall give  
31 that person, upon request, a statement of the approximate  
32 number of members or shareholders entitled to vote at the  
33 meeting and an estimate of the cost of preparing and mailing  
34 the communication. The requesting member shall submit the



1 communication to the Commissioner who, upon finding it to be  
2 appropriate and truthful, shall direct that it be prepared  
3 and mailed to the members upon the requesting member's or  
4 shareholder's payment or adequate provision for payment of  
5 the expenses of preparation and mailing.

6 (i) A savings bank shall be reimbursed for costs that  
7 are necessary and that have been directly incurred in  
8 searching for, reproducing, or transporting books, papers,  
9 records, or other data of a customer required to be  
10 reproduced pursuant to a lawful subpoena, warrant, or court  
11 order.

12 (j) Notwithstanding the provisions of this Section, a  
13 savings bank may sell or otherwise make use of lists of  
14 customers' names and addresses. All other information  
15 regarding a customer's account are subject to the disclosure  
16 provisions of this Section. At the request of any customer,  
17 that customer's name and address shall be deleted from any  
18 list that is to be sold or used in any other manner beyond  
19 identification of the customer's accounts.

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

21 Section 20. The Illinois Credit Union Act is amended by  
22 changing Sections 10, 12, and 59 as follows:

23 (205 ILCS 305/10) (from Ch. 17, par. 4411)

24 Sec. 10. Credit union records; member financial records.

25 (1) A credit union shall establish and maintain books,  
26 records, accounting systems and procedures which accurately  
27 reflect its operations and which enable the Department to  
28 readily ascertain the true financial condition of the credit  
29 union and whether it is complying with this Act.

30 (2) A photostatic or photographic reproduction of any  
31 credit union records shall be admissible as evidence of  
32 transactions with the credit union.

1           (3) (a) For the purpose of this Section, the term  
2 "financial records" means any original, any copy, or any  
3 summary of (1) a document granting signature authority  
4 over an account, (2) a statement, ledger card or other  
5 record on any account which shows each transaction in or  
6 with respect to that account, (3) a check, draft or money  
7 order drawn on a financial institution or other entity or  
8 issued and payable by or through a financial institution  
9 or other entity, or (4) any other item containing  
10 information pertaining to any relationship established in  
11 the ordinary course of business between a credit union  
12 and its member, including financial statements or other  
13 financial information provided by the member.

14           (b) This Section does not prohibit:

15                 (1) The preparation, examination, handling or  
16 maintenance of any financial records by any officer,  
17 employee or agent of a credit union having custody  
18 of such records, or the examination of such records  
19 by a certified public accountant engaged by the  
20 credit union to perform an independent audit;

21                 (2) The examination of any financial records  
22 by or the furnishing of financial records by a  
23 credit union to any officer, employee or agent of  
24 the Department, the National Credit Union  
25 Administration, Federal Reserve board or any insurer  
26 of share accounts for use solely in the exercise of  
27 his duties as an officer, employee or agent;

28                 (3) The publication of data furnished from  
29 financial records relating to members where the data  
30 cannot be identified to any particular customer of  
31 account;

32                 (4) The making of reports or returns required  
33 under Chapter 61 of the Internal Revenue Code of  
34 1954;

1           (5) Furnishing information concerning the  
2 dishonor of any negotiable instrument permitted to  
3 be disclosed under the Uniform Commercial Code;

4           (6) The exchange in the regular course of  
5 business of (i) credit information between a credit  
6 union and other credit unions or financial  
7 institutions or commercial enterprises, directly or  
8 through a consumer reporting agency or (ii)  
9 financial records or information derived from  
10 financial records between a credit union and other  
11 credit unions or financial institutions or  
12 commercial enterprises for the purpose of conducting  
13 due diligence pursuant to a merger or a purchase or  
14 sale of assets or liabilities of the credit union;

15           (7) The furnishing of information to the  
16 appropriate law enforcement authorities where the  
17 credit union reasonably believes it has been the  
18 victim of a crime;

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

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

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

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

33           (12) The furnishing of information in  
34 accordance with the federal Personal Responsibility

1 and Work Opportunity Reconciliation Act of 1996. Any  
2 credit union governed by this Act shall enter into  
3 an agreement for data exchanges with a State agency  
4 provided the State agency pays to the credit union a  
5 reasonable fee not to exceed its actual cost  
6 incurred. A credit union providing information in  
7 accordance with this item shall not be liable to any  
8 account holder or other person for any disclosure of  
9 information to a State agency, for encumbering or  
10 surrendering any assets held by the credit union in  
11 response to a lien or order to withhold and deliver  
12 issued by a State agency, or for any other action  
13 taken pursuant to this item, including individual or  
14 mechanical errors, provided the action does not  
15 constitute gross negligence or willful misconduct. A  
16 credit union shall have no obligation to hold,  
17 encumber, or surrender assets until it has been  
18 served with a subpoena, summons, warrant, court or  
19 administrative order, lien, or levy.

20 (13) The furnishing of information to law  
21 enforcement authorities, the Illinois Department on  
22 Aging and its regional administrative and provider  
23 agencies, the Department of Human Services Office of  
24 Inspector General, or public guardians, if the  
25 credit union suspects that a member who is an  
26 elderly or disabled person has been or may become  
27 the victim of financial exploitation. For the  
28 purposes of this item (13), the term: (i) "elderly  
29 person" means a person who is 60 or more years of  
30 age, (ii) "disabled person" means a person who has  
31 or reasonably appears to the credit union to have a  
32 physical or mental disability that impairs his or  
33 her ability to seek or obtain protection from or  
34 prevent financial exploitation, and (iii) "financial

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

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

18 (A) servicing or processing a financial  
 19 product or service requested or authorized by  
 20 the member;

21 (B) maintaining or servicing a member's  
 22 account with the credit union; or

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

27 Nothing in this item (14), however, authorizes the  
 28 sale of the financial records or information of a member  
 29 without the consent of the member.

30 (c) Except as otherwise provided by this Act, a credit  
 31 union may not disclose to any person, except to the member or  
 32 his duly authorized agent, any financial records relating to  
 33 that member of the credit union unless:

34 (1) the member has authorized disclosure to the

1 person;

2 (2) the financial records are disclosed in response  
3 to a lawful subpoena, summons, warrant or court order  
4 that meets the requirements of subparagraph (d) of this  
5 Section; or

6 (3) the credit union is attempting to collect an  
7 obligation owed to the credit union and the credit union  
8 complies with the provisions of Section 2I of the  
9 Consumer Fraud and Deceptive Business Practices Act.

10 (d) A credit union shall disclose financial records  
11 under subparagraph (c)(2) of this Section pursuant to a  
12 lawful subpoena, summons, warrant or court order only after  
13 the credit union mails a copy of the subpoena, summons,  
14 warrant or court order to the person establishing the  
15 relationship with the credit union, if living, and otherwise  
16 his personal representative, if known, at his last known  
17 address by first class mail, postage prepaid unless the  
18 credit union is specifically prohibited from notifying the  
19 person by order of court or by applicable State or federal  
20 law. In the case of a grand jury subpoena, a credit union  
21 shall not mail a copy of a subpoena to any person pursuant to  
22 this subsection if the subpoena was issued by a grand jury  
23 under the Statewide Grand Jury Act or notifying the person  
24 would constitute a violation of the federal Right to  
25 Financial Privacy Act of 1978.

26 (e) (1) Any officer or employee of a credit union who  
27 knowingly and wilfully furnishes financial records in  
28 violation of this Section is guilty of a business offense  
29 and upon conviction thereof shall be fined not more than  
30 \$1,000.

31 (2) Any person who knowingly and wilfully induces  
32 or attempts to induce any officer or employee of a credit  
33 union to disclose financial records in violation of this  
34 Section is guilty of a business offense and upon

1 conviction thereof shall be fined not more than \$1,000.

2 (f) A credit union shall be reimbursed for costs which  
3 are reasonably necessary and which have been directly  
4 incurred in searching for, reproducing or transporting books,  
5 papers, records or other data of a member required or  
6 requested to be produced pursuant to a lawful subpoena,  
7 summons, warrant or court order. The Director may determine,  
8 by rule, the rates and conditions under which payment shall  
9 be made. Delivery of requested documents may be delayed  
10 until final reimbursement of all costs is received.

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

12 (205 ILCS 305/12) (from Ch. 17, par. 4413)

13 Sec. 12. Regulatory fees ~~for~~---examination---and  
14 administration.

15 (1) A credit union regulated by the Department shall pay  
16 a regulatory fee to the Department based upon its total  
17 assets as shown by its Year-end Call Report at the following  
18 rates:

TOTAL ASSETS	REGULATORY FEE
\$25,000 or less .....	\$100
Over \$25,000 and not over	
\$100,000 .....	\$100 plus \$4 per \$1,000 of
	assets in excess of \$25,000
Over \$100,000 and not over	
\$200,000 .....	\$400 plus \$3 per \$1,000 of
	assets in excess of \$100,000
Over \$200,000 and not over	
\$500,000 .....	\$700 plus \$2 per \$1,000 of
	assets in excess of \$200,000
Over \$500,000 and not over	
\$1,000,000 .....	\$1,300 plus \$1.40 per \$1,000
	of assets in excess of
	\$500,000

1 Over \$1,000,000 and not  
2 over \$5,000,000..... \$2,000 plus \$0.50 per  
3 \$1,000 of assets in  
4 excess of \$1,000,000

5 Over \$5,000,000 and not  
6 over \$30,000,000 ..... \$4,000 plus \$0.35  
7 per \$1,000 assets  
8 in excess of \$5,000,000

9 Over \$30,000,000 and not  
10 over \$100,000,000 ..... \$12,750 plus \$0.30  
11 per \$1,000 of assets in  
12 excess of \$30,000,000

13 Over \$100,000,000 and not  
14 over \$500,000,000 ..... \$33,750 plus \$0.15 per  
15 \$1,000 of assets in excess  
16 of \$100,000,000

17 Over \$500,000,000 ..... \$93,750 plus \$0.05 per  
18 \$1,000 of assets in excess  
19 of \$500,000,000

20 (2) The Director shall review the regulatory fee  
21 schedule in subsection (1) and the projected earnings on  
22 those fees on an annual basis and adjust the fee schedule no  
23 more than 5% annually if necessary to defray the estimated  
24 administrative and operational expenses of the Department as  
25 defined in subsection (5). The Director shall provide credit  
26 unions with written notice of any adjustment made in the  
27 regulatory fee schedule.

28 (3) Not later than March 1 of each calendar year, a  
29 credit union shall pay to the Department, ~~for the preceding~~  
30 ~~calendar year,~~ a regulatory fee for that calendar year in  
31 accordance with the regulatory fee schedule in subsection  
32 (1), on the basis of assets as of the Year-end Call Report of  
33 the preceding year. The regulatory fee shall not be less  
34 than \$100 or more than \$125,000, provided that the regulatory



1 fee cap of \$125,000 shall be adjusted to incorporate the same  
2 percentage increase as the Director makes in the regulatory  
3 fee schedule from time to time under subsection (2). No  
4 regulatory fee shall be collected from a credit union until  
5 it has been in operation for one year.

6 (4) The aggregate of all fees collected by the  
7 Department under this Act shall be paid promptly after they  
8 are received ~~receipt-of-the-same~~, accompanied by a detailed  
9 statement thereof, into the State Treasury and shall be set  
10 apart in the Credit Union Fund, a special fund hereby created  
11 in the State treasury. The amount from time to time  
12 deposited in the Credit Union Fund and shall be used to  
13 offset the ordinary administrative and operational expenses  
14 of the Department under this Act. All earnings received from  
15 investments of funds in the Credit Union Fund shall be  
16 deposited into the Credit Union Fund and may be used for the  
17 same purposes as fees deposited into that Fund.

18 (5) The administrative and operational expenses for any  
19 calendar year shall mean the ordinary and contingent expenses  
20 for that year incidental to making the examinations provided  
21 for by, and for administering, this Act, including all  
22 salaries and other compensation paid for personal services  
23 rendered for the State by officers or employees of the State  
24 to enforce this Act; all expenditures for telephone and  
25 telegraph charges, postage and postal charges, office  
26 supplies and services, furniture and equipment, office space  
27 and maintenance thereof, travel expenses and other necessary  
28 expenses; all to the extent that such expenditures are  
29 directly incidental to such examination or administration.

30 (6) When the aggregate of all fees collected by the  
31 Department under this Act and all earnings thereon for any  
32 calendar year exceeds 150% of the total administrative and  
33 operational expenses under this Act for that year, such  
34 excess shall be credited to credit unions and applied against

1 their regulatory fees for the subsequent year. The amount  
 2 credited to a credit union shall be in the same proportion as  
 3 the fee paid by such credit union for the calendar year in  
 4 which the excess is produced bears to the aggregate of the  
 5 fees collected by the Department under this Act for the same  
 6 year.

7 (7) Examination fees for the year 2000 statutory  
 8 examinations paid pursuant to the examination fee schedule in  
 9 effect at that time shall be credited toward the regulatory  
 10 fee to be assessed the credit union in calendar year 2001.

11 (8) Nothing in this Act shall prohibit the General  
 12 Assembly from appropriating funds to the Department from the  
 13 General Revenue Fund for the purpose of administering this  
 14 Act.

15 (Source: P.A. 91-755, eff. 1-1-01.)

16 (205 ILCS 305/59) (from Ch. 17, par. 4460)

17 Sec. 59. Investment of Funds. Funds not used in loans to  
 18 members may be invested, pursuant to subsection (7) of  
 19 Section 30 of this Act, and subject to Departmental rules and  
 20 regulations:

21 (1) In securities, obligations or other instruments of  
 22 or issued by or fully guaranteed as to principal and interest  
 23 by the United States of America or any agency thereof or in  
 24 any trust or trusts established for investing directly or  
 25 collectively in the same;

26 (2) In obligations of any state of the United States,  
 27 the District of Columbia, the Commonwealth of Puerto Rico,  
 28 and the several territories organized by Congress, or any  
 29 political subdivision thereof; however, a credit union may  
 30 not invest more than 10% of its unimpaired capital and  
 31 surplus in the obligations of one issuer, exclusive of  
 32 general obligations of the issuer, and investments in  
 33 municipal securities must be limited to securities rated in

1 one of the 4 highest rating categories by a nationally  
2 recognized statistical rating organization;

3 (3) In certificates of deposit or passbook type accounts  
4 issued by a state or national bank, mutual savings bank or  
5 savings and loan association; provided that such institutions  
6 have their accounts insured by the Federal Deposit Insurance  
7 Corporation or the Federal Savings and Loan Insurance  
8 Corporation; but provided, further, that a credit union's  
9 investment in an account in any one institution may exceed  
10 the insured limit on accounts;

11 (4) In shares, classes of shares or share certificates  
12 of other credit unions, including, but not limited to  
13 corporate credit unions; provided that such credit unions  
14 have their members' accounts insured by the NCUA or other  
15 approved insurers, and that if the members' accounts are so  
16 insured, a credit union's investment may exceed the insured  
17 limit on accounts;

18 (5) In shares of a cooperative society organized under  
19 the laws of this State or the laws of the United States in  
20 the total amount not exceeding 10% of the unimpaired capital  
21 and surplus of the credit union; provided that such  
22 investment shall first be approved by the Department;

23 (6) In obligations of the State of Israel, or  
24 obligations fully guaranteed by the State of Israel as to  
25 payment of principal and interest;

26 (7) In shares, stocks or obligations of other financial  
27 institutions in the total amount not exceeding 5% of the  
28 unimpaired capital and surplus of the credit union;

29 (8) In federal funds and bankers' acceptances;

30 (9) In shares or stocks of Credit Union Service  
31 Organizations in the total amount not exceeding 1% of the  
32 unimpaired capital and surplus of the credit union.

33 As used in this Section, "political subdivision"  
34 includes, but is not limited to, counties, townships, cities,

1 villages, incorporated towns, school districts, educational  
 2 service regions, special road districts, public water supply  
 3 districts, fire protection districts, drainage districts,  
 4 levee districts, sewer districts, housing authorities, park  
 5 districts, and any agency, corporation, or instrumentality of  
 6 a state or its political subdivisions, whether now or  
 7 hereafter created and whether herein specifically mentioned  
 8 or not.

9 (Source: P.A. 86-432.)

10 Section 25. The Illinois Trust and Payable on Death  
 11 Accounts Act is amended by changing Sections 2 and 4 as  
 12 follows:

13 (205 ILCS 625/2) (from Ch. 17, par. 2132)

14 Sec. 2. Definitions. As used in this Act, the following  
 15 words have the meanings ascribed to them as set forth herein:

16 (a) "Institution" includes any bank as defined in  
 17 Section 2 of the "~~Illinois Banking Act~~~~7--approved-May-117~~  
 18 ~~19557--as-amended~~, any association as defined in Section  
 19 1-10.03 of the "~~Illinois Savings and Loan Act~~~~7--approved-July~~  
 20 ~~57--19557--as-amended~~, any insured savings bank as defined in  
 21 Section 1007.75 of the Savings Bank Act, or any credit union  
 22 as defined in Section 1.1 of the "~~Illinois Credit Union Act~~~~7~~  
 23 ~~approved--August--307--19797--as-amended~~, and similar federal  
 24 institutions.

25 (b) "Account" includes any account, deposit, certificate  
 26 of deposit, withdrawable capital account or credit union  
 27 share in any institution.

28 (Source: P.A. 84-461.)

29 (205 ILCS 625/4) (from Ch. 17, par. 2134)

30 Sec. 4. Payable on Death Account Incidents. If one or  
 31 more persons a-person opening or holding an account sign

1 signs an agreement with the institution providing that on the  
2 death of the last surviving person designated as holder the  
3 account shall be paid to or held by another person or  
4 persons, the account, and any balance therein which exists  
5 from time to time, shall be held as a payable payment on  
6 death account and unless otherwise agreed in writing between  
7 the person or persons opening or holding the account and the  
8 institution:

9 (a) Any The holder during his or her lifetime may change  
10 any of the designated persons to own the account at the his  
11 or-her death of the last surviving holder without the  
12 knowledge or consent of any other holder or the said  
13 designated persons by a written instrument accepted by the  
14 institution;

15 (b) Any The holder may make additional deposits to and  
16 withdraw any part or all of the account at any time without  
17 the knowledge or consent of any other holder or the  
18 designated person or persons to own the account at the his-or  
19 her death of the last surviving holder, subject to the bylaws  
20 and regulations of the institution, and all withdrawals shall  
21 constitute a revocation of the agreement as to the amount  
22 withdrawn; and

23 (c) Upon the death of the last surviving holder of the  
24 account, the person so designated to be the owner of the  
25 account who is then living shall be the sole owner of the  
26 account, unless more than one person is so designated and  
27 then living in which case those said persons shall hold the  
28 account in equal shares as tenants in common with no right of  
29 survivorship as between those persons. If no person  
30 designated as the owner of the account on the death of the  
31 last surviving holder is then living, the proceeds shall vest  
32 in the estate of the last surviving holder of the account.

33 (Source: P.A. 84-461.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.