

AN ACT concerning regulation.

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

Section 5. The Illinois Banking Act is amended by changing
Section 46 as follows:

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

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

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

(b) If the Commissioner is of the opinion and finds that a person, firm, partnership, or corporation that is not a bank has transacted or intends to transact business in this State in a manner which has a substantial likelihood of misleading the public by implying that the business is a bank, or has used

or intends to use the word "bank", "banker", or "banking" in connection with the business, then the Commissioner may direct that person, firm, partnership, or corporation to cease and desist from transacting the business or using the word "bank", "banker", or "banking". If that person, firm, partnership, or corporation persists in transacting the business or using the word "bank", "banker", or "banking", then the Commissioner may impose a civil penalty of up to \$10,000 for each violation. Each day that the person, firm, partnership, or corporation continues transacting the business or using the word "bank", "banker", or "banking" in connection with the business shall constitute a separate violation of these provisions.

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

(d) (1) Unless otherwise expressly permitted by law,

no person, firm, partnership, or corporation may use the name of an existing bank when marketing to or soliciting business from customers or prospective customers if the reference to the existing bank is made without the consent of the existing bank.

(1.5) Unless otherwise expressly permitted by law, no person, firm, partnership, or corporation may use a name similar to that of an existing bank when marketing to or soliciting business from customers or prospective customers if the similar name is used in a manner that could cause a reasonable person to believe that the marketing material or solicitation originated from or is endorsed by the existing bank or that the existing bank is in any other way responsible for the marketing material or solicitation.

(2) An existing bank may, in addition to any other remedies available under the law, report an alleged violation of this subsection (d) to the Commissioner. If the Commissioner finds the marketing material or solicitation in question to be in violation of this subsection, the Commissioner may direct the person, firm, partnership, or corporation to cease and desist from using that marketing material or solicitation in Illinois. If that person, firm, partnership, or corporation persists in the use of the marketing material or solicitation, then the Commissioner may impose a civil penalty of up to

\$10,000 for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer shall constitute a separate violation of these provisions. The Commissioner is authorized to adopt ~~promulgate~~ rules to administer these provisions.

(3) (Blank).

(e) If a person, firm, partnership, or corporation that (i) does not accept insured deposits as a substantial portion of its operations and (ii) is not chartered by a State or the United States violates subsection (a), (b), or (c) of this Section, the Commissioner may impose a civil penalty of up to the maximum amount permitted under paragraph (8) of Section 48 of this Act for each violation.

(Source: P.A. 92-476, eff. 8-23-01; 92-811, eff. 8-21-02.)