

## **INTERPRETIVE LETTER -04-01 (AUGUST 27, 2004)**

Out of State Banks may de novo branch into Illinois, provided the home state statute grants reciprocity to Illinois Banks seeking to establish a de novo out of state bank.

Recent Illinois legislation has significantly altered the manner by which out-of-state financial institutions gain branching entry into the State of Illinois. P. A. 93-0965, signed by Governor Blagojevich and effective August 20, 2004 amends Sections 21.2 and 21.4 of the Illinois Banking Act [205 ILCS 5/1 et seq.], Section 3.071 of the Illinois Bank Holding Company Act [205 ILCS 10/1 et seq.], and Section 1006 of the Saving Bank Act [205 ILCS 205/1001 et seq.]. These statutory changes remove long-standing barriers that previously prevented out-of-state financial institutions from de novo branching into the state of Illinois. More importantly, the statutory change may allow Illinois financial institutions an opportunity to satisfy reciprocity requirements commonly imposed by other states and thereby gain de novo branching access outside the state of Illinois.

Common to each of the de novo branching amendments is the requirement that the laws where the out-of-state institution has its main office permit inter-state branching and such laws permit Illinois financial institutions to branch into that state on terms and conditions that are deemed to be reciprocal to Illinois law. The statutory amendments require a finding by the Department of Financial and Professional Regulation that the laws of the other state allow an Illinois state bank to establish a branch under terms and conditions that are substantially similar to those now enacted in Illinois. Prior to making this determination, the Department must consider whether the laws of the other state discriminate or impose administrative or regulatory burdens that are substantially more restrictive than those imposed on an out-of-state bank seeking to establish a branch in Illinois.

In light of these statutory requirements, the Division of Banks and Real Estate has conducted a review of pertinent statutory branching provisions for each of the 50 states and for the District of Columbia. Based upon this review, the following chart identifies those states that have statutory provisions authorizing de novo branching activities on terms and conditions determined by the Department to be substantially similar to those imposed upon out of state banks under P. A. 93-0965. In addition, the chart identifies the specific authority enacted by other states to authorize de novo branching by Illinois institutions, a summary of conditions connected with de novo branching and an Internet link to the home page of the state banking regulator. These links are intended to provide access to specific applications and notice forms that may be required (if any) by other states in connection with de novo branching.

Please be aware that banking statutes in Illinois and other states undergo revisions on a frequent basis. The following chart and the information contain

therein is considered to be accurate as of the date of this issuance. The Division of Banks and Real Estate, in cooperation with the Conference of State Bank Supervisors, will continue to monitor legislation in other states to identify additional states that may establish reciprocal de novo branching statutes. However, a state bank wishing to exercise de novo branching authority should check with the specific out of state banking regulator prior to initiating the de novo branch activity

<b>De Novo Branching</b>			
<b><u>STATE</u></b>	<b><u>CITATIONS</u></b>	<b><u>CONDITIONS FOR ENTRY BY AN ILLINOIS BANK</u></b>	<b><u>LINKS TO STATES BANKING REGULATION</u></b>
Alabama		Not Reciprocal	
Alaska		Not Reciprocal	
Arizona		Not Reciprocal	
Arkansas		Not Reciprocal	
California		Not Reciprocal	
Colorado		Not Reciprocal	
Connecticut		Not Reciprocal	
Delaware		Not Reciprocal	
District of Columbia	<a href="#">Official Code §26-734</a>	Bank must provide the D.C. Department of Banks and Financial Institutions a copy of the branch application filed with IDFPR. Bank must pay a filing fee to the D.C. Department of Banks and Financial Institutions a filing fee in the amount of \$2000.00	<a href="#">D C Department of Insurance, Securities and Banking</a>
Florida		Not Reciprocal	
Georgia		Not Reciprocal	
Hawaii		Not Reciprocal	

Idaho		Not Reciprocal	
Indiana	<a href="#">28-2-18-19</a>	Bank must provide written notice to the Indiana Director of its intent to establish a branch office. Bank must provide written confirmation that it agrees to abide by all applicable Indiana laws regarding the operation of an Indiana branch. Bank must pay a filing fee in the amount of \$90.00.	<a href="#">Indiana Department of Financial Institutions</a>
Iowa		Not Reciprocal	
Kansas		Not Reciprocal	
Kentucky		Not Reciprocal	
Louisiana		Not Reciprocal	
Maine	<a href="#">9B MRSA §373(1)</a>	Bank must provide Maine Superintendent of Financial Institutions a copy of a branch notice application within three days of filing the notice with IDFPR. Bank must pay a filing fee to the Maine Treasurer in an amount of \$250.00. Bank must obtain authority to conduct business as a foreign corporation in the state of Maine. Bank must only conduct activities that are permissible for a Maine chartered financial institution.	<a href="#">Maine Bureau of Financial Institutions</a>
Maryland	<a href="#">FI §5-1003(1) Md. Code Ann.</a>	Bank must provide the Maryland Commissioner of Financial Regulation with 30 days prior notice of intent to establish a Maryland branch. Bank must pay a filing fee in the amount of \$500.00. Bank must only conduct	<a href="#">Maryland Division of Financial Regulation</a>

		activities that are permissible for a Maryland chartered financial institution.	
Massachusetts	<a href="#">G.L. c 167, s. 39C</a>	Bank must comply with all branching requirements established under Section 39B of Chapter 167, Massachusetts General Laws. Bank must agree to abide by all applicable Massachusetts laws regarding the operation of a Massachusetts branch.	<a href="#">Massachusetts Division of Banks</a>
Michigan	<a href="#">MCL 487, 13711(7)</a>	Bank must provide written notice to the Michigan Commissioner of Finance and Insurance detailing the name, location, expected date of commencing Michigan branch operation and evidence of federal deposit insurance. Bank must designate an agent for service of process in the state of Michigan. Michigan Commissioner of Finance and Insurance must determine that Bank's primary state regulator has entered an examination sharing agreement with the state of Michigan.	<a href="#">Michigan Office of Financial and Insurance Services</a>
Minnesota		Not Reciprocal	
Mississippi		Not Reciprocal	
Missouri		Not Reciprocal	
Montana		Not Reciprocal	
Nebraska		Not Reciprocal	
Nevada		Not Reciprocal	
New Hampshire	<a href="#">RSA 384:60 II</a>	Bank must pay to the New Hampshire Banking Department a branch notice application fee in the amount of \$900.00.	<a href="#">New Hampshire Banking Department</a>

New Jersey		Not Reciprocal	
New Mexico		Not Reciprocal	
New York		Not Reciprocal	
North Carolina	<a href="#">GS 53-224.9</a>	Bank must provide the North Carolina Commissioner of Banks a written notice of intent to establish a North Carolina branch no later than the date it files a branch notice with the appropriate federal regulator. Bank must obtain authority to conduct business as a foreign corporation in the state of North Carolina. Bank must agree in writing to comply with all applicable North Carolina laws.	<a href="#">North Carolina Banking Commission</a>
North Dakota	<a href="#">NDCC 6-08.4</a>	Bank must provide the North Dakota Banking Board a copy of the branch notice application no later than the date it filed the application with the appropriate federal regulator.	<a href="#">North Dakota Department of Financial Institutions</a>
Ohio		Not Reciprocal	
Oklahoma	<a href="#">6 O.S. §501.1</a>	Bank must agree to comply with all laws and regulations applicable to the conduct of banking business in the state of Oklahoma. Bank must only conduct activities that are permissible for an Oklahoma chartered financial institution. Bank must pay a filing application fee in the amount of \$500.00.	<a href="#">Oklahoma State Banking Department</a>
Oregon		Not Reciprocal	
Pennsylvania	<a href="#">7 P.S. §904</a>	Bank must file with the Pennsylvania Secretary of Banking a copy of the branch	<a href="#">Pennsylvania Department of Banking</a>

		<p>notice previously filed with IDFPR.</p> <p>Bank must provide the Pennsylvania Secretary of Banking evidence that it has published notice of intent to establish a Pennsylvania branch in a newspaper of general circulation in the county where the branch is to be established.</p>	
Rhode Island		Not Reciprocal	
South Dakota		Not Reciprocal	
Tennessee	<a href="#">T.C.A. §45-2-1412</a>	<p>Bank that has a regulatory rating of 1 or 2 may send notice of intent to establish a branch to the Tennessee Commissioner of Banking.</p> <p>Bank that has a lesser regulatory rating must file a formal branching application with the Tennessee Commissioner of Banking.</p> <p>Bank must comply with public notice requirements established by Tennessee regulations.</p> <p>Bank must pay a filing fee in the amount of \$500.00.</p>	<a href="#">Tennessee Department of Financial Institutions</a>
Texas	<a href="#">TFC §203.002</a>	<p>Bank must provide the Texas Banking Commissioner a copy of the branch notice application no later than the date it filed the application with the appropriate federal regulator.</p> <p>Bank must confirm in writing that it will comply with all applicable Texas state laws regarding the operation of a branch in the state of Texas.</p> <p>Bank must obtain authority to conduct business as a foreign corporation in the state of Texas.</p>	<a href="#">Texas Department of Banking</a>

		Bank must pay an application fee in the amount of \$750.00.	
Utah	<a href="#">UCA 7-1-702(5)(c)</a>	Bank must obtain authority to conduct business as a foreign corporation in the state of Utah.	<a href="#">Utah Department of Financial Institutions</a>
Vermont	<a href="#">8 V.S.A Chapter 205</a>	Bank must file a branch application with the Vermont Commissioner of Banking & Insurance. Bank must agree to comply with all applicable Vermont laws regarding the operation of a branch in the state of Vermont. Bank must obtain authority to conduct business as a foreign corporation in the state of Vermont.	<a href="#">Vermont Department of Banking and Insurance</a>
Virginia	<a href="#">6.1-44.5</a>	Bank must provide the Virginia Bureau of Financial Institutions with a copy of the branch notice previously filed with IDFPR Bank must obtain authority to conduct business as a foreign corporation in the state of Virginia.	<a href="#">Virginia Bureau of Financial Institutions</a>
Washington		Not Reciprocal	
West Virginia	<a href="#">§31A-8(e)(4), et seq.</a>	Bank must provide notice to the West Virginia Division of Banking of its intent to establish a West Virginia branch. Bank must pay a filing fee in an amount of up to \$250.00.	<a href="#">West Virginia Division of Banking</a>
Wisconsin		Not Reciprocal	
Wyoming		Not Reciprocal	