

INTERPRETIVE LETTER 08-01 (January 31, 2008)

Loan collateralized by obligations of State of Illinois from Illinois Underground Storage Tank Fund are exempt from lending limit.

This is in response to your recent correspondence in which you asked the Department of Financial and Professional Regulation ("Department") to determine if a loan issued by * to * would be exempt from Bank's lending limit.

According to the facts presented in your correspondence,* will use the proceeds of the loan to pay off "Stage 3" accounts with *. The Stage 3 accounts are those that the Illinois Environmental Protection Agency ("IEPA") has approved for payment out of the Illinois Underground Storage Tank Fund. Following the IEPA's approval, it will submit a voucher to the Illinois Comptroller's Office for payment as the funds become available and the entity entitled to the funds will be put on a priority list for payment. Currently, the payment time is approximately a year from the time the voucher is issued. Recent legislation permits an entity who has received the IEPA's approval and is on the priority list to assign the full approved payment amount on the priority list to a bank.¹

Under these facts, the loan to * is collateralized by an obligation of the State of Illinois to pay these accounts out of the Illinois Underground Storage Tank Fund. Section 34(1) of the Illinois Banking Act ("Act") provides an exception to the general lending and investment limitation of Sections 32 and 33 of the Act, while Sections 35(5) and 35(8) provide exemptions from those lending and investment limitations as well as the limitations of Section 34 with respect to loans secured by state government obligations. Based on Section 34(1) of the Act, Bank may extend a loan of up to at least fifty percent of its unimpaired capital and surplus to the extent that the loan is secured by a like amount of assignments of the rights to the payment out of the Illinois Underground Storage Tank Fund. Alternatively, under Section 35(5) and 35(8), the assignment of rights to Bank to receive the Illinois Underground Storage Tank Fund payments from the State of Illinois would be exempt from the lending and investment limits of the Act.

Please be advised that the positions taken in this letter are based on the representations that you have made as set forth in this letter. Any change in the facts or circumstances surrounding this matter might change the positions.

¹ 415 ILCS 5/57.8a