

INTERPRETIVE LETTER 91-9 (APRIL 19, 1991)

Quarterly call report must be published in newspaper of general circulation that is published at least weekly and has been in business for at least one year prior to first call report publication.

I am in receipt of your letter dated *. In it you requested an opinion from the Commissioner of Banks and Trust Companies ("Commissioner's Office") on whether the Bank may satisfy its statutory obligation under the Illinois Banking Act ("Act") (Ill. Rev. Stat. 1989, ch. 17, par. 301 et seq.) by publishing its quarterly statement in the Journal.

The facts as I understand them are as follows. The Journal has just commenced business. It prints weekly and has already published four issues. The Bank has asked the Journal to publish its quarterly statement for the period ending *. The Journal would like to know if it is legally authorized to publish the Bank's * quarterly statement.

The Act clearly requires each state bank to publish its quarterly statement. Section 47 of the Act (Ill. Rev. Stat. 1989, ch. 17, par. 358) provides the following:

Each bank shall cause a true copy of its quarterly statement as filed with the Commissioner to be published....

Section 2 of the Act (Ill. Rev. Stat. 1989, ch. 17, par. 302) defines "published" as follows:

"Published" means, unless the context requires otherwise, the publishing of the notice or instrument referred to in some newspaper of general circulation in the community in which the bank is located at least once each week for 3 successive weeks.

Although the "published" definition uses the term "newspaper," that term is not defined in Section 2 of the Act.

Section 5(e) of An Act to revise the law in relation to notices (Ill. Rev. Stat. 1989, ch. 100, par. 5(e)) provides the following:

When any notice is required by law or contract to be published in a newspaper..., it shall be intended to be in a secular newspaper of general circulation, published in the city, town or county, or some newspaper specially authorized by law to publish legal notices, in the city, town, or country. Unless otherwise expressly provided in the contract, the term "newspaper" means a newspaper....

(e) which has been continuously published at regular intervals of at least once each week with a minimum of 50

issues per year, for at least one year prior to the first publication of the notice....

Section 5(e) applies to the publication of state bank quarterly statements particularly since the Act does not specifically define "newspaper." Since the Act requires each state bank to publish its quarterly statements in newspapers of general circulation, the Commissioner's Office takes the position that the selected newspaper must have been continuously published for at least one year in order to be eligible to publish a state bank's quarterly statement. Therefore, the Bank will not be in a position to comply with Section 47 of the Act by publishing its quarterly statements in the Journal until the Journal has continuously published for one year.