



2004-6

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF FUNCTIONS OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS, THE DEPARTMENT OF INSURANCE, THE DEPARTMENT OF PROFESSIONAL REGULATION AND THE OFFICE OF BANKS AND REAL ESTATE INTO THE NEWLY CREATED DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part, (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, (b) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions, and (c) the establishment of a new agency to perform all or any part of the functions of an existing agency or agencies; and

WHEREAS, the Department of Financial Institutions, the Department of Insurance, the Department of Professional Regulation and the Office of Banks and Real Estate are executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived from 20 ILCS 1205 et seq., 20 ILCS 1405 et seq., 20 ILCS 2105 et seq. and 20 ILCS 3205 et seq., respectively; and

WHEREAS, substantial benefits can be achieved by the transfer of all functions (the "Functions"), respectively, of the Department of Financial Institutions, the Department of Insurance, the Department of Professional Regulation and the Office of Banks and Real Estate (the "Consolidating Agencies") into a newly created Department of Financial and Professional Regulation (the "New Agency") and the subsequent corresponding abolition of the Consolidating Agencies; and

WHEREAS, consolidating the powers, duties, rights, responsibilities and Functions of the Consolidating Agencies into the New Agency provides for opportunities to increase operational efficiency and effectiveness, eliminate redundancies in functions and costs, increase accessibility by consumers and industry, increase accountability, simplify the organizational structure of the Executive Branch, increase leverage of specialized expertise, facilities and technology, promote a more effective sharing of best practices and realize significant economies of scale, among other things; and

WHEREAS, the transfer of the Functions of the Consolidating Agencies into the New Agency shall not impede, disrupt or impair in any fashion any council, commission, board or other entity previously established and operating under any of the Consolidating Agencies.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. CREATION OF NEW DEPARTMENT

- A. Effective July 1, 2004, the New Agency shall be created and known as the "Department of Financial and Professional Regulation."
- B. The New Agency shall have an officer as its lead known as the Secretary who shall be responsible for all agency Functions. Appointment to this office shall be made by the Governor, by and with the advice and confirmation of the Senate. Vacancies in the office of the Secretary shall be filled pursuant to 20 ILCS 5/5-605. The Secretary of the New Agency shall receive an annual salary as set by the Governor from time to time or as set by the Compensation Review Board, as the case may be.
- C. The New Agency shall also have four Directors who will oversee the respective Functions of the Consolidating Agencies within the New Agency and report to the Secretary, as well as such other assistants and deputies as may be appropriate for the efficient operation of the New Agency. None of the four Directors, nor any such assistants or deputies, shall be state officers subject to Senate confirmation.

II. TRANSFER OF FUNCTIONS

- A. Effective July 1, 2004, the Functions and all associated powers, duties, rights and responsibilities of the Consolidating Agencies shall be transferred to the New Agency. The statutory powers, duties, rights and responsibilities of the Consolidating Agencies associated with these Functions derive from the statutes listed in the attached Appendix.
- B. Whenever any provision of an Executive Order or any Act or section thereof transferred by this Executive Order provides for membership of the Director or Commissioner of any of the Consolidating Agencies on any council, commission, board or other entity, the Secretary or, at the Governor's discretion, the appropriate Director of the New Agency, or their designee(s), shall serve in that place. If more than one such person is required by law to serve on any council, commission, board or other entity, an equivalent number of representatives of the New Agency shall so serve.

III. ABOLITION OF CONSOLIDATING AGENCIES

The Consolidating Agencies listed in this Part III shall be abolished effective July 1, 2004. The rights, powers and duties associated with the Functions vested by law in these Consolidating Agencies, or any office, division, council, committee, bureau, board, commission, officer, employee, or associated individual, person or entity, and all rights, powers and duties of the Consolidating Agencies related to the Functions, including funding mechanisms, shall be transferred to the New Agency in accordance with Part II of this Executive Order:

- A. Department of Financial Institutions (20 ILCS 1205 et seq.)
- B. Department of Insurance (20 ILCS 1405 et seq.)
- C. Department of Professional Regulation (20 ILCS 2105 et seq.)
- D. Office of Banks and Real Estate (20 ILCS 3205 et seq.)

IV. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities related to the Functions and transferred by the Consolidating Agencies to the New Agency shall not be affected by this Executive Order, except that they shall all be carried out by the New Agency from the effective date of the transfers.

- A. The staffs of the Consolidating Agencies engaged in the performance of the Functions shall be transferred to the New Agency. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order.
- B. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Consolidating Agencies to the New Agency, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the New Agency.
- C. All unexpended appropriations and balances and other funds available for use in connection with any of the Functions shall be transferred for use by the New Agency for the Functions pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

V. SAVINGS CLAUSE

- A. The powers, duties, rights and responsibilities related to the Functions and transferred from the Consolidating Agencies by this Executive Order shall be vested in and shall be exercised by the New Agency. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by any of the Consolidating Agencies or their divisions, officers or employees.

- B. Every officer of the New Agency shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.
- C. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon any of the Consolidating Agencies in connection with any of the Functions transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the New Agency.
- D. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Functions of any of the Consolidating Agencies before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the New Agency.
- E. Any rules of the Consolidating Agencies that relate to the Functions, are in full force on the effective date of this Executive Order and that have been duly adopted by the Consolidating Agencies shall become the rules of the New Agency. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Consolidating Agencies that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the Functions transferred, shall be deemed to have been filed by the New Agency. As soon as practicable hereafter, the New Agency shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. The New Agency, consistent with the Consolidating Agencies' authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules of the Consolidating

Agencies that will now be administered by the New Agency. To the extent that, prior to the effective date of the transfers, the Director or Commissioner of a Consolidating Agency had been empowered to prescribe regulations or had other rulemaking authority with respect to transferred Functions, such duties shall be exercised from and after the effective date of the transfers jointly by the Secretary and the Director responsible for the oversight of those respective Functions.

VI. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Rod R. Blagojevich, Governor

Issued by Governor: March 31, 2004
Filed with Secretary of State: April 1, 2004

Appendix

Department of Financial Institution statutes affected by the Reorganization:

Financial Institutions Code, 20 ILCS 1205/1 et seq.
Illinois Credit Union Act, 205 ILCS 305/1 et seq.
Currency Exchange Act, 205 ILCS 405/0.1 et seq.
Transmitters of Money Act, 205 ILCS 657/1 et seq.
Sales Finance Agency Act, 205 ILCS 660/1 et seq.
Debt Management Service Act, 205 ILCS 665 et seq.
Consumer Installment Loan Act, 205 ILCS 670/1 et seq.
Title Insurance Act, 215 ILCS 155/1 et seq.
Development Credit Corporations Act, 815 ILCS 35/1 et seq.
Safety Deposit Box Act, 240 ILCS 5/0.01 et seq.
Motor Vehicle Retail Installment Sales Act, 815 ILCS 375/1 et seq.
Retail Installment Sales Act, 815 ILCS 405/1 et seq.
Interest Act, 815 ILCS 205/11
High Risk Home Loan Act, 815 ILCS 137/1 et seq.

Department of Insurance statutes affected by the Reorganization:

Department of Insurance Law, 20 ILCS 1405 et seq.
Illinois Insurance Code, 215 ILCS 5/1 et seq.
Small Employer Health Insurance Rating Act, 215 ILCS 93/1 to 215 ILCS 93/40
Small Employer Rating, Renewability and Portability Health Insurance Act, 215 ILCS 95/1 to 215 ILCS 95/55 [Repealed]
Illinois Health Insurance Portability and Accountability Act, 215 ILCS 97/1 to 215 ILCS 97/99
Reinsurance Intermediary Act, 215 ILCS 100/1 to 215 ILCS 100/60
Comprehensive Health Insurance Plan Act, 215 ILCS 105/1 to 215 ILCS 105/15
Children's Health Insurance Program, 215 ILCS 106/1 to 215 ILCS 106/99 [Repealed effective July 1, 2004]
Producer Controlled Insurer Act, 215 ILCS 107/1 to 215 ILCS 107/99
Dental Care Patient Protection Act, 215 ILCS 109/1 to 215 ILCS 1090/85
Dental Service Plan Act, 215 ILCS 110/1 to 215 ILCS 110/47
Employee Leasing Company Act, 215 ILCS 113/1 to 215 ILCS 113/99
Employees Dental Freedom of Choice Act, 215 ILCS 115/1 to 215 ILCS 115/4
Farm Mutual Insurance Company Act of 1986, 215 ILCS 120/1 to 215 ILCS 120/17
Health Care Purchasing Group Act, 215 ILCS 123/1 to 215 ILCS 123/75
Health Maintenance Organization Act, 215 ILCS 125/1-1 to 215 ILCS 125/6-19
Limited Health Service Organization Act, 215 ILCS 130/1001 to 215 ILCS 130/4009
Managed Care Reform and Patient Rights Act, 215 ILCS 134/1 to 215 ILCS 134/299
Pharmaceutical Service Plan Act, 215 ILCS 135/1 to 215 ILCS 135/46.1 [Repealed]
Uniform Prescription Drug Information Card Act, 215 ILCS 138/1 to 215 ILCS 139/99
Product Liability Insurance Act, 215 ILCS 140/0.01, 215 ILCS 140/1 [Repealed]
Property Fire Loss Act, 215 ILCS 145/0.1, 215 ILCS 145/1
Religious and Charitable Risk Pooling Trust Act, 215 ILCS 150/1 to 215 ILCS 150/28
Service Contract Act, 215 ILCS 152/1 to 215 ILCS 152/99
Title Insurance Act, 215 ILCS 155/1 to 215 ILCS 155/25
Viatical Settlements Act, 215 ILCS 158/1 to 215 ILCS 158/99
Vision Service Plan Act, 215 ILCS 160/1 to 215 ILCS 160/32 [Repealed]
Voluntary Health Services Plans Act, 215 ILCS 165/1 to 215 ILCS 165/30
Intergovernmental Cooperation Act, 5 ILCS 220/1 to 5 ILCS 220/16
State Employees Group Insurance Act of 1971, 5 ILCS 375/1 to 5 ILCS 375/17
Civil Administrative Code of Illinois (Part 11.5), 20 ILCS 1405/56.3, 20 ILCS 1405/1405-1 to 20 ILCS 1405/1405-30
Military Code of Illinois, 20 ILCS 1805/30.20
State Fire Marshall Act, 20 ILCS 2905/0.01 to 20 ILCS 2905/3
Experimental Organ Transplantation Procedures Act, 20 ILCS 3935/1 to 20 ILCS 3935/5
Illinois Municipal Code, Art. 11, Corporate Powers and Functions (Public Health, Safety and Welfare), 65 ILCS 5/11-10-1 to 65 ILCS 5/11-10-3, 65 ILCS 5/11-152-1 to 65 ILCS 5/11-152-4.
Asbestos Abatement Act, 105 ILCS 105/1 to 105 ILCS 105/16

Illinois Banking Act, 205 ILCS 5/5, 205 ILCS 5/48.2
 Illinois Savings and Loan Act of 1985
 Art. 1 General Provisions, 205 ILCS 105/1-6, 205 ILCS 105/1-11
 Art. 4 Capital 205 ILCS 105/4-2
 Art. 5 Investments 205 ILCS 105/5-3
 Savings Bank Act
 Art. 1 General Provisions 205 ILCS 205/1008
 Illinois Credit Union Act, 205 ILCS 305/13, 205 ILCS 305/55
 Corporate Fiduciary Act
 Art. 1 General Provisions 205 ILCS 620/1-6
 Art. IX Miscellaneous Provisions, Fiduciary Advisory Committee, 205 ILCS 620/9-1 to 205 ILCS 620-/9-6
 Structural Pest Control Act, 225 ILCS 235/9
 Elevator Safety and Regulation Act, 225 ILCS 312/100
 Fire Sprinkler Contractor Licensing Act, 225 ILCS 317/1 to 225 ILCS 317/999
 Petroleum Equipment Contractors Licensing Act, 225 ILCS 729/35
 Senior Pharmaceutical Assistance Act, 320 ILCS 50/1 to 320 ILCS 50/99
 Medical Patient Rights Act, 410 ILCS 50/0.01 to 410 ILCS 50/99
 Hearing Screening for Newborns Act, 410 ILCS 213/1 to 410 ILCS 213/99
 Fire Investigation Act, 425 ILCS 25/0.01 to 425 ILCS 25/13.1
 Carnival and Amusement Rides Safety Act, 430 ILCS 85/2-14
 Illinois Vehicle Code
 Ch. 3 Certificates of Title and Registration of Vehicles, 625 ILCS 5/3-100 to 625 ILCS 5/3-2006
 Ch. 7 Illinois Safety and Family Financial Responsibility Law, 625 ILCS 5/7-100 to 625 ILCS 5/7-708
 Ch. 8 Motor Vehicles Used for Transportation of Passengers, 625 ILCS 5/8-101 to 625 ILCS 5/8-116
 Ch. 9 Owners of For-Rent Vehicles for Hire, 625 ILCS 5/9-101 to 625 ILCS 5/9-110
 Ch. 18a Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-301
 Boat Registration and Safety Act
 Art. V Operation of Motor Boats, 625 ILCS 45/5-1 to 625 ILCS 45/5-21
 Criminal Code of 1961
 Art. 46 Insurance Fraud, Fraud on the Government, and Related Offenses, 720 ILCS 5/46-1 to 720 ILCS 5/46-5
 Criminal Juris Prudence Act (insurance law violation), 720 ILCS 275/119 [Repealed]
 Insurance Claims for Excessive Charges Act, 720 ILCS 325/1 to 720 ILCS 325/15
 Bail Bond False Statement Act, 720 ILCS 540/0.01, 720 ILCS 540/1
 Quasi-criminal and Misdemeanor Bail Act, 725 ILCS 195/0.01 to 725 ILCS 195/5
 Insurance Claims Fraud Prevention Act, 740 ILCS 92/1 to 740 ILCS 92/45
 Securities in Fiduciary Accounts Act, 760 ILCS 75/0.01 to 760 ILCS 75/4
 Condominium Property Act, 765 ILCS 605/12, 765 ILCS 605/12.1
 Mortgage Certificate of Release Act, 765 ILCS 935/5 to 765 ILCS 935/99
 Bailment Insurance Act, 765 ILCS 1015/0.01 to 765 ILCS 1015/4
 General Not-for-Profit Corporation Act of 1986, 805 ILCS 105/101.01 to 805 ILCS 105/117.05
 Motor Vehicle Retail Installment Sales Act, 815 ILCS 375/8 to 815 ILCS 375/10
 Restricted Call Registry Act, 815 ILCS 402/5
 Retail Installment Sales Act, 815 ILCS 405/8 to 815 ILCS 405/11.1
 Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 to 815 ILCS 505/12
 Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 to 815 ILCS 510/7
 Health Insurance Claim Filing Act, 820 ILCS 45/0.01 to 820 ILCS 45/2
 Medical Care Savings Account Act of 2000, 820 ILCS 153/1 to 820 ILCS 153/99
 Workers Compensation Act, 820 ILCS 305/1 to 820 ILCS 305/6
 Workers Occupational Diseases Act, 820 ILCS 310/4 to 820 ILCS 310/6

Department of Professional Regulation statutes affected by the Reorganization:

Department of Professional Regulation Law, 20 ILCS 2105 et seq.
 Acupuncture Practice Act of 1989, 225 ILCS 2/
 Illinois Architecture Practice Act of 1989, 225 ILCS 305/

Illinois Athletic Trainers Practice Act, 225 ILCS 5/
Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985,
225 ILCS 410/
Professional Boxing and Wrestling Act, 225 ILCS 105/
Collection Agency Act, 225 ILCS 425/
Mail Order Contact Lens Act, 225 ILCS 83/
Illinois Controlled Substances Act, 720 ILCS 570/
Illinois Dental Practice Act, 225 ILCS 25/
Detection of Deception Examiners Act, 225 ILCS 430/
The Private Detective, Private Alarm, Private Security and Locksmith Act of 2004, 225
ILCS 447/
Dietetic and Nutrition Services Practice Act, 225 ILCS 30/
Electrologist Licensing Act, 225 ILCS 412/
Environmental Health Practitioner Licensing Act, 225 ILCS 37/
Funeral Directors and Embalmers Licensing Code, 225 ILCS 41/
Home Medical Equipment and Services Provider License Act, 225 ILCS 51/
Humane Euthanasia in Animal Shelters Act, 510 ILCS 72/
Interior Design Title Act, 225 ILCS 310/
Illinois Landscape Architecture Act of 1989, 225 ILCS 315/
Illinois Professional Land Surveyor Act of 1989, 225 ILCS 330/
Marriage and Family Therapy Licensing Act, 225 ILCS 55/
Massage Licensing Act, 225 ILCS 57/
Medical Practice Act of 1987, 225 ILCS 60/
Medical Corporation Act, 225 ILCS 15/
Naprathic Practice Act of 1993, 225 ILCS 63/
Nursing and Advance Practice Nursing Act, 225 ILCS 65/
Nursing Home Administrators Licensing and Disciplinary Act
Illinois Occupational Therapy Practice Act, 225 ILCS 75/
Illinois Optometric Practice Act of 1987, 225 ILCS 80/
Orthotics, Prosthetics and Pedorthics Practice Act, 225 ILCS 84/
Perfusionist Practice Act, 225 ILCS 125/
Pharmacy Practice Act of 1987, 225 ILCS 85/
Illinois Physical Therapy Act, 225 ILCS 90/
Physician Assistant Practice Act of 1987, 225 ILCS 30
Podiatric Medical Practice Act of 1987, 225 ILCS 100/
Professional Counselor and Clinical Professional Counselor Licensing Act, 225 ILCS
107/
Professional Engineering Practice Act of 1989, 225 ILCS 325
Professional Geologist Licensing Act, 225 ILCS 745
Professional Service Corporation Act, 805 ILCS 10/
Clinical Psychologist Licensing Act, 225 ILCS 15/
Illinois Public Accounting Act, 225 ILCS 450/
Respiratory Care Practice Act, 225 ILCS 106/
The Illinois Roofing Industry Licensing Act, 225 ILCS 335
Illinois Certified Shorthand Reporters Act of 1984, 225 ILCS 415/
The Clinical Social Work and Social Work Practice Act, 225 ILCS 20/
Illinois Speech-Language Pathology and Audiology Practice Act, 225 ILCS 110/
Structural Engineering Licensing Act of 1989, 225 ILCS 340
Veterinary Medicine and Surgery Practice Act of 1983, 225 ILCS 115/
Wholesale Drug Distributors Act, 225 ILCS 120/
Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act,
225 ILCS 130/
The Department of Professional Regulation:
Illinois Police Training Act, 50 ILCS 705/6.1

Office of Banks and Real Estate statutes affected by the Reorganization:

Office of Banks and Real Estate Act, 20 ILCS 3205/0.1 et seq.
State Treasurer Act, 15 ILCS 505/0.01 et seq.
Illinois Bank Examiners' Education Foundation Act, 20 ILCS 3210/1 et seq.
State Finance Act, 30 ILCS 105/1 et seq.
Illinois Banking Act, 205 ILCS 5/1 et seq.
Illinois Bank Holding Company Act of 1957, 205 ILCS 10/1 et seq.

Illinois Savings and Loan Act of 1985, 205 ILCS 105/1-1 et seq.
Savings Bank Act, 205 ILCS 205/1001 et seq.
Pawnbroker Regulation Act, 205 ILCS 510/0.01 et seq.
Banking Emergencies Act, 205 ILCS 610/0.01 et seq.
Electronic Fund Transfer Act, 205 ILCS 616/1 et seq.
Corporate Fiduciary Act, 205 ILCS 620/1-1 et seq.
Promissory Note and Bank Holiday Act (Part 3), 205 ILCS 630/17 et seq.
Residential Mortgage License Act of 1987, 205 ILCS 635/1-1 et seq.
Foreign Banking Office Act, 205 ILCS 645/1 et seq.
Foreign Bank Representative Office Act, 205 ILCS 650/1 et seq.
Financial Institution Activity Reporting Act, 205 ILCS 680/1 et seq.
Check Printer and Check Number Act, 205 ILCS 690/1 et seq.
Auction License Act, 225 ILCS 407/5-1 et seq.
Home Inspector License Act, 225 ILCS 441/1-1 et seq.
Real Estate License Act of 2000, 225 ILCS 454/1-1 et seq.
Real Estate Appraiser Licensing Act of 2002, 225 ILCS 458/1-1 et seq.
Land Sales Registration Act of 1999, 765 ILCS 86/1-1 et seq.
Real Estate Timeshare Act of 1999, 765 ILCS 101/101 et seq.
Uniform Disposition of Unclaimed Property Act, 765 ILCS 1025/0.05 et seq.
High Risk Home Loan Act, 815 ILCS 137/1 et seq.
Deposit of State Moneys Act, 15 ILCS 520/0.01 et seq.
Interest Act, 815 ILCS 205/0.01 et seq.