



Bureau of Residential Finance
Thrift Division

[Limited Liability Company
Savings Bank Form of Organization]
]

September 4, 2003

TO: Savings Bank Directors and Officers

RE: Authority to Organize and Operate as a Limited Liability Company

Beginning next year, a state-chartered Illinois savings bank may organize as a limited liability company (LLC), convert to LLC form, or merge with or into an LLC. This authority is granted in Public Act 93-561 (Senate Bill 1784), approved on August 20, 2003 and effective January 1, 2004.

Applicable Law

*Savings Bank Act Sections 1007.55, 1007.125 and 1008(b) and (c)
Limited Liability Company Act (805 ILCS 180)*

A savings bank in LLC form will be subject to the Illinois Limited Liability Company Act (LLC Act), except that if any provision of LLC Act or Rules conflict with the Savings Bank Act or Rules, the Savings Bank Act and Rules shall apply. A savings bank that is an LLC shall be subject to the Savings Bank Act in the same manner as a savings bank in stock form. Also, the Office of Banks and Real Estate (OBRE) may issue rules for the purpose of ensuring that a savings bank LLC operates in a safe and sound manner and is subject to OBRE authority in the same manner as a stock savings bank.

Regulation of Savings Bank LLCs

*Savings Bank Act Section 1008(c)
Limited Liability Company Act Sections 5-5(d), 5-55(c), 37-5, and 37-35*

Though a savings bank in LLC form is subject to the LCC Act as described above, OBRE remains the exclusive state regulatory authority of the savings bank. Accordingly, prior OBRE approval is required for organization as, conversion to, and merger with or into an LLC; and all filings required by the LCCA shall be submitted to the OBRE.

FDIC Insurance of Accounts and Tax Considerations
Savings Bank Section 1005
FDIC Financial Institution Letter 13-2003 (Feb. 13, 2003)
66 Federal Register 7301 (Feb. 13, 2003)

The Savings Bank Act requires all savings banks to maintain FDIC insurance of accounts. FDIC Regulations deem certain limited liability companies “incorporated” under state law and, therefore, eligible for FDIC insurance of deposit accounts. See, FDIC Financial Institutions Letter 13-2003 and Federal Register attachment. A savings bank considering LLC form should review FDIC LLC requirements.

Also, regarding federal taxation of a savings bank LLC, the savings bank again may wish review the Federal Register attachment to FDIC FIL 13-2003 which discusses several issues relevant to the taxation of depository institutions in LLC form.

More Information

For more information or copies of the documents cited above, please contact Robert Stearn, Senior Counsel, at (312) 793-1454 or rstearn@bre.state.il.us. Public Act 93-561 may also be obtained at www.legis.state.il.us and FDIC FIL 13-2003 may be obtained at www.fdic.gov.