

1 AN ACT relating to financial institutions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Banking Act is amended by
5 changing Section 48.1 as follows:

6 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

7 Sec. 48.1. Customer financial records; confidentiality.

8 (a) As used in ~~For the purpose of~~ this Section, the term
9 "financial records" means any original, any copy, or any
10 summary of:

11 (1) a document granting signature authority over a
12 deposit or account;

13 (2) a statement, ledger card or other record on any
14 deposit or account, which shows each transaction in or
15 with respect to that account;

16 (3) a check, draft or money order drawn on a bank
17 or issued and payable by a bank; or

18 (4) any other item containing information
19 pertaining to any relationship established in the
20 ordinary course of a bank's business between a bank and
21 its customer, including financial statements or other
22 financial information provided by the customer.

23 (b) This Section does not prohibit:

24 (1) The preparation, examination, handling or
25 maintenance of any financial records by any officer,
26 employee or agent of a bank having custody of the
27 records, or the examination of the records by a certified
28 public accountant engaged by the bank to perform an
29 independent audit.

30 (2) The examination of any financial records by, or
31 the furnishing of financial records by a bank to, any

1 officer, employee or agent of (i) the Commissioner of
2 Banks and Real Estate, (ii) after May 31, 1997, a state
3 regulatory authority authorized to examine a branch of a
4 State bank located in another state, (iii) the
5 Comptroller of the Currency, (iv) the Federal Reserve
6 Board, or (v) the Federal Deposit Insurance Corporation
7 for use solely in the exercise of his duties as an
8 officer, employee, or agent.

9 (3) The publication of data furnished from
10 financial records relating to customers where the data
11 cannot be identified to any particular customer or
12 account.

13 (4) The making of reports or returns required under
14 Chapter 61 of the Internal Revenue Code of 1986.

15 (5) Furnishing information concerning the dishonor
16 of any negotiable instrument permitted to be disclosed
17 under the Uniform Commercial Code.

18 (6) The exchange in the regular course of business
19 of (i) credit information between a bank and other banks
20 or financial institutions or commercial enterprises,
21 directly or through a consumer reporting agency or (ii)
22 financial records or information derived from financial
23 records between a bank and other banks or financial
24 institutions or commercial enterprises for the purpose of
25 conducting due diligence pursuant to a purchase or sale
26 involving the bank or assets or liabilities of the bank.

27 (7) The furnishing of information to the
28 appropriate law enforcement authorities where the bank
29 reasonably believes it has been the victim of a crime.

30 (8) The furnishing of information under the Uniform
31 Disposition of Unclaimed Property Act.

32 (9) The furnishing of information under the
33 Illinois Income Tax Act and the Illinois Estate and
34 Generation-Skipping Transfer Tax Act.

1 (10) The furnishing of information under the
2 federal Currency and Foreign Transactions Reporting Act
3 Title 31, United States Code, Section 1051 et seq.

4 (11) The furnishing of information under any other
5 statute that by its terms or by regulations promulgated
6 thereunder requires the disclosure of financial records
7 other than by subpoena, summons, warrant, or court order.

8 (12) The furnishing of information about the
9 existence of an account of a person to a judgment
10 creditor of that person who has made a written request
11 for that information.

12 (13) The exchange in the regular course of business
13 of information between commonly owned banks in connection
14 with a transaction authorized under paragraph (23) of
15 Section 5 and conducted at an affiliate facility.

16 (14) The furnishing of information in accordance
17 with the federal Personal Responsibility and Work
18 Opportunity Reconciliation Act of 1996. Any bank governed
19 by this Act shall enter into an agreement for data
20 exchanges with a State agency provided the State agency
21 pays to the bank a reasonable fee not to exceed its
22 actual cost incurred. A bank providing information in
23 accordance with this item shall not be liable to any
24 account holder or other person for any disclosure of
25 information to a State agency, for encumbering or
26 surrendering any assets held by the bank in response to a
27 lien or order to withhold and deliver issued by a State
28 agency, or for any other action taken pursuant to this
29 item, including individual or mechanical errors, provided
30 the action does not constitute gross negligence or
31 willful misconduct. A bank shall have no obligation to
32 hold, encumber, or surrender assets until it has been
33 served with a subpoena, summons, warrant, court or
34 administrative order, lien, or levy.

1 (15) The exchange in the regular course of business
2 of information between a bank and any commonly owned
3 affiliate of the bank, subject to the provisions of the
4 Financial Institutions Insurance Sales Law.

5 (16) The furnishing of information to law
6 enforcement authorities, the Illinois Department on Aging
7 and its regional administrative and provider agencies,
8 the Department of Human Services Office of Inspector
9 General, or public guardians, if the bank suspects that a
10 customer who is an elderly or disabled person has been or
11 may become the victim of financial exploitation. For the
12 purposes of this item (16), the term: (i) "elderly
13 person" means a person who is 60 or more years of age,
14 (ii) "disabled person" means a person who has or
15 reasonably appears to the bank to have a physical or
16 mental disability that impairs his or her ability to seek
17 or obtain protection from or prevent financial
18 exploitation, and (iii) "financial exploitation" means
19 tortious or illegal use of the assets or resources of an
20 elderly or disabled person, and includes, without
21 limitation, misappropriation of the elderly or disabled
22 person's assets or resources by undue influence, breach
23 of fiduciary relationship, intimidation, fraud,
24 deception, extortion, or the use of assets or resources
25 in any manner contrary to law. A bank or person
26 furnishing information pursuant to this item (16) shall
27 be entitled to the same rights and protections as a
28 person furnishing information under the Elder Abuse and
29 Neglect Act and the Illinois Domestic Violence Act of
30 1986.

31 (17) The disclosure of financial records or
32 information as necessary to effect, administer, or
33 enforce a transaction requested or authorized by the
34 customer, or in connection with:

1 (A) servicing or processing a financial
2 product or service requested or authorized by the
3 customer;

4 (B) maintaining or servicing a customer's
5 account with the bank; or

6 (C) a proposed or actual securitization or
7 secondary market sale (including sales of servicing
8 rights) related to a transaction of a customer.

9 Nothing in this item (17), however, authorizes the
10 sale of the financial records or information of a
11 customer without the consent of the customer.

12 (18) The disclosure of financial records or
13 information as necessary to protect against actual or
14 potential fraud, unauthorized transactions, claims, or
15 other liability.

16 (c) Except as otherwise provided by this Act, a bank may
17 not disclose to any person, except to the customer or his
18 duly authorized agent, any financial records or financial
19 information obtained from financial records relating to that
20 customer of that bank unless:

21 (1) the customer has authorized disclosure to the
22 person;

23 (2) the financial records are disclosed in response
24 to a lawful subpoena, summons, warrant or court order
25 which meets the requirements of subsection (d) of this
26 Section; or

27 (3) the bank is attempting to collect an obligation
28 owed to the bank and the bank complies with the
29 provisions of Section 2I of the Consumer Fraud and
30 Deceptive Business Practices Act.

31 (d) A bank shall disclose financial records under
32 paragraph (2) of subsection (c) of this Section under a
33 lawful subpoena, summons, warrant, or court order only after
34 the bank mails a copy of the subpoena, summons, warrant, or

1 court order to the person establishing the relationship with
2 the bank, if living, and, otherwise his personal
3 representative, if known, at his last known address by first
4 class mail, postage prepaid, unless the bank is specifically
5 prohibited from notifying the person by order of court or by
6 applicable State or federal law. A bank shall not mail a
7 copy of a subpoena to any person pursuant to this subsection
8 if the subpoena was issued by a grand jury under the
9 Statewide Grand Jury Act.

10 (e) Any officer or employee of a bank who knowingly and
11 willfully furnishes financial records in violation of this
12 Section is guilty of a business offense and, upon conviction,
13 shall be fined not more than \$1,000.

14 (f) Any person who knowingly and willfully induces or
15 attempts to induce any officer or employee of a bank to
16 disclose financial records in violation of this Section is
17 guilty of a business offense and, upon conviction, shall be
18 fined not more than \$1,000.

19 (g) A bank shall be reimbursed for costs that are
20 reasonably necessary and that have been directly incurred in
21 searching for, reproducing, or transporting books, papers,
22 records, or other data of a customer required or requested to
23 be produced pursuant to a lawful subpoena, summons, warrant,
24 or court order. The Commissioner shall determine the rates
25 and conditions under which payment may be made.

26 (Source: P.A. 91-330, eff. 7-29-99; 91-929, eff. 12-15-00;
27 92-483, eff. 8-23-01.)

28 Section 10. The Illinois Savings and Loan Act of 1985 is
29 amended by changing Section 3-8 as follows:

30 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

31 Sec. 3-8. Access to books and records; communication
32 with members.

1 (a) Every member or holder of capital shall have the
2 right to inspect the books and records of the association
3 that pertain to his account. Otherwise, the right of
4 inspection and examination of the books and records shall be
5 limited as provided in this Act, and no other person shall
6 have access to the books and records or shall be entitled to
7 a list of the members.

8 (b) As used in ~~For the purpose of~~ this Section, the term
9 "financial records" means any original, any copy, or any
10 summary of (i) a document granting signature authority over a
11 deposit or account; (ii) a statement, ledger card, or other
12 record on any deposit or account that shows each transaction
13 in or with respect to that account; (iii) a check, draft, or
14 money order drawn on an association or issued and payable by
15 an association; or (iv) any other item containing information
16 pertaining to any relationship established in the ordinary
17 course of an association's business between an association
18 and its customer, including financial statements or other
19 financial information provided by the member or holder of
20 capital.

21 (c) This Section does not prohibit:

22 (1) The preparation, examination, handling, or
23 maintenance of any financial records by any officer,
24 employee, or agent of an association having custody of
25 those records or the examination of those records by a
26 certified public accountant engaged by the association to
27 perform an independent audit.

28 (2) The examination of any financial records by, or
29 the furnishing of financial records by an association to,
30 any officer, employee, or agent of the Commissioner of
31 Banks and Real Estate, Federal Savings and Loan Insurance
32 Corporation and its successors, Federal Deposit Insurance
33 Corporation, Resolution Trust Corporation and its
34 successors, Federal Home Loan Bank Board and its

1 successors, Office of Thrift Supervision, Federal Housing
2 Finance Board, Board of Governors of the Federal Reserve
3 System, any Federal Reserve Bank, or the Office of the
4 Comptroller of the Currency for use solely in the
5 exercise of his duties as an officer, employee, or agent.

6 (3) The publication of data furnished from
7 financial records relating to members or holders of
8 capital where the data cannot be identified to any
9 particular member, holder of capital, or account.

10 (4) The making of reports or returns required under
11 Chapter 61 of the Internal Revenue Code of 1986.

12 (5) Furnishing information concerning the dishonor
13 of any negotiable instrument permitted to be disclosed
14 under the Uniform Commercial Code.

15 (6) The exchange in the regular course of business
16 of (i) credit information between an association and
17 other associations or financial institutions or
18 commercial enterprises, directly or through a consumer
19 reporting agency or (ii) financial records or information
20 derived from financial records between an association and
21 other associations or financial institutions or
22 commercial enterprises for the purpose of conducting due
23 diligence pursuant to a purchase or sale involving the
24 association or assets or liabilities of the association.

25 (7) The furnishing of information to the
26 appropriate law enforcement authorities where the
27 association reasonably believes it has been the victim of
28 a crime.

29 (8) The furnishing of information pursuant to the
30 Uniform Disposition of Unclaimed Property Act.

31 (9) The furnishing of information pursuant to the
32 Illinois Income Tax Act and the Illinois Estate and
33 Generation-Skipping Transfer Tax Act.

34 (10) The furnishing of information pursuant to the

1 federal "Currency and Foreign Transactions Reporting
2 Act", (Title 31, United States Code, Section 1051 et
3 seq.).

4 (11) The furnishing of information pursuant to any
5 other statute that by its terms or by regulations
6 promulgated thereunder requires the disclosure of
7 financial records other than by subpoena, summons,
8 warrant, or court order.

9 (12) The exchange of information between an
10 association and an affiliate of the association; as used
11 in this item, "affiliate" includes any company,
12 partnership, or organization that controls, is controlled
13 by, or is under common control with an association.

14 (13) The furnishing of information in accordance
15 with the federal Personal Responsibility and Work
16 Opportunity Reconciliation Act of 1996. Any association
17 governed by this Act shall enter into an agreement for
18 data exchanges with a State agency provided the State
19 agency pays to the association a reasonable fee not to
20 exceed its actual cost incurred. An association
21 providing information in accordance with this item shall
22 not be liable to any account holder or other person for
23 any disclosure of information to a State agency, for
24 encumbering or surrendering any assets held by the
25 association in response to a lien or order to withhold
26 and deliver issued by a State agency, or for any other
27 action taken pursuant to this item, including individual
28 or mechanical errors, provided the action does not
29 constitute gross negligence or willful misconduct. An
30 association shall have no obligation to hold, encumber,
31 or surrender assets until it has been served with a
32 subpoena, summons, warrant, court or administrative
33 order, lien, or levy.

34 (14) The furnishing of information to law

1 enforcement authorities, the Illinois Department on Aging
2 and its regional administrative and provider agencies,
3 the Department of Human Services Office of Inspector
4 General, or public guardians, if the association suspects
5 that a customer who is an elderly or disabled person has
6 been or may become the victim of financial exploitation.
7 For the purposes of this item (14), the term: (i)
8 "elderly person" means a person who is 60 or more years
9 of age, (ii) "disabled person" means a person who has or
10 reasonably appears to the association to have a physical
11 or mental disability that impairs his or her ability to
12 seek or obtain protection from or prevent financial
13 exploitation, and (iii) "financial exploitation" means
14 tortious or illegal use of the assets or resources of an
15 elderly or disabled person, and includes, without
16 limitation, misappropriation of the elderly or disabled
17 person's assets or resources by undue influence, breach
18 of fiduciary relationship, intimidation, fraud,
19 deception, extortion, or the use of assets or resources
20 in any manner contrary to law. An association or person
21 furnishing information pursuant to this item (14) shall
22 be entitled to the same rights and protections as a
23 person furnishing information under the Elder Abuse and
24 Neglect Act and the Illinois Domestic Violence Act of
25 1986.

26 (15) The disclosure of financial records or
27 information as necessary to effect, administer, or
28 enforce a transaction requested or authorized by the
29 member or holder of capital, or in connection with:

30 (A) servicing or processing a financial
31 product or service requested or authorized by the
32 member or holder of capital;

33 (B) maintaining or servicing an account of a
34 member or holder of capital with the association; or

1 (C) a proposed or actual securitization or
2 secondary market sale (including sales of servicing
3 rights) related to a transaction of a member or
4 holder of capital.

5 Nothing in this item (15), however, authorizes the
6 sale of the financial records or information of a member
7 or holder of capital without the consent of the member or
8 holder of capital.

9 (16) The disclosure of financial records or
10 information as necessary to protect against or prevent
11 actual or potential fraud, unauthorized transactions,
12 claims, or other liability.

13 (d) An association may not disclose to any person,
14 except to the member or holder of capital or his duly
15 authorized agent, any financial records relating to that
16 member or holder of capital of that association unless:

17 (1) The member or holder of capital has authorized
18 disclosure to the person; or

19 (2) The financial records are disclosed in response
20 to a lawful subpoena, summons, warrant, or court order
21 that meets the requirements of subsection (e) of this
22 Section.

23 (e) An association shall disclose financial records
24 under subsection (d) of this Section pursuant to a lawful
25 subpoena, summons, warrant, or court order only after the
26 association mails a copy of the subpoena, summons, warrant,
27 or court order to the person establishing the relationship
28 with the association, if living, and, otherwise, his personal
29 representative, if known, at his last known address by first
30 class mail, postage prepaid, unless the association is
31 specifically prohibited from notifying that person by order
32 of court.

33 (f) (1) Any officer or employee of an association who
34 knowingly and willfully furnishes financial records in

1 violation of this Section is guilty of a business offense
2 and, upon conviction, shall be fined not more than \$1,000.

3 (2) Any person who knowingly and willfully induces or
4 attempts to induce any officer or employee of an association
5 to disclose financial records in violation of this Section is
6 guilty of a business offense and, upon conviction, shall be
7 fined not more than \$1,000.

8 (g) However, if any member desires to communicate with
9 the other members of the association with reference to any
10 question pending or to be presented at a meeting of the
11 members, the association shall give him upon request a
12 statement of the approximate number of members entitled to
13 vote at the meeting and an estimate of the cost of preparing
14 and mailing the communication. The requesting member then
15 shall submit the communication to the Commissioner who, if he
16 finds it to be appropriate and truthful, shall direct that it
17 be prepared and mailed to the members upon the requesting
18 member's payment or adequate provision for payment of the
19 expenses of preparation and mailing.

20 (h) An association shall be reimbursed for costs that
21 are necessary and that have been directly incurred in
22 searching for, reproducing, or transporting books, papers,
23 records, or other data of a customer required to be
24 reproduced pursuant to a lawful subpoena, warrant, or court
25 order.

26 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

27 Section 15. The Savings Bank Act is amended by changing
28 Section 4013 as follows:

29 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

30 Sec. 4013. Access to books and records; communication
31 with members and shareholders.

32 (a) Every member or shareholder shall have the right to

1 inspect books and records of the savings bank that pertain to
2 his accounts. Otherwise, the right of inspection and
3 examination of the books and records shall be limited as
4 provided in this Act, and no other person shall have access
5 to the books and records nor shall be entitled to a list of
6 the members or shareholders.

7 (b) As used in ~~For the purpose of~~ this Section, the term
8 "financial records" means any original, any copy, or any
9 summary of (1) a document granting signature authority over a
10 deposit or account; (2) a statement, ledger card, or other
11 record on any deposit or account that shows each transaction
12 in or with respect to that account; (3) a check, draft, or
13 money order drawn on a savings bank or issued and payable by
14 a savings bank; or (4) any other item containing information
15 pertaining to any relationship established in the ordinary
16 course of a savings bank's business between a savings bank
17 and its customer, including financial statements or other
18 financial information provided by the member or shareholder.

19 (c) This Section does not prohibit:

20 (1) The preparation examination, handling, or
21 maintenance of any financial records by any officer,
22 employee, or agent of a savings bank having custody of
23 records or examination of records by a certified public
24 accountant engaged by the savings bank to perform an
25 independent audit.

26 (2) The examination of any financial records by, or
27 the furnishing of financial records by a savings bank to,
28 any officer, employee, or agent of the Commissioner of
29 Banks and Real Estate or the Federal Deposit Insurance
30 Corporation for use solely in the exercise of his duties
31 as an officer, employee, or agent.

32 (3) The publication of data furnished from
33 financial records relating to members or holders of
34 capital where the data cannot be identified to any

1 particular member, shareholder, or account.

2 (4) The making of reports or returns required under
3 Chapter 61 of the Internal Revenue Code of 1986.

4 (5) Furnishing information concerning the dishonor
5 of any negotiable instrument permitted to be disclosed
6 under the Uniform Commercial Code.

7 (6) The exchange in the regular course of business
8 of (i) credit information between a savings bank and
9 other savings banks or financial institutions or
10 commercial enterprises, directly or through a consumer
11 reporting agency or (ii) financial records or information
12 derived from financial records between a savings bank and
13 other savings banks or financial institutions or
14 commercial enterprises for the purpose of conducting due
15 diligence pursuant to a purchase or sale involving the
16 savings bank or assets or liabilities of the savings
17 bank.

18 (7) The furnishing of information to the
19 appropriate law enforcement authorities where the savings
20 bank reasonably believes it has been the victim of a
21 crime.

22 (8) The furnishing of information pursuant to the
23 Uniform Disposition of Unclaimed Property Act.

24 (9) The furnishing of information pursuant to the
25 Illinois Income Tax Act and the Illinois Estate and
26 Generation-Skipping Transfer Tax Act.

27 (10) The furnishing of information pursuant to the
28 federal "Currency and Foreign Transactions Reporting
29 Act", (Title 31, United States Code, Section 1051 et
30 seq.).

31 (11) The furnishing of information pursuant to any
32 other statute which by its terms or by regulations
33 promulgated thereunder requires the disclosure of
34 financial records other than by subpoena, summons,

1 warrant, or court order.

2 (12) The furnishing of information in accordance
3 with the federal Personal Responsibility and Work
4 Opportunity Reconciliation Act of 1996. Any savings bank
5 governed by this Act shall enter into an agreement for
6 data exchanges with a State agency provided the State
7 agency pays to the savings bank a reasonable fee not to
8 exceed its actual cost incurred. A savings bank
9 providing information in accordance with this item shall
10 not be liable to any account holder or other person for
11 any disclosure of information to a State agency, for
12 encumbering or surrendering any assets held by the
13 savings bank in response to a lien or order to withhold
14 and deliver issued by a State agency, or for any other
15 action taken pursuant to this item, including individual
16 or mechanical errors, provided the action does not
17 constitute gross negligence or willful misconduct. A
18 savings bank shall have no obligation to hold, encumber,
19 or surrender assets until it has been served with a
20 subpoena, summons, warrant, court or administrative
21 order, lien, or levy.

22 (13) The furnishing of information to law
23 enforcement authorities, the Illinois Department on Aging
24 and its regional administrative and provider agencies,
25 the Department of Human Services Office of Inspector
26 General, or public guardians, if the savings bank
27 suspects that a customer who is an elderly or disabled
28 person has been or may become the victim of financial
29 exploitation. For the purposes of this item (13), the
30 term: (i) "elderly person" means a person who is 60 or
31 more years of age, (ii) "disabled person" means a person
32 who has or reasonably appears to the savings bank to have
33 a physical or mental disability that impairs his or her
34 ability to seek or obtain protection from or prevent

1 financial exploitation, and (iii) "financial
2 exploitation" means tortious or illegal use of the assets
3 or resources of an elderly or disabled person, and
4 includes, without limitation, misappropriation of the
5 elderly or disabled person's assets or resources by undue
6 influence, breach of fiduciary relationship,
7 intimidation, fraud, deception, extortion, or the use of
8 assets or resources in any manner contrary to law. A
9 savings bank or person furnishing information pursuant to
10 this item (13) shall be entitled to the same rights and
11 protections as a person furnishing information under the
12 Elder Abuse and Neglect Act and the Illinois Domestic
13 Violence Act of 1986.

14 (14) The disclosure of financial records or
15 information as necessary to effect, administer, or
16 enforce a transaction requested or authorized by the
17 member or holder of capital, or in connection with:

18 (A) servicing or processing a financial
19 product or service requested or authorized by the
20 member or holder of capital;

21 (B) maintaining or servicing an account of a
22 member or holder of capital with the savings bank;
23 or

24 (C) a proposed or actual securitization or
25 secondary market sale (including sales of servicing
26 rights) related to a transaction of a member or
27 holder of capital.

28 Nothing in this item (14), however, authorizes the
29 sale of the financial records or information of a member
30 or holder of capital without the consent of the member or
31 holder of capital.

32 (15) The exchange in the regular course of business
33 of information between a savings bank and any commonly
34 owned affiliate of the savings bank, subject to the

1 provisions of the Financial Institutions Insurance Sales
2 Law.

3 (16) The disclosure of financial records or
4 information as necessary to protect against or prevent
5 actual or potential fraud, unauthorized transactions,
6 claims, or other liability.

7 (d) A savings bank may not disclose to any person,
8 except to the member or holder of capital or his duly
9 authorized agent, any financial records relating to that
10 member or shareholder of the savings bank unless:

11 (1) the member or shareholder has authorized
12 disclosure to the person; or

13 (2) the financial records are disclosed in response
14 to a lawful subpoena, summons, warrant, or court order
15 that meets the requirements of subsection (e) of this
16 Section.

17 (e) A savings bank shall disclose financial records
18 under subsection (d) of this Section pursuant to a lawful
19 subpoena, summons, warrant, or court order only after the
20 savings bank mails a copy of the subpoena, summons, warrant,
21 or court order to the person establishing the relationship
22 with the savings bank, if living, and otherwise, his personal
23 representative, if known, at his last known address by first
24 class mail, postage prepaid, unless the savings bank is
25 specifically prohibited from notifying the person by order of
26 court.

27 (f) Any officer or employee of a savings bank who
28 knowingly and willfully furnishes financial records in
29 violation of this Section is guilty of a business offense
30 and, upon conviction, shall be fined not more than \$1,000.

31 (g) Any person who knowingly and willfully induces or
32 attempts to induce any officer or employee of a savings bank
33 to disclose financial records in violation of this Section is
34 guilty of a business offense and, upon conviction, shall be

1 fined not more than \$1,000.

2 (h) If any member or shareholder desires to communicate
3 with the other members or shareholders of the savings bank
4 with reference to any question pending or to be presented at
5 an annual or special meeting, the savings bank shall give
6 that person, upon request, a statement of the approximate
7 number of members or shareholders entitled to vote at the
8 meeting and an estimate of the cost of preparing and mailing
9 the communication. The requesting member shall submit the
10 communication to the Commissioner who, upon finding it to be
11 appropriate and truthful, shall direct that it be prepared
12 and mailed to the members upon the requesting member's or
13 shareholder's payment or adequate provision for payment of
14 the expenses of preparation and mailing.

15 (i) A savings bank shall be reimbursed for costs that
16 are necessary and that have been directly incurred in
17 searching for, reproducing, or transporting books, papers,
18 records, or other data of a customer required to be
19 reproduced pursuant to a lawful subpoena, warrant, or court
20 order.

21 (j) Notwithstanding the provisions of this Section, a
22 savings bank may sell or otherwise make use of lists of
23 customers' names and addresses. All other information
24 regarding a customer's account are subject to the disclosure
25 provisions of this Section. At the request of any customer,
26 that customer's name and address shall be deleted from any
27 list that is to be sold or used in any other manner beyond
28 identification of the customer's accounts.

29 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

30 Section 20. The Illinois Credit Union Act is amended by
31 changing Section 10 as follows:

32 (205 ILCS 305/10) (from Ch. 17, par. 4411)

1 Sec. 10. Credit union records; member financial records.

2 (1) A credit union shall establish and maintain books,
3 records, accounting systems and procedures which accurately
4 reflect its operations and which enable the Department to
5 readily ascertain the true financial condition of the credit
6 union and whether it is complying with this Act.

7 (2) A photostatic or photographic reproduction of any
8 credit union records shall be admissible as evidence of
9 transactions with the credit union.

10 (3) (a) As used in ~~For the purpose of~~ this Section, the
11 term "financial records" means any original, any copy, or
12 any summary of (1) a document granting signature
13 authority over an account, (2) a statement, ledger card
14 or other record on any account which shows each
15 transaction in or with respect to that account, (3) a
16 check, draft or money order drawn on a financial
17 institution or other entity or issued and payable by or
18 through a financial institution or other entity, or (4)
19 any other item containing information pertaining to any
20 relationship established in the ordinary course of
21 business between a credit union and its member, including
22 financial statements or other financial information
23 provided by the member.

24 (b) This Section does not prohibit:

25 (1) The preparation, examination, handling or
26 maintenance of any financial records by any officer,
27 employee or agent of a credit union having custody
28 of such records, or the examination of such records
29 by a certified public accountant engaged by the
30 credit union to perform an independent audit.

31 (2) The examination of any financial records
32 by or the furnishing of financial records by a
33 credit union to any officer, employee or agent of
34 the Department, the National Credit Union

1 Administration, Federal Reserve board or any insurer
2 of share accounts for use solely in the exercise of
3 his duties as an officer, employee or agent.

4 (3) The publication of data furnished from
5 financial records relating to members where the data
6 cannot be identified to any particular customer of
7 account.

8 (4) The making of reports or returns required
9 under Chapter 61 of the Internal Revenue Code of
10 1954.

11 (5) Furnishing information concerning the
12 dishonor of any negotiable instrument permitted to
13 be disclosed under the Uniform Commercial Code.

14 (6) The exchange in the regular course of
15 business of (i) credit information between a credit
16 union and other credit unions or financial
17 institutions or commercial enterprises, directly or
18 through a consumer reporting agency or (ii)
19 financial records or information derived from
20 financial records between a credit union and other
21 credit unions or financial institutions or
22 commercial enterprises for the purpose of conducting
23 due diligence pursuant to a merger or a purchase or
24 sale of assets or liabilities of the credit union.

25 (7) The furnishing of information to the
26 appropriate law enforcement authorities where the
27 credit union reasonably believes it has been the
28 victim of a crime.

29 (8) The furnishing of information pursuant to
30 the Uniform Disposition of Unclaimed Property Act.

31 (9) The furnishing of information pursuant to
32 the Illinois Income Tax Act and the Illinois Estate
33 and Generation-Skipping Transfer Tax Act.

34 (10) The furnishing of information pursuant to

1 the federal "Currency and Foreign Transactions
2 Reporting Act", Title 31, United States Code,
3 Section 1051 et sequentia.

4 (11) The furnishing of information pursuant to
5 any other statute which by its terms or by
6 regulations promulgated thereunder requires the
7 disclosure of financial records other than by
8 subpoena, summons, warrant or court order.

9 (12) The furnishing of information in
10 accordance with the federal Personal Responsibility
11 and Work Opportunity Reconciliation Act of 1996. Any
12 credit union governed by this Act shall enter into
13 an agreement for data exchanges with a State agency
14 provided the State agency pays to the credit union a
15 reasonable fee not to exceed its actual cost
16 incurred. A credit union providing information in
17 accordance with this item shall not be liable to any
18 account holder or other person for any disclosure of
19 information to a State agency, for encumbering or
20 surrendering any assets held by the credit union in
21 response to a lien or order to withhold and deliver
22 issued by a State agency, or for any other action
23 taken pursuant to this item, including individual or
24 mechanical errors, provided the action does not
25 constitute gross negligence or willful misconduct. A
26 credit union shall have no obligation to hold,
27 encumber, or surrender assets until it has been
28 served with a subpoena, summons, warrant, court or
29 administrative order, lien, or levy.

30 (13) The furnishing of information to law
31 enforcement authorities, the Illinois Department on
32 Aging and its regional administrative and provider
33 agencies, the Department of Human Services Office of
34 Inspector General, or public guardians, if the

1 credit union suspects that a member who is an
2 elderly or disabled person has been or may become
3 the victim of financial exploitation. For the
4 purposes of this item (13), the term: (i) "elderly
5 person" means a person who is 60 or more years of
6 age, (ii) "disabled person" means a person who has
7 or reasonably appears to the credit union to have a
8 physical or mental disability that impairs his or
9 her ability to seek or obtain protection from or
10 prevent financial exploitation, and (iii) "financial
11 exploitation" means tortious or illegal use of the
12 assets or resources of an elderly or disabled
13 person, and includes, without limitation,
14 misappropriation of the elderly or disabled person's
15 assets or resources by undue influence, breach of
16 fiduciary relationship, intimidation, fraud,
17 deception, extortion, or the use of assets or
18 resources in any manner contrary to law. A credit
19 union or person furnishing information pursuant to
20 this item (13) shall be entitled to the same rights
21 and protections as a person furnishing information
22 under the Elder Abuse and Neglect Act and the
23 Illinois Domestic Violence Act of 1986.

24 (14) The disclosure of financial records or
25 information as necessary to effect, administer, or
26 enforce a transaction requested or authorized by the
27 member, or in connection with:

28 (A) servicing or processing a financial
29 product or service requested or authorized by
30 the member;

31 (B) maintaining or servicing a member's
32 account with the credit union; or

33 (C) a proposed or actual securitization
34 or secondary market sale (including sales of

1 servicing rights) related to a transaction of a
2 member.

3 Nothing in this item (14), however, authorizes
4 the sale of the financial records or information of
5 a member without the consent of the member.

6 (15) The disclosure of financial records or
7 information as necessary to protect against or
8 prevent actual or potential fraud, unauthorized
9 transactions, claims, or other liability.

10 (c) Except as otherwise provided by this Act, a
11 credit union may not disclose to any person, except to
12 the member or his duly authorized agent, any financial
13 records relating to that member of the credit union
14 unless:

15 (1) the member has authorized disclosure to
16 the person;

17 (2) the financial records are disclosed in
18 response to a lawful subpoena, summons, warrant or
19 court order that meets the requirements of
20 subparagraph (d) of this Section; or

21 (3) the credit union is attempting to collect
22 an obligation owed to the credit union and the
23 credit union complies with the provisions of Section
24 2I of the Consumer Fraud and Deceptive Business
25 Practices Act.

26 (d) A credit union shall disclose financial records
27 under subparagraph (c)(2) of this Section pursuant to a
28 lawful subpoena, summons, warrant or court order only
29 after the credit union mails a copy of the subpoena,
30 summons, warrant or court order to the person
31 establishing the relationship with the credit union, if
32 living, and otherwise his personal representative, if
33 known, at his last known address by first class mail,
34 postage prepaid unless the credit union is specifically

1 prohibited from notifying the person by order of court or
2 by applicable State or federal law. In the case of a
3 grand jury subpoena, a credit union shall not mail a copy
4 of a subpoena to any person pursuant to this subsection
5 if the subpoena was issued by a grand jury under the
6 Statewide Grand Jury Act or notifying the person would
7 constitute a violation of the federal Right to Financial
8 Privacy Act of 1978.

9 (e) (1) Any officer or employee of a credit union
10 who knowingly and wilfully furnishes financial
11 records in violation of this Section is guilty of a
12 business offense and upon conviction thereof shall
13 be fined not more than \$1,000.

14 (2) Any person who knowingly and wilfully
15 induces or attempts to induce any officer or
16 employee of a credit union to disclose financial
17 records in violation of this Section is guilty of a
18 business offense and upon conviction thereof shall
19 be fined not more than \$1,000.

20 (f) A credit union shall be reimbursed for costs
21 which are reasonably necessary and which have been
22 directly incurred in searching for, reproducing or
23 transporting books, papers, records or other data of a
24 member required or requested to be produced pursuant to a
25 lawful subpoena, summons, warrant or court order. The
26 Director may determine, by rule, the rates and conditions
27 under which payment shall be made. Delivery of requested
28 documents may be delayed until final reimbursement of all
29 costs is received.

30 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;
31 92-483, eff. 8-23-01.)