

1 AN ACT concerning 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) For the purpose of this Section, the term "financial
9 records" means any original, any copy, or any summary of:

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

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

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

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

22 (b) This Section does not prohibit:

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

29 (2) The examination of any financial records by, or
30 the furnishing of financial records by a bank to, any
31 officer, employee or agent of (i) the Commissioner of

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

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

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

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

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

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

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

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

34 (10) The furnishing of information under the

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

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

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

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

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

34 (15) The exchange in the regular course of business

1 of information between a bank and any commonly owned
2 affiliate of the bank, subject to the provisions of the
3 Financial Institutions Insurance Sales Law.

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

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

34 (A) servicing or processing a financial

1 product or service requested or authorized by the
2 customer;

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

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

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

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

15 (19) (a) The disclosure of financial records or
16 information related to a private label credit program
17 between a financial institution and a private label party
18 in connection with that private label credit program.
19 Such information is limited to outstanding balance,
20 available credit, payment and performance and account
21 history, product references, purchase information, and
22 information related to the identity of the customer.

23 (b) (1) For purposes of this paragraph (19) of
24 subsection (b) of Section 48.1, a "private label credit
25 program" means a credit program involving a financial
26 institution and a private label party that is used by a
27 customer of the financial institution and the private
28 label party primarily for payment for goods or services
29 sold, manufactured, or distributed by a private label
30 party.

31 (2) For purposes of this paragraph (19) of
32 subsection (b) of Section 48.1, a "private label party"
33 means, with respect to a private label credit program,
34 any of the following: a retailer, a merchant, a

1 manufacturer, a trade group, or any such person's
2 affiliate, subsidiary, member, agent, or service
3 provider.

4 (20) The disclosure of financial records or
5 information to the extent authorized under Title V of the
6 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq.

7 (c) Except as otherwise provided by this Act, a bank may
8 not disclose to any person, except to the customer or his
9 duly authorized agent, any financial records or financial
10 information obtained from financial records relating to that
11 customer of that bank unless:

12 (1) the customer has authorized disclosure to the
13 person;

14 (2) the financial records are disclosed in response
15 to a lawful subpoena, summons, warrant or court order
16 which meets the requirements of subsection (d) of this
17 Section; or

18 (3) the bank is attempting to collect an obligation
19 owed to the bank and the bank complies with the
20 provisions of Section 21 of the Consumer Fraud and
21 Deceptive Business Practices Act.

22 (d) A bank shall disclose financial records under
23 paragraph (2) of subsection (c) of this Section under a
24 lawful subpoena, summons, warrant, or court order only after
25 the bank mails a copy of the subpoena, summons, warrant, or
26 court order to the person establishing the relationship with
27 the bank, if living, and, otherwise his personal
28 representative, if known, at his last known address by first
29 class mail, postage prepaid, unless the bank is specifically
30 prohibited from notifying the person by order of court or by
31 applicable State or federal law. A bank shall not mail a
32 copy of a subpoena to any person pursuant to this subsection
33 if the subpoena was issued by a grand jury under the
34 Statewide Grand Jury Act.

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

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

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

17 (Source: P.A. 91-330, eff. 7-29-99; 91-929, eff. 12-15-00;
18 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

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

21 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

22 Sec. 3-8. Access to books and records; communication
23 with members.

24 (a) Every member or holder of capital shall have the
25 right to inspect the books and records of the association
26 that pertain to his account. Otherwise, the right of
27 inspection and examination of the books and records shall be
28 limited as provided in this Act, and no other person shall
29 have access to the books and records or shall be entitled to
30 a list of the members.

31 (b) For the purpose of this Section, the term "financial
32 records" means any original, any copy, or any summary of (i)

1 a document granting signature authority over a deposit or
2 account; (ii) a statement, ledger card, or other record on
3 any deposit or account that shows each transaction in or with
4 respect to that account; (iii) a check, draft, or money order
5 drawn on an association or issued and payable by an
6 association; or (iv) any other item containing information
7 pertaining to any relationship established in the ordinary
8 course of an association's business between an association
9 and its customer, including financial statements or other
10 financial information provided by the member or holder of
11 capital.

12 (c) This Section does not prohibit:

13 (1) The preparation, examination, handling, or
14 maintenance of any financial records by any officer,
15 employee, or agent of an association having custody of
16 those records or the examination of those records by a
17 certified public accountant engaged by the association to
18 perform an independent audit.

19 (2) The examination of any financial records by, or
20 the furnishing of financial records by an association to,
21 any officer, employee, or agent of the Commissioner of
22 Banks and Real Estate, Federal Savings and Loan Insurance
23 Corporation and its successors, Federal Deposit Insurance
24 Corporation, Resolution Trust Corporation and its
25 successors, Federal Home Loan Bank Board and its
26 successors, Office of Thrift Supervision, Federal Housing
27 Finance Board, Board of Governors of the Federal Reserve
28 System, any Federal Reserve Bank, or the Office of the
29 Comptroller of the Currency for use solely in the
30 exercise of his duties as an officer, employee, or agent.

31 (3) The publication of data furnished from
32 financial records relating to members or holders of
33 capital where the data cannot be identified to any
34 particular member, holder of capital, or account.

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

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

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

16 (7) The furnishing of information to the
17 appropriate law enforcement authorities where the
18 association reasonably believes it has been the victim of
19 a crime.

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

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

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

29 (11) The furnishing of information pursuant to any
30 other statute that by its terms or by regulations
31 promulgated thereunder requires the disclosure of
32 financial records other than by subpoena, summons,
33 warrant, or court order.

34 (12) The exchange of information between an

1 association and an affiliate of the association; as used
2 in this item, "affiliate" includes any company,
3 partnership, or organization that controls, is controlled
4 by, or is under common control with an association.

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

25 (14) The furnishing of information to law
26 enforcement authorities, the Illinois Department on Aging
27 and its regional administrative and provider agencies,
28 the Department of Human Services Office of Inspector
29 General, or public guardians, if the association suspects
30 that a customer who is an elderly or disabled person has
31 been or may become the victim of financial exploitation.
32 For the purposes of this item (14), the term: (i)
33 "elderly person" means a person who is 60 or more years
34 of age, (ii) "disabled person" means a person who has or

1 reasonably appears to the association to have a physical
2 or mental disability that impairs his or her ability to
3 seek or obtain protection from or prevent financial
4 exploitation, and (iii) "financial exploitation" means
5 tortious or illegal use of the assets or resources of an
6 elderly or disabled person, and includes, without
7 limitation, misappropriation of the elderly or disabled
8 person's assets or resources by undue influence, breach
9 of fiduciary relationship, intimidation, fraud,
10 deception, extortion, or the use of assets or resources
11 in any manner contrary to law. An association or person
12 furnishing information pursuant to this item (14) shall
13 be entitled to the same rights and protections as a
14 person furnishing information under the Elder Abuse and
15 Neglect Act and the Illinois Domestic Violence Act of
16 1986.

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

21 (A) servicing or processing a financial
22 product or service requested or authorized by the
23 member or holder of capital;

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

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

30 Nothing in this item (15), however, authorizes the
31 sale of the financial records or information of a member
32 or holder of capital without the consent of the member or
33 holder of capital.

34 (16) The disclosure of financial records or

1 information as necessary to protect against or prevent
2 actual or potential fraud, unauthorized transactions,
3 claims, or other liability.

4 (17) (a) The disclosure of financial records or
5 information related to a private label credit program
6 between a financial institution and a private label party
7 in connection with that private label credit program.
8 Such information is limited to outstanding balance,
9 available credit, payment and performance and account
10 history, product references, purchase information, and
11 information related to the identity of the customer.

12 (b) (1) For purposes of this paragraph (17) of
13 subsection (c) of Section 3-8, a "private label credit
14 program" means a credit program involving a financial
15 institution and a private label party that is used by a
16 customer of the financial institution and the private
17 label party primarily for payment for goods or services
18 sold, manufactured, or distributed by a private label
19 party.

20 (2) For purposes of this paragraph (17) of
21 subsection (c) of Section 3-8, a "private label party"
22 means, with respect to a private label credit program,
23 any of the following: a retailer, a merchant, a
24 manufacturer, a trade group, or any such person's
25 affiliate, subsidiary, member, agent, or service
26 provider.

27 (18) The disclosure of financial records or
28 information to the extent authorized under Title V of the
29 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq.

30 (d) An association may not disclose to any person,
31 except to the member or holder of capital or his duly
32 authorized agent, any financial records relating to that
33 member or holder of capital of that association unless:

34 (1) The member or holder of capital has authorized

1 disclosure to the person; or

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

6 (e) An association shall disclose financial records
7 under subsection (d) of this Section pursuant to a lawful
8 subpoena, summons, warrant, or court order only after the
9 association mails a copy of the subpoena, summons, warrant,
10 or court order to the person establishing the relationship
11 with the association, if living, and, otherwise, his personal
12 representative, if known, at his last known address by first
13 class mail, postage prepaid, unless the association is
14 specifically prohibited from notifying that person by order
15 of court.

16 (f) (1) Any officer or employee of an association who
17 knowingly and willfully furnishes financial records in
18 violation of this Section is guilty of a business offense
19 and, upon conviction, shall be fined not more than \$1,000.

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

25 (g) However, if any member desires to communicate with
26 the other members of the association with reference to any
27 question pending or to be presented at a meeting of the
28 members, the association shall give him upon request a
29 statement of the approximate number of members entitled to
30 vote at the meeting and an estimate of the cost of preparing
31 and mailing the communication. The requesting member then
32 shall submit the communication to the Commissioner who, if he
33 finds it to be appropriate and truthful, shall direct that it
34 be prepared and mailed to the members upon the requesting

1 member's payment or adequate provision for payment of the
2 expenses of preparation and mailing.

3 (h) An association shall be reimbursed for costs that
4 are necessary and that have been directly incurred in
5 searching for, reproducing, or transporting books, papers,
6 records, or other data of a customer required to be
7 reproduced pursuant to a lawful subpoena, warrant, or court
8 order.

9 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01;
10 92-543, eff. 6-12-02.)

11 Section 15. The Savings Bank Act is amended by changing
12 Section 4013 as follows:

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

14 Sec. 4013. Access to books and records; communication
15 with members and shareholders.

16 (a) Every member or shareholder shall have the right to
17 inspect books and records of the savings bank that pertain to
18 his accounts. Otherwise, the right of inspection and
19 examination of the books and records shall be limited as
20 provided in this Act, and no other person shall have access
21 to the books and records nor shall be entitled to a list of
22 the members or shareholders.

23 (b) For the purpose of this Section, the term "financial
24 records" means any original, any copy, or any summary of (1)
25 a document granting signature authority over a deposit or
26 account; (2) a statement, ledger card, or other record on any
27 deposit or account that shows each transaction in or with
28 respect to that account; (3) a check, draft, or money order
29 drawn on a savings bank or issued and payable by a savings
30 bank; or (4) any other item containing information pertaining
31 to any relationship established in the ordinary course of a
32 savings bank's business between a savings bank and its

1 customer, including financial statements or other financial
2 information provided by the member or shareholder.

3 (c) This Section does not prohibit:

4 (1) The preparation examination, handling, or
5 maintenance of any financial records by any officer,
6 employee, or agent of a savings bank having custody of
7 records or examination of records by a certified public
8 accountant engaged by the savings bank to perform an
9 independent audit.

10 (2) The examination of any financial records by, or
11 the furnishing of financial records by a savings bank to,
12 any officer, employee, or agent of the Commissioner of
13 Banks and Real Estate or the Federal Deposit Insurance
14 Corporation for use solely in the exercise of his duties
15 as an officer, employee, or agent.

16 (3) The publication of data furnished from
17 financial records relating to members or holders of
18 capital where the data cannot be identified to any
19 particular member, shareholder, or account.

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

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

25 (6) The exchange in the regular course of business
26 of (i) credit information between a savings bank and
27 other savings banks or financial institutions or
28 commercial enterprises, directly or through a consumer
29 reporting agency or (ii) financial records or information
30 derived from financial records between a savings bank and
31 other savings banks or financial institutions or
32 commercial enterprises for the purpose of conducting due
33 diligence pursuant to a purchase or sale involving the
34 savings bank or assets or liabilities of the savings

1 bank.

2 (7) The furnishing of information to the
3 appropriate law enforcement authorities where the savings
4 bank reasonably believes it has been the victim of a
5 crime.

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

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

11 (10) The furnishing of information pursuant to the
12 federal "Currency and Foreign Transactions Reporting
13 Act", (Title 31, United States Code, Section 1051 et
14 seq.).

15 (11) The furnishing of information pursuant to any
16 other statute which by its terms or by regulations
17 promulgated thereunder requires the disclosure of
18 financial records other than by subpoena, summons,
19 warrant, or court order.

20 (12) The furnishing of information in accordance
21 with the federal Personal Responsibility and Work
22 Opportunity Reconciliation Act of 1996. Any savings bank
23 governed by this Act shall enter into an agreement for
24 data exchanges with a State agency provided the State
25 agency pays to the savings bank a reasonable fee not to
26 exceed its actual cost incurred. A savings bank
27 providing information in accordance with this item shall
28 not be liable to any account holder or other person for
29 any disclosure of information to a State agency, for
30 encumbering or surrendering any assets held by the
31 savings bank in response to a lien or order to withhold
32 and deliver issued by a State agency, or for any other
33 action taken pursuant to this item, including individual
34 or mechanical errors, provided the action does not

1 constitute gross negligence or willful misconduct. A
2 savings bank shall have no obligation to hold, encumber,
3 or surrender assets until it has been served with a
4 subpoena, summons, warrant, court or administrative
5 order, lien, or levy.

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

32 (14) The disclosure of financial records or
33 information as necessary to effect, administer, or
34 enforce a transaction requested or authorized by the

1 member or holder of capital, or in connection with:

2 (A) servicing or processing a financial
3 product or service requested or authorized by the
4 member or holder of capital;

5 (B) maintaining or servicing an account of a
6 member or holder of capital with the savings bank;
7 or

8 (C) a proposed or actual securitization or
9 secondary market sale (including sales of servicing
10 rights) related to a transaction of a member or
11 holder of capital.

12 Nothing in this item (14), however, authorizes the
13 sale of the financial records or information of a member
14 or holder of capital without the consent of the member or
15 holder of capital.

16 (15) The exchange in the regular course of business
17 of information between a savings bank and any commonly
18 owned affiliate of the savings bank, subject to the
19 provisions of the Financial Institutions Insurance Sales
20 Law.

21 (16) The disclosure of financial records or
22 information as necessary to protect against or prevent
23 actual or potential fraud, unauthorized transactions,
24 claims, or other liability.

25 (17) (a) The disclosure of financial records or
26 information related to a private label credit program
27 between a financial institution and a private label party
28 in connection with that private label credit program.
29 Such information is limited to outstanding balance,
30 available credit, payment and performance and account
31 history, product references, purchase information, and
32 information related to the identity of the customer.

33 (b) (1) For purposes of this paragraph (17) of
34 subsection (c) of Section 4013, a "private label credit

1 program" means a credit program involving a financial
2 institution and a private label party that is used by a
3 customer of the financial institution and the private
4 label party primarily for payment for goods or services
5 sold, manufactured, or distributed by a private label
6 party.

7 (2) For purposes of this paragraph (17) of
8 subsection (c) of Section 4013, a "private label party"
9 means, with respect to a private label credit program,
10 any of the following: a retailer, a merchant, a
11 manufacturer, a trade group, or any such person's
12 affiliate, subsidiary, member, agent, or service
13 provider.

14 (18) The disclosure of financial records or
15 information to the extent authorized under Title V of the
16 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq.

17 (d) A savings bank may not disclose to any person,
18 except to the member or holder of capital or his duly
19 authorized agent, any financial records relating to that
20 member or shareholder of the savings bank unless:

21 (1) the member or shareholder has authorized
22 disclosure to the person; or

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

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

1 specifically prohibited from notifying the person by order of
2 court.

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

7 (g) Any person who knowingly and willfully induces or
8 attempts to induce any officer or employee of a savings bank
9 to disclose financial records in violation of this Section is
10 guilty of a business offense and, upon conviction, shall be
11 fined not more than \$1,000.

12 (h) If any member or shareholder desires to communicate
13 with the other members or shareholders of the savings bank
14 with reference to any question pending or to be presented at
15 an annual or special meeting, the savings bank shall give
16 that person, upon request, a statement of the approximate
17 number of members or shareholders entitled to vote at the
18 meeting and an estimate of the cost of preparing and mailing
19 the communication. The requesting member shall submit the
20 communication to the Commissioner who, upon finding it to be
21 appropriate and truthful, shall direct that it be prepared
22 and mailed to the members upon the requesting member's or
23 shareholder's payment or adequate provision for payment of
24 the expenses of preparation and mailing.

25 (i) A savings bank shall be reimbursed for costs that
26 are necessary and that have been directly incurred in
27 searching for, reproducing, or transporting books, papers,
28 records, or other data of a customer required to be
29 reproduced pursuant to a lawful subpoena, warrant, or court
30 order.

31 (j) Notwithstanding the provisions of this Section, a
32 savings bank may sell or otherwise make use of lists of
33 customers' names and addresses. All other information
34 regarding a customer's account are subject to the disclosure

1 provisions of this Section. At the request of any customer,
2 that customer's name and address shall be deleted from any
3 list that is to be sold or used in any other manner beyond
4 identification of the customer's accounts.

5 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01;
6 92-543, eff. 6-12-02.)

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

9 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

11 (1) A credit union shall establish and maintain books,
12 records, accounting systems and procedures which accurately
13 reflect its operations and which enable the Department to
14 readily ascertain the true financial condition of the credit
15 union and whether it is complying with this Act.

16 (2) A photostatic or photographic reproduction of any
17 credit union records shall be admissible as evidence of
18 transactions with the credit union.

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

32 (b) This Section does not prohibit:

1 (1) The preparation, examination, handling or
2 maintenance of any financial records by any officer,
3 employee or agent of a credit union having custody
4 of such records, or the examination of such records
5 by a certified public accountant engaged by the
6 credit union to perform an independent audit.

7 (2) The examination of any financial records
8 by or the furnishing of financial records by a
9 credit union to any officer, employee or agent of
10 the Department, the National Credit Union
11 Administration, Federal Reserve board or any insurer
12 of share accounts for use solely in the exercise of
13 his duties as an officer, employee or agent.

14 (3) The publication of data furnished from
15 financial records relating to members where the data
16 cannot be identified to any particular customer of
17 account.

18 (4) The making of reports or returns required
19 under Chapter 61 of the Internal Revenue Code of
20 1954.

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

24 (6) The exchange in the regular course of
25 business of (i) credit information between a credit
26 union and other credit unions or financial
27 institutions or commercial enterprises, directly or
28 through a consumer reporting agency or (ii)
29 financial records or information derived from
30 financial records between a credit union and other
31 credit unions or financial institutions or
32 commercial enterprises for the purpose of conducting
33 due diligence pursuant to a merger or a purchase or
34 sale of assets or liabilities of the credit union.

1 (7) The furnishing of information to the
2 appropriate law enforcement authorities where the
3 credit union reasonably believes it has been the
4 victim of a crime.

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

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

10 (10) The furnishing of information pursuant to
11 the federal "Currency and Foreign Transactions
12 Reporting Act", Title 31, United States Code,
13 Section 1051 et sequentia.

14 (11) The furnishing of information pursuant to
15 any other statute which by its terms or by
16 regulations promulgated thereunder requires the
17 disclosure of financial records other than by
18 subpoena, summons, warrant or court order.

19 (12) The furnishing of information in
20 accordance with the federal Personal Responsibility
21 and Work Opportunity Reconciliation Act of 1996. Any
22 credit union governed by this Act shall enter into
23 an agreement for data exchanges with a State agency
24 provided the State agency pays to the credit union a
25 reasonable fee not to exceed its actual cost
26 incurred. A credit union providing information in
27 accordance with this item shall not be liable to any
28 account holder or other person for any disclosure of
29 information to a State agency, for encumbering or
30 surrendering any assets held by the credit union in
31 response to a lien or order to withhold and deliver
32 issued by a State agency, or for any other action
33 taken pursuant to this item, including individual or
34 mechanical errors, provided the action does not

1 constitute gross negligence or willful misconduct. A
2 credit union shall have no obligation to hold,
3 encumber, or surrender assets until it has been
4 served with a subpoena, summons, warrant, court or
5 administrative order, lien, or levy.

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

34 (14) The disclosure of financial records or

1 information as necessary to effect, administer, or
2 enforce a transaction requested or authorized by the
3 member, or in connection with:

4 (A) servicing or processing a financial
5 product or service requested or authorized by
6 the member;

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

9 (C) a proposed or actual securitization
10 or secondary market sale (including sales of
11 servicing rights) related to a transaction of a
12 member.

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

16 (15) The disclosure of financial records or
17 information as necessary to protect against or
18 prevent actual or potential fraud, unauthorized
19 transactions, claims, or other liability.

20 (16) (a) The disclosure of financial records
21 or information related to a private label credit
22 program between a financial institution and a
23 private label party in connection with that private
24 label credit program. Such information is limited to
25 outstanding balance, available credit, payment and
26 performance and account history, product references,
27 purchase information, and information related to the
28 identity of the customer.

29 (b) (1) For purposes of this paragraph (16) of
30 subsection (b) of Section 10, a "private label
31 credit program" means a credit program involving a
32 financial institution and a private label party that
33 is used by a customer of the financial institution
34 and the private label party primarily for payment

1 for goods or services sold, manufactured, or
2 distributed by a private label party.

3 (2) For purposes of this paragraph (16) of
4 subsection (b) of Section 10, a "private label
5 party" means, with respect to a private label credit
6 program, any of the following: a retailer, a
7 merchant, a manufacturer, a trade group, or any such
8 person's affiliate, subsidiary, member, agent, or
9 service provider.

10 (17) The disclosure of financial records or
11 information to the extent authorized under Title V of the
12 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq.

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

18 (1) the member has authorized disclosure to
19 the person;

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

24 (3) the credit union is attempting to collect
25 an obligation owed to the credit union and the
26 credit union complies with the provisions of Section
27 2I of the Consumer Fraud and Deceptive Business
28 Practices Act.

29 (d) A credit union shall disclose financial records
30 under subparagraph (c)(2) of this Section pursuant to a
31 lawful subpoena, summons, warrant or court order only
32 after the credit union mails a copy of the subpoena,
33 summons, warrant or court order to the person
34 establishing the relationship with the credit union, if

1 living, and otherwise his personal representative, if
2 known, at his last known address by first class mail,
3 postage prepaid unless the credit union is specifically
4 prohibited from notifying the person by order of court or
5 by applicable State or federal law. In the case of a
6 grand jury subpoena, a credit union shall not mail a copy
7 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 or notifying the person would
10 constitute a violation of the federal Right to Financial
11 Privacy Act of 1978.

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

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

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

33 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;
34 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.