

AN ACT concerning regulation.

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

Section 5. The Illinois Banking Act is amended by changing Section 48.3 as follows:

(205 ILCS 5/48.3) (from Ch. 17, par. 360.2)

Sec. 48.3. Disclosure of reports of examinations and confidential supervisory information; limitations.

(a) Any report of examination, visitation, or investigation prepared by the Secretary ~~Commissioner~~ under this Act, the Electronic Fund Transfer Act, the Corporate Fiduciary Act, the Illinois Bank Holding Company Act of 1957, and the Foreign Banking Office Act, any report of examination, visitation, or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois State bank in that state, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Secretary ~~Commissioner~~ to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection shall be deemed "confidential supervisory information". Confidential supervisory information shall not

include any information or record routinely prepared by a bank or other financial institution and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule. Confidential supervisory information shall be the property of the Secretary ~~Commissioner~~ and shall only be disclosed under the circumstances and for the purposes set forth in this Section.

The Secretary ~~Commissioner~~ may disclose confidential supervisory information only under the following circumstances:

(1) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to the Board of Governors of the Federal Reserve System, the federal reserve bank of the federal reserve district in which the State bank is located or in which the parent or other affiliate of the State bank is located, any official or examiner thereof duly accredited for the purpose, or any other state regulator, federal regulator, or in the case of a foreign bank possessing a certificate of authority pursuant to the Foreign Banking Office Act or a license pursuant to the Foreign Bank Representative Office Act, the bank regulator in the country where the foreign bank is chartered, that the Secretary ~~Commissioner~~ determines to have an appropriate regulatory interest. Nothing contained in this Act shall be construed to limit the obligation of

any member State bank to comply with the requirements relative to examinations and reports of the Federal Reserve Act and of the Board of Governors of the Federal Reserve System or the federal reserve bank of the federal reserve district in which the bank is located, nor to limit in any way the powers of the Secretary ~~Commissioner~~ with reference to examinations and reports.

(2) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to the United States, any agency thereof that has insured a bank's deposits in whole or in part, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any State bank, deposits in which are to any extent insured by the United States, any agency thereof, nor to limit in any way the powers of the Secretary ~~Commissioner~~ with reference to examination and reports of such bank.

(2.5) The Secretary may furnish confidential supervisory information to a Federal Home Loan Bank in connection with any bank that is a member of the Federal Home Loan Bank or in connection with any application by the bank before the Federal Home Loan Bank. The confidential supervisory information shall remain the property of the Secretary and may not be further disclosed without the Secretary's permission.

(3) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to the appropriate law enforcement authorities when the Secretary ~~Commissioner~~ reasonably believes a bank, which the Secretary ~~Commissioner~~ has caused to be examined, has been a victim of a crime.

(4) The Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a bank or other financial institution, which the Secretary ~~Commissioner~~ has caused to be examined, to be sent to the administrator of the Uniform Disposition of Unclaimed Property Act.

(5) The Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a bank or other financial institution, which the Secretary ~~Commissioner~~ has caused to be examined, relating to its performance of obligations under the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act to the Illinois Department of Revenue.

(6) The Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a bank or other financial institution, which the Secretary ~~Commissioner~~ has caused to be examined, under the federal Currency and Foreign Transactions Reporting Act, Title 31, United States Code, Section 1051 et seq.

(6.5) The Secretary ~~Commissioner~~ may furnish

confidential supervisory information to any other agency or entity that the Secretary ~~Commissioner~~ determines to have a legitimate regulatory interest.

(7) The Secretary ~~Commissioner~~ may furnish confidential supervisory information under any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(8) At the request of the affected bank or other financial institution, the Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a bank or other financial institution, which the Secretary ~~Commissioner~~ has caused to be examined, in connection with the obtaining of insurance coverage or the pursuit of an insurance claim for or on behalf of the bank or other financial institution; provided that, when possible, the Secretary ~~Commissioner~~ shall disclose only relevant information while maintaining the confidentiality of financial records not relevant to such insurance coverage or claim and, when appropriate, may delete identifying data relating to any person or individual.

(9) The Secretary ~~Commissioner~~ may furnish a copy of a report of any examination performed by the Secretary ~~Commissioner~~ of the condition and affairs of any electronic data processing entity to the banks serviced by the electronic data processing entity.

(10) In addition to the foregoing circumstances, the Secretary ~~Commissioner~~ may, but is not required to, furnish confidential supervisory information under the same circumstances authorized for the bank or financial institution pursuant to subsection (b) of this Section, except that the Secretary ~~Commissioner~~ shall provide confidential supervisory information under circumstances described in paragraph (3) of subsection (b) of this Section only upon the request of the bank or other financial institution.

(b) A bank or other financial institution or its officers, agents, and employees may disclose confidential supervisory information only under the following circumstances:

(1) to the board of directors of the bank or other financial institution, as well as the president, vice-president, cashier, and other officers of the bank or other financial institution to whom the board of directors may delegate duties with respect to compliance with recommendations for action, and to the board of directors of a bank holding company that owns at least 80% of the outstanding stock of the bank or other financial institution;

(2) to attorneys for the bank or other financial institution and to a certified public accountant engaged by the State bank or financial institution to perform an independent audit provided that the attorney or certified

public accountant shall not permit the confidential supervisory information to be further disseminated;

(3) to any person who seeks to acquire a controlling interest in, or who seeks to merge with, the bank or financial institution, provided that all attorneys, certified public accountants, officers, agents, or employees of that person shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information therein contained;

(3.5) to a Federal Home Loan Bank of which it is a member;

(4) (blank); or

(5) to the bank's insurance company in relation to an insurance claim or the effort by the bank to procure insurance coverage, provided that, when possible, the bank shall disclose only information that is relevant to the insurance claim or that is necessary to procure the insurance coverage, while maintaining the confidentiality of financial information pertaining to customers. When appropriate, the bank may delete identifying data relating to any person.

The disclosure of confidential supervisory information by a bank or other financial institution pursuant to this subsection (b) and the disclosure of information to the Secretary ~~Commissioner~~ or other regulatory agency in

connection with any examination, visitation, or investigation shall not constitute a waiver of any legal privilege otherwise available to the bank or other financial institution with respect to the information.

(c) (1) Notwithstanding any other provision of this Act or any other law, confidential supervisory information shall be the property of the Secretary ~~Commissioner~~ and shall be privileged from disclosure to any person except as provided in this Section. No person in possession of confidential supervisory information may disclose that information for any reason or under any circumstances not specified in this Section without the prior authorization of the Secretary ~~Commissioner~~. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary ~~Commissioner~~ of the demand, at which time the Secretary ~~Commissioner~~ is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information.

(2) Any request for discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process, shall be made to the Secretary ~~Commissioner~~, and the Secretary ~~Commissioner~~ shall determine within 15 days whether to disclose the information

pursuant to procedures and standards that the Secretary ~~Commissioner~~ shall establish by rule. If the Secretary ~~Commissioner~~ determines that such information will not be disclosed, the Secretary's ~~Commissioner's~~ decision shall be subject to judicial review under the provisions of the Administrative Review Law, and venue shall be in either Sangamon County or Cook County.

(3) Any court order that compels disclosure of confidential supervisory information may be immediately appealed by the Secretary ~~Commissioner~~, and the order shall be automatically stayed pending the outcome of the appeal.

(d) If any officer, agent, attorney, or employee of a bank or financial institution knowingly and willfully furnishes confidential supervisory information in violation of this Section, the Secretary ~~Commissioner~~ may impose a civil monetary penalty up to \$1,000 for the violation against the officer, agent, attorney, or employee.

(Source: P.A. 90-301, eff. 8-1-97; 91-201, eff. 1-1-00.)

Section 10. The Savings Bank Act is amended by changing Section 9012 as follows:

(205 ILCS 205/9012) (from Ch. 17, par. 7309-12)

Sec. 9012. Disclosure of reports of examinations and confidential supervisory information; limitations.

(a) Any report of examination, visitation, or

investigation prepared by the Secretary ~~Commissioner~~ under this Act, any report of examination, visitation, or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois State savings bank in that state, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Secretary ~~Commissioner~~ to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection shall be deemed confidential supervisory information. "Confidential supervisory information" shall not include any information or record routinely prepared by a savings bank and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule. Confidential supervisory information shall be the property of the Secretary ~~Commissioner~~ and shall only be disclosed under the circumstances and for the purposes set forth in this Section.

The Secretary ~~Commissioner~~ may disclose confidential supervisory information only under the following circumstances:

- (1) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to federal and state depository institution regulators, or any official or examiner thereof duly accredited for the purpose. Nothing

contained in this Act shall be construed to limit the obligation of any savings bank to comply with the requirements relative to examinations and reports nor to limit in any way the powers of the Secretary ~~Commissioner~~ relative to examinations and reports.

(2) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to the United States or any agency thereof that to any extent has insured a savings bank's deposits, or any official or examiner thereof duly accredited for the purpose. Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any savings bank in which deposits are to any extent insured by the United States or any agency thereof nor to limit in any way the powers of the Secretary ~~Commissioner~~ with reference to examination and reports of the savings bank.

(2.5) The Secretary may furnish confidential supervisory information to a Federal Home Loan Bank in connection with any savings bank that is a member of the Federal Home Loan Bank or in connection with any application by the savings bank before the Federal Home Loan Bank. The confidential supervisory information shall remain the property of the Secretary and may not be further disclosed without the Secretary's permission.

(3) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to the appropriate

law enforcement authorities when the Secretary ~~Commissioner~~ reasonably believes a savings bank, which the Secretary ~~Commissioner~~ has caused to be examined, has been a victim of a crime.

(4) The Secretary ~~Commissioner~~ may furnish confidential supervisory information related to a savings bank, which the Secretary ~~Commissioner~~ has caused to be examined, to the administrator of the Uniform Disposition of Unclaimed Property Act.

(5) The Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a savings bank, which the Secretary ~~Commissioner~~ has caused to be examined, relating to its performance of obligations under the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act to the Illinois Department of Revenue.

(6) The Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to a savings bank, which the Secretary ~~Commissioner~~ has caused to be examined, under the federal Currency and Foreign Transactions Reporting Act, 31 United States Code, Section 1051 et seq.

(7) The Secretary ~~Commissioner~~ may furnish confidential supervisory information to any other agency or entity that the Secretary ~~Commissioner~~ determines to have a legitimate regulatory interest.

(8) The Secretary ~~Commissioner~~ may furnish confidential supervisory information as otherwise permitted or required by this Act and may furnish confidential supervisory information under any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(9) At the request of the affected savings bank, the Secretary ~~Commissioner~~ may furnish confidential supervisory information relating to the savings bank, which the Secretary ~~Commissioner~~ has caused to be examined, in connection with the obtaining of insurance coverage or the pursuit of an insurance claim for or on behalf of the savings bank; provided that, when possible, the Secretary ~~Commissioner~~ shall disclose only relevant information while maintaining the confidentiality of financial records not relevant to such insurance coverage or claim and, when appropriate, may delete identifying data relating to any person.

(10) The Secretary ~~Commissioner~~ may furnish a copy of a report of any examination performed by the Secretary ~~Commissioner~~ of the condition and affairs of any electronic data processing entity to the savings banks serviced by the electronic data processing entity.

(11) In addition to the foregoing circumstances, the Secretary ~~Commissioner~~ may, but is not required to, furnish

confidential supervisory information under the same circumstances authorized for the savings bank pursuant to subsection (b) of this Section, except that the Secretary ~~Commissioner~~ shall provide confidential supervisory information under circumstances described in paragraph (3) of subsection (b) of this Section only upon the request of the savings bank.

(b) A savings bank or its officers, agents, and employees may disclose confidential supervisory information only under the following circumstances:

(1) to the board of directors of the savings bank, as well as the president, vice-president, cashier, and other officers of the savings bank to whom the board of directors may delegate duties with respect to compliance with recommendations for action, and to the board of directors of a savings bank holding company that owns at least 80% of the outstanding stock of the savings bank or other financial institution.

(2) to attorneys for the savings bank and to a certified public accountant engaged by the savings bank to perform an independent audit; provided that the attorney or certified public accountant shall not permit the confidential supervisory information to be further disseminated.

(3) to any person who seeks to acquire a controlling interest in, or who seeks to merge with, the savings bank;

provided that the person shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information other than to attorneys, certified public accountants, officers, agents, or employees of that person who likewise shall agree to be bound to respect the confidentiality of the confidential supervisory information and to not further disseminate the information.

(4) to the savings bank's insurance company, if the supervisory information contains information that is otherwise unavailable and is strictly necessary to obtaining insurance coverage or pursuing an insurance claim for or on behalf of the savings bank; provided that, when possible, the savings bank shall disclose only information that is relevant to obtaining insurance coverage or pursuing an insurance claim, while maintaining the confidentiality of financial information pertaining to customers; and provided further that, when appropriate, the savings bank may delete identifying data relating to any person.

(5) to a Federal Home Loan Bank of which it is a member.

The disclosure of confidential supervisory information by a savings bank pursuant to this subsection (b) and the disclosure of information to the Secretary ~~Commissioner~~ or other regulatory agency in connection with any examination,

visitation, or investigation shall not constitute a waiver of any legal privilege otherwise available to the savings bank with respect to the information.

(c) (1) Notwithstanding any other provision of this Act or any other law, confidential supervisory information shall be the property of the Secretary ~~Commissioner~~ and shall be privileged from disclosure to any person except as provided in this Section. No person in possession of confidential supervisory information may disclose that information for any reason or under any circumstances not specified in this Section without the prior authorization of the Secretary ~~Commissioner~~. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary ~~Commissioner~~ of the demand, at which time the Secretary ~~Commissioner~~ is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information.

(2) Any request for discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process, shall be made to the Secretary ~~Commissioner~~, and the Secretary ~~Commissioner~~ shall determine within 15 days whether to disclose the information pursuant to procedures and standards that the Secretary

~~Commissioner~~ shall establish by rule. If the Secretary ~~Commissioner~~ determines that such information will not be disclosed, the Secretary's ~~Commissioner's~~ decision shall be subject to judicial review under the provisions of the Administrative Review Law, and venue shall be in either Sangamon County or Cook County.

(3) Any court order that compels disclosure of confidential supervisory information may be immediately appealed by the Secretary ~~Commissioner~~, and the order shall be automatically stayed pending the outcome of the appeal.

(d) If any officer, agent, attorney, or employee of a savings bank knowingly and willfully furnishes confidential supervisory information in violation of this Section, the Secretary ~~Commissioner~~ may impose a civil monetary penalty up to \$1,000 for the violation against the officer, agent, attorney, or employee.

(e) Subject to the limits of this Section, the Secretary ~~Commissioner~~ also may promulgate regulations to set procedures and standards for disclosure of the following items:

(1) All fixed orders and opinions made in cases of appeals of the Secretary's ~~Commissioner's~~ actions.

(2) Statements of policy and interpretations adopted by the Secretary's ~~Commissioner's~~ office, but not otherwise made public.

(3) Nonconfidential portions of application files, including applications for new charters. The Secretary

~~Commissioner~~ shall specify by rule as to what part of the files are confidential.

(4) Quarterly reports of income, deposits, and financial condition.

(Source: P.A. 93-271, eff. 7-22-03.)

Section 15. The Illinois Credit Union Act is amended by changing Section 9.1 as follows:

(205 ILCS 305/9.1)

Sec. 9.1. Disclosures of reports of examinations and confidential supervisory information; limitations.

(1) Any report of examination, visitation, or investigation prepared by the Secretary under this Act or by the state regulatory authority charged with enforcing the Electronic Fund Transfer Act or the Corporate Fiduciary Act or by the state regulatory authority of another state that examines an office of an Illinois credit union in that state, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Secretary to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection shall be deemed "confidential supervisory information". Confidential supervisory information shall not include any information or record routinely prepared by a

credit union and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule.

(2) Confidential supervisory information is privileged from discovery and shall only be disclosed under the circumstances and for the purposes set forth in this Section.

(3) Relevant confidential supervisory information may be disclosed under a statute that by its terms or by rules promulgated thereunder requires the disclosure of confidential supervisory information other than by subpoena, summons, warrant, or court order; to the appropriate law enforcement authorities when the Secretary or the credit union reasonably believes the credit union, which the Secretary has caused to be examined, has been a victim of a crime; to other agencies or entities having a legitimate regulatory interest, including, but not limited to, a Federal Home Loan Bank; to the credit union's board, officers, retained professionals, and insurers; to persons seeking to merge with or purchase all or part of the assets of the credit union; and where disclosure is otherwise required for the benefit of the credit union. Disclosure of confidential supervisory information to these persons does not constitute a waiver of the legal privilege otherwise available with respect to the information.

(4) A person to whom confidential supervisory information is disclosed shall not further disseminate confidential supervisory information.

(5) (a) Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary of the demand, at which time the Secretary is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information.

(b) Any request for discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process, shall be made to the Secretary, and the Secretary shall determine within 15 days whether to disclose the information pursuant to procedures and standards that the Secretary shall establish by rule. If the Secretary determines that such information will not be disclosed, the Secretary's decision shall be subject to judicial review under the provisions of the Administrative Review Law, and venue shall be in either Sangamon County or Cook County.

(c) Any court order that compels disclosure of confidential supervisory information may be immediately appealed by the Secretary and the order shall be automatically stayed pending the outcome of the appeal.

(Source: P.A. 97-133, eff. 1-1-12.)

Section 99. Effective date. This Act takes effect upon

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becoming law.