



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB4689

Introduced 1/21/2022, by Rep. Mark L. Walker

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/32	from Ch. 17, par. 339
205 ILCS 5/48.1	from Ch. 17, par. 360
205 ILCS 705/10	
755 ILCS 5/6-15	from Ch. 110 1/2, par. 6-15

Amends the Illinois Banking Act. In provisions concerning customer financial records and confidentiality, provides that the language does not prohibit the furnishing of financial information to the executor, executrix, administrator, or other lawful representative of the estate of a customer. Makes other changes. Amends the Financial Institutions Electronic Documents and Digital Signatures Act. In provisions concerning electronic notices, provides that consent to electronic transactions given by the customer pursuant to the federal Electronic Signatures in Global and National Commerce Act shall satisfy applicable consent requirements. Amends the Probate Act of 1975. Provides that any person doing business or performing transactions on behalf of or at the direction of an executor or administrator with a will annexed shall be entitled to the presumption that the executor or administrator with the will annexed is lawfully authorized to conduct the business or perform the transaction without such person investigating the source of the authority and without verifying that the actions of the executor or administrator with the will annexed comply with a will or any order of the probate court, unless such person has actual knowledge to the contrary.

LRB102 24081 BMS 33302 b

1 AN ACT concerning finances.

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 changing  
5 Sections 32 and 48.1 as follows:

6 (205 ILCS 5/32) (from Ch. 17, par. 339)

7 Sec. 32. Basic loaning limits. The liabilities outstanding  
8 at one time to a state bank of a person for money borrowed,  
9 including the liabilities of a partnership or joint venture in  
10 the liabilities of the several members thereof, shall not  
11 exceed 25% of the amount of the unimpaired capital and  
12 unimpaired surplus of the bank.

13 The liabilities to any state bank of a person may exceed  
14 25% of the unimpaired capital and unimpaired surplus of the  
15 bank, provided that (i) the excess amount from time to time  
16 outstanding is fully secured by readily marketable collateral  
17 having a market value, as determined by reliable and  
18 continuously available quotations, at least equal to the  
19 excess amount outstanding; and (ii) the total liabilities  
20 shall not exceed 30% of the unimpaired capital and unimpaired  
21 surplus of the bank.

22 The following shall not be considered as money borrowed  
23 within the meaning of this Section:

1           (1) The purchase or discount of bills of exchange  
2 drawn in good faith against actually existing values.

3           (2) The purchase or discount of commercial or business  
4 paper actually owned by the person negotiating the same.

5           (3) The purchase of or loaning money in exchange for  
6 evidences of indebtedness which shall be secured by  
7 mortgage or trust deed upon ~~productive~~ real estate the  
8 value of which, as ascertained by the oath of 2 qualified  
9 appraisers, neither of whom shall be an officer, director,  
10 or employee of the bank or of any subsidiary or affiliate  
11 of the bank, is double the amount of the principal debt  
12 secured at the time of the original purchase of evidence  
13 of indebtedness or loan of money and which is still double  
14 the amount of the principal debt secured at the time of any  
15 renewal of the indebtedness or loan, and which mortgage or  
16 trust deed is shown, either by a guaranty policy of a title  
17 guaranty company approved by the Commissioner or by a  
18 registrar's certificate of title in any county having  
19 adopted the provisions of the Registered Titles (Torrens)  
20 Act, or by the opinion of an attorney-at-law, to be a first  
21 lien upon the real estate therein described, and real  
22 estate shall not be deemed to be encumbered within the  
23 meaning of this subsection (3) by reason of the existence  
24 of instruments reserving rights-of-way, sewer rights and  
25 rights in wells, building restrictions or other  
26 restrictive covenants, nor by reason of the fact it is

1 subject to lease under which rents or profits are reserved  
2 by the owners.

3 (4) The purchase of marketable investment securities.

4 (5) The liability to a state bank of a person who is an  
5 accommodation party to, or guarantor of payment for, any  
6 evidence of indebtedness of another person who obtains a  
7 loan from or discounts paper with or sells paper to the  
8 state bank; but the total liability to a state bank of a  
9 person as an accommodation party or guarantor of payment  
10 in respect of such evidences of indebtedness shall not  
11 exceed 25% of the amount of the unimpaired capital and  
12 unimpaired surplus of the bank; provided however that the  
13 liability of an accommodation party to paper excepted  
14 under subsection 2 of this Section shall not be included  
15 in the computation of this limitation.

16 (6) The liability to a state bank of a person, who as a  
17 guarantor, guarantees collection of the obligation or  
18 indebtedness of another person.

19 The total liabilities of any one person, for money  
20 borrowed, or otherwise, shall not exceed 25% of the deposits  
21 of the bank, and those total liabilities shall at no time  
22 exceed 50% of the amount of the unimpaired capital and  
23 unimpaired surplus of the bank. Absent an actual unremedied  
24 breach, the obligation or responsibility for breach of  
25 warranties or representations, express or implied, of a person  
26 transferring negotiable or non-negotiable paper to a bank

1 without recourse and without guaranty of payment, shall not be  
2 included in determining the amount of liabilities of the  
3 person to the bank for borrowed money or otherwise; and in the  
4 event of and to the extent of an unremedied breach, the amount  
5 remaining unpaid for principal and interest on the paper in  
6 respect of which the unremedied breach exists shall thereafter  
7 for the purpose of determining whether subsequent transactions  
8 giving rise to additional liability of the person to the state  
9 bank for borrowed money or otherwise are within the  
10 limitations of Sections 32 through 34 of this Act, be included  
11 in computing the amount of liabilities of the person for  
12 borrowed money or otherwise.

13 The liability of a person to a state bank on account of  
14 acceptances made or issued by the state bank on behalf of the  
15 person shall be included in the computation of the total  
16 liabilities of the person for money borrowed except to the  
17 extent the acceptances grow out of transactions of the  
18 character described in subsection (6) of Section 34 of this  
19 Act and are otherwise within the limitations of that  
20 subsection; provided nevertheless that any such excepted  
21 acceptances acquired by the state bank which accepted the same  
22 shall be included in the computation of the liabilities of the  
23 person to the state bank for money borrowed.

24 The Secretary may adopt rules to address the funding by  
25 banks of any loan commitment, when such funding would involve  
26 additional extensions of credit to be made after the

1 unimpaired capital and unimpaired surplus of the bank have  
2 decreased and the Secretary determines that such decrease in  
3 unimpaired capital and unimpaired surplus would cause the  
4 additional extensions of credit to result in an unsafe and  
5 unsound condition.

6 (Source: P.A. 96-1365, eff. 7-28-10.)

7 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

8 Sec. 48.1. Customer financial records; confidentiality.

9 (a) For the purpose of this Section, the term "financial  
10 records" means any original, any copy, or any 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 or  
17 issued and payable by a bank; or

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

1 employee or agent of a bank having custody of the records,  
2 or the examination of the records by a certified public  
3 accountant engaged by the bank to perform an independent  
4 audit.

5 (2) The examination of any financial records by, or  
6 the furnishing of financial records by a bank to, any  
7 officer, employee or agent of (i) the Commissioner of  
8 Banks and Real Estate, (ii) after May 31, 1997, a state  
9 regulatory authority authorized to examine a branch of a  
10 State bank located in another state, (iii) the Comptroller  
11 of the Currency, (iv) the Federal Reserve Board, or (v)  
12 the Federal Deposit Insurance Corporation for use solely  
13 in the exercise of his duties as an officer, employee, or  
14 agent.

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

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

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

23 (6) The exchange in the regular course of business of  
24 (i) credit information between a bank and other banks or  
25 financial institutions or commercial enterprises, directly  
26 or through a consumer reporting agency or (ii) financial

1 records or information derived from financial records  
2 between a bank and other banks or financial institutions  
3 or commercial enterprises for the purpose of conducting  
4 due diligence pursuant to a purchase or sale involving the  
5 bank or assets or liabilities of the bank.

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

9 (8) The furnishing of information under the Revised  
10 Uniform Unclaimed Property Act.

11 (9) The furnishing of information under the Illinois  
12 Income Tax Act and the Illinois Estate and  
13 Generation-Skipping Transfer Tax Act.

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

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

21 (12) The furnishing of information about the existence  
22 of an account of a person to a judgment creditor of that  
23 person who has made a written request for that  
24 information.

25 (13) The exchange in the regular course of business of  
26 information between commonly owned banks in connection



1 with a transaction authorized under paragraph (23) of  
2 Section 5 and conducted at an affiliate facility.

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

21 (15) The exchange in the regular course of business of  
22 information between a bank and any commonly owned  
23 affiliate of the bank, subject to the provisions of the  
24 Financial Institutions Insurance Sales Law.

25 (16) The furnishing of information to law enforcement  
26 authorities, the Illinois Department on Aging and its

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

25 (17) The disclosure of financial records or  
26 information as necessary to effect, administer, or enforce

1 a transaction requested or authorized by the customer, or  
2 in connection with:

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

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

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

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

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

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

25 (B) (1) For purposes of this paragraph (19) of  
26 subsection (b) of Section 48.1, 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 (19) of subsection  
8 (b) of Section 48.1, a "private label party" means, with  
9 respect to a private label credit program, any of the  
10 following: a retailer, a merchant, a manufacturer, a trade  
11 group, or any such person's affiliate, subsidiary, member,  
12 agent, or service provider.

13 (20) (A) The furnishing of financial records of a  
14 customer to the Department to aid the Department's initial  
15 determination or subsequent re-determination of the  
16 customer's eligibility for Medicaid and Medicaid long-term  
17 care benefits for long-term care services, provided that  
18 the bank receives the written consent and authorization of  
19 the customer, which shall:

20 (1) have the customer's signature notarized;

21 (2) be signed by at least one witness who  
22 certifies that he or she believes the customer to be of  
23 sound mind and memory;

24 (3) be tendered to the bank at the earliest  
25 practicable time following its execution,  
26 certification, and notarization;

1                   (4) specifically limit the disclosure of the  
 2                   customer's financial records to the Department; and  
 3                   (5) be in substantially the following form:

4                                   CUSTOMER CONSENT AND AUTHORIZATION  
 5                                   FOR RELEASE OF FINANCIAL RECORDS

6       I, ..... , hereby authorize  
 7                   (Name of Customer)

8       .....  
 9       (Name of Financial Institution)

10      .....  
 11      (Address of Financial Institution)

12      to disclose the following financial records:

13      any and all information concerning my deposit, savings, money  
 14      market, certificate of deposit, individual retirement,  
 15      retirement plan, 401(k) plan, incentive plan, employee benefit  
 16      plan, mutual fund and loan accounts (including, but not  
 17      limited to, any indebtedness or obligation for which I am a  
 18      co-borrower, co-obligor, guarantor, or surety), and any and  
 19      all other accounts in which I have an interest and any other  
 20      information regarding me in the possession of the Financial

1 Institution,

2 to the Illinois Department of Human Services or the Illinois  
3 Department of Healthcare and Family Services, or both ("the  
4 Department"), for the following purpose(s):

5 to aid in the initial determination or re-determination by the  
6 State of Illinois of my eligibility for Medicaid long-term  
7 care benefits, pursuant to applicable law.

8 I understand that this Consent and Authorization may be  
9 revoked by me in writing at any time before my financial  
10 records, as described above, are disclosed, and that this  
11 Consent and Authorization is valid until the Financial  
12 Institution receives my written revocation. This Consent and  
13 Authorization shall constitute valid authorization for the  
14 Department identified above to inspect all such financial  
15 records set forth above, and to request and receive copies of  
16 such financial records from the Financial Institution (subject  
17 to such records search and reproduction reimbursement policies  
18 as the Financial Institution may have in place). An executed  
19 copy of this Consent and Authorization shall be sufficient and  
20 as good as the original and permission is hereby granted to  
21 honor a photostatic or electronic copy of this Consent and  
22 Authorization. Disclosure is strictly limited to the  
23 Department identified above and no other person or entity

1 shall receive my financial records pursuant to this Consent  
 2 and Authorization. By signing this form, I agree to indemnify  
 3 and hold the Financial Institution harmless from any and all  
 4 claims, demands, and losses, including reasonable attorneys  
 5 fees and expenses, arising from or incurred in its reliance on  
 6 this Consent and Authorization. As used herein, "Customer"  
 7 shall mean "Member" if the Financial Institution is a credit  
 8 union.

9 .....  
 10

(Date)

(Signature of Customer)

11 .....  
 12

12 .....  
 13

(Address of Customer)

14 .....  
 15

(Customer's birth date)

16 .....  
 (month/day/year)

17 The undersigned witness certifies that .....,  
 18 known to me to be the same person whose name is subscribed as  
 19 the customer to the foregoing Consent and Authorization,  
 20 appeared before me and the notary public and acknowledged  
 21 signing and delivering the instrument as his or her free and  
 22 voluntary act for the uses and purposes therein set forth. I

1 believe him or her to be of sound mind and memory. The  
 2 undersigned witness also certifies that the witness is not an  
 3 owner, operator, or relative of an owner or operator of a  
 4 long-term care facility in which the customer is a patient or  
 5 resident.

6 Dated: .....

7 (Signature of Witness)

8 .....

9 (Print Name of Witness)

10 .....

11 .....

12 (Address of Witness)

13 State of Illinois)

14 ) ss.

15 County of .....

16 The undersigned, a notary public in and for the above county  
 17 and state, certifies that ....., known to me to be the  
 18 same person whose name is subscribed as the customer to the  
 19 foregoing Consent and Authorization, appeared before me  
 20 together with the witness, ....., in person and  
 21 acknowledged signing and delivering the instrument as the free



1 and voluntary act of the customer for the uses and purposes  
2 therein set forth.

3 Dated: .....

4 Notary Public: .....

5 My commission expires: .....

6 (B) In no event shall the bank distribute the  
7 customer's financial records to the long-term care  
8 facility from which the customer seeks initial or  
9 continuing residency or long-term care services.

10 (C) A bank providing financial records of a customer  
11 in good faith relying on a consent and authorization  
12 executed and tendered in accordance with this paragraph  
13 (20) shall not be liable to the customer or any other  
14 person in relation to the bank's disclosure of the  
15 customer's financial records to the Department. The  
16 customer signing the consent and authorization shall  
17 indemnify and hold the bank harmless that relies in good  
18 faith upon the consent and authorization and incurs a loss  
19 because of such reliance. The bank recovering under this  
20 indemnification provision shall also be entitled to  
21 reasonable attorney's fees and the expenses of recovery.

22 (D) A bank shall be reimbursed by the customer for all  
23 costs reasonably necessary and directly incurred in  
24 searching for, reproducing, and disclosing a customer's

1 financial records required or requested to be produced  
2 pursuant to any consent and authorization executed under  
3 this paragraph (20). The requested financial records shall  
4 be delivered to the Department within 10 days after  
5 receiving a properly executed consent and authorization or  
6 at the earliest practicable time thereafter if the  
7 requested records cannot be delivered within 10 days, but  
8 delivery may be delayed until the final reimbursement of  
9 all costs is received by the bank. The bank may honor a  
10 photostatic or electronic copy of a properly executed  
11 consent and authorization.

12 (E) Nothing in this paragraph (20) shall impair,  
13 abridge, or abrogate the right of a customer to:

14 (1) directly disclose his or her financial records  
15 to the Department or any other person; or

16 (2) authorize his or her attorney or duly  
17 appointed agent to request and obtain the customer's  
18 financial records and disclose those financial records  
19 to the Department.

20 (F) For purposes of this paragraph (20), "Department"  
21 means the Department of Human Services and the Department  
22 of Healthcare and Family Services or any successor  
23 administrative agency of either agency.

24 (21) The furnishing of financial information to the  
25 executor, executrix, administrator, or other lawful  
26 representative of the estate of a customer.

1 (c) Except as otherwise provided by this Act, a bank may  
2 not disclose to any person, except to the customer or his duly  
3 authorized agent, any financial records or financial  
4 information obtained from financial records relating to that  
5 customer of that bank unless:

6 (1) the customer has authorized disclosure to the  
7 person;

8 (2) the financial records are disclosed in response to  
9 a lawful subpoena, summons, warrant, citation to discover  
10 assets, or court order which meets the requirements of  
11 subsection (d) of this Section; or

12 (3) the bank is attempting to collect an obligation  
13 owed to the bank and the bank complies with the provisions  
14 of Section 2I of the Consumer Fraud and Deceptive Business  
15 Practices Act.

16 (d) A bank shall disclose financial records under  
17 paragraph (2) of subsection (c) of this Section under a lawful  
18 subpoena, summons, warrant, citation to discover assets, or  
19 court order only after the bank mails a copy of the subpoena,  
20 summons, warrant, citation to discover assets, or court order  
21 to the person establishing the relationship with the bank, if  
22 living, and, otherwise his personal representative, if known,  
23 at his last known address by first class mail, postage  
24 prepaid, unless the bank is specifically prohibited from  
25 notifying the person by order of court or by applicable State  
26 or federal law. A bank shall not mail a copy of a subpoena to

1 any person pursuant to this subsection if the subpoena was  
2 issued by a grand jury under the Statewide Grand Jury Act.

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

7 (f) Any person who knowingly and willfully induces or  
8 attempts to induce any officer or employee of a bank to  
9 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 (g) A bank shall be reimbursed for costs that are  
13 reasonably necessary and that have been directly incurred in  
14 searching for, reproducing, or transporting books, papers,  
15 records, or other data required or requested to be produced  
16 pursuant to a lawful subpoena, summons, warrant, citation to  
17 discover assets, or court order. The Commissioner shall  
18 determine the rates and conditions under which payment may be  
19 made.

20 (Source: P.A. 100-22, eff. 1-1-18; 100-664, eff. 1-1-19;  
21 100-888, eff. 8-14-18; 101-81, eff. 7-12-19.)

22 Section 10. The Financial Institutions Electronic  
23 Documents and Digital Signature Act is amended by changing  
24 Section 10 as follows:

1 (205 ILCS 705/10)

2 Sec. 10. Electronic documents; digital signatures;  
3 electronic notices.

4 (a) Electronic documents. If in the regular course of  
5 business, a financial institution possesses, records, or  
6 generates any document, representation, image, substitute  
7 check, reproduction, or combination thereof, of any agreement,  
8 transaction, act, occurrence, or event by any electronic or  
9 computer-generated process that accurately reproduces,  
10 comprises, or records the agreement, transaction, act,  
11 occurrence, or event, the recording, comprising, or  
12 reproduction shall have the same force and effect under the  
13 laws of this State as one comprised, recorded, or created on  
14 paper or other tangible form by writing, typing, printing, or  
15 similar means.

16 (b) Digital signatures. In any communication,  
17 acknowledgement, agreement, or contract between a financial  
18 institution and its customer, in which a signature is required  
19 or used, any party to the communication, acknowledgement,  
20 agreement, or contract may affix a signature by use of a  
21 digital signature, and the digital signature, when lawfully  
22 used by the person whose signature it purports to be, shall  
23 have the same force and effect as the use of a manual signature  
24 if it is unique to the person using it, is capable of  
25 verification, is under the sole control of the person using  
26 it, and is linked to data in such a manner that if the data are

1 changed, the digital signature is invalidated. Nothing in this  
2 Section shall require any financial institution or customer to  
3 use or permit the use of a digital signature.

4 (c) Electronic notices.

5 (1) Consent to electronic records. If a statute,  
6 regulation, or other rule of law requires that information  
7 relating to a transaction or transactions in or affecting  
8 intrastate commerce in this State be provided or made  
9 available by a financial institution to a consumer in  
10 writing, the use of an electronic record to provide or  
11 make available that information satisfies the requirement  
12 that the information be in writing if:

13 (A) the consumer has affirmatively consented to  
14 the use of an electronic record to provide or make  
15 available that information and has not withdrawn  
16 consent;

17 (B) the consumer, prior to consenting, is provided  
18 with a clear and conspicuous statement:

19 (i) informing the consumer of:

20 (I) any right or option of the consumer to  
21 have the record provided or made available on  
22 paper or in nonelectronic form, and

23 (II) the right of the consumer to withdraw  
24 the consent to have the record provided or  
25 made available in an electronic form and of  
26 any conditions, consequences (which may

1 include termination of the parties'  
2 relationship), or fees in the event of a  
3 withdrawal of consent;

4 (ii) informing the consumer of whether the  
5 consent applies:

6 (I) only to the particular transaction  
7 that gave rise to the obligation to provide  
8 the record, or

9 (II) to identified categories of records  
10 that may be provided or made available during  
11 the course of the parties' relationship;

12 (iii) describing the procedures the consumer  
13 must use to withdraw consent, as provided in  
14 clause (i), and to update information needed to  
15 contact the consumer electronically; and

16 (iv) informing the consumer:

17 (I) how, after the consent, the consumer  
18 may, upon request, obtain a paper copy of an  
19 electronic record, and

20 (II) whether any fee will be charged for a  
21 paper copy;

22 (C) the consumer:

23 (i) prior to consenting, is provided with a  
24 statement of the hardware and software  
25 requirements for access to and retention of the  
26 electronic records; and

1           (ii) consents electronically, or confirms his  
2           or her consent electronically, in a manner that  
3           reasonably demonstrates that the consumer can  
4           access information in the electronic form that  
5           will be used to provide the information that is  
6           the subject of the consent; and

7           (D) after the consent of a consumer in accordance  
8           with subparagraph (A), if a change in the hardware or  
9           software requirements needed to access or retain  
10          electronic records creates a material risk that the  
11          consumer will not be able to access or retain a  
12          subsequent electronic record that was the subject of  
13          the consent, the person providing the electronic  
14          record:

15                 (i) provides the consumer with a statement of:

16                         (I) the revised hardware and software  
17                         requirements for access to and retention of  
18                         the electronic records, and

19                         (II) the right to withdraw consent without  
20                         the imposition of any fees for the withdrawal  
21                         and without the imposition of any condition or  
22                         consequence that was not disclosed under  
23                         subparagraph (B) (i); and

24                 (ii) again complies with subparagraph (C).

25           (2) Other rights.

26                 (A) Preservation of consumer protections. Nothing



1 in this subsection (c) affects the content or timing  
2 of any disclosure or other record required to be  
3 provided or made available to any consumer under any  
4 statute, regulation, or other rule of law.

5 (B) Verification or acknowledgment. If a law that  
6 was enacted prior to this amendatory Act of the 95th  
7 General Assembly expressly requires a record to be  
8 provided or made available by a specified method that  
9 requires verification or acknowledgment of receipt,  
10 the record may be provided or made available  
11 electronically only if the method used provides the  
12 required verification or acknowledgment of receipt.

13 (2.5) Consent to electronic transactions given by the  
14 customer pursuant to the federal Electronic Signatures in  
15 Global and National Commerce Act, 15 U.S.C. 7001, shall  
16 satisfy the consent requirements of this Act.

17 (3) Effect of failure to obtain electronic consent or  
18 confirmation of consent. The legal effectiveness,  
19 validity, or enforceability of any contract executed by a  
20 consumer shall not be denied solely because of the failure  
21 to obtain electronic consent or confirmation of consent by  
22 that consumer in accordance with paragraph (1) (C) (ii).

23 (4) Prospective effect. Withdrawal of consent by a  
24 consumer shall not affect the legal effectiveness,  
25 validity, or enforceability of electronic records provided  
26 or made available to that consumer in accordance with

1 paragraph (1) prior to implementation of the consumer's  
2 withdrawal of consent. A consumer's withdrawal of consent  
3 shall be effective within a reasonable period of time  
4 after receipt of the withdrawal by the provider of the  
5 record. Failure to comply with paragraph (1)(D) may, at  
6 the election of the consumer, be treated as a withdrawal  
7 of consent for purposes of this paragraph.

8 (5) Prior consent. This subsection does not apply to  
9 any records that are provided or made available to a  
10 consumer who has consented prior to the effective date of  
11 this amendatory Act of the 95th General Assembly to  
12 receive the records in electronic form as permitted by any  
13 statute, regulation, or other rule of law.

14 (6) Oral communications. An oral communication or a  
15 recording of an oral communication shall not qualify as an  
16 electronic record for purposes of this subsection (c),  
17 except as otherwise provided under applicable law.

18 (Source: P.A. 94-458, eff. 8-4-05; 95-77, eff. 8-13-07.)

19 Section 15. The Probate Act of 1975 is amended by changing  
20 Section 6-15 as follows:

21 (755 ILCS 5/6-15) (from Ch. 110 1/2, par. 6-15)

22 Sec. 6-15. Executor to administer all estate of decedent.→

23 (a) The executor or the administrator with the will  
24 annexed shall administer all the testate and intestate estate

1 of the decedent.

2 (b) Any person doing business or performing transactions  
3 on behalf of or at the direction of an executor or  
4 administrator with the will annexed shall be entitled to the  
5 presumption that the executor or administrator with the will  
6 annexed is lawfully authorized to conduct the business or  
7 perform the transaction without such person investigating the  
8 source of the authority and without verifying that the actions  
9 of the executor or administrator with the will annexed comply  
10 with a will or any order of the probate court, unless such  
11 person has actual knowledge to the contrary.

12 (Source: P.A. 79-328.)