

1 AN ACT concerning regulation.

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 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 with
14 respect to that account;

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

17 (4) any other item containing information pertaining
18 to any relationship established in the ordinary course of a
19 bank's business between a bank and its customer, including
20 financial statements or other financial information
21 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 records,
26 or the examination of the records by a certified public
27 accountant engaged by the bank to perform an independent
28 audit.

29 (2) The examination of any financial records by, or the
30 furnishing of financial records by a bank to, any officer,
31 employee or agent of (i) the Commissioner of Banks and Real
32 Estate, (ii) after May 31, 1997, a state regulatory

1 authority authorized to examine a branch of a State bank
2 located in another state, (iii) the Comptroller of the
3 Currency, (iv) the Federal Reserve Board, or (v) the
4 Federal Deposit Insurance Corporation for use solely in the
5 exercise of his duties as an officer, employee, or agent.

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

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

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

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

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

26 (8) The furnishing of information under the Uniform
27 Disposition of Unclaimed Property Act.

28 (9) The furnishing of information under the Illinois
29 Income Tax Act and the Illinois Estate and
30 Generation-Skipping Transfer Tax Act.

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

34 (11) The furnishing of information under any other
35 statute that by its terms or by regulations promulgated
36 thereunder requires the disclosure of financial records

1 other than by subpoena, summons, warrant, or court order.

2 (12) The furnishing of information about the existence
3 of an account of a person to a judgment creditor of that
4 person who has made a written request for that information.

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

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

27 (15) The exchange in the regular course of business of
28 information between a bank and any commonly owned affiliate
29 of the bank, subject to the provisions of the Financial
30 Institutions Insurance Sales Law.

31 (16) The furnishing of information to law enforcement
32 authorities, the Illinois Department on Aging and its
33 regional administrative and provider agencies, the
34 Department of Human Services Office of Inspector General,
35 or public guardians, if there is suspicion by the
36 investigatory entity, the guardian, or the bank suspects

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

22 (17) The disclosure of financial records or
23 information as necessary to effect, administer, or enforce
24 a transaction requested or authorized by the customer, or
25 in connection with:

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

28 (B) maintaining or servicing a customer's account
29 with the bank; or

30 (C) a proposed or actual securitization or
31 secondary market sale (including sales of servicing
32 rights) related to a transaction of a customer.

33 Nothing in this item (17), however, authorizes the sale
34 of the financial records or information of a customer
35 without the consent of the customer.

36 (18) The disclosure of financial records or

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

4 (19) (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. Such
8 information is limited to outstanding balance, available
9 credit, payment and performance and account history,
10 product references, purchase information, and information
11 related to the identity of the customer.

12 (b) (1) For purposes of this paragraph (19) of
13 subsection (b) of Section 48.1, 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 label
17 party primarily for payment for goods or services sold,
18 manufactured, or distributed by a private label party.

19 (2) For purposes of this paragraph (19) of subsection
20 (b) of Section 48.1, a "private label party" means, with
21 respect to a private label credit program, any of the
22 following: a retailer, a merchant, a manufacturer, a trade
23 group, or any such person's affiliate, subsidiary, member,
24 agent, or service provider.

25 (c) Except as otherwise provided by this Act, a bank may
26 not disclose to any person, except to the customer or his duly
27 authorized agent, any financial records or financial
28 information obtained from financial records relating to that
29 customer of that bank unless:

30 (1) the customer has authorized disclosure to the
31 person;

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

35 or

36 (3) the bank is attempting to collect an obligation

1 owed to the bank and the bank complies with the provisions
2 of Section 2I of the Consumer Fraud and Deceptive Business
3 Practices Act.

4 (d) A bank shall disclose financial records under paragraph
5 (2) of subsection (c) of this Section under a lawful subpoena,
6 summons, warrant, or court order only after the bank mails a
7 copy of the subpoena, summons, warrant, or court order to the
8 person establishing the relationship with the bank, if living,
9 and, otherwise his personal representative, if known, at his
10 last known address by first class mail, postage prepaid, unless
11 the bank is specifically prohibited from notifying the person
12 by order of court or by applicable State or federal law. A bank
13 shall not mail a copy of a subpoena to any person pursuant to
14 this subsection if the subpoena was issued by a grand jury
15 under the Statewide Grand Jury Act.

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

20 (f) Any person who knowingly and willfully induces or
21 attempts to induce any officer or employee of a bank to
22 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) A bank shall be reimbursed for costs that are
26 reasonably 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 or requested to
29 be produced pursuant to a lawful subpoena, summons, warrant, or
30 court order. The Commissioner shall determine the rates and
31 conditions under which payment may be made.

32 (Source: P.A. 91-330, eff. 7-29-99; 91-929, eff. 12-15-00;
33 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

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

1 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

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

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

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

24 (c) This Section does not prohibit:

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

31 (2) The examination of any financial records by, or the
32 furnishing of financial records by an association to, any
33 officer, employee, or agent of the Commissioner of Banks
34 and Real Estate or federal depository institution
35 regulator for use solely in the exercise of his duties as

1 an officer, employee, or agent.

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

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

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

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

21 (7) The furnishing of information to the appropriate
22 law enforcement authorities where the association
23 reasonably believes it has been the victim of a crime.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (16) The disclosure of financial records or
34 information as necessary to protect against or prevent
35 actual or potential fraud, unauthorized transactions,
36 claims, or other liability.

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

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

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

22 (d) An association may not disclose to any person, except
23 to the member or holder of capital or his duly authorized
24 agent, any financial records relating to that member or holder
25 of capital of that association unless:

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

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

31 (e) An association shall disclose financial records under
32 subsection (d) of this Section pursuant to a lawful subpoena,
33 summons, warrant, or court order only after the association
34 mails a copy of the subpoena, summons, warrant, or court order
35 to the person establishing the relationship with the
36 association, if living, and, otherwise, his personal

1 representative, if known, at his last known address by first
2 class mail, postage prepaid, unless the association is
3 specifically prohibited from notifying that person by order of
4 court.

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

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

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

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

31 (Source: P.A. 92-483, eff. 8-23-01; 92-543, eff. 6-12-02;
32 93-271, eff. 7-22-03.)

33 Section 15. The Savings Bank Act is amended by changing
34 Section 4013 as follows:

1 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

2 Sec. 4013. Access to books and records; communication with
3 members and shareholders.

4 (a) Every member or shareholder shall have the right to
5 inspect books and records of the savings bank that pertain to
6 his accounts. Otherwise, the right of inspection and
7 examination of the books and records shall be limited as
8 provided in this Act, and no other person shall have access to
9 the books and records nor shall be entitled to a list of the
10 members or shareholders.

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

23 (c) This Section does not prohibit:

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

30 (2) The examination of any financial records by, or the
31 furnishing of financial records by a savings bank to, any
32 officer, employee, or agent of the Commissioner of Banks
33 and Real Estate or the federal depository institution
34 regulator for use solely in the exercise of his duties as
35 an officer, employee, or agent.

36 (3) The publication of data furnished from financial

1 records relating to members or holders of capital where the
2 data cannot be identified to any particular member,
3 shareholder, or account.

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

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

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

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

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

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

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

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

35 (12) The furnishing of information in accordance with
36 the federal Personal Responsibility and Work Opportunity

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

18 (13) The furnishing of information to law enforcement
19 authorities, the Illinois Department on Aging and its
20 regional administrative and provider agencies, the
21 Department of Human Services Office of Inspector General,
22 or public guardians, if there is suspicion by the
23 investigatory entity, the guardian, or the savings bank
24 ~~suspects~~ that a customer who is an elderly or disabled
25 person has been or may become the victim of financial
26 exploitation. For the purposes of this item (13), the term:
27 (i) "elderly person" means a person who is 60 or more years
28 of age, (ii) "disabled person" means a person who has or
29 reasonably appears to the savings bank to have a physical
30 or mental disability that impairs his or her ability to
31 seek or obtain protection from or prevent financial
32 exploitation, and (iii) "financial exploitation" means
33 tortious or illegal use of the assets or resources of an
34 elderly or disabled person, and includes, without
35 limitation, misappropriation of the elderly or disabled
36 person's assets or resources by undue influence, breach of

1 fiduciary relationship, intimidation, fraud, deception,
2 extortion, or the use of assets or resources in any manner
3 contrary to law. A savings bank or person furnishing
4 information pursuant to this item (13) shall be entitled to
5 the same rights and protections as a person furnishing
6 information under the Elder Abuse and Neglect Act, ~~and~~ the
7 Illinois Domestic Violence Act of 1986, and the Abuse of
8 Adults with Disabilities Intervention Act.

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

13 (A) servicing or processing a financial product or
14 service requested or authorized by the member or holder
15 of capital;

16 (B) maintaining or servicing an account of a member
17 or holder of capital with the savings bank; or

18 (C) a proposed or actual securitization or
19 secondary market sale (including sales of servicing
20 rights) related to a transaction of a member or holder
21 of capital.

22 Nothing in this item (14), however, authorizes the sale
23 of the financial records or information of a member or
24 holder of capital without the consent of the member or
25 holder of capital.

26 (15) The exchange in the regular course of business of
27 information between a savings bank and any commonly owned
28 affiliate of the savings bank, subject to the provisions of
29 the Financial Institutions Insurance Sales Law.

30 (16) The disclosure of financial records or
31 information as necessary to protect against or prevent
32 actual or potential fraud, unauthorized transactions,
33 claims, or other liability.

34 (17) (a) The disclosure of financial records or
35 information related to a private label credit program
36 between a financial institution and a private label party

1 in connection with that private label credit program. Such
2 information is limited to outstanding balance, available
3 credit, payment and performance and account history,
4 product references, purchase information, and information
5 related to the identity of the customer.

6 (b) (1) For purposes of this paragraph (17) of
7 subsection (c) of Section 4013, a "private label credit
8 program" means a credit program involving a financial
9 institution and a private label party that is used by a
10 customer of the financial institution and the private label
11 party primarily for payment for goods or services sold,
12 manufactured, or distributed by a private label party.

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

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

23 (1) the member or shareholder has authorized
24 disclosure to the person; or

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

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

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

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

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

36 (Source: P.A. 92-483, eff. 8-23-01; 92-543, eff. 6-12-02;

1 93-271, eff. 7-22-03.)

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

4 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

11 (2) A photostatic or photographic reproduction of any
12 credit union records shall be admissible as evidence of
13 transactions with the credit union.

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

27 (b) This Section does not prohibit:

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

34 (2) The examination of any financial records by or

1 the furnishing of financial records by a credit union
2 to any officer, employee or agent of the Department,
3 the National Credit Union Administration, Federal
4 Reserve board or any insurer of share accounts for use
5 solely in the exercise of his duties as an officer,
6 employee or agent.

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

11 (4) The making of reports or returns required under
12 Chapter 61 of the Internal Revenue Code of 1954.

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

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

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

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

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

36 (10) The furnishing of information pursuant to the

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

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

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

30 (13) The furnishing of information to law
31 enforcement authorities, the Illinois Department on
32 Aging and its regional administrative and provider
33 agencies, the Department of Human Services Office of
34 Inspector General, or public guardians, if there is
35 suspicion by the investigatory entity, the guardian,
36 or the credit union ~~suspects~~ that a member who is an

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

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

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

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

32 (C) a proposed or actual securitization or
33 secondary market sale (including sales of
34 servicing rights) related to a transaction of a
35 member.

36 Nothing in this item (14), however, authorizes the

1 sale of the financial records or information of a
2 member without the consent of the member.

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

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

16 (b) (1) For purposes of this paragraph (16) of
17 subsection (b) of Section 10, a "private label credit
18 program" means a credit program involving a financial
19 institution and a private label party that is used by a
20 customer of the financial institution and the private
21 label party primarily for payment for goods or services
22 sold, manufactured, or distributed by a private label
23 party.

24 (2) For purposes of this paragraph (16) of
25 subsection (b) of Section 10, a "private label party"
26 means, with respect to a private label credit program,
27 any of the following: a retailer, a merchant, a
28 manufacturer, a trade group, or any such person's
29 affiliate, subsidiary, member, agent, or service
30 provider.

31 (c) Except as otherwise provided by this Act, a credit
32 union may not disclose to any person, except to the member
33 or his duly authorized agent, any financial records
34 relating to that member of the credit union unless:

35 (1) the member has authorized disclosure to the
36 person;

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

5 (3) the credit union is attempting to collect an
6 obligation owed to the credit union and the credit
7 union complies with the provisions of Section 2I of the
8 Consumer Fraud and Deceptive Business Practices Act.

9 (d) A credit union shall disclose financial records
10 under subparagraph (c)(2) of this Section pursuant to a
11 lawful subpoena, summons, warrant or court order only after
12 the credit union mails a copy of the subpoena, summons,
13 warrant or court order to the person establishing the
14 relationship with the credit union, if living, and
15 otherwise his personal representative, if known, at his
16 last known address by first class mail, postage prepaid
17 unless the credit union is specifically prohibited from
18 notifying the person by order of court or by applicable
19 State or federal law. In the case of a grand jury subpoena,
20 a credit union shall not mail a copy of a subpoena to any
21 person pursuant to this subsection if the subpoena was
22 issued by a grand jury under the Statewide Grand Jury Act
23 or notifying the person would constitute a violation of the
24 federal Right to Financial Privacy Act of 1978.

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

30 (2) Any person who knowingly and wilfully induces
31 or attempts to induce any officer or employee of a
32 credit union to disclose financial records in
33 violation of this Section is guilty of a business
34 offense and upon conviction thereof shall be fined not
35 more than \$1,000.

36 (f) A credit union shall be reimbursed for costs which

1 are reasonably necessary and which have been directly
2 incurred in searching for, reproducing or transporting
3 books, papers, records or other data of a member required
4 or requested to be produced pursuant to a lawful subpoena,
5 summons, warrant or court order. The Director may
6 determine, by rule, the rates and conditions under which
7 payment shall be made. Delivery of requested documents may
8 be delayed until final reimbursement of all costs is
9 received.

10 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;
11 92-483, eff. 8-23-01; 92-543, eff. 6-12-02.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.