

1 AN ACT concerning confidentiality.

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

4 Section 5. The Abuse of Adults with Disabilities
5 Intervention Act is amended by adding Section 59 as follows:

6 (20 ILCS 2435/59 new)

7 Sec. 59. Subpoena; document production. The Office of
8 Inspector General has the power to subpoena witnesses and
9 compel the production of books, papers, and documents,
10 including financial records and medical records, pertinent to
11 an assessment authorized by this Act. Mental health records of
12 victims shall be confidential as provided under the Mental
13 Health and Developmental Disabilities Confidentiality Act.
14 Financial records obtained during the course of an assessment
15 are confidential and may be released only with the consent of
16 the victim or the victim's guardian or in response to a court
17 order, a grand jury subpoena, or a subpoena from a law
18 enforcement authority.

19 Section 10. The Illinois Banking Act is amended by changing
20 Section 48.1 as follows:

21 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

22 Sec. 48.1. Customer financial records; confidentiality.

23 (a) For the purpose of this Section, the term "financial
24 records" means any original, any copy, or any summary of:

25 (1) a document granting signature authority over a
26 deposit or account;

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

30 (3) a check, draft or money order drawn on a bank or

1 issued and payable by a bank; or

2 (4) any other item containing information pertaining
3 to any relationship established in the ordinary course of a
4 bank's business between a bank and its customer, including
5 financial statements or other financial information
6 provided by the customer.

7 (b) This Section does not prohibit:

8 (1) The preparation, examination, handling or
9 maintenance of any financial records by any officer,
10 employee or agent of a bank having custody of the records,
11 or the examination of the records by a certified public
12 accountant engaged by the bank to perform an independent
13 audit.

14 (2) The examination of any financial records by, or the
15 furnishing of financial records by a bank to, any officer,
16 employee or agent of (i) the Commissioner of Banks and Real
17 Estate, (ii) after May 31, 1997, a state regulatory
18 authority authorized to examine a branch of a State bank
19 located in another state, (iii) the Comptroller of the
20 Currency, (iv) the Federal Reserve Board, or (v) the
21 Federal Deposit Insurance Corporation for use solely in the
22 exercise of his duties as an officer, employee, or agent.

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

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

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

31 (6) The exchange in the regular course of business of
32 (i) credit information between a bank and other banks or
33 financial institutions or commercial enterprises, directly
34 or through a consumer reporting agency or (ii) financial
35 records or information derived from financial records
36 between a bank and other banks or financial institutions or

1 commercial enterprises for the purpose of conducting due
2 diligence pursuant to a purchase or sale involving the bank
3 or assets or liabilities of the bank.

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

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

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

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

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

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

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

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

1 by a State agency, or for any other action taken pursuant
2 to this item, including individual or mechanical errors,
3 provided the action does not constitute gross negligence or
4 willful misconduct. A bank shall have no obligation to
5 hold, encumber, or surrender assets until it has been
6 served with a subpoena, summons, warrant, court or
7 administrative order, lien, or levy.

8 (15) The exchange in the regular course of business of
9 information between a bank and any commonly owned affiliate
10 of the bank, subject to the provisions of the Financial
11 Institutions Insurance Sales Law.

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

1 Domestic Violence Act of 1986, and the Abuse of Adults with
2 Disabilities Intervention Act.

3 (17) The disclosure of financial records or
4 information as necessary to effect, administer, or enforce
5 a transaction requested or authorized by the customer, or
6 in connection with:

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

9 (B) maintaining or servicing a customer's account
10 with the bank; or

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

14 Nothing in this item (17), however, authorizes the sale
15 of the financial records or information of a customer
16 without the consent of the customer.

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

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

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

36 (2) For purposes of this paragraph (19) of subsection

1 (b) of Section 48.1, a "private label party" means, with
2 respect to a private label credit program, any of the
3 following: a retailer, a merchant, a manufacturer, a trade
4 group, or any such person's affiliate, subsidiary, member,
5 agent, or service provider.

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

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

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

17 (3) the bank is attempting to collect an obligation
18 owed to the bank and the bank complies with the provisions
19 of Section 2I of the Consumer Fraud and Deceptive Business
20 Practices Act.

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

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

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

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

13 (Source: P.A. 94-495, eff. 8-8-05.)

14 Section 15. The Illinois Savings and Loan Act of 1985 is
15 amended by changing Section 3-8 as follows:

16 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

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

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

26 (b) For the purpose of this Section, the term "financial
27 records" means any original, any copy, or any summary of (i) a
28 document granting signature authority over a deposit or
29 account; (ii) a statement, ledger card, or other record on any
30 deposit or account that shows each transaction in or with
31 respect to that account; (iii) a check, draft, or money order
32 drawn on an association or issued and payable by an
33 association; or (iv) any other item containing information
34 pertaining to any relationship established in the ordinary

1 course of an association's business between an association and
2 its customer, including financial statements or other
3 financial information provided by the member or holder of
4 capital.

5 (c) This Section does not prohibit:

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

12 (2) The examination of any financial records by, or the
13 furnishing of financial records by an association to, any
14 officer, employee, or agent of the Commissioner of Banks
15 and Real Estate or federal depository institution
16 regulator for use solely in the exercise of his duties as
17 an officer, employee, or agent.

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

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

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

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

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

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

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

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

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

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

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

1 willful misconduct. An association shall have no
2 obligation to hold, encumber, or surrender assets until it
3 has been served with a subpoena, summons, warrant, court or
4 administrative order, lien, or levy.

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

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

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

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

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

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

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

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

26 (b) (1) For purposes of this paragraph (17) of
27 subsection (c) of Section 3-8, a "private label credit
28 program" means a credit program involving a financial
29 institution and a private label party that is used by a
30 customer of the financial institution and the private label
31 party primarily for payment for goods or services sold,
32 manufactured, or distributed by a private label party.

33 (2) For purposes of this paragraph (17) of subsection
34 (c) of Section 3-8, a "private label party" means, with
35 respect to a private label credit program, any of the
36 following: a retailer, a merchant, a manufacturer, a trade

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

3 (d) An association may not disclose to any person, except
4 to the member or holder of capital or his duly authorized
5 agent, any financial records relating to that member or holder
6 of capital of that association unless:

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

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

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

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

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

31 (g) However, if any member desires to communicate with the
32 other members of the association with reference to any question
33 pending or to be presented at a meeting of the members, the
34 association shall give him upon request a statement of the
35 approximate number of members entitled to vote at the meeting
36 and an estimate of the cost of preparing and mailing the

1 communication. The requesting member then shall submit the
2 communication to the Commissioner who, if he finds it to be
3 appropriate and truthful, shall direct that it be prepared and
4 mailed to the members upon the requesting member's payment or
5 adequate provision for payment of the expenses of preparation
6 and mailing.

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

12 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05.)

13 Section 20. The Savings Bank Act is amended by changing
14 Section 4013 as follows:

15 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

16 Sec. 4013. Access to books and records; communication with
17 members and shareholders.

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

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

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

3 (c) This Section does not prohibit:

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

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

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

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

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

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

35 (7) The furnishing of information to the appropriate
36 law enforcement authorities where the savings bank

1 reasonably believes it has been the victim of a crime.

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

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

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

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

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

34 (13) The furnishing of information to law enforcement
35 authorities, the Illinois Department on Aging and its
36 regional administrative and provider agencies, the

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

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

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

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

35 (C) a proposed or actual securitization or
36 secondary market sale (including sales of servicing

1 rights) related to a transaction of a member or holder
2 of capital.

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

7 (15) The exchange in the regular course of business of
8 information between a savings bank and any commonly owned
9 affiliate of the savings bank, subject to the provisions of
10 the Financial Institutions Insurance Sales Law.

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

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

23 (b) (1) For purposes of this paragraph (17) of
24 subsection (c) of Section 4013, a "private label credit
25 program" means a credit program involving a financial
26 institution and a private label party that is used by a
27 customer of the financial institution and the private label
28 party primarily for payment for goods or services sold,
29 manufactured, or distributed by a private label party.

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

36 (d) A savings bank may not disclose to any person, except

1 to the member or holder of capital or his duly authorized
2 agent, any financial records relating to that member or
3 shareholder of the savings bank unless:

4 (1) the member or shareholder has authorized
5 disclosure to the person; or

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

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

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

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

27 (h) If any member or shareholder desires to communicate
28 with the other members or shareholders of the savings bank with
29 reference to any question pending or to be presented at an
30 annual or special meeting, the savings bank shall give that
31 person, upon request, a statement of the approximate number of
32 members or shareholders entitled to vote at the meeting and an
33 estimate of the cost of preparing and mailing the
34 communication. The requesting member shall submit the
35 communication to the Commissioner who, upon finding it to be
36 appropriate and truthful, shall direct that it be prepared and

1 mailed to the members upon the requesting member's or
2 shareholder's payment or adequate provision for payment of the
3 expenses of preparation and mailing.

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

9 (j) Notwithstanding the provisions of this Section, a
10 savings bank may sell or otherwise make use of lists of
11 customers' names and addresses. All other information
12 regarding a customer's account are subject to the disclosure
13 provisions of this Section. At the request of any customer,
14 that customer's name and address shall be deleted from any list
15 that is to be sold or used in any other manner beyond
16 identification of the customer's accounts.

17 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05.)

18 Section 25. The Illinois Credit Union Act is amended by
19 changing Section 10 as follows:

20 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

22 (1) A credit union shall establish and maintain books,
23 records, accounting systems and procedures which accurately
24 reflect its operations and which enable the Department to
25 readily ascertain the true financial condition of the credit
26 union and whether it is complying with this Act.

27 (2) A photostatic or photographic reproduction of any
28 credit union records shall be admissible as evidence of
29 transactions with the credit union.

30 (3) (a) For the purpose of this Section, the term "financial
31 records" means any original, any copy, or any summary of (1) a
32 document granting signature authority over an account, (2) a
33 statement, ledger card or other record on any account which
34 shows each transaction in or with respect to that account, (3)

1 a check, draft or money order drawn on a financial institution
2 or other entity or issued and payable by or through a financial
3 institution or other entity, or (4) any other item containing
4 information pertaining to any relationship established in the
5 ordinary course of business between a credit union and its
6 member, including financial statements or other financial
7 information provided by the member.

8 (b) This Section does not prohibit:

9 (1) The preparation, examination, handling or
10 maintenance of any financial records by any officer,
11 employee or agent of a credit union having custody of such
12 records, or the examination of such records by a certified
13 public accountant engaged by the credit union to perform an
14 independent audit.

15 (2) The examination of any financial records by or the
16 furnishing of financial records by a credit union to any
17 officer, employee or agent of the Department, the National
18 Credit Union Administration, Federal Reserve board or any
19 insurer of share accounts for use solely in the exercise of
20 his duties as an officer, employee or agent.

21 (3) The publication of data furnished from financial
22 records relating to members where the data cannot be
23 identified to any particular customer of account.

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

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

29 (6) The exchange in the regular course of business of
30 (i) credit information between a credit union and other
31 credit unions or financial institutions or commercial
32 enterprises, directly or through a consumer reporting
33 agency or (ii) financial records or information derived
34 from financial records between a credit union and other
35 credit unions or financial institutions or commercial
36 enterprises for the purpose of conducting due diligence

1 pursuant to a merger or a purchase or sale of assets or
2 liabilities of the credit union.

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

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

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

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

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

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

1 administrative order, lien, or levy.

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

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

34 (A) servicing or processing a financial product or
35 service requested or authorized by the member;

36 (B) maintaining or servicing a member's account

1 with the credit union; or

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

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

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

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

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

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

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

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

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

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

10 (d) A credit union shall disclose financial records under
11 subparagraph (c)(2) of this Section pursuant to a lawful
12 subpoena, summons, warrant or court order only after the credit
13 union mails a copy of the subpoena, summons, warrant or court
14 order to the person establishing the relationship with the
15 credit union, if living, and otherwise his personal
16 representative, if known, at his last known address by first
17 class mail, postage prepaid unless the credit union is
18 specifically prohibited from notifying the person by order of
19 court or by applicable State or federal law. In the case of a
20 grand jury subpoena, a credit union shall not mail a copy of a
21 subpoena to any person pursuant to this subsection if the
22 subpoena was issued by a grand jury under the Statewide Grand
23 Jury Act or notifying the person would constitute a violation
24 of the 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 offense and
28 upon conviction thereof shall be fined not more than \$1,000.

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

34 (f) A credit union shall be reimbursed for costs which are
35 reasonably necessary and which have been directly incurred in
36 searching for, reproducing or transporting books, papers,

1 records or other data of a member required or requested to be
2 produced pursuant to a lawful subpoena, summons, warrant or
3 court order. The Director may determine, by rule, the rates and
4 conditions under which payment shall be made. Delivery of
5 requested documents may be delayed until final reimbursement of
6 all costs is received.

7 (Source: P.A. 94-495, eff. 8-8-05.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.