



Sen. Ira I. Silverstein

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LRB095 07909 AJ0 31692 a

1 AMENDMENT TO SENATE BILL 229

2 AMENDMENT NO. _____. Amend Senate Bill 229 on page 1,
3 immediately below line 3, by inserting the following:

4 "Section 2. 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

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

6 (b) This Section does not prohibit:

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

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

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

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

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

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

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

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

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

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

24 (11) The furnishing of information under any other
25 statute that by its terms or by regulations promulgated
26 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.

1 (15) The exchange in the regular course of business of
2 information between a bank and any commonly owned affiliate
3 of the bank, subject to the provisions of the Financial
4 Institutions Insurance Sales Law.

5 (16) 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 by the investigatory
10 entity or the guardian, or (ii) if there is suspicion by
11 the bank that a customer who is an elderly or disabled
12 person has been or may become the victim of financial
13 exploitation. For the purposes of this item (16), the term:
14 (i) "elderly person" means a person who is 60 or more years
15 of age, (ii) "disabled person" means a person who has or
16 reasonably appears to the bank to have a physical or mental
17 disability that impairs his or her ability to seek or
18 obtain protection from or prevent financial exploitation,
19 and (iii) "financial exploitation" means tortious or
20 illegal use of the assets or resources of an elderly or
21 disabled person, and includes, without limitation,
22 misappropriation of the elderly or disabled person's
23 assets or resources by undue influence, breach of fiduciary
24 relationship, intimidation, fraud, deception, extortion,
25 or the use of assets or resources in any manner contrary to
26 law. A bank or person furnishing information pursuant to

1 this item (16) shall be entitled to the same rights and
2 protections as a person furnishing information under the
3 Elder Abuse and Neglect Act, the Illinois Domestic Violence
4 Act of 1986, and the Abuse of Adults with Disabilities
5 Intervention Act.

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

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

12 (B) maintaining or servicing a customer's account
13 with the bank; or

14 (C) a proposed or actual securitization or
15 secondary market sale (including sales of servicing
16 rights) related to a transaction of a customer.

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

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

24 (19) (a) The disclosure of financial records or
25 information related to a private label credit program
26 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 (19) of
7 subsection (b) of Section 48.1, 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 (19) of subsection
14 (b) of Section 48.1, 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 (c) Except as otherwise provided by this Act, a bank may
20 not disclose to any person, except to the customer or his duly
21 authorized agent, any financial records or financial
22 information obtained from financial records relating to that
23 customer of that bank unless:

24 (1) the customer has authorized disclosure to the
25 person;

26 (2) the financial records are disclosed in response to

1 a lawful subpoena, summons, warrant, citation to discover
2 assets, or court order which meets the requirements of
3 subsection (d) of this Section; or

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

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

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

25 (f) Any person who knowingly and willfully induces or
26 attempts to induce any officer or employee of a bank to

1 disclose financial records in violation of this Section is
2 guilty of a business offense and, upon conviction, shall be
3 fined not more than \$1,000.

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

12 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06.)

13 Section 2.5. The Illinois Savings and Loan Act of 1985 is
14 amended by changing Section 3-8 as follows:

15 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

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

18 (a) Every member or holder of capital shall have the right
19 to inspect the books and records of the association that
20 pertain to his account. 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 or shall be entitled to a list of the
24 members.

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

14 (c) This Section does not prohibit:

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

21 (2) The examination of any financial records by, or the
22 furnishing of financial records by an association to, any
23 officer, employee, or agent of the Commissioner of Banks
24 and Real Estate or federal depository institution
25 regulator for use solely in the exercise of his duties as
26 an officer, employee, or agent.

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

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

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

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

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

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

25 (9) The furnishing of information pursuant to the
26 Illinois Income Tax Act and the Illinois Estate and

1 Generation-Skipping Transfer Tax Act.

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

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

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

15 (13) The furnishing of information in accordance with
16 the federal Personal Responsibility and Work Opportunity
17 Reconciliation Act of 1996. Any association 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 association a reasonable fee not to exceed its actual cost
21 incurred. An association 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 association in response
26 to a lien or order to withhold and deliver issued by a

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

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

9 (15) 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 association; 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 (15), 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 (16) The disclosure of financial records or

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

4 (17) (a) The disclosure of financial records or
5 information related to a private label credit program
6 between a financial institution and a private label party
7 in connection with that private label credit program. 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 (17) of
13 subsection (c) of Section 3-8, a "private label credit
14 program" means a credit program involving a financial
15 institution and a private label party that is used by a
16 customer of the financial institution and the private 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 (17) of subsection
20 (c) of Section 3-8, 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 (d) An association may not disclose to any person, except
26 to the member or holder of capital or his duly authorized

1 agent, any financial records relating to that member or holder
2 of capital of that association unless:

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

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

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

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

24 (2) Any person who knowingly and willfully induces or
25 attempts to induce any officer or employee of an association to
26 disclose financial records in violation of this Section is

1 guilty of a business offense and, upon conviction, shall be
2 fined not more than \$1,000.

3 (g) However, if any member desires to communicate with the
4 other members of the association with reference to any question
5 pending or to be presented at a meeting of the members, the
6 association shall give him upon request a statement of the
7 approximate number of members entitled to vote at the meeting
8 and an estimate of the cost of preparing and mailing the
9 communication. The requesting member then shall submit the
10 communication to the Commissioner who, if he finds it to be
11 appropriate and truthful, shall direct that it be prepared and
12 mailed to the members upon the requesting member's payment or
13 adequate provision for payment of the expenses of preparation
14 and mailing.

15 (h) An association shall be reimbursed for costs that are
16 necessary and that have been directly incurred in searching
17 for, reproducing, or transporting books, papers, records, or
18 other data of a customer required to be reproduced pursuant to
19 a lawful subpoena, warrant, citation to discover assets, or
20 court order.

21 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;
22 94-851, eff. 6-13-06.)

23 Section 3. The Savings Bank Act is amended by changing
24 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

1 records or examination of records by a certified public
2 accountant engaged by the savings bank to perform an
3 independent audit.

4 (2) The examination of any financial records by, or the
5 furnishing of financial records by a savings bank to, any
6 officer, employee, or agent of the Commissioner of Banks
7 and Real Estate or the federal depository institution
8 regulator for use solely in the exercise of his duties as
9 an officer, employee, or agent.

10 (3) The publication of data furnished from financial
11 records relating to members or holders of capital where the
12 data cannot be identified to any particular member,
13 shareholder, or account.

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

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

19 (6) The exchange in the regular course of business of
20 (i) credit information between a savings bank and other
21 savings banks or financial institutions or commercial
22 enterprises, directly or through a consumer reporting
23 agency or (ii) financial records or information derived
24 from financial records between a savings bank and other
25 savings banks or financial institutions or commercial
26 enterprises for the purpose of conducting due diligence

1 pursuant to a purchase or sale involving the savings bank
2 or assets or liabilities of the savings bank.

3 (7) The furnishing of information to the appropriate
4 law enforcement authorities where the savings bank
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 seq.).

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,
18 warrant, 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 savings bank 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 savings bank a reasonable fee not to exceed its actual cost
25 incurred. A savings bank providing information in
26 accordance with this item shall not be liable to any

1 account holder or other person for any disclosure of
2 information to a State agency, for encumbering or
3 surrendering any assets held by the savings bank in
4 response to a lien or order to withhold and deliver issued
5 by a State agency, or for any other action taken pursuant
6 to this item, including individual or mechanical errors,
7 provided the action does not constitute gross negligence or
8 willful misconduct. A savings bank shall have no obligation
9 to hold, encumber, or surrender assets until it has been
10 served with a subpoena, summons, warrant, court or
11 administrative order, lien, or levy.

12 (13) 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 by the investigatory
17 entity or the guardian, or (ii) if there is suspicion by
18 the savings bank that a customer who is an elderly or
19 disabled person has been or may become the victim of
20 financial exploitation. For the purposes of this item (13),
21 the term: (i) "elderly person" means a person who is 60 or
22 more years of age, (ii) "disabled person" means a person
23 who has or reasonably appears to the savings bank to have a
24 physical or mental disability that impairs his or her
25 ability to seek or obtain protection from or prevent
26 financial exploitation, and (iii) "financial exploitation"

1 means tortious or illegal use of the assets or resources of
2 an elderly or disabled person, and includes, without
3 limitation, misappropriation of the elderly or disabled
4 person's assets or resources by undue influence, breach of
5 fiduciary relationship, intimidation, fraud, deception,
6 extortion, or the use of assets or resources in any manner
7 contrary to law. A savings bank or person furnishing
8 information pursuant to this item (13) shall be entitled to
9 the same rights and protections as a person furnishing
10 information under the Elder Abuse and Neglect Act, the
11 Illinois Domestic Violence Act of 1986, and the Abuse of
12 Adults with Disabilities Intervention Act.

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

17 (A) servicing or processing a financial product or
18 service requested or authorized by the member or holder
19 of capital;

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

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

26 Nothing in this item (14), however, authorizes the sale

1 of the financial records or information of a member or
2 holder of capital without the consent of the member or
3 holder of capital.

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

8 (16) 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 (17) (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 (17) of
21 subsection (c) of Section 4013, 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.

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

7 (d) A savings bank may not disclose to any person, except
8 to the member or holder of capital or his duly authorized
9 agent, any financial records relating to that member or
10 shareholder of the savings bank unless:

11 (1) the member or shareholder has authorized
12 disclosure to the person; or

13 (2) the financial records are disclosed in response to
14 a lawful subpoena, summons, warrant, citation to discover
15 assets, or court order that meets the requirements of
16 subsection (e) of this Section.

17 (e) A savings bank shall disclose financial records under
18 subsection (d) of this Section pursuant to a lawful subpoena,
19 summons, warrant, citation to discover assets, or court order
20 only after the savings bank mails a copy of the subpoena,
21 summons, warrant, citation to discover assets, or court order
22 to the person establishing the relationship with the savings
23 bank, if living, and otherwise, his personal representative, if
24 known, at his last known address by first class mail, postage
25 prepaid, unless the savings bank is specifically prohibited
26 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

1 a lawful subpoena, warrant, citation to discover assets, or
2 court order.

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

11 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;
12 94-851, eff. 6-13-06.)

13 Section 3.5. The Illinois Credit Union Act is amended by
14 changing Section 10 as follows:

15 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

17 (1) A credit union shall establish and maintain books,
18 records, accounting systems and procedures which accurately
19 reflect its operations and which enable the Department to
20 readily ascertain the true financial condition of the credit
21 union and whether it is complying with this Act.

22 (2) A photostatic or photographic reproduction of any
23 credit union records shall be admissible as evidence of
24 transactions with the credit union.

1 (3) (a) For the purpose of this Section, the term "financial
2 records" means any original, any copy, or any summary of (1) a
3 document granting signature authority over an account, (2) a
4 statement, ledger card or other record on any account which
5 shows each transaction in or with respect to that account, (3)
6 a check, draft or money order drawn on a financial institution
7 or other entity or issued and payable by or through a financial
8 institution or other entity, or (4) any other item containing
9 information pertaining to any relationship established in the
10 ordinary course of business between a credit union and its
11 member, including financial statements or other financial
12 information provided by the member.

13 (b) This Section does not prohibit:

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

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

26 (3) The publication of data furnished from financial

1 records relating to members where the data cannot be
2 identified to any particular customer of account.

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

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

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

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

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

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

26 (10) The furnishing of information pursuant to the

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

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

8 (12) The furnishing of information in accordance with
9 the federal Personal Responsibility and Work Opportunity
10 Reconciliation Act of 1996. Any credit union governed by
11 this Act shall enter into an agreement for data exchanges
12 with a State agency provided the State agency pays to the
13 credit union a reasonable fee not to exceed its actual cost
14 incurred. A credit union providing information in
15 accordance with this item shall not be liable to any
16 account holder or other person for any disclosure of
17 information to a State agency, for encumbering or
18 surrendering any assets held by the credit union 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 credit union shall have no obligation
24 to hold, encumber, or surrender assets until it has been
25 served with a subpoena, summons, warrant, court or
26 administrative order, lien, or levy.

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

1 Adults with Disabilities Intervention Act.

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

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

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

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

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

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

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

1 related to the identity of the customer.

2 (b) (1) For purposes of this paragraph (16) of
3 subsection (b) of Section 10, a "private label credit
4 program" means a credit program involving a financial
5 institution and a private label party that is used by a
6 customer of the financial institution and the private label
7 party primarily for payment for goods or services sold,
8 manufactured, or distributed by a private label party.

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

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

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

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

24 (3) the credit union is attempting to collect an
25 obligation owed to the credit union and the credit union
26 complies with the provisions of Section 2I of the Consumer

1 Fraud and Deceptive Business Practices Act.

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

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

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

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

10 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06.)"; and

11 on page 21, immediately below line 24, by inserting the
12 following:

13 "Section 10. The Limited Liability Company Act is amended
14 by changing Section 30-20 as follows:

15 (805 ILCS 180/30-20)

16 Sec. 30-20. Rights of creditor.

17 (a) On application by a judgment creditor of a member of a
18 limited liability company or of a member's transferee, a court
19 having jurisdiction may charge the distributional interest of
20 the judgment debtor to satisfy the judgment. The court may
21 appoint a receiver of the share of the distributions due or to
22 become due to the judgment debtor and make all other orders,
23 directions, accounts, and inquiries the judgment debtor might

1 have made or which the circumstances may require to give effect
2 to the charging order.

3 (b) A charging order constitutes a lien on the judgment
4 debtor's distributional interest. The court may order a
5 foreclosure of a lien on a distributional interest subject to
6 the charging order at any time. A purchaser at the foreclosure
7 sale has the rights of a transferee.

8 (c) at any time before foreclosure, a distributional
9 interest in a limited liability company that is charged may be
10 redeemed:

11 (1) by the judgment debtor;

12 (2) with property other than the company's property, by
13 one or more of the other members; or

14 (3) with the company's property, but only if permitted
15 by the operating agreement.

16 (d) This Act does not affect a member's right under
17 exemption laws with respect to the member's distributional
18 interest in a limited liability company.

19 (e) (Blank.) ~~This Section provides the exclusive remedy by
20 which a judgment creditor of a member or a transferee may
21 satisfy a judgment out of the judgment debtor's distributional
22 interest in a limited liability company.~~

23 (Source: P.A. 90-424, eff. 1-1-98.)".