

**SB0510**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB0510**

Introduced 2/8/2007, by Sen. Terry Link

**SYNOPSIS AS INTRODUCED:**

205 ILCS 5/48.3

from Ch. 17, par. 360.2

Amends the Illinois Banking Act. Provides that whenever the Commissioner of Banks and Real Estate is authorized to disclose confidential supervisory information under certain provisions, the Commissioner is authorized to redact any document prior to disclosure so that confidential supervisory information that is not relevant for purposes of the authorized disclosure need not be disclosed. Effective immediately.

LRB095 10592 MJR 30814 b

**A BILL FOR**

1 AN ACT concerning regulation.

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

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

6 (205 ILCS 5/48.3) (from Ch. 17, par. 360.2)

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

9 (a) Any report of examination, visitation, or  
10 investigation prepared by the Commissioner under this Act, the  
11 Electronic Fund Transfer Act, the Corporate Fiduciary Act, the  
12 Illinois Bank Holding Company Act of 1957, and the Foreign  
13 Banking Office Act, any report of examination, visitation, or  
14 investigation prepared by the state regulatory authority of  
15 another state that examines a branch of an Illinois State bank  
16 in that state, any document or record prepared or obtained in  
17 connection with or relating to any examination, visitation, or  
18 investigation, and any record prepared or obtained by the  
19 Commissioner to the extent that the record summarizes or  
20 contains information derived from any report, document, or  
21 record described in this subsection shall be deemed  
22 "confidential supervisory information". Confidential  
23 supervisory information shall not include any information or

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

8 The Commissioner may disclose confidential supervisory  
9 information only under the following circumstances:

10 (1) The Commissioner may furnish confidential  
11 supervisory information to the Board of Governors of the  
12 Federal Reserve System, the federal reserve bank of the  
13 federal reserve district in which the State bank is located  
14 or in which the parent or other affiliate of the State bank  
15 is located, any official or examiner thereof duly  
16 accredited for the purpose, or any other state regulator,  
17 federal regulator, or in the case of a foreign bank  
18 possessing a certificate of authority pursuant to the  
19 Foreign Banking Office Act or a license pursuant to the  
20 Foreign Bank Representative Office Act, the bank regulator  
21 in the country where the foreign bank is chartered, that  
22 the Commissioner determines to have an appropriate  
23 regulatory interest. Nothing contained in this Act shall be  
24 construed to limit the obligation of any member State bank  
25 to comply with the requirements relative to examinations  
26 and reports of the Federal Reserve Act and of the Board of

1           Governors of the Federal Reserve System or the federal  
2           reserve bank of the federal reserve district in which the  
3           bank is located, nor to limit in any way the powers of the  
4           Commissioner with reference to examinations and reports.

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

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

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

25          (5)    The Commissioner may furnish confidential  
26          supervisory information relating to a bank or other

1 financial institution, which the Commissioner has caused  
2 to be examined, relating to its performance of obligations  
3 under the Illinois Income Tax Act and the Illinois Estate  
4 and Generation-Skipping Transfer Tax Act to the Illinois  
5 Department of Revenue.

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

12 (6.5) The Commissioner may furnish confidential  
13 supervisory information to any other agency or entity that  
14 the Commissioner determines to have a legitimate  
15 regulatory interest.

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

21 (8) At the request of the affected bank or other  
22 financial institution, the Commissioner may furnish  
23 confidential supervisory information relating to a bank or  
24 other financial institution, which the Commissioner has  
25 caused to be examined, in connection with the obtaining of  
26 insurance coverage or the pursuit of an insurance claim for

1 or on behalf of the bank or other financial institution;  
2 provided that, when possible, the Commissioner shall  
3 disclose only relevant information while maintaining the  
4 confidentiality of financial records not relevant to such  
5 insurance coverage or claim and, when appropriate, may  
6 delete identifying data relating to any person or  
7 individual.

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

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

22 (11) Whenever the Commissioner is authorized to  
23 disclose confidential supervisory information under this  
24 Section, the Commissioner is authorized to redact any  
25 document prior to disclosure so that confidential  
26 supervisory information that is not relevant for purposes

1           of the authorized disclosure need not be disclosed.

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

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

14           (2) to attorneys for the bank or other financial  
15 institution and to a certified public accountant engaged by  
16 the State bank or financial institution to perform an  
17 independent audit provided that the attorney or certified  
18 public accountant shall not permit the confidential  
19 supervisory information to be further disseminated;

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

1           therein contained;

2           (4) (blank); or

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

12           The disclosure of confidential supervisory information by  
13 a bank or other financial institution pursuant to this  
14 subsection (b) and the disclosure of information to the  
15 Commissioner or other regulatory agency in connection with any  
16 examination, visitation, or investigation shall not constitute  
17 a waiver of any legal privilege otherwise available to the bank  
18 or other financial institution with respect to the information.

19           (c) (1) Notwithstanding any other provision of this Act or  
20 any other law, confidential supervisory information shall be  
21 the property of the Commissioner and shall be privileged from  
22 disclosure to any person except as provided in this Section. No  
23 person in possession of confidential supervisory information  
24 may disclose that information for any reason or under any  
25 circumstances not specified in this Section without the prior  
26 authorization of the Commissioner. Any person upon whom a



1 demand for production of confidential supervisory information  
2 is made, whether by subpoena, order, or other judicial or  
3 administrative process, must withhold production of the  
4 confidential supervisory information and must notify the  
5 Commissioner of the demand, at which time the Commissioner is  
6 authorized to intervene for the purpose of enforcing the  
7 limitations of this Section or seeking the withdrawal or  
8 termination of the attempt to compel production of the  
9 confidential supervisory information.

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

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

25 (d) If any officer, agent, attorney, or employee of a bank  
26 or financial institution knowingly and willfully furnishes

1 confidential supervisory information in violation of this  
2 Section, the Commissioner may impose a civil monetary penalty  
3 up to \$1,000 for the violation against the officer, agent,  
4 attorney, or employee.

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

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.