



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4109

by Rep. Michael Unes

SYNOPSIS AS INTRODUCED:

205 ILCS 5/48.1	from Ch. 17, par. 360
205 ILCS 205/4013	from Ch. 17, par. 7304-13
205 ILCS 305/10	from Ch. 17, par. 4411

Amends the Illinois Banking Act, the Savings Bank Act, and the Illinois Credit Union Act. Provides that persons or entities under those Acts furnishing information concerning financial abuse of the elderly shall be entitled to the rights and protections of a person furnishing information under the Department of Human Services Act.

LRB099 09989 MGM 30209 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing
5 Section 48.1 as follows:

6 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

7 Sec. 48.1. Customer financial records; confidentiality.

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

10 (1) a document granting signature authority over a
11 deposit or account;

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

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

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

22 (b) This Section does not prohibit:

23 (1) The preparation, examination, handling or

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (13) The exchange in the regular course of business of
25 information between commonly owned banks in connection
26 with a transaction authorized under paragraph (23) of

1 Section 5 and conducted at an affiliate facility.

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

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

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

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

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

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

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

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

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

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

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

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

25 (b) (1) For purposes of this paragraph (19) of
26 subsection (b) of Section 48.1, a "private label credit

1 program" means a credit program involving a financial
2 institution and a private label party that is used by a
3 customer of the financial institution and the private label
4 party primarily for payment for goods or services sold,
5 manufactured, or distributed by a private label party.

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

12 (c) Except as otherwise provided by this Act, a bank may
13 not disclose to any person, except to the customer or his duly
14 authorized agent, any financial records or financial
15 information obtained from financial records relating to that
16 customer of that bank unless:

17 (1) the customer has authorized disclosure to the
18 person;

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

23 (3) the bank is attempting to collect an obligation
24 owed to the bank and the bank complies with the provisions
25 of Section 2I of the Consumer Fraud and Deceptive Business
26 Practices Act.

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

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

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

23 (g) A bank shall be reimbursed for costs that are
24 reasonably necessary and that have been directly incurred in
25 searching for, reproducing, or transporting books, papers,
26 records, or other data of a customer required or requested to

1 be produced pursuant to a lawful subpoena, summons, warrant,
2 citation to discover assets, or court order. The Commissioner
3 shall determine the rates and conditions under which payment
4 may be made.

5 (Source: P.A. 98-49, eff. 7-1-13.)

6 Section 10.

7 Section 15. The Savings Bank Act is amended by changing
8 Section 4013 as follows:

9 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

10 Sec. 4013. Access to books and records; communication with
11 members and shareholders.

12 (a) Every member or shareholder shall have the right to
13 inspect books and records of the savings bank that pertain to
14 his accounts. Otherwise, the right of inspection and
15 examination of the books and records shall be limited as
16 provided in this Act, and no other person shall have access to
17 the books and records nor shall be entitled to a list of the
18 members or shareholders.

19 (b) For the purpose of this Section, the term "financial
20 records" means any original, any copy, or any summary of (1) a
21 document granting signature authority over a deposit or
22 account; (2) a statement, ledger card, or other record on any
23 deposit or account that shows each transaction in or with

1 respect to that account; (3) a check, draft, or money order
2 drawn on a savings bank or issued and payable by a savings
3 bank; or (4) any other item containing information pertaining
4 to any relationship established in the ordinary course of a
5 savings bank's business between a savings bank and its
6 customer, including financial statements or other financial
7 information provided by the member or shareholder.

8 (c) 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 savings bank having custody of
12 records or examination of records by a certified public
13 accountant engaged by the savings bank to perform an
14 independent audit.

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

21 (3) The publication of data furnished from financial
22 records relating to members or holders of capital where the
23 data cannot be identified to any particular member,
24 shareholder, 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 savings bank and other
6 savings banks or financial institutions or commercial
7 enterprises, directly or through a consumer reporting
8 agency or (ii) financial records or information derived
9 from financial records between a savings bank and other
10 savings banks or financial institutions or commercial
11 enterprises for the purpose of conducting due diligence
12 pursuant to a purchase or sale involving the savings bank
13 or assets or liabilities of the savings bank.

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

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

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

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

25 (11) The furnishing of information pursuant to any
26 other statute which by its terms or by regulations

1 promulgated thereunder requires the disclosure of
2 financial records other than by subpoena, summons,
3 warrant, or court order.

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

23 (13) The furnishing of information to law enforcement
24 authorities, the Illinois Department on Aging and its
25 regional administrative and provider agencies, the
26 Department of Human Services Office of Inspector General,

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

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

1 holder of capital, or in connection with:

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

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

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

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

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

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

23 (17) (a) The disclosure of financial records or
24 information related to a private label credit program
25 between a financial institution and a private label party
26 in connection with that private label credit program. Such

1 information is limited to outstanding balance, available
2 credit, payment and performance and account history,
3 product references, purchase information, and information
4 related to the identity of the customer.

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

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

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

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

24 (2) the financial records are disclosed in response to
25 a lawful subpoena, summons, warrant, citation to discover
26 assets, or court order that meets the requirements of

1 subsection (e) of this Section.

2 (e) A savings bank shall disclose financial records under
3 subsection (d) of this Section pursuant to a lawful subpoena,
4 summons, warrant, citation to discover assets, or court order
5 only after the savings bank mails a copy of the subpoena,
6 summons, warrant, citation to discover assets, or court order
7 to the person establishing the relationship with the savings
8 bank, if living, and otherwise, his personal representative, if
9 known, at his last known address by first class mail, postage
10 prepaid, unless the savings bank is specifically prohibited
11 from notifying the person by order of court.

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

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

21 (h) If any member or shareholder desires to communicate
22 with the other members or shareholders of the savings bank with
23 reference to any question pending or to be presented at an
24 annual or special meeting, the savings bank shall give that
25 person, upon request, a statement of the approximate number of
26 members or shareholders entitled to vote at the meeting and an

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

8 (i) A savings bank shall be reimbursed for costs that are
9 necessary and that have been directly incurred in searching
10 for, reproducing, or transporting books, papers, records, or
11 other data of a customer required to be reproduced pursuant to
12 a lawful subpoena, warrant, citation to discover assets, or
13 court order.

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

22 (Source: P.A. 98-49, eff. 7-1-13.)

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

1 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

8 (2) A photostatic or photographic reproduction of any
9 credit union records shall be admissible as evidence of
10 transactions with the credit union.

11 (3) (a) 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 an account, (2) a
14 statement, ledger card or other record on any account which
15 shows each transaction in or with respect to that account, (3)
16 a check, draft or money order drawn on a financial institution
17 or other entity or issued and payable by or through a financial
18 institution or other entity, or (4) any other item containing
19 information pertaining to any relationship established in the
20 ordinary course of business between a credit union and its
21 member, including financial statements or other financial
22 information provided by the member.

23 (b) 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 credit union having custody of such

1 records, or the examination of such records by a certified
2 public accountant engaged by the credit union to perform an
3 independent audit.

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

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

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

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

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

1 liabilities of the credit union.

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

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

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

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

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

18 (12) The furnishing of information in accordance with
19 the federal Personal Responsibility and Work Opportunity
20 Reconciliation Act of 1996. Any credit union governed by
21 this Act shall enter into an agreement for data exchanges
22 with a State agency provided the State agency pays to the
23 credit union a reasonable fee not to exceed its actual cost
24 incurred. A credit union providing information in
25 accordance with this item shall not be liable to any
26 account holder or other person for any disclosure of

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

11 (13) The furnishing of information to law enforcement
12 authorities, the Illinois Department on Aging and its
13 regional administrative and provider agencies, the
14 Department of Human Services Office of Inspector General,
15 or public guardians: (i) upon subpoena by the investigatory
16 entity or the guardian, or (ii) if there is suspicion by
17 the credit union that a member who is an elderly or
18 disabled person has been or may become the victim of
19 financial exploitation. For the purposes of this item (13),
20 the term: (i) "elderly person" means a person who is 60 or
21 more years of age, (ii) "disabled person" means a person
22 who has or reasonably appears to the credit union to have a
23 physical or mental disability that impairs his or her
24 ability to seek or obtain protection from or prevent
25 financial exploitation, and (iii) "financial exploitation"
26 means tortious or illegal use of the assets or resources of

1 an elderly or disabled person, and includes, without
2 limitation, misappropriation of the elderly or disabled
3 person's assets or resources by undue influence, breach of
4 fiduciary relationship, intimidation, fraud, deception,
5 extortion, or the use of assets or resources in any manner
6 contrary to law. A credit union or person furnishing
7 information pursuant to this item (13) shall be entitled to
8 the same rights and protections as a person furnishing
9 information under the Adult Protective Services Act, ~~and~~
10 the Illinois Domestic Violence Act of 1986, and Section
11 1-17 of the Department of Human Services Act.

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

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

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

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

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

26 (15) 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 (16) (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 (16) of
13 subsection (b) of Section 10, 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 (16) of subsection
20 (b) of Section 10, a "private label party" means, with
21 respect to a private label credit program, any of the
22 following: a retailer, a merchant, a manufacturer, a trade
23 group, or any such person's affiliate, subsidiary, member,
24 agent, or service provider.

25 (c) Except as otherwise provided by this Act, a credit
26 union may not disclose to any person, except to the member or

1 his duly authorized agent, any financial records relating to
2 that member of the credit union unless:

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

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

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

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

1 of the federal Right to Financial Privacy Act of 1978.

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

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

11 (f) A credit union shall be reimbursed for costs which are
12 reasonably necessary and which have been directly incurred in
13 searching for, reproducing or transporting books, papers,
14 records or other data of a member required or requested to be
15 produced pursuant to a lawful subpoena, summons, warrant,
16 citation to discover assets, or court order. The Secretary and
17 the Director may determine, by rule, the rates and conditions
18 under which payment shall be made. Delivery of requested
19 documents may be delayed until final reimbursement of all costs
20 is received.

21 (Source: P.A. 97-133, eff. 1-1-12; 98-49, eff. 7-1-13.)