

1 within the meaning of this Section:

2 (1) The purchase or discount of bills of exchange
3 drawn in good faith against actually existing values.

4 (2) The purchase or discount of commercial or
5 business paper actually owned by the person negotiating
6 the same.

7 (3) The purchase of or loaning money in exchange
8 for evidences of indebtedness which shall be secured by
9 mortgage or trust deed upon productive real estate the
10 value of which, as ascertained by the oath of 2 qualified
11 appraisers, neither of whom shall be an officer,
12 director, or employee of the bank or of any subsidiary or
13 affiliate of the bank, is double the amount of the
14 principal debt secured at the time of the original
15 purchase of evidence of indebtedness or loan of money and
16 which is still double the amount of the principal debt
17 secured at the time of any renewal of the indebtedness or
18 loan, and which mortgage or trust deed is shown, either
19 by a guaranty policy of a title guaranty company approved
20 by the Commissioner or by a registrar's certificate of
21 title in any county having adopted the provisions of the
22 Registered Titles (Torrens) Act, or by the opinion of an
23 attorney-at-law, to be a first lien upon the real estate
24 therein described, and real estate shall not be deemed to
25 be encumbered within the meaning of this subsection (3)
26 by reason of the existence of instruments reserving
27 rights-of-way, sewer rights and rights in wells, building
28 restrictions or other restrictive covenants, nor by
29 reason of the fact it is subject to lease under which
30 rents or profits are reserved by the owners.

31 (4) The purchase of marketable investment
32 securities.

33 (5) The liability to a state bank of a person who
34 is an accommodation party to, or guarantor of payment

1 for, any evidence of indebtedness of another person who
2 obtains a loan from or discounts paper with or sells
3 paper to the state bank; but the total liability to a
4 state bank of a person as an accommodation party or
5 guarantor of payment in respect of such evidences of
6 indebtedness shall not exceed 25% 20% of the amount of
7 the unimpaired capital and unimpaired surplus of the
8 bank; provided however that the liability of an
9 accommodation party to paper excepted under subsection 2
10 of this Section shall not be included in the computation
11 of this limitation.

12 (6) The liability to a state bank of a person, who
13 as a guarantor, guarantees collection of the obligation
14 or indebtedness of another person.

15 The total liabilities of any one person, for money
16 borrowed, or otherwise, shall not exceed 25% of the deposits
17 of the bank, and those total liabilities shall at no time
18 exceed 50% of the amount of the unimpaired capital and
19 unimpaired surplus of the bank. Absent an actual unremedied
20 breach, the obligation or responsibility for breach of
21 warranties or representations, express or implied, of a
22 person transferring negotiable or non-negotiable paper to a
23 bank without recourse and without guaranty of payment, shall
24 not be included in determining the amount of liabilities of
25 the person to the bank for borrowed money or otherwise; and
26 in the event of and to the extent of an unremedied breach,
27 the amount remaining unpaid for principal and interest on the
28 paper in respect of which the unremedied breach exists shall
29 thereafter for the purpose of determining whether subsequent
30 transactions giving rise to additional liability of the
31 person to the state bank for borrowed money or otherwise are
32 within the limitations of Sections 32 through 34 of this Act,
33 be included in computing the amount of liabilities of the
34 person for borrowed money or otherwise.

1 The liability of a person to a state bank on account of
2 acceptances made or issued by the state bank on behalf of the
3 person shall be included in the computation of the total
4 liabilities of the person for money borrowed except to the
5 extent the acceptances grow out of transactions of the
6 character described in subsection (6) of Section 34 of this
7 Act and are otherwise within the limitations of that
8 subsection; provided nevertheless that any such excepted
9 acceptances acquired by the state bank which accepted the
10 same shall be included in the computation of the liabilities
11 of the person to the state bank for money borrowed.

12 (Source: P.A. 92-336, eff. 8-10-01.)

13 (205 ILCS 5/35.1) (from Ch. 17, par. 344)

14 Sec. 35.1. Lease limitations. In exercise of the power
15 conferred by paragraph (14) of Section 5 of this Act to own
16 and lease personal property, a state bank shall be subject to
17 the following limitations and restrictions in addition to
18 those contained in that paragraph:

19 (a) The unamortized investment of the bank in personal
20 property subject to any lease or series of leases which is or
21 are the responsibility of a person shall not, when added to
22 any liability of such person for money borrowed, exceed 25%
23 20% of the unimpaired capital and unimpaired surplus of the
24 bank. The term "unamortized investment" means the total cost
25 of such property to the bank less so much of the payments
26 theretofore received by the bank from the lessee and other
27 sources, which under generally accepted principles of
28 accounting are applicable to amortization of the investment.

29 (b) The amount of unamortized investment of the bank in
30 personal property subject to a lease or leases which are the
31 responsibility of a person shall for the purpose of computing
32 the total permitted amount of liability of such person to the
33 bank for money borrowed or otherwise under Section 32 of this

1 Act be treated as the liability of such person.

2 (c) No such lease or related agreement shall obligate
3 the bank to maintain, repair or service the personal
4 property, or unconditionally obligate the bank to restore or
5 replace the same, or in effect unconditionally place on the
6 bank the risk of such restoration or replacement, in the
7 event of loss, theft or destruction of or damage to such
8 property from any cause other than a wilful act of the bank.

9 The limitations and restrictions set forth in paragraphs
10 (a), (b) and (c) above shall apply and be complied with even
11 though such owning and leasing is carried on by the bank, in
12 whole or in part, through the medium of a subsidiary as
13 permitted by paragraph (12) of Section 5 of this Act.

14 In the event a state bank acquires by purchase or
15 discount a lease, or the sums due and to become due
16 thereunder, of personal property made by a lessor other than
17 the bank or such a subsidiary, paragraph (b) of this Section
18 35.1 shall also apply to the obligation of the lessee under
19 such lease.

20 (Source: P.A. 88-546.)

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

22 Sec. 48.1. Customer financial records; confidentiality.

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

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

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

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

32 (4) any other item containing information
33 pertaining to any relationship established in the

1 ordinary course of a bank's business between a bank and
2 its customer, including financial statements or other
3 financial information provided by the customer.

4 (b) This Section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (14) The furnishing of information in accordance
29 with the federal Personal Responsibility and Work
30 Opportunity Reconciliation Act of 1996. Any bank governed
31 by this Act shall enter into an agreement for data
32 exchanges with a State agency provided the State agency
33 pays to the bank a reasonable fee not to exceed its
34 actual cost incurred. A bank providing information in

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

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

17 (16) The furnishing of information to law
18 enforcement authorities, the Illinois Department on Aging
19 and its regional administrative and provider agencies,
20 the Department of Human Services Office of Inspector
21 General, or public guardians, if the bank suspects that a
22 customer who is an elderly or disabled person has been or
23 may become the victim of financial exploitation. For the
24 purposes of this item (16), the term: (i) "elderly
25 person" means a person who is 60 or more years of age,
26 (ii) "disabled person" means a person who has or
27 reasonably appears to the bank to have a physical or
28 mental disability that impairs his or her ability to seek
29 or obtain protection from or prevent financial
30 exploitation, and (iii) "financial exploitation" means
31 tortious or illegal use of the assets or resources of an
32 elderly or disabled person, and includes, without
33 limitation, misappropriation of the elderly or disabled
34 person's assets or resources by undue influence, breach

1 of fiduciary relationship, intimidation, fraud,
2 deception, extortion, or the use of assets or resources
3 in any manner contrary to law. A bank or person
4 furnishing information pursuant to this item (16) shall
5 be entitled to the same rights and protections as a
6 person furnishing information under the Elder Abuse and
7 Neglect Act and the Illinois Domestic Violence Act of
8 1986.

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

13 (A) servicing or processing a financial
14 product or service requested or authorized by the
15 customer;

16 (B) maintaining or servicing a customer's
17 account with the bank; or

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

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

24 (18) The disclosure of financial records or
25 information as necessary to protect against actual or
26 potential fraud, unauthorized transactions, claims, or
27 other liability.

28 (19) The furnishing of information when the matters
29 involve foreign intelligence or counterintelligence, as
30 defined in Section 3 of the federal National Security Act
31 of 1947, or when the matters involve foreign intelligence
32 information, as defined in Section 203(d)(2) of the
33 federal USA PATRIOT ACT of 2001, to any federal law
34 enforcement, intelligence, protective, immigration,

1 national defense, or national security official in order
2 to assist the official receiving that information in the
3 performance of his or her official duties.

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

9 (1) the customer has authorized disclosure to the
10 person;

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

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

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

32 (e) Any officer or employee of a bank who knowingly and
33 willfully furnishes financial records in violation of this
34 Section is guilty of a business offense and, upon conviction,

1 shall be fined not more than \$1,000.

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

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

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

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

18 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

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

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

28 (b) For the purpose of this Section, the term "financial
29 records" means any original, any copy, or any summary of (i)
30 a document granting signature authority over a deposit or
31 account; (ii) a statement, ledger card, or other record on
32 any deposit or account that shows each transaction in or with

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

9 (c) This Section does not prohibit:

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

16 (2) The examination of any financial records by, or
17 the furnishing of financial records by an association to,
18 any officer, employee, or agent of the Commissioner of
19 Banks and Real Estate, Federal Savings and Loan Insurance
20 Corporation and its successors, Federal Deposit Insurance
21 Corporation, Resolution Trust Corporation and its
22 successors, Federal Home Loan Bank Board and its
23 successors, Office of Thrift Supervision, Federal Housing
24 Finance Board, Board of Governors of the Federal Reserve
25 System, any Federal Reserve Bank, or the Office of the
26 Comptroller of the Currency for use solely in the
27 exercise of his duties as an officer, employee, or agent.

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

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

34 (5) Furnishing information concerning the dishonor

1 of any negotiable instrument permitted to be disclosed
2 under the Uniform Commercial Code.

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

13 (7) The furnishing of information to the
14 appropriate law enforcement authorities where the
15 association reasonably believes it has been the victim of
16 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
24 Act", (Title 31, United States Code, Section 1051 et
25 seq.).

26 (11) The furnishing of information pursuant to any
27 other statute that by its terms or by regulations
28 promulgated thereunder requires the disclosure of
29 financial records other than by subpoena, summons,
30 warrant, or court order.

31 (12) The exchange of information between an
32 association and an affiliate of the association; as used
33 in this item, "affiliate" includes any company,
34 partnership, or organization that controls, is controlled

1 by, or is under common control with an association.

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

22 (14) The furnishing of information to law
23 enforcement authorities, the Illinois Department on Aging
24 and its regional administrative and provider agencies,
25 the Department of Human Services Office of Inspector
26 General, or public guardians, if the association suspects
27 that a customer who is an elderly or disabled person has
28 been or may become the victim of financial exploitation.
29 For the purposes of this item (14), the term: (i)
30 "elderly person" means a person who is 60 or more years
31 of age, (ii) "disabled person" means a person who has or
32 reasonably appears to the association to have a physical
33 or mental disability that impairs his or her ability to
34 seek or obtain protection from or prevent financial

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

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

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

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

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

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

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

1 (17) The furnishing of information when the matters
2 involve foreign intelligence or counterintelligence, as
3 defined in Section 3 of the federal National Security Act
4 of 1947, or when the matters involve foreign intelligence
5 information, as defined in Section 203(d)(2) of the
6 federal USA PATRIOT ACT of 2001, to any federal law
7 enforcement, intelligence, protective, immigration,
8 national defense, or national security official in order
9 to assist the official receiving that information in the
10 performance of his or her official duties.

11 (d) An association may not disclose to any person,
12 except to the member or holder of capital or his duly
13 authorized agent, any financial records relating to that
14 member or holder of capital of that association unless:

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

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

21 (e) An association shall disclose financial records
22 under subsection (d) of this Section pursuant to a lawful
23 subpoena, summons, warrant, or court order only after the
24 association mails a copy of the subpoena, summons, warrant,
25 or court order to the person establishing the relationship
26 with the association, if living, and, otherwise, his personal
27 representative, if known, at his last known address by first
28 class mail, postage prepaid, unless the association is
29 specifically prohibited from notifying that person by order
30 of court.

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

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

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

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

24 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

25 Section 15. The Savings Bank Act is amended by changing
26 Section 4013 as follows:

27 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

28 Sec. 4013. Access to books and records; communication
29 with members and shareholders.

30 (a) Every member or shareholder shall have the right to
31 inspect books and records of the savings bank that pertain to
32 his accounts. Otherwise, the right of inspection and

1 examination of the books and records shall be limited as
2 provided in this Act, and no other person shall have access
3 to the books and records nor shall be entitled to a list of
4 the members or shareholders.

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

17 (c) This Section does not prohibit:

18 (1) The preparation examination, handling, or
19 maintenance of any financial records by any officer,
20 employee, or agent of a savings bank having custody of
21 records or examination of records by a certified public
22 accountant engaged by the savings bank to perform an
23 independent audit.

24 (2) The examination of any financial records by, or
25 the furnishing of financial records by a savings bank to,
26 any officer, employee, or agent of the Commissioner of
27 Banks and Real Estate or the Federal Deposit Insurance
28 Corporation for use solely in the exercise of his duties
29 as an officer, employee, or agent.

30 (3) The publication of data furnished from
31 financial records relating to members or holders of
32 capital where the data cannot be identified to any
33 particular member, shareholder, or account.

34 (4) The making of reports or returns required under

1 Chapter 61 of the Internal Revenue Code of 1986.

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

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

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

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

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

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

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

34 (12) The furnishing of information in accordance

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

20 (13) The furnishing of information to law
21 enforcement authorities, the Illinois Department on Aging
22 and its regional administrative and provider agencies,
23 the Department of Human Services Office of Inspector
24 General, or public guardians, if the savings bank
25 suspects that a customer who is an elderly or disabled
26 person has been or may become the victim of financial
27 exploitation. For the purposes of this item (13), the
28 term: (i) "elderly person" means a person who is 60 or
29 more years of age, (ii) "disabled person" means a person
30 who has or reasonably appears to the savings bank to have
31 a physical or mental disability that impairs his or her
32 ability to seek or obtain protection from or prevent
33 financial exploitation, and (iii) "financial
34 exploitation" means tortious or illegal use of the assets

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

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

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

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

26 Nothing in this item (14), however, authorizes the
27 sale of the financial records or information of a member
28 or holder of capital without the consent of the member or
29 holder of capital.

30 (15) The exchange in the regular course of business
31 of information between a savings bank and any commonly
32 owned affiliate of the savings bank, subject to the
33 provisions of the Financial Institutions Insurance Sales
34 Law.

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

5 (17) The furnishing of information when the matters
6 involve foreign intelligence or counterintelligence, as
7 defined in Section 3 of the federal National Security Act
8 of 1947, or when the matters involve foreign intelligence
9 information, as defined in Section 203(d)(2) of the
10 federal USA PATRIOT ACT of 2001, to any federal law
11 enforcement, intelligence, protective, immigration,
12 national defense, or national security official in order
13 to assist the official receiving that information in the
14 performance of his or her official duties.

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

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

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

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

1 (f) Any officer or employee of a savings bank who
2 knowingly and willfully furnishes financial records in
3 violation of this Section is guilty of a business offense
4 and, upon conviction, 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
7 to 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
12 with reference to any question pending or to be presented at
13 an annual or special meeting, the savings bank shall give
14 that person, upon request, a statement of the approximate
15 number of members or shareholders entitled to vote at the
16 meeting and an estimate of the cost of preparing and mailing
17 the 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
20 and mailed to the members upon the requesting member's or
21 shareholder's payment or adequate provision for payment of
22 the expenses of preparation and mailing.

23 (i) A savings bank shall be reimbursed for costs that
24 are 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 to be
27 reproduced pursuant to a lawful subpoena, warrant, or court
28 order.

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

1 list that is to be sold or used in any other manner beyond
2 identification of the customer's accounts.

3 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

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

6 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

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

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

29 (b) This Section does not prohibit:

30 (1) The preparation, examination, handling or
31 maintenance of any financial records by any officer,
32 employee or agent of a credit union having custody

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

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

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

15 (4) The making of reports or returns required
16 under Chapter 61 of the Internal Revenue Code of
17 1954.

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

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

32 (7) The furnishing of information to the
33 appropriate law enforcement authorities where the
34 credit union reasonably believes it has been the

1 victim of a crime.

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

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

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

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

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

1 served with a subpoena, summons, warrant, court or
2 administrative order, lien, or levy.

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

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

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

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

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

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

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

17 (16) The furnishing of information when the
18 matters involve foreign intelligence or
19 counterintelligence, as defined in Section 3 of the
20 federal National Security Act of 1947, or when the
21 matters involve foreign intelligence information, as
22 defined in Section 203(d)(2) of the federal USA
23 PATRIOT ACT of 2001, to any federal law enforcement,
24 intelligence, protective, immigration, national
25 defense, or national security official in order to
26 assist the official receiving that information in
27 the performance of his or her official duties.

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

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

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

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

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

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

32 (2) Any person who knowingly and wilfully
33 induces or attempts to induce any officer or
34 employee of a credit union to disclose financial

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

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

14 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;
15 92-483, eff. 8-23-01.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."