

1 AMENDMENT TO HOUSE BILL 1903

2 AMENDMENT NO. _____. Amend House Bill 1903, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Banking Act is amended by
6 changing Sections 32, 35.1, and 48.1 as follows:

7 (205 ILCS 5/32) (from Ch. 17, par. 339)

8 Sec. 32. Basic loaning limits. The liabilities
9 outstanding at one time to a state bank of a person for money
10 borrowed, including the liabilities of a partnership or joint
11 venture in the liabilities of the several members thereof,
12 shall not exceed 25% of the amount of the unimpaired capital
13 and unimpaired surplus of the bank.

14 The liabilities to any state bank of a person may exceed
15 25% of the unimpaired capital and unimpaired surplus of the
16 bank, provided that (i) the excess amount from time to time
17 outstanding is fully secured by readily marketable collateral
18 having a market value, as determined by reliable and
19 continuously available quotations, at least equal to the
20 excess amount outstanding; and (ii) the total liabilities
21 shall not exceed 30% of the unimpaired capital and unimpaired
22 surplus of the bank.

1 The following shall not be considered as money borrowed
2 within the meaning of this Section:

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

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

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

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

34 (5) The liability to a state bank of a person who

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

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

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

1 person for borrowed money or otherwise.

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

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

14 (205 ILCS 5/35.1) (from Ch. 17, par. 344)

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

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

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

1 bank for money borrowed or otherwise under Section 32 of this
2 Act be treated as the liability of such person.

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

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

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

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

22 (205 ILCS 5/48.1) (from Ch. 17, par. 360)

23 Sec. 48.1. Customer financial records; confidentiality.

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

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

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

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

33 (4) any other item containing information

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

5 (b) This Section does not prohibit:

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

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

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

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

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

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

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

6 (7) The furnishing of information to the
7 appropriate law enforcement authorities where the bank
8 reasonably 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
12 Illinois Income Tax Act and the Illinois Estate and
13 Generation-Skipping Transfer Tax Act.

14 (10) The furnishing of information under the
15 federal Currency and Foreign Transactions Reporting Act
16 Title 31, 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
22 existence of an account of a person to a judgment
23 creditor of that person who has made a written request
24 for that information.

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

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

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

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

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

1 person's assets or resources by undue influence, breach
2 of fiduciary relationship, intimidation, fraud,
3 deception, extortion, or the use of assets or resources
4 in any manner contrary to law. A bank or person
5 furnishing information pursuant to this item (16) shall
6 be entitled to the same rights and protections as a
7 person furnishing information under the Elder Abuse and
8 Neglect Act and the Illinois Domestic Violence Act of
9 1986.

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

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

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

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

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

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

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

1 federal law enforcement, intelligence, protective,
2 immigration, national defense, or national security
3 official, pursuant to any lawful request, in order to
4 assist the official receiving that information in the
5 performance of his or her official duties.

6 (20) (a) The disclosure of financial records or
7 information related to a private label credit program
8 between a financial institution and a private label party
9 in connection with that private label credit program.
10 Such information is limited to outstanding balance,
11 available credit, payment and performance and account
12 history, product references, purchase information, and
13 information related to the identity of the customer.

14 (b) (1) For purposes of this paragraph (20) of
15 subsection (b) of Section 48.1, a "private label credit
16 program" means a credit program involving a financial
17 institution and a private label party that is used by a
18 customer of the financial institution and the private
19 label party primarily for payment for goods or services
20 sold, manufactured, or distributed by a private label
21 party.

22 (2) For purposes of this paragraph (20) of
23 subsection (b) of Section 48.1, a "private label party"
24 means, with respect to a private label credit program,
25 any of the following: a retailer, a merchant, a
26 manufacturer, a trade group, or any such person's
27 affiliate, subsidiary, member, agent, or service
28 provider.

29 (c) Except as otherwise provided by this Act, a bank may
30 not disclose to any person, except to the customer or his
31 duly authorized agent, any financial records or financial
32 information obtained from financial records relating to that
33 customer of that bank unless:

34 (1) the customer has authorized disclosure to the

1 person;

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

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

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

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

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

32 (g) A bank shall be reimbursed for costs that are
33 reasonably necessary and that have been directly incurred in
34 searching for, reproducing, or transporting books, papers,

1 records, or other data of a customer required or requested to
2 be produced pursuant to a lawful subpoena, summons, warrant,
3 or court order. The Commissioner shall determine the rates
4 and conditions under which payment may be made.

5 (Source: P.A. 91-330, eff. 7-29-99; 91-929, eff. 12-15-00;
6 92-483, eff. 8-23-01.)

7 Section 10. The Illinois Savings and Loan Act of 1985 is
8 amended by changing Sections 3-8 and 7-19.1 as follows:

9 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

10 Sec. 3-8. Access to books and records; communication
11 with members.

12 (a) Every member or holder of capital shall have the
13 right to inspect the books and records of the association
14 that pertain to his account. Otherwise, the right of
15 inspection and examination of the books and records shall be
16 limited as provided in this Act, and no other person shall
17 have access to the books and records or shall be entitled to
18 a list of the members.

19 (b) For the purpose of this Section, the term "financial
20 records" means any original, any copy, or any summary of (i)
21 a document granting signature authority over a deposit or
22 account; (ii) a statement, ledger card, or other record on
23 any deposit or account that shows each transaction in or with
24 respect to that account; (iii) a check, draft, or money order
25 drawn on an association or issued and payable by an
26 association; or (iv) any other item containing information
27 pertaining to any relationship established in the ordinary
28 course of an association's business between an association
29 and its customer, including financial statements or other
30 financial information provided by the member or holder of
31 capital.

32 (c) This Section does not prohibit:

1 (1) The preparation, examination, handling, or
2 maintenance of any financial records by any officer,
3 employee, or agent of an association having custody of
4 those records or the examination of those records by a
5 certified public accountant engaged by the association to
6 perform an independent audit.

7 (2) The examination of any financial records by, or
8 the furnishing of financial records by an association to,
9 any officer, employee, or agent of the Commissioner of
10 Banks and Real Estate, Federal Savings and Loan Insurance
11 Corporation and its successors, Federal Deposit Insurance
12 Corporation, Resolution Trust Corporation and its
13 successors, Federal Home Loan Bank Board and its
14 successors, Office of Thrift Supervision, Federal Housing
15 Finance Board, Board of Governors of the Federal Reserve
16 System, any Federal Reserve Bank, or the Office of the
17 Comptroller of the Currency for use solely in the
18 exercise of his duties as an officer, employee, or agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 be entitled to the same rights and protections as a
2 person furnishing information under the Elder Abuse and
3 Neglect Act and the Illinois Domestic Violence Act of
4 1986.

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

9 (A) servicing or processing a financial
10 product or service requested or authorized by the
11 member or holder of capital;

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

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

18 Nothing in this item (15), however, authorizes the
19 sale of the financial records or information of a member
20 or holder of capital without the consent of the member or
21 holder of capital.

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

26 (17) The furnishing of information when the matters
27 involve foreign intelligence or counterintelligence, as
28 defined in Section 3 of the federal National Security Act
29 of 1947, or when the matters involve foreign intelligence
30 information, as defined in Section 203(d)(2) of the
31 federal USA PATRIOT ACT of 2001, as enacted, to any
32 federal law enforcement, intelligence, protective,
33 immigration, national defense, or national security
34 official, pursuant to any lawful request, in order to

1 assist the official receiving that information in the
2 performance of his or her official duties.

3 (18) (a) The disclosure of financial records or
4 information related to a private label credit program
5 between a financial institution and a private label party
6 in connection with that private label credit program.
7 Such information is limited to outstanding balance,
8 available credit, payment and performance and account
9 history, product references, purchase information, and
10 information related to the identity of the customer.

11 (b) (1) For purposes of this paragraph (18) of
12 subsection (c) of Section 3-8, a "private label credit
13 program" means a credit program involving a financial
14 institution and a private label party that is used by a
15 customer of the financial institution and the private
16 label party primarily for payment for goods or services
17 sold, manufactured, or distributed by a private label
18 party.

19 (2) For purposes of this paragraph (18) of
20 subsection (c) of Section 3-8, a "private label party"
21 means, with respect to a private label credit program,
22 any of the following: a retailer, a merchant, a
23 manufacturer, a trade group, or any such person's
24 affiliate, subsidiary, member, agent, or service
25 provider.

26 (d) An association may not disclose to any person,
27 except to the member or holder of capital or his duly
28 authorized agent, any financial records relating to that
29 member or holder of capital of that association unless:

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

32 (2) The financial records are disclosed in response
33 to a lawful subpoena, summons, warrant, or court order
34 that meets the requirements of subsection (e) of this

1 Section.

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

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

16 (2) Any person who knowingly and willfully induces or
17 attempts to induce any officer or employee of an association
18 to 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 (g) However, if any member desires to communicate with
22 the other members of the association with reference to any
23 question pending or to be presented at a meeting of the
24 members, the association shall give him upon request a
25 statement of the approximate number of members entitled to
26 vote at the meeting and an estimate of the cost of preparing
27 and mailing the communication. The requesting member then
28 shall submit the communication to the Commissioner who, if he
29 finds it to be appropriate and truthful, shall direct that it
30 be prepared and mailed to the members upon the requesting
31 member's payment or adequate provision for payment of the
32 expenses of preparation and mailing.

33 (h) An association shall be reimbursed for costs that
34 are necessary and that have been directly incurred in

1 searching for, reproducing, or transporting books, papers,
2 records, or other data of a customer required to be
3 reproduced pursuant to a lawful subpoena, warrant, or court
4 order.

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

6 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

7 Sec. 7-19.1. Savings and Residential Finance Regulatory
8 Fund.

9 (a) The aggregate of all fees collected by the
10 Commissioner under this Act shall be paid promptly after
11 receipt of the same, accompanied by a detailed statement
12 thereof, into the State treasury and shall be set apart in
13 the Savings and Residential Finance Regulatory Fund, a
14 special fund hereby created in the State treasury. The
15 amounts deposited into the Fund shall be used for the
16 ordinary and contingent expenses of the Office of Banks and
17 Real Estate. Nothing in this Act shall prevent continuing
18 the practice of paying expenses involving salaries,
19 retirement, social security, and State-paid insurance of
20 State officers by appropriation from the General Revenue
21 Fund.

22 (b) Moneys in the Savings and Residential Finance
23 Regulatory Fund may not be appropriated, assigned, or
24 transferred to another State fund. The moneys in the Fund
25 shall be for the sole benefit of the institutions assessed.

26 (c) All earnings received from investments of funds in
27 the Savings and Residential Finance Regulatory Fund shall be
28 deposited into the Savings and Residential Finance Regulatory
29 Fund and may be used for the same purposes as fees deposited
30 into that Fund.

31 (Source: P.A. 88-579, eff. 8-12-94; 89-508, eff. 7-3-96.)

32 Section 15. The Savings Bank Act is amended by changing

1 Section 4013 as follows:

2 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

3 Sec. 4013. Access to books and records; communication
4 with members and shareholders.

5 (a) Every member or shareholder shall have the right to
6 inspect books and records of the savings bank that pertain to
7 his accounts. Otherwise, the right of inspection and
8 examination of the books and records shall be limited as
9 provided in this Act, and no other person shall have access
10 to the books and records nor shall be entitled to a list of
11 the members or shareholders.

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

24 (c) This Section does not prohibit:

25 (1) The preparation, examination, handling, or
26 maintenance of any financial records by any officer,
27 employee, or agent of a savings bank having custody of
28 records or examination of records by a certified public
29 accountant engaged by the savings bank to perform an
30 independent audit.

31 (2) The examination of any financial records by, or
32 the furnishing of financial records by a savings bank to,
33 any officer, employee, or agent of the Commissioner of

1 Banks and Real Estate or the Federal Deposit Insurance
2 Corporation for use solely in the exercise of his duties
3 as an officer, employee, or agent.

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

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

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

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

24 (7) The furnishing of information to the
25 appropriate law enforcement authorities where the savings
26 bank reasonably believes it has been the victim of a
27 crime.

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

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

33 (10) The furnishing of information pursuant to the
34 federal "Currency and Foreign Transactions Reporting

1 Act", (Title 31, United States Code, Section 1051 et
2 seq.).

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

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

28 (13) The furnishing of information to law
29 enforcement authorities, the Illinois Department on Aging
30 and its regional administrative and provider agencies,
31 the Department of Human Services Office of Inspector
32 General, or public guardians, if the savings bank
33 suspects that a customer who is an elderly or disabled
34 person has been or may become the victim of financial

1 exploitation. For the purposes of this item (13), the
2 term: (i) "elderly person" means a person who is 60 or
3 more years of age, (ii) "disabled person" means a person
4 who has or reasonably appears to the savings bank to have
5 a physical or mental disability that impairs his or her
6 ability to seek or obtain protection from or prevent
7 financial exploitation, and (iii) "financial
8 exploitation" means tortious or illegal use of the assets
9 or resources of an elderly or disabled person, and
10 includes, without limitation, misappropriation of the
11 elderly or disabled person's assets or resources by undue
12 influence, breach of fiduciary relationship,
13 intimidation, fraud, deception, extortion, or the use of
14 assets or resources in any manner contrary to law. A
15 savings bank or person furnishing information pursuant to
16 this item (13) shall be entitled to the same rights and
17 protections as a person furnishing information under the
18 Elder Abuse and Neglect Act and the Illinois Domestic
19 Violence Act of 1986.

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

24 (A) servicing or processing a financial
25 product or service requested or authorized by the
26 member or holder of capital;

27 (B) maintaining or servicing an account of a
28 member or holder of capital with the savings bank;
29 or

30 (C) a proposed or actual securitization or
31 secondary market sale (including sales of servicing
32 rights) related to a transaction of a member or
33 holder of capital.

34 Nothing in this item (14), however, authorizes the

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

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

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

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

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

32 (b) (1) For purposes of this paragraph (18) of
33 subsection (c) of Section 4013, a "private label credit
34 program" means a credit program involving a financial

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

6 (2) For purposes of this paragraph (18) of
7 subsection (c) of Section 4013, a "private label party"
8 means, with respect to a private label credit program,
9 any of the following: a retailer, a merchant, a
10 manufacturer, a trade group, or any such person's
11 affiliate, subsidiary, member, agent, or service
12 provider.

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

17 (1) the member or shareholder has authorized
18 disclosure to the person; or

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

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

33 (f) Any officer or employee of a savings bank who
34 knowingly and willfully furnishes financial records in

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

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

8 (h) If any member or shareholder desires to communicate
9 with the other members or shareholders of the savings bank
10 with reference to any question pending or to be presented at
11 an annual or special meeting, the savings bank shall give
12 that person, upon request, a statement of the approximate
13 number of members or shareholders entitled to vote at the
14 meeting and an estimate of the cost of preparing and mailing
15 the communication. The requesting member shall submit the
16 communication to the Commissioner who, upon finding it to be
17 appropriate and truthful, shall direct that it be prepared
18 and mailed to the members upon the requesting member's or
19 shareholder's payment or adequate provision for payment of
20 the expenses of preparation and mailing.

21 (i) A savings bank shall be reimbursed for costs that
22 are necessary and that have been directly incurred in
23 searching for, reproducing, or transporting books, papers,
24 records, or other data of a customer required to be
25 reproduced pursuant to a lawful subpoena, warrant, or court
26 order.

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

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

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

4 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

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

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

27 (b) This Section does not prohibit:

28 (1) The preparation, examination, handling or
29 maintenance of any financial records by any officer,
30 employee or agent of a credit union having custody
31 of such records, or the examination of such records
32 by a certified public accountant engaged by the

1 credit union to perform an independent audit.

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

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

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

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

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

30 (7) The furnishing of information to the
31 appropriate law enforcement authorities where the
32 credit union reasonably believes it has been the
33 victim of a crime.

34 (8) The furnishing of information pursuant to

1 the Uniform Disposition of Unclaimed Property Act.

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

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

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

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

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

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

33 (A) servicing or processing a financial
34 product or service requested or authorized by

1 the member;

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

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

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

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

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

27 (17) (a) The disclosure of financial records
28 or information related to a private label credit
29 program between a financial institution and a
30 private label party in connection with that private
31 label credit program. Such information is limited to
32 outstanding balance, available credit, payment and
33 performance and account history, product references,
34 purchase information, and information related to the

1 identity of the customer.

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

10 (2) For purposes of this paragraph (17) of
11 subsection (b) of Section 10, a "private label
12 party" means, with respect to a private label credit
13 program, any of the following: a retailer, a
14 merchant, a manufacturer, a trade group, or any such
15 person's affiliate, subsidiary, member, agent, or
16 service provider.

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

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

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

28 (3) the credit union is attempting to collect
29 an obligation owed to the credit union and the
30 credit union complies with the provisions of Section
31 2I of the Consumer Fraud and Deceptive Business
32 Practices Act.

33 (d) A credit union shall disclose financial records
34 under subparagraph (c)(2) of this Section pursuant to a

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

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

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

27 (f) A credit union shall be reimbursed for costs
28 which are reasonably necessary and which have been
29 directly incurred in searching for, reproducing or
30 transporting books, papers, records or other data of a
31 member required or requested to be produced pursuant to a
32 lawful subpoena, summons, warrant or court order. The
33 Director may determine, by rule, the rates and conditions
34 under which payment shall be made. Delivery of requested

1 documents may be delayed until final reimbursement of all
2 costs is received.

3 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;
4 92-483, eff. 8-23-01.)

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