

1 AMENDMENT TO HOUSE BILL 2538

2 AMENDMENT NO. _____. Amend House Bill 2538, AS AMENDED,
3 in the introductory clause to Section 10 of the bill by
4 changing "48" to "48, 48.1"; and

5 in the body of Section 10 of the bill, in Sec. 48, in item
6 (6)(a) by deleting "including, but not limited to, the
7 establishing of standards for the safe and sound conduct of
8 banks"; and

9 in the body of Section 10 of the bill by inserting
10 immediately below the last line of Sec. 48 the following:

11 "(205 ILCS 5/48.1) (from Ch. 17, par. 360)

12 Sec. 48.1. Customer financial records; confidentiality.

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

15 (1) a document granting signature authority over a
16 deposit or account;

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

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

22 (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 (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. 90-18, eff. 7-1-97; 90-665, eff. 7-30-98;
6 91-330, eff. 7-29-99; 91-929, eff. 12-15-00.)"; and

7 in the introductory clause to Section 20 of the bill by
8 changing "2B-5" to "2B-5, 3-8"; and

9 in the body of Section 20 of the bill by inserting
10 immediately below the last line of Sec. 2B-5 the following:

11 "(205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

12 Sec. 3-8. Access to books and records; communication
13 with members.

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

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

1 capital.

2 (c) This Section does not prohibit:

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

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

22 (3) The publication of data furnished from
23 financial records relating to members or holders of
24 capital where the data cannot be identified to any
25 particular member, holder of capital, or 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 an association and
33 other associations or financial institutions or
34 commercial enterprises, directly or through a consumer

1 reporting agency or (ii) financial records or information
2 derived from financial records between an association and
3 other associations or financial institutions or
4 commercial enterprises for the purpose of conducting due
5 diligence pursuant to a purchase or sale involving the
6 association or assets or liabilities of the association.‡

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

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

13 (9) The furnishing of information pursuant to the
14 Illinois Income Tax Act and the Illinois Estate and
15 Generation-Skipping Transfer Tax Act.‡

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

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

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

30 (13) The furnishing of information in accordance
31 with the federal Personal Responsibility and Work
32 Opportunity Reconciliation Act of 1996. Any association
33 governed by this Act shall enter into an agreement for
34 data exchanges with a State agency provided the State

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

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

1 deception, extortion, or the use of assets or resources
 2 in any manner contrary to law. An association or person
 3 furnishing information pursuant to this item (14) shall
 4 be entitled to the same rights and protections as a
 5 person furnishing information under the Elder Abuse and
 6 Neglect Act and the Illinois Domestic Violence Act of
 7 1986.

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

12 (A) servicing or processing a financial
 13 product or service requested or authorized by the
 14 member or holder of capital;

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

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

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

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

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

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

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

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

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

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

24 (g) However, if any member desires to communicate with
25 the other members of the association with reference to any
26 question pending or to be presented at a meeting of the
27 members, the association shall give him upon request a
28 statement of the approximate number of members entitled to
29 vote at the meeting and an estimate of the cost of preparing
30 and mailing the communication. The requesting member then
31 shall submit the communication to the Commissioner who, if he
32 finds it to be appropriate and truthful, shall direct that it
33 be prepared and mailed to the members upon the requesting
34 member's payment or adequate provision for payment of the

1 expenses of preparation and mailing.

2 (h) An association shall be reimbursed for costs that
3 are necessary and that have been directly incurred in
4 searching for, reproducing, or transporting books, papers,
5 records, or other data of a customer required to be
6 reproduced pursuant to a lawful subpoena, warrant, or court
7 order.

8 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.);
9 and

10 in the introductory clause to Section 25 of the bill by
11 changing "4005" to "4005, 4013"; and

12 in the body of Section 25 of the bill by inserting
13 immediately below the last line of Sec. 4005 the following:

14 "(205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

15 Sec. 4013. Access to books and records; communication
16 with members and shareholders.

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

24 (b) For the purpose of this Section, the term "financial
25 records" means any original, any copy, or any summary of (1)
26 a document granting signature authority over a deposit or
27 account; (2) a statement, ledger card, or other record on any
28 deposit or account that shows each transaction in or with
29 respect to that account; (3) a check, draft, or money order
30 drawn on a savings bank or issued and payable by a savings
31 bank; or (4) any other item containing information pertaining
32 to any relationship established in the ordinary course of a

1 savings bank's business between a savings bank and its
2 customer, including financial statements or other financial
3 information provided by the member or shareholder.

4 (c) 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 savings bank having custody of
8 records or examination of records by a certified public
9 accountant engaged by the savings 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 savings bank to,
13 any officer, employee, or agent of the Commissioner of
14 Banks and Real Estate or the Federal Deposit Insurance
15 Corporation for use solely in the exercise of his duties
16 as an officer, employee, or agent.

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

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

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

26 (6) The exchange in the regular course of business
27 of (i) credit information between a savings bank and
28 other savings banks or financial institutions or
29 commercial enterprises, directly or through a consumer
30 reporting agency or (ii) financial records or information
31 derived from financial records between a savings bank and
32 other savings banks or financial institutions or
33 commercial enterprises for the purpose of conducting due
34 diligence pursuant to a purchase or sale involving the

1 savings bank or assets or liabilities of the savings
2 bank.

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

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

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

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

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

21 (12) The furnishing of information in accordance
22 with the federal Personal Responsibility and Work
23 Opportunity Reconciliation Act of 1996. Any savings bank
24 governed by this Act shall enter into an agreement for
25 data exchanges with a State agency provided the State
26 agency pays to the savings bank a reasonable fee not to
27 exceed its actual cost incurred. A savings bank
28 providing information in accordance with this item shall
29 not be liable to any account holder or other person for
30 any disclosure of information to a State agency, for
31 encumbering or surrendering any assets held by the
32 savings bank in response to a lien or order to withhold
33 and deliver issued by a State agency, or for any other
34 action taken pursuant to this item, including individual

1 or mechanical errors, provided the action does not
2 constitute gross negligence or willful misconduct. A
3 savings bank shall have no obligation to hold, encumber,
4 or surrender assets until it has been served with a
5 subpoena, summons, warrant, court or administrative
6 order, lien, or levy.

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

33 (14) The disclosure of financial records or
34 information as necessary to effect, administer, or

1 enforce a transaction requested or authorized by the
2 member or holder of capital, or in connection with:

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

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

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

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

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

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 (d) A savings bank 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 shareholder of the savings bank unless:

30 (1) the member or shareholder 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) A savings bank 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 savings bank mails a copy of the subpoena, summons, warrant,
6 or court order to the person establishing the relationship
7 with the savings bank, if living, and otherwise, his personal
8 representative, if known, at his last known address by first
9 class mail, postage prepaid, unless the savings bank is
10 specifically prohibited from notifying the person by order of
11 court.

12 (f) Any officer or employee of a savings bank 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 (g) Any person who knowingly and willfully induces or
17 attempts to induce any officer or employee of a savings bank
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 (h) If any member or shareholder desires to communicate
22 with the other members or shareholders of the savings bank
23 with reference to any question pending or to be presented at
24 an annual or special meeting, the savings bank shall give
25 that person, upon request, a statement of the approximate
26 number of members or shareholders entitled to vote at the
27 meeting and an estimate of the cost of preparing and mailing
28 the communication. The requesting member shall submit the
29 communication to the Commissioner who, upon finding it to be
30 appropriate and truthful, shall direct that it be prepared
31 and mailed to the members upon the requesting member's or
32 shareholder's payment or adequate provision for payment of
33 the expenses of preparation and mailing.

34 (i) A savings bank shall be reimbursed for costs that

1 are necessary and that have been directly incurred in
2 searching for, reproducing, or transporting books, papers,
3 records, or other data of a customer required to be
4 reproduced pursuant to a lawful subpoena, warrant, or court
5 order.

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

14 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.);
15 and

16 by inserting immediately below the last line of Section 27 of
17 the bill the following:

18 "Section 28. The Illinois Credit Union Act is amended by
19 changing Section 10 as follows:

20 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

22 (1) A credit union shall establish and maintain books,
23 records, accounting systems and procedures which accurately
24 reflect its operations and which enable the Department to
25 readily ascertain the true financial condition of the credit
26 union and whether it is complying with this Act.

27 (2) A photostatic or photographic reproduction of any
28 credit union records shall be admissible as evidence of
29 transactions with the credit union.

30 (3) (a) For the purpose of this Section, the term
31 "financial records" means any original, any copy, or any
32 summary of (1) a document granting signature authority

1 over an account, (2) a statement, ledger card or other
2 record on any account which shows each transaction in or
3 with respect to that account, (3) a check, draft or money
4 order drawn on a financial institution or other entity or
5 issued and payable by or through a financial institution
6 or other entity, or (4) any other item containing
7 information pertaining to any relationship established in
8 the ordinary course of business between a credit union
9 and its member, including financial statements or other
10 financial information provided by the member.

11 (b) This Section does not prohibit:

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

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

25 (3) The publication of data furnished from
26 financial records relating to members where the data
27 cannot be identified to any particular customer of
28 account.;

29 (4) The making of reports or returns required
30 under Chapter 61 of the Internal Revenue Code of
31 1954.;

32 (5) Furnishing information concerning the
33 dishonor of any negotiable instrument permitted to
34 be disclosed under the Uniform Commercial Code.;

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

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

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

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

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

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

30 (12) The furnishing of information in
31 accordance with the federal Personal Responsibility
32 and Work Opportunity Reconciliation Act of 1996. Any
33 credit union governed by this Act shall enter into
34 an agreement for data exchanges with a State agency

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

17 (13) The furnishing of information to law
18 enforcement authorities, the Illinois Department on
19 Aging and its regional administrative and provider
20 agencies, the Department of Human Services Office of
21 Inspector General, or public guardians, if the
22 credit union suspects that a member who is an
23 elderly or disabled person has been or may become
24 the victim of financial exploitation. For the
25 purposes of this item (13), the term: (i) "elderly
26 person" means a person who is 60 or more years of
27 age, (ii) "disabled person" means a person who has
28 or reasonably appears to the credit union to have a
29 physical or mental disability that impairs his or
30 her ability to seek or obtain protection from or
31 prevent financial exploitation, and (iii) "financial
32 exploitation" means tortious or illegal use of the
33 assets or resources of an elderly or disabled
34 person, and includes, without limitation,

1 misappropriation of the elderly or disabled person's
2 assets or resources by undue influence, breach of
3 fiduciary relationship, intimidation, fraud,
4 deception, extortion, or the use of assets or
5 resources in any manner contrary to law. A credit
6 union or person furnishing information pursuant to
7 this item (13) shall be entitled to the same rights
8 and protections as a person furnishing information
9 under the Elder Abuse and Neglect Act and the
10 Illinois Domestic Violence Act of 1986.

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

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

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

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

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

27 (15) The disclosure of financial records or
28 information as necessary to protect against or prevent
29 actual or potential fraud, unauthorized transactions,
30 claims, or other liability.

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

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

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

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

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

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

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

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

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

12 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)".