



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2763

Introduced 1/20/2006, by Sen. James F. Clayborne, Jr.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2435/59 new	
205 ILCS 5/48.1	from Ch. 17, par. 360
205 ILCS 105/3-8	from Ch. 17, par. 3303-8
205 ILCS 205/4013	from Ch. 17, par. 7304-13
205 ILCS 305/10	from Ch. 17, par. 4411

Amends the Abuse of Adults with Disabilities Intervention Act. Provides that the Office of Inspector General designated by the Department of Human Services has the power to subpoena witnesses and compel the production of books, papers, and documents. Sets forth that the mental health records of victims shall be confidential as provided under the Mental Health and Developmental Disabilities Confidentiality Act. Provides that financial records obtained during the course of an assessment are confidential and may be released only with the consent of the victim or the victim's guardian in response to a court order, a grand jury subpoena, or a subpoena from a law enforcement authority. Amends the Illinois Banking Act, the Illinois Savings and Loan Act of 1985, the Savings Bank Act, and the Illinois Credit Union Act. Authorizes a bank, savings and loan association, savings bank, or credit union to furnish information to law enforcement authorities, the Illinois Department on Aging and its regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians: (i) upon subpoena by the investigatory entity or guardian, or (ii) if there is suspicion by the bank, association, savings bank, or credit union that a member who is an elderly or disabled person has been or may become the victim of financial exploitation (now, the information may be furnished if there is suspicion by the investigatory entity, the guardian, or the financial institution). Effective immediately.

LRB094 18898 MKM 54586 b

1 AN ACT concerning confidentiality.

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

4 Section 5. The Abuse of Adults with Disabilities  
5 Intervention Act is amended by adding Section 59 as follows:

6 (20 ILCS 2435/59 new)

7 Sec. 59. Subpoena; document production. The Office of  
8 Inspector General has the power to subpoena witnesses and  
9 compel the production of books, papers, and documents,  
10 including financial records and medical records, pertinent to  
11 an assessment authorized by this Act. Mental health records of  
12 victims shall be confidential as provided under the Mental  
13 Health and Developmental Disabilities Confidentiality Act.  
14 Financial records obtained during the course of an assessment  
15 are confidential and may be released only with the consent of  
16 the victim or the victim's guardian or in response to a court  
17 order, a grand jury subpoena, or a subpoena from a law  
18 enforcement authority.

19 Section 10. The Illinois Banking Act is amended by changing  
20 Section 48.1 as follows:

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

22 Sec. 48.1. Customer financial records; confidentiality.

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

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

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

30 (3) a check, draft or money order drawn on a bank or

1 issued and payable by a bank; or

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

7 (b) This Section does not prohibit:

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

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

23 (3) The publication of data furnished from financial  
24 records relating to customers where the data cannot be  
25 identified to any particular customer 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 of  
29 any negotiable instrument permitted to be disclosed under  
30 the Uniform Commercial Code.

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

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

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

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

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

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

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

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

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

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

1 by a State agency, or for any other action taken pursuant  
2 to this item, including individual or mechanical errors,  
3 provided the action does not constitute gross negligence or  
4 willful misconduct. A bank shall have no obligation to  
5 hold, encumber, or surrender assets until it has been  
6 served with a subpoena, summons, warrant, court or  
7 administrative order, lien, or levy.

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

12 (16) The furnishing of information to law enforcement  
13 authorities, the Illinois Department on Aging and its  
14 regional administrative and provider agencies, the  
15 Department of Human Services Office of Inspector General,  
16 or public guardians: (i) upon subpoena, ~~if there is~~  
17 ~~suspicion~~ by the investigatory entity or, the guardian, or  
18 (ii) if there is suspicion by the bank that a customer who  
19 is an elderly or disabled person has been or may become the  
20 victim of financial exploitation. For the purposes of this  
21 item (16), the term: (i) "elderly person" means a person  
22 who is 60 or more years of age, (ii) "disabled person"  
23 means a person who has or reasonably appears to the bank to  
24 have a physical or mental disability that impairs his or  
25 her ability to seek or obtain protection from or prevent  
26 financial exploitation, and (iii) "financial exploitation"  
27 means tortious or illegal use of the assets or resources of  
28 an 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 of  
31 fiduciary relationship, intimidation, fraud, deception,  
32 extortion, or the use of assets or resources in any manner  
33 contrary to law. A bank or person furnishing information  
34 pursuant to this item (16) shall be entitled to the same  
35 rights and protections as a person furnishing information  
36 under the Elder Abuse and Neglect Act, the Illinois

1 Domestic Violence Act of 1986, and the Abuse of Adults with  
2 Disabilities Intervention Act.

3 (17) The disclosure of financial records or  
4 information as necessary to effect, administer, or enforce  
5 a transaction requested or authorized by the customer, or  
6 in connection with:

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

9 (B) maintaining or servicing a customer's account  
10 with the bank; or

11 (C) a proposed or actual securitization or  
12 secondary market sale (including sales of servicing  
13 rights) related to a transaction of a customer.

14 Nothing in this item (17), however, authorizes the sale  
15 of the financial records or information of a customer  
16 without the consent of the customer.

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

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

29 (b) (1) For purposes of this paragraph (19) of  
30 subsection (b) of Section 48.1, a "private label credit  
31 program" means a credit program involving a financial  
32 institution and a private label party that is used by a  
33 customer of the financial institution and the private label  
34 party primarily for payment for goods or services sold,  
35 manufactured, or distributed by a private label party.

36 (2) For purposes of this paragraph (19) of subsection

1 (b) of Section 48.1, a "private label party" means, with  
2 respect to a private label credit program, any of the  
3 following: a retailer, a merchant, a manufacturer, a trade  
4 group, or any such person's affiliate, subsidiary, member,  
5 agent, or service provider.

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

11 (1) the customer has authorized disclosure to the  
12 person;

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

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

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

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

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

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

13 (Source: P.A. 94-495, eff. 8-8-05.)

14 Section 15. The Illinois Savings and Loan Act of 1985 is  
15 amended by changing Section 3-8 as follows:

16 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

17 Sec. 3-8. Access to books and records; communication with  
18 members.

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

26 (b) For the purpose of this Section, the term "financial  
27 records" means any original, any copy, or any summary of (i) a  
28 document granting signature authority over a deposit or  
29 account; (ii) a statement, ledger card, or other record on any  
30 deposit or account that shows each transaction in or with  
31 respect to that account; (iii) a check, draft, or money order  
32 drawn on an association or issued and payable by an  
33 association; or (iv) any other item containing information  
34 pertaining to any relationship established in the ordinary



1 course of an association's business between an association and  
2 its customer, including financial statements or other  
3 financial information provided by the member or holder of  
4 capital.

5 (c) 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 an association having custody of  
9 those records or the examination of those records by a  
10 certified public accountant engaged by the association to  
11 perform an independent audit.

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

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

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

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

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

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

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

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

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

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

17           (12) The exchange of information between an  
18 association and an affiliate of the association; as used in  
19 this item, "affiliate" includes any company, partnership,  
20 or organization that controls, is controlled by, or is  
21 under common control with an association.

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

1 willful misconduct. An association shall have no  
2 obligation to hold, encumber, or surrender assets until it  
3 has been served with a subpoena, summons, warrant, court or  
4 administrative order, lien, or levy.

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

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

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

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

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

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

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

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

26 (b) (1) For purposes of this paragraph (17) of  
27 subsection (c) of Section 3-8, a "private label credit  
28 program" means a credit program involving a financial  
29 institution and a private label party that is used by a  
30 customer of the financial institution and the private label  
31 party primarily for payment for goods or services sold,  
32 manufactured, or distributed by a private label party.

33 (2) For purposes of this paragraph (17) of subsection  
34 (c) of Section 3-8, a "private label party" means, with  
35 respect to a private label credit program, any of the  
36 following: a retailer, a merchant, a manufacturer, a trade

1 group, or any such person's affiliate, subsidiary, member,  
2 agent, or service provider.

3 (d) An association may not disclose to any person, except  
4 to the member or holder of capital or his duly authorized  
5 agent, any financial records relating to that member or holder  
6 of capital of that association unless:

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

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

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

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

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

31 (g) However, if any member desires to communicate with the  
32 other members of the association with reference to any question  
33 pending or to be presented at a meeting of the members, the  
34 association shall give him upon request a statement of the  
35 approximate number of members entitled to vote at the meeting  
36 and an estimate of the cost of preparing and mailing the

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

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

12 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05.)

13 Section 20. The Savings Bank Act is amended by changing  
14 Section 4013 as follows:

15 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

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

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

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

1 customer, including financial statements or other financial  
2 information provided by the member or shareholder.

3 (c) This Section does not prohibit:

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

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

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

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

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

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

35 (7) The furnishing of information to the appropriate  
36 law enforcement authorities where the savings bank

1 reasonably believes it has been the victim of a crime.

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

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

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

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

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

34 (13) The furnishing of information to law enforcement  
35 authorities, the Illinois Department on Aging and its  
36 regional administrative and provider agencies, the



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

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

30 (A) servicing or processing a financial product or  
31 service requested or authorized by the member or holder  
32 of capital;

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

35 (C) a proposed or actual securitization or  
36 secondary market sale (including sales of servicing

1 rights) related to a transaction of a member or holder  
2 of capital.

3 Nothing in this item (14), however, authorizes the sale  
4 of the financial records or information of a member or  
5 holder of capital without the consent of the member or  
6 holder of capital.

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

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

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

23 (b) (1) For purposes of this paragraph (17) of  
24 subsection (c) of Section 4013, a "private label credit  
25 program" means a credit program involving a financial  
26 institution and a private label party that is used by a  
27 customer of the financial institution and the private label  
28 party primarily for payment for goods or services sold,  
29 manufactured, or distributed by a private label party.

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

36 (d) A savings bank may not disclose to any person, except

1 to the member or holder of capital or his duly authorized  
2 agent, any financial records relating to that member or  
3 shareholder of the savings bank unless:

4 (1) the member or shareholder has authorized  
5 disclosure to the person; or

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

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

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

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

27 (h) If any member or shareholder desires to communicate  
28 with the other members or shareholders of the savings bank with  
29 reference to any question pending or to be presented at an  
30 annual or special meeting, the savings bank shall give that  
31 person, upon request, a statement of the approximate number of  
32 members or shareholders entitled to vote at the meeting and an  
33 estimate of the cost of preparing and mailing the  
34 communication. The requesting member shall submit the  
35 communication to the Commissioner who, upon finding it to be  
36 appropriate and truthful, shall direct that it be prepared and

1 mailed to the members upon the requesting member's or  
2 shareholder's payment or adequate provision for payment of the  
3 expenses of preparation and mailing.

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

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

17 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05.)

18 Section 25. 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 "financial  
31 records" means any original, any copy, or any summary of (1) a  
32 document granting signature authority over an account, (2) a  
33 statement, ledger card or other record on any account which  
34 shows each transaction in or with respect to that account, (3)

1 a check, draft or money order drawn on a financial institution  
2 or other entity or issued and payable by or through a financial  
3 institution or other entity, or (4) any other item containing  
4 information pertaining to any relationship established in the  
5 ordinary course of business between a credit union and its  
6 member, including financial statements or other financial  
7 information provided by the member.

8 (b) This Section does not prohibit:

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

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

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

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

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

29 (6) The exchange in the regular course of business of  
30 (i) credit information between a credit union and other  
31 credit unions or financial institutions or commercial  
32 enterprises, directly or through a consumer reporting  
33 agency or (ii) financial records or information derived  
34 from financial records between a credit union and other  
35 credit unions or financial institutions or commercial  
36 enterprises for the purpose of conducting due diligence

1           pursuant to a merger or a purchase or sale of assets or  
2           liabilities of the credit union.

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

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

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

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

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

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

1 administrative order, lien, or levy.

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

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

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

36 (B) maintaining or servicing a member's account

1 with the credit union; or

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

5 Nothing in this item (14), however, authorizes the sale  
6 of the financial records or information of a member without  
7 the consent of the member.

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

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

20 (b) (1) For purposes of this paragraph (16) of  
21 subsection (b) of Section 10, a "private label credit  
22 program" means a credit program involving a financial  
23 institution and a private label party that is used by a  
24 customer of the financial institution and the private label  
25 party primarily for payment for goods or services sold,  
26 manufactured, or distributed by a private label party.

27 (2) For purposes of this paragraph (16) of subsection  
28 (b) of Section 10, a "private label party" means, with  
29 respect to a private label credit program, any of the  
30 following: a retailer, a merchant, a manufacturer, a trade  
31 group, or any such person's affiliate, subsidiary, member,  
32 agent, or service provider.

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



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

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

5 or

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

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

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

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

34 (f) A credit union shall be reimbursed for costs which are  
35 reasonably necessary and which have been directly incurred in  
36 searching for, reproducing or transporting books, papers,

1 records or other data of a member required or requested to be  
2 produced pursuant to a lawful subpoena, summons, warrant or  
3 court order. The Director may determine, by rule, the rates and  
4 conditions under which payment shall be made. Delivery of  
5 requested documents may be delayed until final reimbursement of  
6 all costs is received.

7 (Source: P.A. 94-495, eff. 8-8-05.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.