

1 AN ACT concerning civil law.

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

4 Section 2. The Illinois Banking Act is amended by changing  
5 Section 48.1 as follows:

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

7 Sec. 48.1. Customer financial records; confidentiality.

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

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

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

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

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

22 (b) This Section does not prohibit:

23 (1) The preparation, examination, handling or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 5 and conducted at an affiliate facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

5 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06.)

6 Section 2.5. The Illinois Savings and Loan Act of 1985 is  
7 amended by changing Section 3-8 as follows:

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

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

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

18 (b) For the purpose of this Section, the term "financial  
19 records" means any original, any copy, or any summary of (i) a  
20 document granting signature authority over a deposit or  
21 account; (ii) a statement, ledger card, or other record on any  
22 deposit or account that shows each transaction in or with  
23 respect to that account; (iii) a check, draft, or money order  
24 drawn on an association or issued and payable by an

1 association; or (iv) any other item containing information  
2 pertaining to any relationship established in the ordinary  
3 course of an association's business between an association and  
4 its customer, including financial statements or other  
5 financial information provided by the member or holder of  
6 capital.

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

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

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

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

26 (5) Furnishing information concerning the dishonor of

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

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

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

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

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

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

24 (11) The furnishing of information pursuant to any  
25 other statute that by its terms or by regulations  
26 promulgated thereunder requires the disclosure of

1 financial records other than by subpoena, summons,  
2 warrant, or court order.

3 (12) The exchange of information between an  
4 association and an affiliate of the association; as used in  
5 this item, "affiliate" includes any company, partnership,  
6 or organization that controls, is controlled by, or is  
7 under common control with an association.

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

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

1 Adults with Disabilities Intervention Act.

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

6 (A) servicing or processing a financial product or  
7 service requested or authorized by the member or holder  
8 of capital;

9 (B) maintaining or servicing an account of a member  
10 or holder of capital with the association; 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 member or holder  
14 of capital.

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

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

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

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

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

12 (2) For purposes of this paragraph (17) of subsection  
13 (c) of Section 3-8, a "private label party" means, with  
14 respect to a private label credit program, any of the  
15 following: a retailer, a merchant, a manufacturer, a trade  
16 group, or any such person's affiliate, subsidiary, member,  
17 agent, or service provider.

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

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

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

1 subsection (e) of this Section.

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

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

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

22 (g) However, if any member desires to communicate with the  
23 other members of the association with reference to any question  
24 pending or to be presented at a meeting of the members, the  
25 association shall give him upon request a statement of the  
26 approximate number of members entitled to vote at the meeting



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

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

14 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;  
15 94-851, eff. 6-13-06.)

16 Section 3. The Savings Bank Act is amended by changing  
17 Section 4013 as follows:

18 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

19 Sec. 4013. Access to books and records; communication with  
20 members and shareholders.

21 (a) Every member or shareholder shall have the right to  
22 inspect books and records of the savings bank that pertain to  
23 his accounts. Otherwise, the right of inspection and  
24 examination of the books and records shall be limited as

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

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

16 (c) This Section does not prohibit:

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

23 (2) The examination of any financial records by, or the  
24 furnishing of financial records by a savings bank to, any  
25 officer, employee, or agent of the Commissioner of Banks  
26 and Real Estate or the federal depository institution

1 regulator for use solely in the exercise of his duties as  
2 an officer, employee, or agent.

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

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

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

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

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

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

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

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

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

12           (12) The furnishing of information in accordance with  
13 the federal Personal Responsibility and Work Opportunity  
14 Reconciliation Act of 1996. Any savings bank governed by  
15 this Act shall enter into an agreement for data exchanges  
16 with a State agency provided the State agency pays to the  
17 savings bank a reasonable fee not to exceed its actual cost  
18 incurred. A savings bank providing information in  
19 accordance with this item shall not be liable to any  
20 account holder or other person for any disclosure of  
21 information to a State agency, for encumbering or  
22 surrendering any assets held by the savings bank in  
23 response to a lien or order to withhold and deliver issued  
24 by a State agency, or for any other action taken pursuant  
25 to this item, including individual or mechanical errors,  
26 provided the action does not constitute gross negligence or

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

5 (13) 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 by the investigatory  
10 entity or the guardian, or (ii) if there is suspicion by  
11 the savings bank that a customer who is an elderly or  
12 disabled person has been or may become the victim of  
13 financial exploitation. For the purposes of this item (13),  
14 the term: (i) "elderly person" means a person who is 60 or  
15 more years of age, (ii) "disabled person" means a person  
16 who has or reasonably appears to the savings bank to have a  
17 physical or mental disability that impairs his or her  
18 ability to seek or obtain protection from or prevent  
19 financial exploitation, and (iii) "financial exploitation"  
20 means tortious or illegal use of the assets or resources of  
21 an elderly or disabled person, and includes, without  
22 limitation, misappropriation of the elderly or disabled  
23 person's assets or resources by undue influence, breach of  
24 fiduciary relationship, intimidation, fraud, deception,  
25 extortion, or the use of assets or resources in any manner  
26 contrary to law. A savings bank or person furnishing

1 information pursuant to this item (13) shall be entitled to  
2 the same rights and protections as a person furnishing  
3 information under the Elder Abuse and Neglect Act, the  
4 Illinois Domestic Violence Act of 1986, and the Abuse of  
5 Adults with Disabilities Intervention Act.

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

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

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

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

19 Nothing in this item (14), however, authorizes the sale  
20 of the financial records or information of a member or  
21 holder of capital without the consent of the member or  
22 holder of capital.

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

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

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

13           (b)(1) For purposes of this paragraph (17) of  
14 subsection (c) of Section 4013, a "private label credit  
15 program" means a credit program involving a financial  
16 institution and a private label party that is used by a  
17 customer of the financial institution and the private label  
18 party primarily for payment for goods or services sold,  
19 manufactured, or distributed by a private label party.

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

26           (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, citation to discover  
8 assets, or court order that meets the requirements of  
9 subsection (e) of this Section.

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

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

24 (g) Any person who knowingly and willfully induces or  
25 attempts to induce any officer or employee of a savings bank to  
26 disclose financial records in violation of this Section is



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

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

16 (i) A savings bank shall be reimbursed for costs that are  
17 necessary and that have been directly incurred in searching  
18 for, reproducing, or transporting books, papers, records, or  
19 other data of a customer required to be reproduced pursuant to  
20 a lawful subpoena, warrant, citation to discover assets, or  
21 court order.

22 (j) Notwithstanding the provisions of this Section, a  
23 savings bank may sell or otherwise make use of lists of  
24 customers' names and addresses. All other information  
25 regarding a customer's account are subject to the disclosure  
26 provisions of this Section. At the request of any customer,

1 that customer's name and address shall be deleted from any list  
2 that is to be sold or used in any other manner beyond  
3 identification of the customer's accounts.

4 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;  
5 94-851, eff. 6-13-06.)

6 Section 3.5. The Illinois Credit Union Act is amended by  
7 changing Section 10 as follows:

8 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

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

18 (3) (a) For the purpose of this Section, the term "financial  
19 records" means any original, any copy, or any summary of (1) a  
20 document granting signature authority over an account, (2) a  
21 statement, ledger card or other record on any account which  
22 shows each transaction in or with respect to that account, (3)  
23 a check, draft or money order drawn on a financial institution  
24 or other entity or issued and payable by or through a financial

1 institution or other entity, or (4) any other item containing  
2 information pertaining to any relationship established in the  
3 ordinary course of business between a credit union and its  
4 member, including financial statements or other financial  
5 information provided by the member.

6 (b) This Section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

20          (13) The furnishing of information to law enforcement  
21          authorities, the Illinois Department on Aging and its  
22          regional administrative and provider agencies, the  
23          Department of Human Services Office of Inspector General,  
24          or public guardians: (i) upon subpoena by the investigatory  
25          entity or the guardian, or (ii) if there is suspicion by  
26          the credit union that a member who is an elderly or

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

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

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

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

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

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

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

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

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

1 manufactured, or distributed by a private label party.

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

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

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

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

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

21 (d) A credit union shall disclose financial records under  
22 subparagraph (c)(2) of this Section pursuant to a lawful  
23 subpoena, summons, warrant, citation to discover assets, or  
24 court order only after the credit union mails a copy of the  
25 subpoena, summons, warrant, citation to discover assets, or  
26 court order to the person establishing the relationship with



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

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

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

20 (f) A credit union shall be reimbursed for costs which are  
21 reasonably necessary and which have been directly incurred in  
22 searching for, reproducing or transporting books, papers,  
23 records or other data of a member required or requested to be  
24 produced pursuant to a lawful subpoena, summons, warrant,  
25 citation to discover assets, or court order. The Director may  
26 determine, by rule, the rates and conditions under which

1 payment shall be made. Delivery of requested documents may be  
2 delayed until final reimbursement of all costs is received.

3 (Source: P.A. 94-495, eff. 8-8-05; 94-851, eff. 6-13-06.)

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Sections 2-1402, 12-501, 12-803, 12-808, 12-808.5,  
6 12-814, 19-117, and 19-123 and by adding Sections 5-126.5 and  
7 19-129 as follows:

8 (735 ILCS 5/2-1402) (from Ch. 110, par. 2-1402)

9 Sec. 2-1402. Supplementary proceedings.

10 (a) A judgment creditor, or his or her successor in  
11 interest when that interest is made to appear of record, is  
12 entitled to prosecute supplementary proceedings for the  
13 purposes of examining the judgment debtor or any other person  
14 to discover assets or income of the debtor not exempt from the  
15 enforcement of the judgment, a deduction order or garnishment,  
16 and of compelling the application of non-exempt assets or  
17 income discovered toward the payment of the amount due under  
18 the judgment. A supplementary proceeding shall be commenced by  
19 the service of a citation issued by the clerk. The procedure  
20 for conducting supplementary proceedings shall be prescribed  
21 by rules. It is not a prerequisite to the commencement of a  
22 supplementary proceeding that a certified copy of the judgment  
23 has been returned wholly or partly unsatisfied. All citations  
24 issued by the clerk shall have the following language, or

1 language substantially similar thereto, stated prominently on  
2 the front, in capital letters: "YOUR FAILURE TO APPEAR IN COURT  
3 AS HEREIN DIRECTED MAY CAUSE YOU TO BE ARRESTED AND BROUGHT  
4 BEFORE THE COURT TO ANSWER TO A CHARGE OF CONTEMPT OF COURT,  
5 WHICH MAY BE PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL."  
6 The court shall not grant a continuance of the supplementary  
7 proceeding except upon good cause shown.

8 (b) Any citation served upon a judgment debtor or any other  
9 person shall include a certification by the attorney for the  
10 judgment creditor or the judgment creditor setting forth the  
11 amount of the judgment, the date of the judgment, or its  
12 revival date, the balance due thereon, the name of the court,  
13 and the number of the case, and a copy of the citation notice  
14 required by this subsection. Whenever a citation is served upon  
15 a person or party other than the judgment debtor, the officer  
16 or person serving the citation shall send to the judgment  
17 debtor, within three business days of the service upon the  
18 cited party, a copy of the citation and the citation notice,  
19 which may be sent by regular first-class mail to the judgment  
20 debtor's last known address. In no event shall a citation  
21 hearing be held sooner than five business days after the  
22 mailing of the citation and citation notice to the judgment  
23 debtor, except by agreement of the parties. The citation notice  
24 need not be mailed to a corporation, partnership, or  
25 association. The citation notice shall be in substantially the  
26 following form:

## 1 "CITATION NOTICE

2 (Name and address of Court)

3 Name of Case: (Name of Judgment Creditor),

4 Judgment Creditor v.

5 (Name of Judgment Debtor),

6 Judgment Debtor.

7 Address of Judgment Debtor: (Insert last known

8 address)

9 Name and address of Attorney for Judgment

10 Creditor or of Judgment Creditor (If no

11 attorney is listed): (Insert name and address)

12 Amount of Judgment: \$ (Insert amount)

13 Name of Person Receiving Citation: (Insert name)

14 Court Date and Time: (Insert return date and time

15 specified in citation)

16 NOTICE: The court has issued a citation against the person  
17 named above. The citation directs that person to appear in  
18 court to be examined for the purpose of allowing the judgment  
19 creditor to discover income and assets belonging to the  
20 judgment debtor or in which the judgment debtor has an  
21 interest. The citation was issued on the basis of a judgment  
22 against the judgment debtor in favor of the judgment creditor  
23 in the amount stated above. On or after the court date stated  
24 above, the court may compel the application of any discovered  
25 income or assets toward payment on the judgment.

26 The amount of income or assets that may be applied toward

1 the judgment is limited by federal and Illinois law. The  
2 JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS  
3 AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTOR WHICH  
4 MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED  
5 ABOVE:

6 (1) Under Illinois or federal law, the exemptions of  
7 personal property owned by the debtor include the debtor's  
8 equity interest, not to exceed \$4,000 in value, in any  
9 personal property as chosen by the debtor; Social Security  
10 and SSI benefits; public assistance benefits; unemployment  
11 compensation benefits; worker's compensation benefits;  
12 veteran's benefits; circuit breaker property tax relief  
13 benefits; the debtor's equity interest, not to exceed  
14 \$2,400 in value, in any one motor vehicle, and the debtor's  
15 equity interest, not to exceed \$1,500 in value, in any  
16 implements, professional books, or tools of the trade of  
17 the debtor.

18 (2) Under Illinois law, every person is entitled to an  
19 estate in homestead, when it is owned and occupied as a  
20 residence, to the extent in value of \$15,000, which  
21 homestead is exempt from judgment.

22 (3) Under Illinois law, the amount of wages that may be  
23 applied toward a judgment is limited to the lesser of (i)  
24 15% of gross weekly wages or (ii) the amount by which  
25 disposable earnings for a week exceed the total of 45 times  
26 the federal minimum hourly wage or, under a wage deduction

1 summons served on or after January 1, 2006, the Illinois  
2 minimum hourly wage, whichever is greater.

3 (4) Under federal law, the amount of wages that may be  
4 applied toward a judgment is limited to the lesser of (i)  
5 25% of disposable earnings for a week or (ii) the amount by  
6 which disposable earnings for a week exceed 30 times the  
7 federal minimum hourly wage.

8 (5) Pension and retirement benefits and refunds may be  
9 claimed as exempt under Illinois law.

10 The judgment debtor may have other possible exemptions  
11 under the law.

12 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING  
13 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The  
14 judgment debtor also has the right to seek a declaration at an  
15 earlier date, by notifying the clerk in writing at (insert  
16 address of clerk). When so notified, the Clerk of the Court  
17 will obtain a prompt hearing date from the court and will  
18 provide the necessary forms that must be prepared by the  
19 judgment debtor or the attorney for the judgment debtor and  
20 sent to the judgment creditor and the judgment creditor's  
21 attorney regarding the time and location of the hearing. This  
22 notice may be sent by regular first class mail."

23 (c) When assets or income of the judgment debtor not exempt  
24 from the satisfaction of a judgment, a deduction order or  
25 garnishment are discovered, the court may, by appropriate order  
26 or judgment:

1           (1) Compel the judgment debtor to deliver up, to be  
2 applied in satisfaction of the judgment, in whole or in  
3 part, money, choses in action, property or effects in his  
4 or her possession or control, so discovered, capable of  
5 delivery and to which his or her title or right of  
6 possession is not substantially disputed.

7           (2) Compel the judgment debtor to pay to the judgment  
8 creditor or apply on the judgment, in installments, a  
9 portion of his or her income, however or whenever earned or  
10 acquired, as the court may deem proper, having due regard  
11 for the reasonable requirements of the judgment debtor and  
12 his or her family, if dependent upon him or her, as well as  
13 any payments required to be made by prior order of court or  
14 under wage assignments outstanding; provided that the  
15 judgment debtor shall not be compelled to pay income which  
16 would be considered exempt as wages under the Wage  
17 Deduction Statute. The court may modify an order for  
18 installment payments, from time to time, upon application  
19 of either party upon notice to the other.

20           (3) Compel any person cited, other than the judgment  
21 debtor, to deliver up any assets so discovered, to be  
22 applied in satisfaction of the judgment, in whole or in  
23 part, when those assets are held under such circumstances  
24 that in an action by the judgment debtor he or she could  
25 recover them in specie or obtain a judgment for the  
26 proceeds or value thereof as for conversion or

1           embezzlement. A judgment creditor may recover a corporate  
2           judgment debtor's property on behalf of the judgment debtor  
3           for use of the judgment creditor by filing an appropriate  
4           petition within the citation proceedings.

5           (4) Enter any order upon or judgment against the person  
6           cited that could be entered in any garnishment proceeding.

7           (5) Compel any person cited to execute an assignment of  
8           any chose in action or a conveyance of title to real or  
9           personal property or resign memberships in exchanges,  
10          clubs, or other entities, in the same manner and to the  
11          same extent as a court could do in any proceeding by a  
12          judgment creditor to enforce payment of a judgment or in  
13          aid of the enforcement of a judgment.

14          (6) Authorize the judgment creditor to maintain an  
15          action against any person or corporation that, it appears  
16          upon proof satisfactory to the court, is indebted to the  
17          judgment debtor, for the recovery of the debt, forbid the  
18          transfer or other disposition of the debt until an action  
19          can be commenced and prosecuted to judgment, direct that  
20          the papers or proof in the possession or control of the  
21          debtor and necessary in the prosecution of the action be  
22          delivered to the creditor or impounded in court, and  
23          provide for the disposition of any moneys in excess of the  
24          sum required to pay the judgment creditor's judgment and  
25          costs allowed by the court.

26          (d) No order or judgment shall be entered under subsection



1 (c) in favor of the judgment creditor unless there appears of  
2 record a certification of mailing showing that a copy of the  
3 citation and a copy of the citation notice was mailed to the  
4 judgment debtor as required by subsection (b).

5 (e) All property ordered to be delivered up shall, except  
6 as otherwise provided in this Section, be delivered to the  
7 sheriff to be collected by the sheriff or sold at public sale  
8 and the proceeds thereof applied towards the payment of costs  
9 and the satisfaction of the judgment. If the judgment debtor's  
10 property is of such a nature that it is not readily delivered  
11 up to the sheriff for public sale or if another method of sale  
12 is more appropriate to liquidate the property or enhance its  
13 value at sale, the court may order the sale of such property by  
14 the debtor, third party respondent, or by a selling agent other  
15 than the sheriff upon such terms as are just and equitable. The  
16 proceeds of sale, after deducting reasonable and necessary  
17 expenses, are to be turned over to the creditor and applied to  
18 the balance due on the judgment.

19 (f) (1) The citation may prohibit the party to whom it is  
20 directed from making or allowing any transfer or other  
21 disposition of, or interfering with, any property not  
22 exempt from the enforcement of a judgment therefrom, a  
23 deduction order or garnishment, belonging to the judgment  
24 debtor or to which he or she may be entitled or which may  
25 thereafter be acquired by or become due to him or her, and  
26 from paying over or otherwise disposing of any moneys not

1 so exempt which are due or to become due to the judgment  
2 debtor, until the further order of the court or the  
3 termination of the proceeding, whichever occurs first. The  
4 third party may not be obliged to withhold the payment of  
5 any moneys beyond double the amount of the balance due  
6 sought to be enforced by the judgment creditor. The court  
7 may punish any party who violates the restraining provision  
8 of a citation as and for a contempt, or if the party is a  
9 third party may enter judgment against him or her in the  
10 amount of the unpaid portion of the judgment and costs  
11 allowable under this Section, or in the amount of the value  
12 of the property transferred, whichever is lesser.

13 (2) The court may enjoin any person, whether or not a  
14 party to the supplementary proceeding, from making or  
15 allowing any transfer or other disposition of, or  
16 interference with, the property of the judgment debtor not  
17 exempt from the enforcement of a judgment, a deduction  
18 order or garnishment, or the property or debt not so exempt  
19 concerning which any person is required to attend and be  
20 examined until further direction in the premises. The  
21 injunction order shall remain in effect until vacated by  
22 the court or until the proceeding is terminated, whichever  
23 first occurs.

24 (g) If it appears that any property, chose in action,  
25 credit or effect discovered, or any interest therein, is  
26 claimed by any person, the court shall, as in garnishment

1 proceedings, permit or require the claimant to appear and  
2 maintain his or her right. The rights of the person cited and  
3 the rights of any adverse claimant shall be asserted and  
4 determined pursuant to the law relating to garnishment  
5 proceedings.

6 (h) Costs in proceedings authorized by this Section shall  
7 be allowed, assessed and paid in accordance with rules,  
8 provided that if the court determines, in its discretion, that  
9 costs incurred by the judgment creditor were improperly  
10 incurred, those costs shall be paid by the judgment creditor.

11 (i) This Section is in addition to and does not affect  
12 enforcement of judgments or proceedings supplementary thereto,  
13 by any other methods now or hereafter provided by law.

14 (j) This Section does not grant the power to any court to  
15 order installment or other payments from, or compel the sale,  
16 delivery, surrender, assignment or conveyance of any property  
17 exempt by statute from the enforcement of a judgment thereon, a  
18 deduction order, garnishment, attachment, sequestration,  
19 process or other levy or seizure.

20 (k) (Blank).

21 (k-5) If the court determines that any property held by a  
22 third party respondent is wages pursuant to Section 12-801, the  
23 court shall proceed as if a wage deduction proceeding had been  
24 filed and proceed to enter such necessary and proper orders as  
25 would have been entered in a wage deduction proceeding  
26 including but not limited to the granting of the statutory

1 exemptions allowed by Section 12-803 and all other remedies  
2 allowed plaintiff and defendant pursuant to Part 8 of Article  
3 12 of this Act.

4 (l) At any citation hearing at which the judgment debtor  
5 appears and seeks a declaration that certain of his or her  
6 income or assets are exempt, the court shall proceed to  
7 determine whether the property which the judgment debtor  
8 declares to be exempt is exempt from judgment. At any time  
9 before the return date specified on the citation, the judgment  
10 debtor may request, in writing, a hearing to declare exempt  
11 certain income and assets by notifying the clerk of the court  
12 before that time, using forms as may be provided by the clerk  
13 of the court. The clerk of the court will obtain a prompt  
14 hearing date from the court and will provide the necessary  
15 forms that must be prepared by the judgment debtor or the  
16 attorney for the judgment debtor and sent to the judgment  
17 creditor, or the judgment creditor's attorney, regarding the  
18 time and location of the hearing. This notice may be sent by  
19 regular first class mail. At the hearing, the court shall  
20 immediately, unless for good cause shown that the hearing is to  
21 be continued, shall proceed to determine whether the property  
22 which the judgment debtor declares to be exempt is exempt from  
23 judgment. The restraining provisions of subsection (f) shall  
24 not apply to any property determined by the court to be exempt.

25 (m) The judgment or balance due on the judgment becomes a  
26 lien when a citation is served in accordance with subsection

1 (a) of this Section. The lien binds nonexempt personal  
2 property, including money, choses in action, and effects of the  
3 judgment debtor as follows:

4 (1) When the citation is directed against the judgment  
5 debtor, upon all personal property belonging to the  
6 judgment debtor in the possession or control of the  
7 judgment debtor or which may thereafter be acquired or come  
8 due to the judgment debtor to the time of the disposition  
9 of the citation.

10 (2) When the citation is directed against a third  
11 party, upon all personal property belonging to the judgment  
12 debtor in the possession or control of the third party or  
13 which thereafter may be acquired or come due the judgment  
14 debtor and comes into the possession or control of the  
15 third party to the time of the disposition of the citation.

16 The lien established under this Section does not affect the  
17 rights of citation respondents in property prior to the service  
18 of the citation upon them and does not affect the rights of  
19 bona fide purchasers or lenders without notice of the citation.  
20 The lien is effective for the period specified by Supreme Court  
21 Rule.

22 This subsection (m), as added by Public Act 88-48, is a  
23 declaration of existing law.

24 (n) If any provision of this Act or its application to any  
25 person or circumstance is held invalid, the invalidity of that  
26 provision or application does not affect the provisions or

1 applications of the Act that can be given effect without the  
2 invalid provision or application.

3 (Source: P.A. 94-293, eff. 1-1-06; 94-306, eff. 1-1-06; revised  
4 8-19-05.)

5 (735 ILCS 5/5-126.5 new)

6 Sec. 5-126.5. Expenses. The plaintiff shall be allowed to  
7 recover as costs those expenses required by law or a law  
8 enforcement or court officer for the purposes of enforcing a  
9 judgment including levy bonds, replevin bonds, certification  
10 of court orders, recording certified orders or memoranda of  
11 judgment, and expenses for those assisting a sheriff or other  
12 court officer in enforcing court orders including, but not  
13 limited to, orders for possession, replevin orders, and  
14 personal property levies.

15 (735 ILCS 5/12-501) (from Ch. 110, par. 12-501)

16 Sec. 12-501. Registration of Federal judgments. Judgments  
17 of courts of the United States held, within this State, and all  
18 process, returns, certificates of the levy of a process, and  
19 records of such courts may be registered, recorded, docketed,  
20 indexed or otherwise dealt with in, the public offices of this  
21 State, so as to make them conform to the rules and requirements  
22 relating to judgments of courts of this State. A certified copy  
23 of a federal judgment order entered in this State may be filed  
24 in any circuit court and shall be afforded recognition as if it

1 were a judgment entered in any other circuit court of this  
2 State.

3 (Source: P.A. 83-707.)

4 (735 ILCS 5/12-803) (from Ch. 110, par. 12-803)

5 Sec. 12-803. Wages ~~Maximum wages~~ subject to collection. The  
6 ~~maximum~~ wages, salary, commissions and bonuses subject to  
7 collection under a deduction order, for any work week shall be  
8 ~~not exceed~~ the lesser of (1) 15% of such gross amount paid for  
9 that week or (2) the amount by which disposable earnings for a  
10 week exceed 45 times the Federal Minimum Hourly Wage prescribed  
11 by Section 206(a)(1) of Title 29 of the United States Code, as  
12 amended, or, under a wage deduction summons served on or after  
13 January 1, 2006, the minimum hourly wage prescribed by Section  
14 4 of the Minimum Wage Law, whichever is greater, in effect at  
15 the time the amounts are payable. This provision (and no other)  
16 applies irrespective of the place where the compensation was  
17 earned or payable and the State where the employee resides. No  
18 amounts required by law to be withheld may be taken from the  
19 amount collected by the creditor. The term "disposable  
20 earnings" means that part of the earnings of any individual  
21 remaining after the deduction from those earnings of any  
22 amounts required by law to be withheld.

23 (Source: P.A. 94-306, eff. 1-1-06.)

24 (735 ILCS 5/12-808) (from Ch. 110, par. 12-808)

1           Sec. 12-808. Duty of employer.

2           (a) An employer served as herein provided shall pay the  
3 employee the amount of his or her exempt wages.

4           (b) To the extent of the amount due upon the judgment and  
5 costs, the employer shall hold, subject to order of court, any  
6 non-exempt wages due or which subsequently come due. The  
7 judgment or balance due thereon is a lien on wages due at the  
8 time of the service of summons, and such lien shall continue as  
9 to subsequent earnings until the total amount due upon the  
10 judgment and costs is paid, except that such lien on subsequent  
11 earnings shall terminate sooner if the employment relationship  
12 is terminated or if the underlying judgment is vacated or  
13 modified.

14           (b-5) If the employer is a federal agency employer and the  
15 creditor is represented by an attorney, then the employer, upon  
16 service of summons and to the extent of the amount due upon the  
17 judgment and costs, shall commence to pay over to the attorney  
18 for the judgment creditor any non-exempt wages due or that  
19 subsequently come due. The attorney for the judgment creditor  
20 shall thereafter hold the deducted wages subject to further  
21 order of the court and shall make answer to the court regarding  
22 amounts received from the federal agency employer. The federal  
23 agency employer's periodic payments shall be considered a  
24 sufficient answer to the interrogatories.

25           (c) Except as provided in subsection (b-5), the employer  
26 shall file, on or before the return date or within the further



1 time that the court for cause may allow, a written answer under  
2 oath to the interrogatories, setting forth the amount due as  
3 wages to the judgment debtor for the payroll periods ending  
4 immediately prior to the service of the summons and a summary  
5 of the computation used to determine the amount of non-exempt  
6 wages. Except as provided in subsection (b-5), the employer  
7 shall mail by first class mail or hand deliver a copy of the  
8 answer to the judgment debtor at the address specified in the  
9 affidavit filed under Section 12-805 of this Act, or at any  
10 other address or location of the judgment debtor known to the  
11 employer.

12 A lien obtained hereunder shall have priority over any  
13 subsequent lien obtained hereunder, except that liens for the  
14 support of a spouse or dependent children shall have priority  
15 over all other liens obtained hereunder. Subsequent summonses  
16 shall be effective in the order in which they are served.

17 (d) The Illinois Supreme Court may by rule allow an  
18 employer to file answers to interrogatories by facsimile  
19 transmission.

20 (e) Pursuant to answer under oath to the interrogatories by  
21 the employer, an order shall be entered compelling the employer  
22 to deduct from wages of the judgment debtor subject to  
23 collection under a deduction order an amount which is not to  
24 ~~exceed~~ the lesser of (i) 15% of the gross amount of the wages  
25 or (ii) the amount by which disposable earnings for a week  
26 exceed 45 times the Federal Minimum Hourly Wage prescribed by

1 Section 206(a)(1) of Title 29 of the United States Code, as  
2 amended, in effect at the time the amounts are payable, for  
3 each pay period in which statutory exemptions under Section  
4 12-804 and child support garnishments, if any, leave funds to  
5 be remitted or, under a wage deduction summons served on or  
6 after January 1, 2006, the minimum hourly wage prescribed by  
7 Section 4 of the Minimum Wage Law, whichever is greater. The  
8 order shall further provide that deducted wages shall be  
9 remitted to the creditor or creditor's attorney on a monthly  
10 basis.

11 (f) If after the entry of a deduction order, the employer  
12 ceases to remit funds to the plaintiff pursuant to the order  
13 without a lawful excuse (which would terminate the employer's  
14 obligation under the deduction order such as the debtor having  
15 filed a bankruptcy, the debtor having left employment or the  
16 employer having received service of a support order against the  
17 judgment debtor having priority over the wage deduction  
18 proceedings), the court shall, upon plaintiff's motion, enter a  
19 conditional judgment against the employer for the balance due  
20 on the judgment. The plaintiff may then issue a Summons After  
21 Conditional Judgment. After service of the Summons After  
22 Conditional Judgment, the employer may show cause why the  
23 conditional judgment, or some portion thereof should not be  
24 made a final judgment. If the employer shall fail to respond or  
25 show cause why the conditional judgment or some portion thereof  
26 should not be made final, the court shall confirm the

1 conditional judgment and make it final as to the employer plus  
2 additional court costs.

3 (Source: P.A. 94-306, eff. 1-1-06.)

4 (735 ILCS 5/12-808.5)

5 Sec. 12-808.5. Certification of judgment balance. Whenever  
6 a wage deduction order has not been fully satisfied by the end  
7 of the first full calendar quarter following the date of  
8 service of the wage deduction summons:

9 (1) The judgment creditor or his attorney shall prepare  
10 a certification that states the amount of the judgment  
11 remaining unsatisfied as of the last calendar day of each  
12 full calendar quarter for which the wage deduction order  
13 continues in effect.

14 (2) The certification shall be mailed or delivered to  
15 the employer by the judgment creditor or his or her  
16 attorney within 15 days after the end of each calendar  
17 quarter for which the wage deduction order continues in  
18 effect. The employer shall hand deliver or mail by first  
19 class mail a copy of the certification to the judgment  
20 debtor at the judgment debtor's last known address.

21 (3) In the event that the plaintiff fails to provide  
22 the certification required by this Section, the employer  
23 must continue to withhold funds from the defendant's wages  
24 but may hold the funds without remitting to the plaintiff  
25 until such time as it receives a certification required by

1       this Section. A certification of judgment balance need not  
2       be filed with the court.

3       (4) Any party to the wage deduction proceeding may,  
4       upon motion with notice to all other parties, ask the court  
5       to review the balance due claimed by the judgment creditor.

6       (Source: P.A. 90-677, eff. 1-1-99.)

7       (735 ILCS 5/12-814) (from Ch. 110, par. 12-814)

8       Sec. 12-814. Costs and fees.

9       (a) The costs of obtaining a deduction order shall be  
10      charged to the judgment debtor, unless the court determines, in  
11      its discretion, that costs incurred by the judgment creditor  
12      were improperly incurred, in which case those costs shall be  
13      paid by the judgment creditor.

14      (b) No fee shall be paid by an employer for filing his or  
15      her appearance, answer or satisfaction of judgment against him  
16      or her.

17      (c) A fee consisting of ~~the greater of \$12 or 2%~~ of the  
18      amount required to be deducted by any deduction order ~~or series~~  
19      ~~of deduction orders arising out of the same judgment debt~~ shall  
20      be allowed and paid to the employer, and the amount so paid  
21      shall be charged to the judgment debtor.

22      (d) No other fee shall be paid to an employer at the time  
23      of service of the summons or at any other time thereafter  
24      unless he or she is subpoenaed to appear as a witness, in which  
25      case he or she is entitled to witness fees as in other civil

1 cases.

2 (Source: P.A. 87-569.)

3 (735 ILCS 5/19-117) (from Ch. 110, par. 19-117)

4 Sec. 19-117. Service upon defendant. It shall be the duty  
5 of the officer having an order for replevin, to serve the same  
6 upon the defendant, whether the property is found or delivered  
7 to him or her, or not, unless, when none of the property is  
8 found, the officer is otherwise directed by the plaintiff or  
9 his or her attorney or agent.

10 If the defendant fails to deliver up to the sheriff the  
11 chattel which is the subject of the order for replevin and the  
12 plaintiff has a reasonable belief as to where the chattel is  
13 sequestered, the court may authorize the sheriff to use  
14 reasonable force to enter into the property to recover same  
15 upon such terms and conditions as the court may direct.

16 (Source: P.A. 82-280.)

17 (735 ILCS 5/19-123) (from Ch. 110, par. 19-123)

18 Sec. 19-123. Judgment against plaintiff. If the plaintiff  
19 in an action of replevin obtains an order for replevin and  
20 ~~fails to prosecute the action with effect, or allows a~~  
21 ~~voluntary or involuntary dismissal, or if~~ the right of property  
22 is adjudged against the plaintiff, judgment shall be entered  
23 for a return of the property if such property has been  
24 delivered to the plaintiff, and damages for the use thereof

1 from the time it was taken until a return thereof is made,  
2 unless the plaintiff shall, in the meantime, have become  
3 entitled to the possession of the property, in which event  
4 judgment may be entered against the plaintiff for costs and  
5 such damage as the defendant has sustained; or if the property  
6 was held for the payment of any money, the judgment may be in  
7 the alternative that the plaintiff pay the amount for which the  
8 same was rightfully held, with proper damages, within a given  
9 time, or make return of the property in case such property was  
10 delivered to the plaintiff.

11 (Source: P.A. 82-280.)

12 (735 ILCS 5/19-129 new)

13 Sec. 19-129. Mobile homes. If the chattel which is the  
14 subject of the replevin action is a mobile home and is occupied  
15 by the defendant or other persons, the court may issue a  
16 forcible order directing the sheriff to remove the personal  
17 property of the defendant or occupants from the mobile home  
18 provided that the defendants and unknown occupants are given  
19 notice of plaintiff's intent to seek a forcible order and that  
20 upon entry of said order for possession, the execution is  
21 stayed for a reasonable time as determined by the court so as  
22 to allow the defendants and unknown occupants to remove their  
23 property from the mobile home.

1 INDEX

2 Statutes amended in order of appearance

3 735 ILCS 5/2-1402 from Ch. 110, par. 2-1402

4 735 ILCS 5/5-126.5 new

5 735 ILCS 5/12-501 from Ch. 110, par. 12-501

6 735 ILCS 5/12-803 from Ch. 110, par. 12-803

7 735 ILCS 5/12-808 from Ch. 110, par. 12-808

8 735 ILCS 5/12-808.5

9 735 ILCS 5/12-814 from Ch. 110, par. 12-814

10 735 ILCS 5/19-117 from Ch. 110, par. 19-117

11 735 ILCS 5/19-123 from Ch. 110, par. 19-123

12 735 ILCS 5/19-129 new