



Sen. Ira I. Silverstein

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09500SB0229sam002

LRB095 07909 AJ0 32342 a

1 AMENDMENT TO SENATE BILL 229

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 229 on page 1,  
3 immediately below line 3, by inserting the following:

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

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

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 bank having custody of the records,  
10 or the examination of the records by a certified public  
11 accountant engaged by the bank to perform an independent  
12 audit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           this item (16) shall be entitled to the same rights and  
2           protections as a person furnishing information under the  
3           Elder Abuse and Neglect Act, the Illinois Domestic Violence  
4           Act of 1986, and the Abuse of Adults with Disabilities  
5           Intervention Act.

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

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

12                   (B) maintaining or servicing a customer's account  
13                   with the bank; or

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

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

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

24           (19) (a) The disclosure of financial records or  
25           information related to a private label credit program  
26           between a financial institution and a private label party

1 in connection with that private label credit program. Such  
2 information is limited to outstanding balance, available  
3 credit, payment and performance and account history,  
4 product references, purchase information, and information  
5 related to the identity of the customer.

6 (b) (1) For purposes of this paragraph (19) of  
7 subsection (b) of Section 48.1, a "private label credit  
8 program" means a credit program involving a financial  
9 institution and a private label party that is used by a  
10 customer of the financial institution and the private label  
11 party primarily for payment for goods or services sold,  
12 manufactured, or distributed by a private label party.

13 (2) For purposes of this paragraph (19) of subsection  
14 (b) of Section 48.1, a "private label party" means, with  
15 respect to a private label credit program, any of the  
16 following: a retailer, a merchant, a manufacturer, a trade  
17 group, or any such person's affiliate, subsidiary, member,  
18 agent, or service provider.

19 (c) Except as otherwise provided by this Act, a bank may  
20 not disclose to any person, except to the customer or his duly  
21 authorized agent, any financial records or financial  
22 information obtained from financial records relating to that  
23 customer of that bank unless:

24 (1) the customer has authorized disclosure to the  
25 person;

26 (2) the financial records are disclosed in response to

1 a lawful subpoena, summons, warrant, citation to discover  
2 assets, or court order which meets the requirements of  
3 subsection (d) of this Section; or

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

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

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

25 (f) Any person who knowingly and willfully induces or  
26 attempts to induce any officer or employee of a bank to



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

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

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

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

15 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

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

18 (a) Every member or holder of capital shall have the right  
19 to inspect the books and records of the association that  
20 pertain to his account. 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 or shall be entitled to a list of the  
24 members.

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

14           (c) This Section does not prohibit:

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

21           (2) The examination of any financial records by, or the  
22 furnishing of financial records by an association to, any  
23 officer, employee, or agent of the Commissioner of Banks  
24 and Real Estate or federal depository institution  
25 regulator for use solely in the exercise of his duties as  
26 an officer, employee, or agent.

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

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

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

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

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

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

25           (9) The furnishing of information pursuant to the  
26 Illinois Income Tax Act and the Illinois Estate and

1           Generation-Skipping Transfer Tax Act.

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

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

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

15          (13) The furnishing of information in accordance with  
16          the federal Personal Responsibility and Work Opportunity  
17          Reconciliation Act of 1996. Any association 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          association a reasonable fee not to exceed its actual cost  
21          incurred. An association 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 association in response  
26          to a lien or order to withhold and deliver issued by a

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

8 (14) The furnishing of information to law enforcement  
9 authorities, the Illinois Department on Aging and its  
10 regional administrative and provider agencies, the  
11 Department of Human Services Office of Inspector General,  
12 or public guardians: (i) upon subpoena by the investigatory  
13 entity or the guardian, or (ii) if there is suspicion by  
14 the association that a customer who is an elderly or  
15 disabled person has been or may become the victim of  
16 financial exploitation. For the purposes of this item (14),  
17 the term: (i) "elderly person" means a person who is 60 or  
18 more years of age, (ii) "disabled person" means a person  
19 who has or reasonably appears to the association to have a  
20 physical or mental disability that impairs his or her  
21 ability to seek or obtain protection from or prevent  
22 financial exploitation, and (iii) "financial exploitation"  
23 means tortious or illegal use of the assets or resources of  
24 an elderly or disabled person, and includes, without  
25 limitation, misappropriation of the elderly or disabled  
26 person's assets or resources by undue influence, breach of

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

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

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

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

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

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

26      (16) The disclosure of financial records or

1 information as necessary to protect against or prevent  
2 actual or potential fraud, unauthorized transactions,  
3 claims, or other liability.

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

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

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

25 (d) An association may not disclose to any person, except  
26 to the member or holder of capital or his duly authorized

1 agent, any financial records relating to that member or holder  
2 of capital of that association unless:

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

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

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

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

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

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

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

23 Section 3. The Savings Bank Act is amended by changing  
24 Section 4013 as follows:

1 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

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

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

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

23 (c) This Section does not prohibit:

24 (1) The preparation examination, handling, or  
25 maintenance of any financial records by any officer,  
26 employee, or agent of a savings bank having custody of

1 records or examination of records by a certified public  
2 accountant engaged by the savings bank to perform an  
3 independent audit.

4 (2) The examination of any financial records by, or the  
5 furnishing of financial records by a savings bank to, any  
6 officer, employee, or agent of the Commissioner of Banks  
7 and Real Estate or the federal depository institution  
8 regulator for use solely in the exercise of his duties as  
9 an officer, employee, or agent.

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

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

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

19 (6) The exchange in the regular course of business of  
20 (i) credit information between a savings bank and other  
21 savings banks or financial institutions or commercial  
22 enterprises, directly or through a consumer reporting  
23 agency or (ii) financial records or information derived  
24 from financial records between a savings bank and other  
25 savings banks or financial institutions or commercial  
26 enterprises for the purpose of conducting due diligence

1           pursuant to a purchase or sale involving the savings bank  
2           or assets or liabilities of the savings bank.

3           (7) The furnishing of information to the appropriate  
4           law enforcement authorities where the savings bank  
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 seq.).

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,  
18          warrant, 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 savings bank 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          savings bank a reasonable fee not to exceed its actual cost  
25          incurred. A savings bank providing information in  
26          accordance with this item shall not be liable to any

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

12 (13) 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 by the investigatory  
17 entity or the guardian, or (ii) if there is suspicion by  
18 the savings bank that a customer who is an elderly or  
19 disabled person has been or may become the victim of  
20 financial exploitation. For the purposes of this item (13),  
21 the term: (i) "elderly person" means a person who is 60 or  
22 more years of age, (ii) "disabled person" means a person  
23 who has or reasonably appears to the savings bank to have a  
24 physical or mental disability that impairs his or her  
25 ability to seek or obtain protection from or prevent  
26 financial exploitation, and (iii) "financial exploitation"

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

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

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

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

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

26 Nothing in this item (14), however, authorizes the sale

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

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

8 (16) 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 (17) (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 (17) of  
21 subsection (c) of Section 4013, 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.

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

7           (d) A savings bank may not disclose to any person, except  
8           to the member or holder of capital or his duly authorized  
9           agent, any financial records relating to that member or  
10          shareholder of the savings bank unless:

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

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          subsection (e) of this Section.

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



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

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

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

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

1 a lawful subpoena, warrant, citation to discover assets, or  
2 court order.

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

11 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;  
12 94-851, eff. 6-13-06.)

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

15 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

17 (1) A credit union shall establish and maintain books,  
18 records, accounting systems and procedures which accurately  
19 reflect its operations and which enable the Department to  
20 readily ascertain the true financial condition of the credit  
21 union and whether it is complying with this Act.

22 (2) A photostatic or photographic reproduction of any  
23 credit union records shall be admissible as evidence of  
24 transactions with the credit union.

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

13           (b) This Section does not prohibit:

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

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

26           (3) The publication of data furnished from financial

1 records relating to members where the data cannot be  
2 identified to any particular customer of account.

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

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

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

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

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

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

26 (10) The furnishing of information pursuant to the

1 federal "Currency and Foreign Transactions Reporting Act",  
2 Title 31, United States Code, Section 1051 et sequentia.

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

8 (12) The furnishing of information in accordance with  
9 the federal Personal Responsibility and Work Opportunity  
10 Reconciliation Act of 1996. Any credit union 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 credit union a reasonable fee not to exceed its actual cost  
14 incurred. A credit union 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 credit union in  
19 response to a lien or order to withhold and deliver issued  
20 by a State agency, or for any other action taken pursuant  
21 to this item, including individual or mechanical errors,  
22 provided the action does not constitute gross negligence or  
23 willful misconduct. A credit union shall have no obligation  
24 to hold, encumber, or surrender assets until it has been  
25 served with a subpoena, summons, warrant, court or  
26 administrative order, lien, or levy.

1           (13) 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 credit union that a member 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 (13),  
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 credit union 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. A credit union or person furnishing  
23 information pursuant to this item (13) 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 (14) 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 in  
5 connection with:

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

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

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

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

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

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

1 related to the identity of the customer.

2 (b) (1) For purposes of this paragraph (16) of  
3 subsection (b) of Section 10, a "private label credit  
4 program" means a credit program involving a financial  
5 institution and a private label party that is used by a  
6 customer of the financial institution and the private label  
7 party primarily for payment for goods or services sold,  
8 manufactured, or distributed by a private label party.

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

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

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

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

24 (3) the credit union is attempting to collect an  
25 obligation owed to the credit union and the credit union  
26 complies with the provisions of Section 2I of the Consumer



1 Fraud and Deceptive Business Practices Act.

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

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

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

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

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