

SB0237



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0237

Introduced 2/7/2007, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

205 ILCS 205/4013

from Ch. 17, par. 7304-13

Amends the Savings Bank Act. Provides that a savings bank may not disclose to any person, except to the member or holder of capital or his or her duly authorized agent, any financial records relating to that member or shareholder of the savings bank unless the financial records are disclosed in response to a lawful subpoena, summons, warrant, citation to discover assets, or court order that meets certain requirements (now, a savings bank may only disclose financial records in response to a lawful subpoena, summons, warrant, or court order). Makes corresponding changes in provisions related to disclosure procedure and the reimbursement of costs associated with compliance.

LRB095 07907 MJR 28069 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Savings Bank Act is amended by changing
5 Section 4013 as follows:

6 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

7 Sec. 4013. Access to books and records; communication with
8 members and shareholders.

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

16 (b) For the purpose of this Section, the term "financial
17 records" means any original, any copy, or any summary of (1) a
18 document granting signature authority over a deposit or
19 account; (2) a statement, ledger card, or other record on any
20 deposit or account that shows each transaction in or with
21 respect to that account; (3) a check, draft, or money order
22 drawn on a savings bank or issued and payable by a savings
23 bank; or (4) any other item containing information pertaining

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

5 (c) This Section does not prohibit:

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

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

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

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

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

1 (6) The exchange in the regular course of business of
2 (i) credit information between a savings bank and other
3 savings banks 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 savings bank and other
7 savings banks or financial institutions or commercial
8 enterprises for the purpose of conducting due diligence
9 pursuant to a purchase or sale involving the savings bank
10 or assets or liabilities of the savings bank.

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

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,
26 warrant, 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 savings bank 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 savings bank a reasonable fee not to exceed its actual cost
7 incurred. A savings bank 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 savings 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 savings bank 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 savings bank that a customer 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 savings bank 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 savings bank 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
24 holder of capital, or in connection with:

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

1 of capital;

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

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

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

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

16 (16) 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 (17) (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 (17) of
3 subsection (c) of Section 4013, 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 (17) of subsection
10 (c) of Section 4013, 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 (d) A savings bank may not disclose to any person, except
16 to the member or holder of capital or his duly authorized
17 agent, any financial records relating to that member or
18 shareholder of the savings bank unless:

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

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

25 (e) A savings bank shall disclose financial records under
26 subsection (d) of this Section pursuant to a lawful subpoena,

1 summons, warrant, citation to discover assets, or court order
2 only after the savings bank mails a copy of the subpoena,
3 summons, warrant, or court order to the person establishing the
4 relationship with the savings bank, if living, and otherwise,
5 his personal representative, if known, at his last known
6 address by first class mail, postage prepaid, unless the
7 savings bank is specifically prohibited from notifying the
8 person by order of court.

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

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

18 (h) If any member or shareholder desires to communicate
19 with the other members or shareholders of the savings bank with
20 reference to any question pending or to be presented at an
21 annual or special meeting, the savings bank shall give that
22 person, upon request, a statement of the approximate number of
23 members or shareholders entitled to vote at the meeting and an
24 estimate of the cost of preparing and mailing the
25 communication. The requesting member shall submit the
26 communication to the Commissioner who, upon finding it to be

1 appropriate and truthful, shall direct that it be prepared and
2 mailed to the members upon the requesting member's or
3 shareholder's payment or adequate provision for payment of the
4 expenses of preparation and mailing.

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

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

19 (Source: P.A. 93-271, eff. 7-22-03; 94-495, eff. 8-8-05;
20 94-851, eff. 6-13-06.)