

1 AN ACT in relation to financial regulation.

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

4 Section 5. The Illinois Banking Act is amended by  
5 changing 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  
14 with respect to that account;

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

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

22 (b) This Section does not prohibit:

23 (1) The preparation, examination, handling or  
24 maintenance of any financial records by any officer,  
25 employee or agent of a bank having custody of the  
26 records, or the examination of the records by a certified  
27 public accountant engaged by the bank to perform an  
28 independent audit.

29 (2) The examination of any financial records by, or  
30 the furnishing of financial records by a bank to, any  
31 officer, employee or agent of (i) the Commissioner of

1 Banks and Real Estate, (ii) after May 31, 1997, a state  
2 regulatory authority authorized to examine a branch of a  
3 State bank located in another state, (iii) the  
4 Comptroller of the Currency, (iv) the Federal Reserve  
5 Board, or (v) the Federal Deposit Insurance Corporation  
6 for use solely in the exercise of his duties as an  
7 officer, employee, or agent.

8 (3) The publication of data furnished from  
9 financial records relating to customers where the data  
10 cannot be identified to any particular customer or  
11 account.

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

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

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

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

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

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

34 (10) The furnishing of information under the

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

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

7 (12) The furnishing of information about the  
8 existence of an account of a person to a judgment  
9 creditor of that person who has made a written request  
10 for that information.

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

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

34 (15) The exchange in the regular course of business

1 of information between a bank and any commonly owned  
2 affiliate of the bank, subject to the provisions of the  
3 Financial Institutions Insurance Sales Law.

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

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

34 (A) servicing or processing a financial

1 product or service requested or authorized by the  
2 customer;

3 (B) maintaining or servicing a customer's  
4 account with the bank; or

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

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

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

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

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

31 (2) For purposes of this paragraph (19) of  
32 subsection (b) of Section 48.1, a "private label party"  
33 means, with respect to a private label credit program,  
34 any of the following: a retailer, a merchant, a

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

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

9                (1) the customer has authorized disclosure to the  
10              person;

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

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

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

32        (e) Any officer or employee of a bank who knowingly and  
33        willfully furnishes financial records in violation of this  
34        Section is guilty of a business offense and, upon conviction,

1 shall be fined not more than \$1,000.

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

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

14 (Source: P.A. 91-330, eff. 7-29-99; 91-929, eff. 12-15-00;  
15 92-483, eff. 8-23-01.)

16 Section 10. The Illinois Savings and Loan Act of 1985 is  
17 amended by changing Section 3-8 as follows:

18 (205 ILCS 105/3-8) (from Ch. 17, par. 3303-8)

19 Sec. 3-8. Access to books and records; communication  
20 with members.

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

28 (b) For the purpose of this Section, the term "financial  
29 records" means any original, any copy, or any summary of (i)  
30 a document granting signature authority over a deposit or  
31 account; (ii) a statement, ledger card, or other record on  
32 any deposit or account that shows each transaction in or with

1 respect to that account; (iii) a check, draft, or money order  
 2 drawn on an association or issued and payable by an  
 3 association; or (iv) any other item containing information  
 4 pertaining to any relationship established in the ordinary  
 5 course of an association's business between an association  
 6 and its customer, including financial statements or other  
 7 financial information provided by the member or holder of  
 8 capital.

9 (c) This Section does not prohibit:

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

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

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

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

34 (5) Furnishing information concerning the dishonor

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

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

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

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

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

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

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

31 (12) The exchange of information between an  
32 association and an affiliate of the association; as used  
33 in this item, "affiliate" includes any company,  
34 partnership, or organization that controls, is controlled

1 by, or is under common control with an association.

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

22 (14) The furnishing of information to law  
23 enforcement authorities, the Illinois Department on Aging  
24 and its regional administrative and provider agencies,  
25 the Department of Human Services Office of Inspector  
26 General, or public guardians, if the association suspects  
27 that a customer who is an elderly or disabled person has  
28 been or may become the victim of financial exploitation.  
29 For the purposes of this item (14), the term: (i)  
30 "elderly person" means a person who is 60 or more years  
31 of age, (ii) "disabled person" means a person who has or  
32 reasonably appears to the association to have a physical  
33 or mental disability that impairs his or her ability to  
34 seek or obtain protection from or prevent financial

1 exploitation, and (iii) "financial exploitation" means  
2 tortious or illegal use of the assets or resources of an  
3 elderly or disabled person, and includes, without  
4 limitation, misappropriation of the elderly or disabled  
5 person's assets or resources by undue influence, breach  
6 of fiduciary relationship, intimidation, fraud,  
7 deception, extortion, or the use of assets or resources  
8 in any manner contrary to law. An association or person  
9 furnishing information pursuant to this item (14) shall  
10 be entitled to the same rights and protections as a  
11 person furnishing information under the Elder Abuse and  
12 Neglect Act and the Illinois Domestic Violence Act of  
13 1986.

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

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

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

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

27 Nothing in this item (15), however, authorizes the  
28 sale of the financial records or information of a member  
29 or holder of capital without the consent of the member or  
30 holder of capital.

31 (16) The disclosure of financial records or  
32 information as necessary to protect against or prevent  
33 actual or potential fraud, unauthorized transactions,  
34 claims, or other liability.

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

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

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

24           (d) An association may not disclose to any person,  
25           except to the member or holder of capital or his duly  
26           authorized agent, any financial records relating to that  
27           member or holder of capital of that association unless:

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

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

34           (e) An association shall disclose financial records

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

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

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

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

31 (h) An association shall be reimbursed for costs that  
32 are necessary and that have been directly incurred in  
33 searching for, reproducing, or transporting books, papers,  
34 records, or other data of a customer required to be

1 reproduced pursuant to a lawful subpoena, warrant, or court  
2 order.

3 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

4 Section 15. 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  
8 with 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  
14 to the books and records nor shall be entitled to a list of  
15 the 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)  
18 a 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  
24 to any relationship established in the ordinary course of a  
25 savings bank's business between a savings bank and its  
26 customer, including financial statements or other financial  
27 information provided by the member or shareholder.

28 (c) This Section does not prohibit:

29 (1) The preparation examination, handling, or  
30 maintenance of any financial records by any officer,  
31 employee, or agent of a savings bank having custody of  
32 records or examination of records by a certified public

1 accountant engaged by the savings bank to perform an  
2 independent audit.

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

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

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

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

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

29 (7) The furnishing of information to the  
30 appropriate law enforcement authorities where the savings  
31 bank reasonably believes it has been the victim of a  
32 crime.

33 (8) The furnishing of information pursuant to the  
34 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  
6 Act", (Title 31, United States Code, Section 1051 et  
7 seq.).

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

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

33           (13) The furnishing of information to law  
34 enforcement authorities, the Illinois Department on Aging

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

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

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

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

34                         or

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

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

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

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

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

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

34          (2) For purposes of this paragraph (17) of

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

7       (d) A savings bank may not disclose to any person,  
8       except to the member or holder of capital or his duly  
9       authorized agent, any financial records relating to that  
10      member or 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  
14      to a lawful subpoena, summons, warrant, or court order  
15      that meets the requirements of subsection (e) of this  
16      Section.

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

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

31      (g) Any person who knowingly and willfully induces or  
32      attempts to induce any officer or employee of a savings bank  
33      to disclose financial records in violation of this Section is  
34      guilty of a business offense and, upon conviction, shall be

1 fined not more than \$1,000.

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

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

21 (j) Notwithstanding the provisions of this Section, a  
22 savings bank may sell or otherwise make use of lists of  
23 customers' names and addresses. All other information  
24 regarding a customer's account are subject to the disclosure  
25 provisions of this Section. At the request of any customer,  
26 that customer's name and address shall be deleted from any  
27 list that is to be sold or used in any other manner beyond  
28 identification of the customer's accounts.

29 (Source: P.A. 91-929, eff. 12-15-00; 92-483, eff. 8-23-01.)

30 Section 20. The Illinois Credit Union Act is amended by  
31 changing Section 10 as follows:

32 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

2           (1) A credit union shall establish and maintain books,  
3 records, accounting systems and procedures which accurately  
4 reflect its operations and which enable the Department to  
5 readily ascertain the true financial condition of the credit  
6 union and whether it is complying with this Act.

7           (2) A photostatic or photographic reproduction of any  
8 credit union records shall be admissible as evidence of  
9 transactions with the credit union.

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

23          (b) 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 credit union having custody  
27 of such records, or the examination of such records  
28 by a certified public accountant engaged by the  
29 credit union to perform an independent audit.

30               (2) The examination of any financial records  
31 by or the furnishing of financial records by a  
32 credit union to any officer, employee or agent of  
33 the Department, the National Credit Union  
34 Administration, Federal Reserve board or any insurer

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

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

7 (4) The making of reports or returns required  
8 under Chapter 61 of the Internal Revenue Code of  
9 1954.

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

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

24 (7) The furnishing of information to the  
25 appropriate law enforcement authorities where the  
26 credit union reasonably believes it has been the  
27 victim of a crime.

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

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

33 (10) The furnishing of information pursuant to  
34 the federal "Currency and Foreign Transactions

1 Reporting Act", Title 31, United States Code,  
2 Section 1051 et sequentia.

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

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

29 (13) The furnishing of information to law  
30 enforcement authorities, the Illinois Department on  
31 Aging and its regional administrative and provider  
32 agencies, the Department of Human Services Office of  
33 Inspector General, or public guardians, if the  
34 credit union suspects that a member who is an

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

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

27 (A) servicing or processing a financial  
28 product or service requested or authorized by  
29 the member;

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

32 (C) a proposed or actual securitization  
33 or secondary market sale (including sales of  
34 servicing rights) related to a transaction of a

1 member.

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

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

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

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

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

33 (c) Except as otherwise provided by this Act, a  
34 credit union may not disclose to any person, except to

1 the member or his duly authorized agent, any financial  
2 records relating to that member of the credit union  
3 unless:

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

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

10 (3) the credit union is attempting to collect  
11 an obligation owed to the credit union and the  
12 credit union complies with the provisions of Section  
13 2I of the Consumer Fraud and Deceptive Business  
14 Practices Act.

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

32 (e) (1) Any officer or employee of a credit union  
33 who knowingly and wilfully furnishes financial  
34 records in violation of this Section is guilty of a

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

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

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

19 (Source: P.A. 91-929, eff. 12-15-00; 92-293, eff. 8-9-01;  
20 92-483, eff. 8-23-01.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.