

1 AMENDMENT TO SENATE BILL 1104

2 AMENDMENT NO. _____. Amend Senate Bill 1104 by replacing
3 everything after the enacting clause with the following:

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 be entitled to the same rights and protections as a
2 person furnishing information under the Elder Abuse and
3 Neglect Act and the Illinois Domestic Violence Act of
4 1986.

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

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

12 (B) maintaining or servicing a customer's
13 account 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
18 sale of the financial records or information of a
19 customer 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) The furnishing of information when the matters
25 involve foreign intelligence or counterintelligence, as
26 defined in Section 3 of the federal National Security Act
27 of 1947, or when the matters involve foreign intelligence
28 information, as defined in Section 203(d)(2) of the
29 federal USA PATRIOT ACT of 2001, as enacted, to any
30 federal law enforcement, intelligence, protective,
31 immigration, national defense, or national security
32 official, pursuant to any lawful request, in order to
33 assist the official receiving that information in the
34 performance of his or her official duties.

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

6 (1) the customer has authorized disclosure to the
7 person;

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

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

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

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

33 (f) Any person who knowingly and willfully induces or
34 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 or court order. The Commissioner shall determine the rates
10 and conditions under which payment may be made.

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

13 Section 10. 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
17 with members.

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

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

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

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

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

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

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

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

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

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

10 (7) The furnishing of information to the
11 appropriate law enforcement authorities where the
12 association reasonably believes it has been the victim of
13 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
21 Act", (Title 31, United States Code, Section 1051 et
22 seq.).

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

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

33 (13) The furnishing of information in accordance
34 with the federal Personal Responsibility and Work

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

19 (14) The furnishing of information to law
20 enforcement authorities, the Illinois Department on Aging
21 and its regional administrative and provider agencies,
22 the Department of Human Services Office of Inspector
23 General, or public guardians, if the association suspects
24 that a customer who is an elderly or disabled person has
25 been or may become the victim of financial exploitation.
26 For the purposes of this item (14), the term: (i)
27 "elderly person" means a person who is 60 or more years
28 of age, (ii) "disabled person" means a person who has or
29 reasonably appears to the association to have a physical
30 or mental disability that impairs his or her ability to
31 seek or obtain protection from or prevent financial
32 exploitation, and (iii) "financial exploitation" means
33 tortious or illegal use of the assets or resources of an
34 elderly or disabled person, and includes, without

1 limitation, misappropriation of the elderly or disabled
2 person's assets or resources by undue influence, breach
3 of fiduciary relationship, intimidation, fraud,
4 deception, extortion, or the use of assets or resources
5 in any manner contrary to law. An association or person
6 furnishing information pursuant to this item (14) shall
7 be entitled to the same rights and protections as a
8 person furnishing information under the Elder Abuse and
9 Neglect Act and the Illinois Domestic Violence Act of
10 1986.

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

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

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

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

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

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

32 (17) The furnishing of information when the matters
33 involve foreign intelligence or counterintelligence, as
34 defined in Section 3 of the federal National Security Act

1 of 1947, or when the matters involve foreign intelligence
2 information, as defined in Section 203(d)(2) of the
3 federal USA PATRIOT ACT of 2001, as enacted, to any
4 federal law enforcement, intelligence, protective,
5 immigration, national defense, or national security
6 official, pursuant to any lawful request, in order to
7 assist the official receiving that information in the
8 performance of his or her official duties.

9 (d) An association may not disclose to any person,
10 except to the member or holder of capital or his duly
11 authorized agent, any financial records relating to that
12 member or holder of capital of that association unless:

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

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

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

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

33 (2) Any person who knowingly and willfully induces or
34 attempts to induce any officer or employee of an association

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

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

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

23 Section 15. The Savings Bank Act is amended by changing
24 Section 4013 as follows:

25 (205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

26 Sec. 4013. Access to books and records; communication
27 with members and shareholders.

28 (a) Every member or shareholder shall have the right to
29 inspect books and records of the savings bank that pertain to
30 his accounts. Otherwise, the right of inspection and
31 examination of the books and records shall be limited as
32 provided in this Act, and no other person shall have access

1 to the books and records nor shall be entitled to a list of
2 the members or shareholders.

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

15 (c) This Section does not prohibit:

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

22 (2) The examination of any financial records by, or
23 the furnishing of financial records by a savings bank to,
24 any officer, employee, or agent of the Commissioner of
25 Banks and Real Estate or the Federal Deposit Insurance
26 Corporation for use solely in the exercise of his duties
27 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, shareholder, 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 a savings bank and
5 other savings banks 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 a savings bank and
9 other savings banks or financial institutions or
10 commercial enterprises for the purpose of conducting due
11 diligence pursuant to a purchase or sale involving the
12 savings bank or assets or liabilities of the savings
13 bank.

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

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

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

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

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

32 (12) The furnishing of information in accordance
33 with the federal Personal Responsibility and Work
34 Opportunity Reconciliation Act of 1996. Any savings bank

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

18 (13) The furnishing of information to law
19 enforcement authorities, the Illinois Department on Aging
20 and its regional administrative and provider agencies,
21 the Department of Human Services Office of Inspector
22 General, or public guardians, if the savings bank
23 suspects that a customer who is an elderly or disabled
24 person has been or may become the victim of financial
25 exploitation. For the purposes of this item (13), the
26 term: (i) "elderly person" means a person who is 60 or
27 more years of age, (ii) "disabled person" means a person
28 who has or reasonably appears to the savings bank to have
29 a physical or mental disability that impairs his or her
30 ability to seek or obtain protection from or prevent
31 financial exploitation, and (iii) "financial
32 exploitation" means tortious or illegal use of the assets
33 or resources of an elderly or disabled person, and
34 includes, without limitation, misappropriation of the

1 elderly or disabled person's assets or resources by undue
2 influence, breach of fiduciary relationship,
3 intimidation, fraud, deception, extortion, or the use of
4 assets or resources in any manner contrary to law. A
5 savings bank or person furnishing information pursuant to
6 this item (13) shall be entitled to the same rights and
7 protections as a person furnishing information under the
8 Elder Abuse and Neglect Act and the Illinois Domestic
9 Violence Act of 1986.

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

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

17 (B) maintaining or servicing an account of a
18 member or holder of capital with the savings bank;
19 or

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

24 Nothing in this item (14), however, authorizes the
25 sale of the financial records or information of a member
26 or holder of capital without the consent of the member or
27 holder of capital.

28 (15) The exchange in the regular course of business
29 of information between a savings bank and any commonly
30 owned affiliate of the savings bank, subject to the
31 provisions of the Financial Institutions Insurance Sales
32 Law.

33 (16) The disclosure of financial records or
34 information as necessary to protect against or prevent

1 actual or potential fraud, unauthorized transactions,
2 claims, or other liability.

3 (17) The furnishing of information when the matters
4 involve foreign intelligence or counterintelligence, as
5 defined in Section 3 of the federal National Security Act
6 of 1947, or when the matters involve foreign intelligence
7 information, as defined in Section 203(d)(2) of the
8 federal USA PATRIOT ACT of 2001, as enacted, to any
9 federal law enforcement, intelligence, protective,
10 immigration, national defense, or national security
11 official, pursuant to any lawful request, in order to
12 assist the official receiving that information in the
13 performance of his or her official duties.

14 (d) A savings bank may not disclose to any person,
15 except to the member or holder of capital or his duly
16 authorized agent, any financial records relating to that
17 member or shareholder of the savings bank unless:

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

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

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

34 (f) Any officer or employee of a savings bank who

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

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

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

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

28 (j) Notwithstanding the provisions of this Section, a
29 savings bank may sell or otherwise make use of lists of
30 customers' names and addresses. All other information
31 regarding a customer's account are subject to the disclosure
32 provisions of this Section. At the request of any customer,
33 that customer's name and address shall be deleted from any
34 list that is to be sold or used in any other manner beyond

1 identification of the customer's accounts.

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

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

5 (205 ILCS 305/10) (from Ch. 17, par. 4411)

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

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

12 (2) A photostatic or photographic reproduction of any
13 credit union records shall be admissible as evidence of
14 transactions with the credit union.

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

28 (b) 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 credit union having custody
32 of such records, or the examination of such records

1 by a certified public accountant engaged by the
2 credit union to perform an independent audit.

3 (2) The examination of any financial records
4 by or the furnishing of financial records by a
5 credit union to any officer, employee or agent of
6 the Department, the National Credit Union
7 Administration, Federal Reserve board or any insurer
8 of share accounts for use solely in the exercise of
9 his duties as an officer, employee or agent.

10 (3) The publication of data furnished from
11 financial records relating to members where the data
12 cannot be identified to any particular customer of
13 account.

14 (4) The making of reports or returns required
15 under Chapter 61 of the Internal Revenue Code of
16 1954.

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

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

31 (7) The furnishing of information to the
32 appropriate law enforcement authorities where the
33 credit union reasonably believes it has been the
34 victim of a crime.

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

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

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

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

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

1 administrative order, lien, or levy.

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

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

34 (A) servicing or processing a financial

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

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

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

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

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

16 (16) The furnishing of information when the
17 matters involve foreign intelligence or
18 counterintelligence, as defined in Section 3 of the
19 federal National Security Act of 1947, or when the
20 matters involve foreign intelligence information, as
21 defined in Section 203(d)(2) of the federal USA
22 PATRIOT ACT of 2001, as enacted, to any federal law
23 enforcement, intelligence, protective, immigration,
24 national defense, or national security official,
25 pursuant to any lawful request, in order to assist
26 the official receiving that information in the
27 performance of his or her official duties.

28 (c) Except as otherwise provided by this Act, a
29 credit union may not disclose to any person, except to
30 the member or his duly authorized agent, any financial
31 records relating to that member of the credit union
32 unless:

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

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

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

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

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

32 (2) Any person who knowingly and wilfully
33 induces or attempts to induce any officer or
34 employee of a credit union to disclose financial

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

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

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