



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### HB1288

Introduced 2/20/2007, by Rep. Thomas Holbrook

#### SYNOPSIS AS INTRODUCED:

205 ILCS 305/4.1 new	
205 ILCS 305/8	from Ch. 17, par. 4409
205 ILCS 305/20	from Ch. 17, par. 4421
205 ILCS 305/22	from Ch. 17, par. 4423
205 ILCS 305/30	from Ch. 17, par. 4431
205 ILCS 305/46	from Ch. 17, par. 4447
205 ILCS 305/51	from Ch. 17, par. 4452
205 ILCS 305/70	from Ch. 17, par. 4471

Amends the Illinois Credit Union Act. Provides that a credit union organized under the laws of Illinois may elect to adopt an assumed corporate name that is not impermissible under applicable law. Establishes the requirements for a credit union to operate under an assumed corporate name. Provides additional criteria that the Director of the Illinois Department of Financial Institutions may use to direct and supervise all the administrative and technical activities of the Illinois Department of Financial Institutions. Contains provisions concerning the rules of office for Directors. Allows a credit union to purchase certain instruments that evidence an indebtedness of its members or of members of another credit union (now, a credit union may only purchase certain instruments of its members). Prohibits those other than an authorized user, without permission, from using the name of or a name similar to the name of an existing credit union when marketing or soliciting business from members or prospective members and provides penalties against those who violate the provision. Effective immediately.

LRB095 08529 MJR 28710 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Credit Union Act is amended by  
5 changing Sections 8, 20, 22, 30, 46, 51, and 70 and by adding  
6 Section 4.1 as follows:

7 (205 ILCS 305/4.1 new)

8 Sec. 4.1. Assumed corporate name.

9 (a) A credit union organized under the laws of Illinois may  
10 elect to adopt an assumed name that is not impermissible under  
11 applicable law.

12 (b) As used in this Act, "assumed name" means any name  
13 other than the true credit union name as stated in its charter,  
14 except that the following shall not constitute the use of an  
15 assumed name under this Act:

16 (1) the identification by a credit union of the conduct  
17 of its affairs with a trademark or service mark of which it  
18 is the owner or licensed user; or

19 (2) the use of the name of a division, not separately  
20 chartered under this Act and not containing the word  
21 "credit union" or an abbreviation of one of such words,  
22 provided the credit unions also clearly discloses its true  
23 name.

1       (c) Before conducting any affairs in this State under an  
2 assumed name or names, the credit union shall, for each assumed  
3 name, pursuant to resolution by its board of directors, execute  
4 and file with the Division of Financial Institutions, an  
5 application setting forth:

6           (1) the true credit union name;

7           (2) that the credit union intends to conduct affairs  
8 under an assumed name; and

9           (3) the assumed name which it proposes to use.

10       (d) The right to use an assumed name shall be effective for  
11 a period of 5 years from the date of approval by the Division  
12 of Financial Institutions.

13       (e) A credit union shall renew the right to use its assumed  
14 name or names, if any, within the 60 days preceding the  
15 expiration of such right, for a period of 5 years, by making an  
16 election to do so and by paying the renewal fee as prescribed  
17 by rule.

18       (f) Once an application for an assumed name has been  
19 approved by the Division of Financial Institutions, one copy  
20 thereof may be filed for record in the office of the Recorder  
21 of the county in which the principal office of the credit  
22 union.

23       (205 ILCS 305/8) (from Ch. 17, par. 4409)

24       Sec. 8. Director's powers and duties. Credit unions are  
25 regulated by the Department. The Director, in executing the

1 powers and discharging the duties vested by law in the  
2 Department has the following powers and duties:

3 (1) To exercise the rights, powers and duties set forth  
4 in this Act or any related Act.

5 (2) To prescribe rules and regulations for the  
6 administration of this Act. The provisions of the Illinois  
7 Administrative Procedure Act are hereby expressly adopted  
8 and incorporated herein as though a part of this Act, and  
9 shall apply to all administrative rules and procedures of  
10 the Department under this Act.

11 (3) To direct and supervise all the administrative and  
12 technical activities of the Department including the  
13 employment of a Credit Union Supervisor who shall have  
14 knowledge in the theory and practice of, or experience in,  
15 the operations or supervision of financial institutions,  
16 preferably credit unions, and such other persons as are  
17 necessary to carry out his functions including examiners  
18 meeting certification standards of the National  
19 Association of State Credit Union Supervisors (NASCUS) or  
20 similar certification standards.

21 (4) To issue cease and desist orders when in the  
22 opinion of the Director, a credit union is engaged or has  
23 engaged, or the Director has reasonable cause to believe  
24 the credit union is about to engage, in an unsafe or  
25 unsound practice, or is violating or has violated or the  
26 Director has reasonable cause to believe is about to

1 violate a law, rule or regulation or any condition imposed  
2 in writing by the Department.

3 (5) To suspend from office and to prohibit from further  
4 participation in any manner in the conduct of the affairs  
5 of his credit union any director, officer or committee  
6 member who has committed any violation of a law, rule,  
7 regulation or of a cease and desist order or who has  
8 engaged or participated in any unsafe or unsound practice  
9 in connection with the credit union or who has committed or  
10 engaged in any act, omission, or practice which constitutes  
11 a breach of his fiduciary duty as such director, officer or  
12 committee member, when the Director has determined that  
13 such action or actions have resulted or will result in  
14 substantial financial loss or other damage that seriously  
15 prejudices the interests of the members.

16 (6) Except for the fees established in this Act, to  
17 prescribe, by rule and regulation, fees and penalties for  
18 preparing, approving, and filing reports and other  
19 documents; furnishing transcripts; holding hearings;  
20 investigating applications for permission to organize,  
21 merge, or convert; failure to maintain accurate books and  
22 records to enable the Department to conduct an examination;  
23 and taking supervisory actions.

24 (7) To destroy, in his discretion, any or all books and  
25 records of any credit union in his possession or under his  
26 control after the expiration of three years from the date

1 of cancellation of the charter of such credit unions.

2 (8) To make investigations and to conduct research and  
3 studies and to publish some of the problems of persons in  
4 obtaining credit at reasonable rates of interest and of the  
5 methods and benefits of cooperative saving and lending for  
6 such persons.

7 (9) To authorize, foster or establish experimental,  
8 developmental, demonstration or pilot projects by public  
9 or private organizations including credit unions which:

10 (a) promote more effective operation of credit  
11 unions so as to provide members an opportunity to use  
12 and control their own money to improve their economic  
13 and social conditions; or

14 (b) are in the best interests of credit unions,  
15 their members and the people of the State of Illinois.

16 (10) To cooperate in studies, training or other  
17 administrative activities with, but not limited to, the  
18 NCUA, other state credit union regulatory agencies and  
19 industry trade associations in order to promote more  
20 effective and efficient supervision of Illinois chartered  
21 credit unions.

22 (Source: P.A. 91-357, eff. 7-29-99; 92-608, eff. 7-1-02.)

23 (205 ILCS 305/20) (from Ch. 17, par. 4421)

24 Sec. 20. Election or appointment of officials.

25 (1) The credit union shall be directed by a Board of

1 Directors consisting of no less than 7 in number, to be elected  
2 at the annual meeting by and from the members. Directors shall  
3 hold office until the next annual meeting, unless their terms  
4 are staggered. Upon amendment of its bylaws, a credit union may  
5 divide the Directors into 2 or 3 classes with each class as  
6 nearly equal in number as possible. The term of office of the  
7 directors of the first class shall expire at the first annual  
8 meeting after their election, that of the second class shall  
9 expire at the second annual meeting after their election, and  
10 that of the third class, if any, shall expire at the third  
11 annual meeting after their election. At each annual meeting  
12 after the classification, the number of directors equal to the  
13 number of directors whose terms expire at the time of the  
14 meeting shall be elected to hold office until the second  
15 succeeding annual meeting if there are 2 classes or until the  
16 third succeeding annual meeting if there are 3 classes. A  
17 Director shall hold office for the term for which he or she is  
18 elected and until his or her successor is elected and  
19 qualified.

20 (1.5) Except as provided in subsection (1.10), in ~~in~~ all  
21 elections for Directors, every member has the right to vote, in  
22 person or by proxy, the number of shares owned by him, or in  
23 the case of a member other than a natural person, the member's  
24 one vote, for as many persons as there are Directors to be  
25 elected, or to cumulate such shares, and give one candidate as  
26 many votes as the number of Directors multiplied by the number

1 of his shares equals, or to distribute them on the same  
2 principle among as many candidates as he may desire and the  
3 Directors shall not be elected in any other manner. Shares held  
4 in a joint account owned by more than one member may be voted  
5 by any one of the members, however, the number of cumulative  
6 votes cast may not exceed a total equal to the number of shares  
7 multiplied by the number of directors to be elected. A majority  
8 of the shares entitled to vote shall be represented either in  
9 person or by proxy for the election of Directors. Each Director  
10 shall wholly take and subscribe to an oath that he will  
11 diligently and honestly perform his duties in administering the  
12 affairs of the credit union, that while he may delegate to  
13 another the performance of those administrative duties he is  
14 not thereby relieved from his responsibility for their  
15 performance, that he will not knowingly violate or willingly  
16 permit to be violated any law applicable to the credit union,  
17 and that he is the owner of at least one share of the credit  
18 union.

19 (1.10) Upon amendment of a credit union's bylaws approved  
20 by the members, in all elections for Directors, every member  
21 who is a natural person shall have the right to cast one vote,  
22 regardless of the number of his or her shares, in person or by  
23 proxy, for as many persons as there are Directors to be  
24 elected.

25 (2) The Board of Directors shall appoint from among the  
26 members of the credit union, a Supervisory Committee of not



1 less than 3 members at the organization meeting and within 30  
2 days following each annual meeting of the members for such  
3 terms as the bylaws provide. Members of the Supervisory  
4 Committee may, but need not be, on the Board of Directors, but  
5 shall not be officers of the credit union, members of the  
6 Credit Committee, or the credit manager if no Credit Committee  
7 has been appointed.

8 (3) The Board of Directors may appoint, from among the  
9 members of the credit union, a Credit Committee consisting of  
10 an odd number, not less than 3 for such terms as the bylaws  
11 provide. Members of the Credit Committee may, but need not be,  
12 Directors or officers of the credit union, but shall not be  
13 members of the Supervisory Committee.

14 (4) The Board of Directors may appoint from among the  
15 members of the credit union a Membership Committee of one or  
16 more persons. If appointed, the Committee shall act upon all  
17 applications for membership and submit a report of its actions  
18 to the Board of Directors at the next regular meeting for  
19 review. If no Membership Committee is appointed, credit union  
20 management shall act upon all applications for membership and  
21 submit a report of its actions to the Board of Directors at the  
22 next regular meeting for review.

23 (Source: P.A. 91-929, eff. 12-15-00; 92-608, eff. 7-1-02.)

24 (205 ILCS 305/22) (from Ch. 17, par. 4423)

25 Sec. 22. Vacancies.

1       (a) The Board of Directors shall, by appointment from among  
2 the credit union members, fill any vacancies occurring on the  
3 Board for the remainder of the Director's unexpired term or  
4 until a successor is elected and qualified following completion  
5 of the term filled by the Board. The Board shall, by  
6 appointment from among the credit union members, fill vacancies  
7 in the Membership Committee, Credit Committee, or credit  
8 manager if no Credit Committee has been appointed, and  
9 Supervisory Committees.

10       (b) An office may be declared vacant by the Board when a  
11 Director or a Committee member dies, resigns from the Board or  
12 Committee, is removed from the Board or Committee, is no longer  
13 a member of the credit union, is the owner of less than one  
14 share of the credit union, or fails to attend three consecutive  
15 regular meetings of the Board without good cause.

16       (Source: P.A. 91-929, eff. 12-15-00.)

17       (205 ILCS 305/30) (from Ch. 17, par. 4431)

18       Sec. 30. Duties of directors.

19       (a) It shall be the duty of the directors to:

20           (1) Review actions on applications for membership. A  
21 record of the Membership Committee's approval or denial of  
22 membership or management's approval or denial of  
23 membership if no Membership Committee has been appointed  
24 shall be available to the Board of Directors for  
25 inspection. A person denied membership by the Membership

1 Committee or credit union management may appeal the denial  
2 to the Board;

3 (2) Provide adequate fidelity bond coverage for  
4 officers, employees, directors and committee members, and  
5 for losses caused by persons outside of the credit union,  
6 subject to rules and regulations promulgated by the  
7 Director;

8 (3) Determine from time to time the interest rates, not  
9 in excess of that allowed under this Act, which shall be  
10 charged on loans to members and to authorize interest  
11 refunds, if any, to members from income earned and received  
12 in proportion to the interest paid by them on such classes  
13 of loans and under such conditions as the Board prescribes.  
14 The Directors may establish different interest rates to be  
15 charged on different classes of loans;

16 (4) Within any limitations set forth in the credit  
17 union's bylaws, fix the maximum amount which may be loaned  
18 with and without security to a member;

19 (5) Declare dividends on various classes of shares in  
20 the manner and form as provided in the bylaws;

21 (6) Limit the number of shares which may be owned by a  
22 member; such limitations to apply alike to all members;

23 (7) Have charge of the investment of funds, except that  
24 the Board of Directors may designate an Investment  
25 Committee or any qualified individual or entity to have  
26 charge of making investments under policies established by

1 the Board of Directors;

2 (8) Authorize the employment of or contracting with  
3 such persons or organizations as may be necessary to carry  
4 on the operations of the credit union, provided that prior  
5 approval is received from the Department before delegating  
6 substantially all managerial duties and responsibilities  
7 to a credit union organization, and fix the compensation,  
8 if any, of the officers and provide for compensation for  
9 other employees within policies established by the Board of  
10 Directors;

11 (9) Authorize the conveyance of property;

12 (10) Borrow or lend money consistent with the  
13 provisions of this Act;

14 (11) Designate a depository or depositories for the  
15 funds of the credit union and supervise the investment of  
16 funds;

17 (12) Suspend or remove, or both, any or all officers or  
18 any or all members of the Membership, Credit, or other  
19 committees whenever, in the judgment of the Board of  
20 Directors, the best interests of the credit union will be  
21 served thereby; provided that members of the Supervisory  
22 Committee may not be suspended or removed except for  
23 failure to perform their duties; and provided that removal  
24 of any officer shall be without prejudice to the contract  
25 rights, if any, of the person so removed;

26 (13) Appoint any special committees deemed necessary;

1 and

2 (14) Perform such other duties as the members may  
3 direct, and perform or authorize any action not  
4 inconsistent with this Act and not specifically reserved by  
5 the bylaws to the members.

6 (b) The Board of Directors may delegate to the chief  
7 management official, according to guidelines established by  
8 the Board that may include the authority to further delegate  
9 one or more duties, all of the following duties:

10 (1) determining the interest rates on loans;

11 (2) determining the dividend rates on share accounts;

12 and

13 (3) hiring employees other than the chief management  
14 official and fixing their compensation.

15 (Source: P.A. 92-608, eff. 7-1-02; 93-916, eff. 8-12-04.)

16 (205 ILCS 305/46) (from Ch. 17, par. 4447)

17 Sec. 46. Loans and interest rate.

18 (1) A credit union may make loans to its members for such  
19 purpose and upon such security and terms, including rates of  
20 interest, as the Credit Committee, credit manager, or loan  
21 officer approves. Notwithstanding the provisions of any other  
22 law in connection with extensions of credit, a credit union may  
23 elect to contract for and receive interest and fees and other  
24 charges for extensions of credit subject only to the provisions  
25 of this Act and rules promulgated under this Act, except that

1 extensions of credit secured by residential real estate shall  
2 be subject to the laws applicable thereto. The rates of  
3 interest to be charged on loans to members shall be set by the  
4 Board of Directors of each individual credit union in  
5 accordance with Section 30 of this Act and such rates may be  
6 less than, but may not exceed, the maximum rate set forth in  
7 this Section. A borrower may repay his loan prior to maturity,  
8 in whole or in part, without penalty. The credit contract may  
9 provide for the payment by the member and receipt by the credit  
10 union of all costs and disbursements, including reasonable  
11 attorney's fees and collection agency charges, incurred by the  
12 credit union to collect or enforce the debt in the event of a  
13 delinquency by the member, or in the event of a breach of any  
14 obligation of the member under the credit contract. A  
15 contingency or hourly arrangement established under an  
16 agreement entered into by a credit union with an attorney or  
17 collection agency to collect a loan of a member in default  
18 shall be presumed prima facie reasonable.

19 (2) Credit unions may make loans based upon the security of  
20 any interest or equity in real estate, subject to rules and  
21 regulations promulgated by the Director. In any contract or  
22 loan which is secured by a mortgage, deed of trust, or  
23 conveyance in the nature of a mortgage, on residential real  
24 estate, the interest which is computed, calculated, charged, or  
25 collected pursuant to such contract or loan, or pursuant to any  
26 regulation or rule promulgated pursuant to this Act, may not be

1 computed, calculated, charged or collected for any period of  
2 time occurring after the date on which the total indebtedness,  
3 with the exception of late payment penalties, is paid in full.

4 For purposes of this subsection (2) of this Section 46, a  
5 prepayment shall mean the payment of the total indebtedness,  
6 with the exception of late payment penalties if incurred or  
7 charged, on any date before the date specified in the contract  
8 or loan agreement on which the total indebtedness shall be paid  
9 in full, or before the date on which all payments, if timely  
10 made, shall have been made. In the event of a prepayment of the  
11 indebtedness which is made on a date after the date on which  
12 interest on the indebtedness was last computed, calculated,  
13 charged, or collected but before the next date on which  
14 interest on the indebtedness was to be calculated, computed,  
15 charged, or collected, the lender may calculate, charge and  
16 collect interest on the indebtedness for the period which  
17 elapsed between the date on which the prepayment is made and  
18 the date on which interest on the indebtedness was last  
19 computed, calculated, charged or collected at a rate equal to  
20  $1/360$  of the annual rate for each day which so elapsed, which  
21 rate shall be applied to the indebtedness outstanding as of the  
22 date of prepayment. The lender shall refund to the borrower any  
23 interest charged or collected which exceeds that which the  
24 lender may charge or collect pursuant to the preceding  
25 sentence. The provisions of this amendatory Act of 1985 shall  
26 apply only to contracts or loans entered into on or after the

1 effective date of this amendatory Act.

2 (3) Notwithstanding any other provision of this Act, a  
3 credit union authorized under this Act to make loans secured by  
4 an interest or equity in real estate may engage in making  
5 "reverse mortgage" loans to persons for the purpose of making  
6 home improvements or repairs, paying insurance premiums or  
7 paying real estate taxes on the homestead properties of such  
8 persons. If made, such loans shall be made on such terms and  
9 conditions as the credit union shall determine and as shall be  
10 consistent with the provisions of this Section and such rules  
11 and regulations as the Director shall promulgate hereunder. For  
12 purposes of this Section, a "reverse mortgage" loan shall be a  
13 loan extended on the basis of existing equity in homestead  
14 property and secured by a mortgage on such property. Such loans  
15 shall be repaid upon the sale of the property or upon the death  
16 of the owner or, if the property is in joint tenancy, upon the  
17 death of the last surviving joint tenant who had such an  
18 interest in the property at the time the loan was initiated,  
19 provided, however, that the credit union and its member may by  
20 mutual agreement, establish other repayment terms. A credit  
21 union, in making a "reverse mortgage" loan, may add deferred  
22 interest to principal or otherwise provide for the charging of  
23 interest or premiums on such deferred interest. "Homestead"  
24 property, for purposes of this Section, means the domicile and  
25 contiguous real estate owned and occupied by the mortgagor. The  
26 Director shall promulgate rules and regulations under this



1 Section; provided that such rules and regulations need not be  
2 promulgated jointly with any other administrative agency of  
3 this State.

4 (4) Notwithstanding any other provisions of this Act, a  
5 credit union authorized under this Act to make loans secured by  
6 an interest or equity in real property may engage in making  
7 revolving credit loans secured by mortgages or deeds of trust  
8 on such real property or by security assignments of beneficial  
9 interests in land trusts.

10 For purposes of this Section, "revolving credit" has the  
11 meaning defined in Section 4.1 of the Interest Act.

12 Any mortgage or deed of trust given to secure a revolving  
13 credit loan may, and when so expressed therein shall, secure  
14 not only the existing indebtedness but also such future  
15 advances, whether such advances are obligatory or to be made at  
16 the option of the lender, or otherwise, as are made within  
17 twenty years from the date thereof, to the same extent as if  
18 such future advances were made on the date of the execution of  
19 such mortgage or deed of trust, although there may be no  
20 advance made at the time of execution of such mortgage or other  
21 instrument, and although there may be no indebtedness  
22 outstanding at the time any advance is made. The lien of such  
23 mortgage or deed of trust, as to third persons without actual  
24 notice thereof, shall be valid as to all such indebtedness and  
25 future advances from the time said mortgage or deed of trust is  
26 filed for record in the office of the Recorder of Deeds or the

1 Registrar of Titles of the county where the real property  
2 described therein is located. The total amount of indebtedness  
3 that may be so secured may increase or decrease from time to  
4 time, but the total unpaid balance so secured at any one time  
5 shall not exceed a maximum principal amount which must be  
6 specified in such mortgage or deed of trust, plus interest  
7 thereon, and any disbursements made for the payment of taxes,  
8 special assessments, or insurance on said real property, with  
9 interest on such disbursements.

10 Any such mortgage or deed of trust shall be valid and have  
11 priority over all subsequent liens and encumbrances, including  
12 statutory liens, except taxes and assessments levied on said  
13 real property.

14 (5) Compliance with federal or Illinois preemptive laws or  
15 regulations governing loans made by a credit union chartered  
16 under this Act shall constitute compliance with this Act.

17 (Source: P.A. 93-640, eff. 12-31-03.)

18 (205 ILCS 305/51) (from Ch. 17, par. 4452)

19 Sec. 51. Other Loan Programs.

20 (1) Subject to such rules and regulations as the Director  
21 may promulgate, a credit union may participate in loans to  
22 credit union members jointly with other credit unions,  
23 corporations, or financial institutions. An originating credit  
24 union may originate loans only to its own members. A  
25 participating credit union that is not the originating lender

1 may participate in loans made to its own members or to members  
2 of another participating credit union. "Originating lender"  
3 means the participating credit union with which the member  
4 contracts. A master participation agreement must be properly  
5 executed, and the agreement must include provisions for  
6 identifying, either through documents incorporated by  
7 reference or directly in the agreement, the participation loan  
8 or loans prior to their sale.

9 (2) Any credit union with assets of \$500,000 or more may  
10 loan to its members under the State Scholarships Law or other  
11 scholarship programs which are subject to a federal or state  
12 law providing 100% repayment guarantee.

13 (3) A credit union may purchase the conditional sales  
14 contracts, notes and similar instruments which evidence an  
15 indebtedness of its members or of members of another credit  
16 union.

17 (4) With approval of the Board of Directors, a credit union  
18 may make loans, either on its own or jointly with other credit  
19 unions, corporations or financial institutions, to credit  
20 union organizations; provided, that the aggregate amount of all  
21 such loans outstanding shall not at any time exceed the greater  
22 of 3% of the paid-in and unimpaired capital and surplus of the  
23 credit union or the amount authorized for federal credit  
24 unions.

25 (Source: P.A. 92-293, eff. 8-9-01; 93-640, eff. 12-31-03.)

1 (205 ILCS 305/70) (from Ch. 17, par. 4471)

2 Sec. 70. Use of name, sentence.

3 (a) No individual, firm, association, or body politic and  
4 corporate, including, without limitation, any corporation,  
5 limited liability company, general partnership, limited  
6 partnership, or joint venture that is not an authorized user  
7 may use any name or title which contains the words "credit  
8 union" or any abbreviation thereof, and such use is a Class A  
9 Misdemeanor. For purposes of this Section, "authorized user"  
10 means a corporation organized under this Act, the credit union  
11 act of another state, or the Federal Credit Union Act, any  
12 association of such a corporation, and subsidiaries and  
13 affiliates of such an association.

14 (b) If the Director of the Division of Financial  
15 Institutions of the Department of Financial and Professional  
16 Regulation finds that an individual or entity that is not an  
17 authorized user has transacted or intends to transact business  
18 in this State in a manner that has a substantial likelihood of  
19 misleading the public by: (i) implying that the business is a  
20 credit union or (ii) using or intending to use the words  
21 "credit union", or any abbreviation thereof, in connection with  
22 its business, then the Director of the Division of Financial  
23 Institutions may direct the individual or entity to cease and  
24 desist from transacting its business or using the words "credit  
25 union", or any abbreviation thereof. If the individual or  
26 entity persists in transacting its business or using the words

1 "credit union", or any abbreviation thereof, then the Director  
2 of the Division of Financial Institutions may impose a civil  
3 penalty of up to \$10,000 for each violation. Each day that the  
4 individual or entity continues transacting business or using  
5 the words "credit union", or any abbreviation thereof, in  
6 connection with its business shall constitute a separate  
7 violation of these provisions.

8 (c) Except as otherwise expressly permitted by law or with  
9 the written consent of the credit union, no person or group of  
10 persons other than an authorized user may use the name of or a  
11 name similar to the name of an existing credit union when  
12 marketing or soliciting business from members or prospective  
13 members if the name or similar name is used in a manner that  
14 would cause a reasonable person to believe that the marketing  
15 material or solicitation originated from or is endorsed by the  
16 existing credit union or that the existing credit union is in  
17 any other way responsible for the marketing material or  
18 solicitation. The following remedies shall apply:

19 (1) Any person who violates subsection (c) of this  
20 Section commits a business offense and shall be fined in an  
21 amount not to exceed \$5,000.

22 (2) In addition to any other available remedies, any  
23 existing credit union may report an alleged violation of  
24 any provision of this Section to the Supervisor of the  
25 Credit Union Section of the Division of Financial  
26 Institutions. If the Supervisor finds that any person or

1 group of persons is in violation of any provision of this  
2 Section, then the Supervisor may direct that person or  
3 group of persons to cease and desist from that violation.  
4 If the Supervisor issues a cease and desist order against  
5 any person or group of persons for violation of subsection  
6 (c), then the order must require that person or group of  
7 persons to cease and desist from using the offending  
8 marketing material or solicitation in Illinois.

9 (3) If a person or group of persons against whom the  
10 Supervisor issued the cease and desist order persists in  
11 the violation, then the Supervisor may impose a civil  
12 penalty of up to \$10,000 for each violation. Each day that  
13 a person or group of persons is in violation of this  
14 Section constitutes a separate violation of this Section  
15 and each instance in which marketing material or a  
16 solicitation is sent in violation of this subsection (c)  
17 constitutes a separate violation of this Section.

18 (d) The Supervisor of the Credit Union Section of the  
19 Division of Financial Institutions may adopt rules to  
20 administer the provisions of this Section.

21 (Source: P.A. 94-150, eff. 7-8-05.)

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