



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2477

Introduced 2/18/2015, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

205 ILCS 305/7	from Ch. 17, par. 4408
205 ILCS 305/46	from Ch. 17, par. 4447
205 ILCS 305/57.1	

Amends the Illinois Credit Union Act. Provides that the failure of an out-of-state credit union to register with the Secretary of Financial and Professional Regulation shall not impair the collectability of a loan made to a resident of this State. Provides that, for a renewal, refinancing, or restructuring of an existing loan at the credit union that is secured by an interest or equity in real estate, a new appraisal of the collateral shall not be required when (i) no new moneys are advanced other than funds necessary to cover reasonable closing costs, or (ii) there has been no obvious or material change in market conditions or physical aspects of the real estate that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of new moneys. Provides that a credit union may act as a representative of and enter into an agreement with credit unions or other organizations for the purposes of providing implementation and administrative support services related to the use of debit cards, payroll debit cards, and other prepaid debit cards and credit cards. Effective immediately.

LRB099 06130 MGM 26186 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 7, 46, and 57.1 as follows:

6 (205 ILCS 305/7) (from Ch. 17, par. 4408)

7 Sec. 7. Reciprocity; out-of-state ~~Reciprocity—out of~~
8 ~~state~~ credit unions.

9 (1) A credit union organized and duly chartered as a credit
10 union in another state shall be permitted to conduct business
11 as a credit union in this State ~~state~~ if and so long as a credit
12 union chartered under the laws of this State ~~state~~ is permitted
13 to do business in such other state, provided that:

14 (a) The credit union shall register with the office
15 prior to operating in this State, on a form specified by
16 the Secretary.

17 (b) The credit union may be required to pay a
18 registration fee in accordance with rules promulgated by
19 the Secretary and the Director.

20 (c) The credit union shall comply with rules
21 promulgated by the Secretary concerning the operation of
22 out-of-state ~~out-of-state~~ credit unions in this State.

23 (d) The credit union shall not conduct business in

1 Illinois on terms that are less restrictive than the
2 standards applicable to its operation in its home
3 chartering state. In every instance with respect to its
4 activities and operations in Illinois, the credit union
5 shall comply with applicable Illinois law.

6 (e) Permission to operate in the State may be revoked
7 by the Secretary or the Director if the credit union
8 engages in any activity in the State that would constitute
9 (i) a violation of this Act or other applicable law, (ii) a
10 violation of any rule adopted in accordance with this Act
11 or other applicable law, (iii) a violation of any order of
12 the Secretary or Director issued under his or her authority
13 under this Act, or (iv) an unsafe or unsound practice in
14 the discretion of the Secretary or Director.

15 (1.5) The failure of a credit union chartered in another
16 state to register with the Secretary shall not impair the
17 collectability of a loan made to a resident of this State.

18 (2) It is intended that the legal existence of credit
19 unions chartered under this Act be recognized beyond the limits
20 of this State and that, subject to any reasonable registration
21 requirements, any credit union transacting business outside of
22 this State be granted the protection of full faith and credit
23 under Section 1 of Article IV of the Constitution of the United
24 States.

25 (Source: P.A. 97-133, eff. 1-1-12.)

1 (205 ILCS 305/46) (from Ch. 17, par. 4447)

2 Sec. 46. Loans and interest rate.

3 (1) A credit union may make loans to its members for such
4 purpose and upon such security and terms, including rates of
5 interest, as the credit committee, credit manager, or loan
6 officer approves. Notwithstanding the provisions of any other
7 law in connection with extensions of credit, a credit union may
8 elect to contract for and receive interest and fees and other
9 charges for extensions of credit subject only to the provisions
10 of this Act and rules promulgated under this Act, except that
11 extensions of credit secured by residential real estate shall
12 be subject to the laws applicable thereto. The rates of
13 interest to be charged on loans to members shall be set by the
14 board of directors of each individual credit union in
15 accordance with Section 30 of this Act and such rates may be
16 less than, but may not exceed, the maximum rate set forth in
17 this Section. A borrower may repay his loan prior to maturity,
18 in whole or in part, without penalty. The credit contract may
19 provide for the payment by the member and receipt by the credit
20 union of all costs and disbursements, including reasonable
21 attorney's fees and collection agency charges, incurred by the
22 credit union to collect or enforce the debt in the event of a
23 delinquency by the member, or in the event of a breach of any
24 obligation of the member under the credit contract. A
25 contingency or hourly arrangement established under an
26 agreement entered into by a credit union with an attorney or

1 collection agency to collect a loan of a member in default
2 shall be presumed prima facie reasonable.

3 (2) Credit unions may make loans based upon the security of
4 any interest or equity in real estate, subject to rules and
5 regulations promulgated by the Secretary. In any contract or
6 loan which is secured by a mortgage, deed of trust, or
7 conveyance in the nature of a mortgage, on residential real
8 estate, the interest which is computed, calculated, charged, or
9 collected pursuant to such contract or loan, or pursuant to any
10 regulation or rule promulgated pursuant to this Act, may not be
11 computed, calculated, charged or collected for any period of
12 time occurring after the date on which the total indebtedness,
13 with the exception of late payment penalties, is paid in full.

14 For purposes of this subsection (2) of this Section 46, a
15 prepayment shall mean the payment of the total indebtedness,
16 with the exception of late payment penalties if incurred or
17 charged, on any date before the date specified in the contract
18 or loan agreement on which the total indebtedness shall be paid
19 in full, or before the date on which all payments, if timely
20 made, shall have been made. In the event of a prepayment of the
21 indebtedness which is made on a date after the date on which
22 interest on the indebtedness was last computed, calculated,
23 charged, or collected but before the next date on which
24 interest on the indebtedness was to be calculated, computed,
25 charged, or collected, the lender may calculate, charge and
26 collect interest on the indebtedness for the period which

1 elapsed between the date on which the prepayment is made and
2 the date on which interest on the indebtedness was last
3 computed, calculated, charged or collected at a rate equal to
4 1/360 of the annual rate for each day which so elapsed, which
5 rate shall be applied to the indebtedness outstanding as of the
6 date of prepayment. The lender shall refund to the borrower any
7 interest charged or collected which exceeds that which the
8 lender may charge or collect pursuant to the preceding
9 sentence. The provisions of this amendatory Act of 1985 shall
10 apply only to contracts or loans entered into on or after the
11 effective date of this amendatory Act.

12 (3) Notwithstanding any other provision of this Act, a
13 credit union authorized under this Act to make loans secured by
14 an interest or equity in real estate may engage in making
15 "reverse mortgage" loans to persons for the purpose of making
16 home improvements or repairs, paying insurance premiums or
17 paying real estate taxes on the homestead properties of such
18 persons. If made, such loans shall be made on such terms and
19 conditions as the credit union shall determine and as shall be
20 consistent with the provisions of this Section and such rules
21 and regulations as the Secretary shall promulgate hereunder.
22 For purposes of this Section, a "reverse mortgage" loan shall
23 be a loan extended on the basis of existing equity in homestead
24 property and secured by a mortgage on such property. Such loans
25 shall be repaid upon the sale of the property or upon the death
26 of the owner or, if the property is in joint tenancy, upon the

1 death of the last surviving joint tenant who had such an
2 interest in the property at the time the loan was initiated,
3 provided, however, that the credit union and its member may by
4 mutual agreement, establish other repayment terms. A credit
5 union, in making a "reverse mortgage" loan, may add deferred
6 interest to principal or otherwise provide for the charging of
7 interest or premiums on such deferred interest. "Homestead"
8 property, for purposes of this Section, means the domicile and
9 contiguous real estate owned and occupied by the mortgagor.

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

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

18 Any mortgage or deed of trust given to secure a revolving
19 credit loan may, and when so expressed therein shall, secure
20 not only the existing indebtedness but also such future
21 advances, whether such advances are obligatory or to be made at
22 the option of the lender, or otherwise, as are made within
23 twenty years from the date thereof, to the same extent as if
24 such future advances were made on the date of the execution of
25 such mortgage or deed of trust, although there may be no
26 advance made at the time of execution of such mortgage or other

1 instrument, and although there may be no indebtedness
2 outstanding at the time any advance is made. The lien of such
3 mortgage or deed of trust, as to third persons without actual
4 notice thereof, shall be valid as to all such indebtedness and
5 future advances from the time said mortgage or deed of trust is
6 filed for record in the office of the recorder of deeds or the
7 registrar of titles of the county where the real property
8 described therein is located. The total amount of indebtedness
9 that may be so secured may increase or decrease from time to
10 time, but the total unpaid balance so secured at any one time
11 shall not exceed a maximum principal amount which must be
12 specified in such mortgage or deed of trust, plus interest
13 thereon, and any disbursements made for the payment of taxes,
14 special assessments, or insurance on said real property, with
15 interest on such disbursements.

16 Any such mortgage or deed of trust shall be valid and have
17 priority over all subsequent liens and encumbrances, including
18 statutory liens, except taxes and assessments levied on said
19 real property.

20 (4-5) For purposes of this Section, "real estate" and "real
21 property" include a manufactured home as defined in subdivision
22 (53) of Section 9-102 of the Uniform Commercial Code which is
23 real property as defined in Section 5-35 of the Conveyance and
24 Encumbrance of Manufactured Homes as Real Property and
25 Severance Act.

26 (5) Compliance with federal or Illinois preemptive laws or

1 regulations governing loans made by a credit union chartered
2 under this Act shall constitute compliance with this Act.

3 (6) Credit unions may make residential real estate mortgage
4 loans on terms and conditions established by the United States
5 Department of Agriculture through its Rural Development
6 Housing and Community Facilities Program. The portion of any
7 loan in excess of the appraised value of the real estate shall
8 be allocable only to the guarantee fee required under the
9 program.

10 (7) For a renewal, refinancing, or restructuring of an
11 existing loan at the credit union that is secured by an
12 interest or equity in real estate, a new appraisal of the
13 collateral shall not be required when (i) the transaction
14 ~~involves an existing extension of credit at the credit union,~~
15 no new moneys are advanced other than funds necessary to cover
16 reasonable closing costs, or (ii) and there has been no obvious
17 or material change in market conditions or physical aspects of
18 the real estate that threatens the adequacy of the credit
19 union's real estate collateral protection after the
20 transaction, even with the advancement of new moneys.

21 (Source: P.A. 97-133, eff. 1-1-12; 98-749, eff. 7-16-14;
22 98-784, eff. 7-24-14; revised 10-2-14.)

23 (205 ILCS 305/57.1)

24 Sec. 57.1. Services to other credit unions.

25 (a) A credit union may act as a representative of and enter

1 into an agreement with credit unions or other organizations for
2 the purposes ~~purpose~~ of:

3 (1) sharing, utilizing, renting, leasing, purchasing,
4 selling, and joint ownership of fixed assets or engaging in
5 activities and services that relate to the daily operations
6 of credit unions; and

7 (2) providing correspondent services to other credit
8 unions that the service provider credit union is authorized
9 to perform for its own members or as part of its
10 operations, including, but not limited to, loan
11 processing, loan servicing, member check cashing services,
12 disbursing share withdrawals and loan proceeds, cashing
13 and selling money orders, ACH and wire transfer services,
14 implementation and administrative support services related
15 to the use of debit cards, payroll debit cards, and other
16 prepaid debit cards and credit cards, coin and currency
17 services, performing internal audits, and automated teller
18 machine deposit services.

19 (Source: P.A. 98-784, eff. 7-24-14; revised 11-26-14.)

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