

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 10. The Illinois Credit Union Act is amended by
5 changing Sections 2, 8, 12, 13, 39, and 59 as follows:

6 (205 ILCS 305/2) (from Ch. 17, par. 4403)

7 Sec. 2. Organization procedure.

8 (1) Any 9 or more persons of legal age, the majority of
9 whom shall be residents of the State of Illinois, who have a
10 common bond referred to in Section 1.1 may organize a credit
11 union or a central credit union by complying with this
12 Section.

13 (2) The subscribers shall execute in duplicate Articles of
14 Incorporation and agree to the terms thereof, which Articles
15 shall state:

16 (a) The name, which shall include the words "credit
17 union" and which shall not be the same as that of any other
18 existing credit union in this state, and the location
19 where the proposed credit union is to have its principal
20 place of business;

21 (b) The common bond of the members of the credit
22 union;

23 (c) The par value of the shares of the credit union,

1 which must be at least \$1;

2 (d) The names, addresses and Social Security numbers
3 of the subscribers to the Articles of Incorporation, and
4 the number and the value of shares subscribed to by each;

5 (e) That the credit union may exercise such incidental
6 powers as are necessary or requisite to enable it to carry
7 on effectively the purposes for which it is incorporated,
8 and those powers which are inherent in the credit union as
9 a legal entity;

10 (f) That the existence of the credit union shall be
11 perpetual.

12 (3) The subscribers shall prepare and adopt bylaws for the
13 general governance ~~government~~ of the credit union, consistent
14 with this Act, and execute same in duplicate. If there is a
15 conflict, inconsistency, or variation between the terms of
16 this Act and the provisions in the bylaws adopted by the credit
17 union, the terms of this Act shall control. A conflict,
18 inconsistency, or variation may not be deemed to exist if the
19 Act specifically requires that a particular matter shall be
20 adopted in the bylaws.

21 (4) The subscribers shall forward the articles of
22 incorporation and the bylaws to the Secretary in duplicate,
23 along with the required charter fee. If they conform to the
24 law, and such rules and regulations as the Secretary and the
25 Director may prescribe, if the Secretary determines that a
26 common bond exists, and that it is economically advisable to

1 organize the credit union, he or she shall within 60 days issue
2 a certificate of approval attached to the articles of
3 incorporation and return a copy of the bylaws and the articles
4 of incorporation to the applicants or their representative,
5 which shall be preserved in the permanent files of the credit
6 union. The subscribers shall file the certificate of approval,
7 with the articles of incorporation attached, in the office of
8 the recorder (or, if there is no recorder, in the office of the
9 county clerk) of the county in which the credit union is to
10 locate its principal place of business. The recorder or the
11 county clerk, as the case may be, shall accept and record the
12 documents if they are accompanied by the proper fee. When the
13 documents are so recorded, the credit union is incorporated
14 under this Act.

15 (5) The subscribers for a credit union charter shall not
16 transact any business until the certificate of approval has
17 been received.

18 (Source: P.A. 100-361, eff. 8-25-17.)

19 (205 ILCS 305/8) (from Ch. 17, par. 4409)

20 Sec. 8. Secretary's powers and duties. Credit unions are
21 regulated by the Department. The Secretary in executing the
22 powers and discharging the duties vested by law in the
23 Department has the following powers and duties:

24 (1) To exercise the rights, powers, and duties set
25 forth in this Act or any related Act. The Director shall

1 oversee the functions of the Division and report to the
2 Secretary, with respect to the Director's exercise of any
3 of the rights, powers, and duties vested by law in the
4 Secretary under this Act. All references in this Act to
5 the Secretary shall be deemed to include the Director, as
6 a person authorized by the Secretary or this Act to assume
7 responsibility for the oversight of the functions of the
8 Department relating to the regulatory supervision of
9 credit unions under this Act.

10 (2) To ~~adopt prescribe rules and regulations~~ for the
11 administration of this Act. The provisions of the Illinois
12 Administrative Procedure Act are hereby expressly adopted
13 and incorporated herein as though a part of this Act, and
14 shall apply to all administrative rules and procedures of
15 the Department under this Act. Rules adopted by the
16 Secretary shall be within the statutory authority upon
17 which they are based. If there is a conflict,
18 inconsistency, or variation between the terms of this Act
19 and the provisions in a rule adopted by the Secretary, the
20 terms of this Act shall control. A conflict,
21 inconsistency, or variation may not be deemed to exist if
22 the Act specifically delegates authority to the Secretary
23 to adopt by rule standards or limitations on a particular
24 matter, provided the rule is within the statutory
25 authority upon which it is based.

26 (3) To direct and supervise all the administrative and

1 technical activities of the Department including the
2 employment of a Credit Union Supervisor who shall have
3 knowledge in the theory and practice of, or experience in,
4 the operations or supervision of financial institutions,
5 preferably credit unions, and such other persons as are
6 necessary to carry out his functions. The Secretary shall
7 ensure that all examiners appointed or assigned to examine
8 the affairs of State-chartered credit unions possess the
9 necessary training and continuing education to effectively
10 execute their jobs.

11 (4) To issue cease and desist orders when in the
12 opinion of the Secretary, a credit union is engaged or has
13 engaged, or the Secretary has reasonable cause to believe
14 the credit union is about to engage, in an unsafe or
15 unsound practice, or is violating or has violated or the
16 Secretary has reasonable cause to believe is about to
17 violate a law, rule, or regulation or any condition
18 imposed in writing by the Department.

19 (5) To suspend from office and to prohibit from
20 further participation in any manner in the conduct of the
21 affairs of any credit union any director, officer, or
22 committee member who has committed any violation of a law,
23 rule, or regulation or of a cease and desist order or who
24 has engaged or participated in any unsafe or unsound
25 practice in connection with the credit union or who has
26 committed or engaged in any act, omission, or practice

1 which constitutes a breach of his fiduciary duty as such
2 director, officer, or committee member, when the Secretary
3 has determined that such action or actions have resulted
4 or will result in substantial financial loss or other
5 damage that seriously prejudices the interests of the
6 members.

7 (6) To assess a civil penalty against a credit union
8 provided that:

9 (A) the Secretary reasonably determines, based on
10 objective facts and an accurate assessment of
11 applicable legal standards, that the credit union has:

12 (i) committed a violation of this Act, any
13 rule adopted in accordance with this Act, or any
14 order of the Secretary issued pursuant to his or
15 her authority under this Act; or

16 (ii) engaged or participated in any unsafe or
17 unsound practice;

18 (B) before a civil penalty is assessed under this
19 item (6), the Secretary must make the further
20 reasonable determination, based on objective facts and
21 an accurate assessment of applicable legal standards,
22 that the credit union's action constituting a
23 violation under subparagraph (i) of paragraph (A) of
24 this item (6) or an unsafe and unsound practice under
25 subparagraph (ii) of paragraph (A) of this item (6):

26 (i) directly resulted in a substantial and

1 material financial loss or created a reasonable
2 probability that a substantial and material
3 financial loss will directly result; or

4 (ii) constituted willful misconduct or a
5 material breach of fiduciary duty of any director,
6 officer, or committee member of the credit union;

7 Material financial loss, as referenced in this
8 paragraph (B), shall be assessed in light of
9 surrounding circumstances and the relative size and
10 nature of the financial loss or probable financial
11 loss. Certain benchmarks shall be used in determining
12 whether financial loss is material, such as a
13 percentage of total assets or total gross income for
14 the immediately preceding 12-month period. Absent
15 compelling and extraordinary circumstances, no civil
16 penalty shall be assessed, unless the financial loss
17 or probable financial loss is equal to or greater than
18 either 1% of the credit union's total assets for the
19 immediately preceding 12-month period, or 1% of the
20 credit union's total gross income for the immediately
21 preceding 12-month period, whichever is less;

22 (C) before a civil penalty is assessed under this
23 item (6), the credit union must be expressly advised
24 in writing of the:

25 (i) specific violation that could subject it
26 to a penalty under this item (6); and

1 (ii) specific remedial action to be taken
 2 within a specific and reasonable time frame to
 3 avoid imposition of the penalty;

4 (D) civil penalties assessed under this item (6)
 5 shall be remedial, not punitive, and reasonably
 6 tailored to ensure future compliance by the credit
 7 union with the provisions of this Act and any rules
 8 adopted pursuant to this Act;

9 (E) a credit union's failure to take timely
 10 remedial action with respect to the specific violation
 11 may result in the issuance of an order assessing a
 12 civil penalty up to the following maximum amount,
 13 based upon the total assets of the credit union:

14 (i) Credit unions with assets of less than \$10
 15 million..... \$1,000

16 (ii) Credit unions with assets of at least \$10
 17 million and less than \$50 million \$2,500

18 (iii) Credit unions with assets of at least
 19 \$50 million and less than \$100 million \$5,000

20 (iv) Credit unions with assets of at least
 21 \$100 million and less than \$500 million .. \$10,000

22 (v) Credit unions with assets of at least \$500
 23 million and less than \$1 billion \$25,000

24 (vi) Credit unions with assets of \$1 billion
 25 and greater..... \$50,000; and

26 (F) an order assessing a civil penalty under this

1 item (6) shall take effect upon service of the order,
2 unless the credit union makes a written request for a
3 hearing under 38 Ill. Adm. Code 190.20 of the
4 Department's rules for credit unions within 90 days
5 after issuance of the order; in that event, the order
6 shall be stayed until a final administrative order is
7 entered.

8 This item (6) shall not apply to violations separately
9 addressed in rules as authorized under item (7) of this
10 Section.

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

19 (8) To destroy, in his discretion, any or all books
20 and records of any credit union in his possession or under
21 his control after the expiration of three years from the
22 date of cancellation of the charter of such credit unions.

23 (9) To make investigations and to conduct research and
24 studies and to publish some of the problems of persons in
25 obtaining credit at reasonable rates of interest and of
26 the methods and benefits of cooperative saving and lending

1 for such persons.

2 (10) To authorize, foster, or establish experimental,
3 developmental, demonstration, or pilot projects by public
4 or private organizations including credit unions which:

5 (a) promote more effective operation of credit
6 unions so as to provide members an opportunity to use
7 and control their own money to improve their economic
8 and social conditions; or

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

11 (11) To cooperate in studies, training, or other
12 administrative activities with, but not limited to, the
13 NCUA, other state credit union regulatory agencies and
14 industry trade associations in order to promote more
15 effective and efficient supervision of Illinois chartered
16 credit unions.

17 (12) Notwithstanding the provisions of this Section,
18 the Secretary shall not:

19 (1) issue an order against a credit union
20 organized under this Act for unsafe or unsound banking
21 practices solely because the entity provides or has
22 provided financial services to a cannabis-related
23 legitimate business;

24 (2) prohibit, penalize, or otherwise discourage a
25 credit union from providing financial services to a
26 cannabis-related legitimate business solely because

1 the entity provides or has provided financial services
2 to a cannabis-related legitimate business;

3 (3) recommend, incentivize, or encourage a credit
4 union not to offer financial services to an account
5 holder or to downgrade or cancel the financial
6 services offered to an account holder solely because:

7 (A) the account holder is a manufacturer or
8 producer, or is the owner, operator, or employee
9 of a cannabis-related legitimate business;

10 (B) the account holder later becomes an owner
11 or operator of a cannabis-related legitimate
12 business; or

13 (C) the credit union was not aware that the
14 account holder is the owner or operator of a
15 cannabis-related legitimate business; and

16 (4) take any adverse or corrective supervisory
17 action on a loan made to an owner or operator of:

18 (A) a cannabis-related legitimate business
19 solely because the owner or operator owns or
20 operates a cannabis-related legitimate business;
21 or

22 (B) real estate or equipment that is leased to
23 a cannabis-related legitimate business solely
24 because the owner or operator of the real estate
25 or equipment leased the equipment or real estate
26 to a cannabis-related legitimate business.

1 (Source: P.A. 102-858, eff. 5-13-22; 103-154, eff. 6-30-23.)

2 (205 ILCS 305/12) (from Ch. 17, par. 4413)

3 Sec. 12. Regulatory fees.

4 (1) For the fiscal year beginning July 1, 2007, a credit
5 union regulated by the Department shall pay a regulatory fee
6 to the Department based upon its total assets as shown by its
7 Year-end Call Report at the following rates or at a lesser rate
8 established by the Secretary in a manner proportionately
9 consistent with the following rates and sufficient to fund the
10 actual administrative and operational expenses of the
11 Department's Credit Union Section pursuant to subsection (4)
12 of this Section:

TOTAL ASSETS	REGULATORY FEE
\$25,000 or less	\$100
Over \$25,000 and not over	
\$100,000	\$100 plus \$4 per
	\$1,000 of assets in excess of
	\$25,000
Over \$100,000 and not over	
\$200,000	\$400 plus \$3 per
	\$1,000 of assets in excess of
	\$100,000
Over \$200,000 and not over	
\$500,000	\$700 plus \$2 per
	\$1,000 of assets in excess of

1		\$200,000
2	Over \$500,000 and not over	
3	\$1,000,000	\$1,300 plus \$1.40
4		per \$1,000 of assets in excess
5		of \$500,000
6	Over \$1,000,000 and not	
7	over \$5,000,000	\$2,000 plus \$0.50
8		per \$1,000 of assets in
9		excess of \$1,000,000
10	Over \$5,000,000 and not	
11	over \$30,000,000	\$4,540 plus \$0.397
12		per \$1,000 of assets
13		in excess of \$5,000,000
14	Over \$30,000,000 and not over	
15	\$100,000,000	\$14,471 plus \$0.34
16		per \$1,000 of assets
17		in excess of \$30,000,000
18	Over \$100,000,000 and not	
19	over \$500,000,000	\$38,306 plus \$0.17
20		per \$1,000 of assets
21		in excess of \$100,000,000
22	Over \$500,000,000	\$106,406 plus \$0.056
23		per \$1,000 of assets
24		in excess of \$500,000,000

25 (2) The Secretary shall review the regulatory fee schedule
 26 in subsection (1) and the projected earnings on those fees on

1 an annual basis and adjust the fee schedule no more than 5%
2 annually if necessary to defray the estimated administrative
3 and operational expenses of the Credit Union Section of the
4 Department as defined in subsection (5). However, the fee
5 schedule shall not be increased if the amount remaining in the
6 Credit Union Fund at the end of any fiscal year is greater than
7 25% of the total actual and operational expenses incurred by
8 the State in administering and enforcing the Illinois Credit
9 Union Act and other laws, rules, and regulations as may apply
10 to the administration and enforcement of the foregoing laws,
11 rules, and regulations as amended from time to time for the
12 preceding fiscal year. The regulatory fee for the next fiscal
13 year shall be calculated by the Secretary based on the credit
14 union's total assets as of December 31 of the preceding
15 calendar year. The Secretary shall provide credit unions with
16 written notice of any adjustment made in the regulatory fee
17 schedule.

18 (3) A credit union shall pay to the Department a
19 regulatory fee in quarterly installments equal to one-fourth
20 of the regulatory fee due in accordance with the regulatory
21 fee schedule in subsection (1), on the basis of assets as of
22 the Year-end Call Report of the preceding calendar year. The
23 total annual regulatory fee shall not be less than \$100 or more
24 than \$210,000, provided that the regulatory fee cap of
25 \$210,000 shall be adjusted to incorporate the same percentage
26 increase as the Secretary makes in the regulatory fee schedule

1 from time to time under subsection (2). No regulatory fee
2 shall be collected from a credit union until it has been in
3 operation for one year. The regulatory fee shall be billed to
4 credit unions on a quarterly basis and it shall be payable by
5 credit unions on the due date for the Call Report for the
6 subject quarter.

7 (4) (a) The aggregate of all fees collected by the
8 Department under this Act and from credit unions pursuant to
9 the Illinois Community Reinvestment Act shall be paid promptly
10 after they are received, accompanied by a detailed statement
11 thereof, into the State treasury ~~Treasury~~ and shall be set
12 apart in the Credit Union Fund, a special fund hereby created
13 in the State treasury. The amount from time to time deposited
14 in the Credit Union Fund and shall be used to offset the
15 ordinary administrative and operational expenses of the Credit
16 Union Section of the Department under this Act. All earnings
17 received from investments of funds in the Credit Union Fund
18 shall be deposited into the Credit Union Fund and may be used
19 for the same purposes as fees deposited into that fund. Moneys
20 deposited in the Credit Union Fund may be transferred to the
21 Professions Indirect Cost Fund, as authorized under Section
22 2105-300 of the Department of Professional Regulation Law of
23 the Civil Administrative Code of Illinois.

24 (b) At the conclusion of each fiscal year, beginning in
25 fiscal year 2025, the Department shall separately identify the
26 direct administrative and operational expenses and allocable

1 indirect costs of the Credit Union Section of the Department
2 incidental to conducting the examinations required or
3 authorized by the Illinois Community Reinvestment Act and
4 implementing rules adopted by the Department. Pursuant to
5 Section 2105-300 of the Department of Professional Regulation
6 Law of the Civil Administrative Code of Illinois, the
7 Department shall make copies of the analyses available to the
8 credit union industry in a timely manner. The administrative
9 and operational expenses of the Credit Union Section of the
10 Department in conducting examinations required or authorized
11 by the Illinois Community Reinvestment Act shall have the same
12 meaning and scope as the administrative and operational
13 expenses of the Credit Union Section of the Department, as
14 defined in subsection (5) of this Section.

15 (c) Notwithstanding provisions in the State Finance Act,
16 as now or hereafter amended, or any other law to the contrary,
17 the Governor may, during any fiscal year through January 10,
18 2011, from time to time direct the State Treasurer and
19 Comptroller to transfer a specified sum not exceeding 10% of
20 the revenues to be deposited into the Credit Union Fund during
21 that fiscal year from that Fund to the General Revenue Fund in
22 order to help defray the State's operating costs for the
23 fiscal year. Notwithstanding provisions in the State Finance
24 Act, as now or hereafter amended, or any other law to the
25 contrary, the total sum transferred from the Credit Union Fund
26 to the General Revenue Fund pursuant to this provision shall

1 not exceed during any fiscal year 10% of the revenues to be
2 deposited into the Credit Union Fund during that fiscal year.
3 The State Treasurer and Comptroller shall transfer the amounts
4 designated under this Section as soon as may be practicable
5 after receiving the direction to transfer from the Governor.

6 (5) The administrative and operational expenses for any
7 fiscal year shall mean the ordinary and contingent expenses
8 for that year incidental to making the examinations provided
9 for by, and for administering, this Act, including all
10 salaries and other compensation paid for personal services
11 rendered for the State by officers or employees of the State to
12 enforce this Act; all expenditures for telephone and telegraph
13 charges, postage and postal charges, office supplies and
14 services, furniture and equipment, office space and
15 maintenance thereof, travel expenses and other necessary
16 expenses; all to the extent that such expenditures are
17 directly incidental to such examination or administration.

18 (6) When the balance in the Credit Union Fund at the end of
19 a fiscal year exceeds 25% of the total administrative and
20 operational expenses incurred by the State in administering
21 and enforcing the Illinois Credit Union Act and other laws,
22 rules, and regulations as may apply to the administration and
23 enforcement of the foregoing laws, rules, and regulations as
24 amended from time to time for that fiscal year, such excess
25 shall be credited to credit unions and applied against their
26 regulatory fees for the subsequent fiscal year. The amount

1 credited to each credit union shall be in the same proportion
2 as the regulatory fee paid by such credit union for the fiscal
3 year in which the excess is produced bears to the aggregate
4 amount of all fees collected by the Department under this Act
5 for the same fiscal year.

6 (7) (Blank).

7 (8) Nothing in this Act shall prohibit the General
8 Assembly from appropriating funds to the Department from the
9 General Revenue Fund for the purpose of administering this
10 Act.

11 (9) For purposes of this Section, "fiscal year" means a
12 period beginning on July 1 of any calendar year and ending on
13 June 30 of the next calendar year.

14 (Source: P.A. 103-107, eff. 6-27-23.)

15 (205 ILCS 305/13) (from Ch. 17, par. 4414)

16 Sec. 13. General powers. A credit union may:

17 (1) Make contracts; sue and be sued; and adopt and use
18 a common seal and alter the same;

19 (2) Acquire, lease (either as lessee or lessor), hold,
20 pledge, mortgage, sell and dispose of real property,
21 either in whole or in part, or any interest therein, as may
22 be necessary or incidental to its present or future
23 operations and needs, subject to such limitations as may
24 be imposed thereon in rules and regulations promulgated by
25 the Secretary; acquire, lease (either as lessee or

1 lessor), hold, pledge, mortgage, sell and dispose of
2 personal property, either in whole or in part, or any
3 interest therein, as may be necessary or incidental to its
4 present or future operations and needs;

5 (3) At the discretion of the board of directors,
6 require the payment of an entrance fee or annual
7 membership fee, or both, of any person admitted to
8 membership;

9 (4) Receive savings from its members in the form of
10 shares of various classes, or special purpose share
11 accounts; act as custodian of its members' accounts; issue
12 shares in trust as provided in this Act;

13 (5) Lend its funds to its members and otherwise as
14 hereinafter provided;

15 (6) Borrow from any source in accordance with policy
16 established by the board of directors to a maximum of 50%
17 of capital, surplus and reserves;

18 (7) Discount and sell any obligations owed to the
19 credit union;

20 (8) Honor requests for withdrawals or transfers of all
21 or any part of member share accounts, and any classes
22 thereof, in any manner approved by the credit union board
23 of directors;

24 (9) Sell all or a part of its assets or purchase all or
25 a part of the assets of another credit union and assume the
26 liabilities of the selling credit union, subject to the

1 prior approval of the Director, which approval shall not
2 be required in the case of loan transactions otherwise
3 authorized under applicable law;

4 (10) Invest surplus funds as provided in this Act;

5 (11) Make deposits in banks, savings banks, savings
6 and loan associations, trust companies; and invest in
7 shares, classes of shares or share certificates of other
8 credit unions;

9 (12) Assess charges and fees to members in accordance
10 with board resolution;

11 (13) Hold membership in and pay dues to associations
12 and organizations; to invest in shares, stocks or
13 obligations of any credit union organization;

14 (14) Declare dividends and pay interest refunds to
15 borrowers as provided in this Act;

16 (15) Collect, receive and disburse monies in
17 connection with providing negotiable checks, money orders
18 and other money-type instruments, and for such other
19 purposes as may provide benefit or convenience to its
20 members, and charge a reasonable fee for such services;

21 (16) Act as fiscal agent for and receive deposits from
22 the federal government, this State, or any other state,
23 state or any agency or political subdivision thereof,
24 including, but not limited to, political subdivisions as
25 defined in subsection (b) of Section 59. The receipt of
26 deposits from any state other than Illinois, or any agency

1 or political subdivision thereof, shall not exceed the
2 total limit of the greater of 50% of paid-in and
3 unimpaired capital and surplus or \$3,000,000 as described
4 in 12 CFR 701.32 and shall otherwise comply with the
5 requirements of 12 CFR 701.32;

6 (17) Receive savings from nonmembers in the form of
7 shares or share accounts in the case of credit unions
8 serving predominantly low-income members. The term "low
9 income members" shall mean those members who make less
10 than 80% of the average for all wage earners as
11 established by the Bureau of Labor Statistics or those
12 members whose annual household income falls at or below
13 80% of the median household income for the nation as
14 established by the Census Bureau. The term "predominantly"
15 is defined as a simple majority;

16 (18) Establish, maintain, and operate terminals as
17 authorized by the Electronic Fund Transfer Act;

18 (19) Subject to Article XLIV of the Illinois Insurance
19 Code, act as the agent for any fire, life, or other
20 insurance company authorized by the State of Illinois, by
21 soliciting and selling insurance and collecting premiums
22 on policies issued by such company; and may receive for
23 services so rendered such fees or commissions as may be
24 agreed upon between the said credit union and the
25 insurance company for which it may act as agent; provided,
26 however, that no such credit union shall in any case

1 assume or guarantee the payment of any premium on
2 insurance policies issued through its agency by its
3 principal; and provided further, that the credit union
4 shall not guarantee the truth of any statement made by an
5 assured in filing his application for insurance; and

6 (20) Make reasonable contributions to civic,
7 charitable, or service organizations not organized for
8 profit; religious corporations; and fundraisers benefiting
9 persons in the credit union's service area.

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

11 (205 ILCS 305/39) (from Ch. 17, par. 4440)

12 Sec. 39. Special purpose share accounts; charitable
13 donation accounts.

14 (1) If provided for in and consistent with the bylaws,
15 Christmas clubs, vacation clubs and other special purpose
16 share accounts may be established and offered under conditions
17 and restrictions established by the board of directors.

18 (2) Pursuant to a policy adopted by the board of
19 directors, which may be amended from time to time, a credit
20 union may establish one or more charitable donation accounts.
21 The investments and purchases to fund a charitable donation
22 account are not subject to the investment limitations of this
23 Act, provided the charitable donation account is structured in
24 accordance with this Act. At their time of purchase, the book
25 value of the investments in all charitable donation accounts,

1 in the aggregate, shall not exceed 5% of the credit union's net
2 worth.

3 (a) If a credit union chooses to establish a
4 charitable donation account using a trust vehicle, the
5 trustee must be an entity regulated by the Office of the
6 Comptroller of the Currency, the U.S. Securities and
7 Exchange Commission, another federal regulatory agency, or
8 a State financial regulatory agency. A regulated trustee
9 or other person who is authorized to make investment
10 decisions for a charitable donation account, other than
11 the credit union itself, shall either be registered with
12 the U.S. Securities and Exchange Commission as an
13 investment advisor or regulated by the Office of the
14 Comptroller of the Currency.

15 (b) The parties to the charitable donation account
16 must document the terms and conditions controlling the
17 account in a written operating agreement, trust agreement,
18 or similar instrument. The terms of the agreement shall be
19 consistent with the requirements and conditions set forth
20 in this Section. The agreement, if applicable, and
21 policies must document the investment strategies of the
22 charitable donation account trustee or other manager in
23 administering the charitable donation account and provide
24 for the accounting of all aspects of the account,
25 including its distributions and liquidation, in accordance
26 with generally accepted accounting principles.

1 (c) A credit union's charitable donation account
2 agreement, if applicable, and policies shall provide that
3 the charitable organization or non-profit entity
4 recipients of any charitable donation account funds must
5 be identified in the policy and be exempt from taxation
6 under Section 501(c)(3) or Section 501(c)(19) of the
7 Internal Revenue Code.

8 (d) Upon termination of a charitable donation account,
9 the credit union may receive a distribution of the
10 remaining assets in cash, or a distribution in kind of the
11 remaining assets, but only if those assets are permissible
12 investments for credit unions pursuant to this Act.

13 (3) Pursuant to subsection (20) of Section 13 authorizing
14 a credit union to make reasonable contributions to civic,
15 charitable, service, or religious corporations and to avoid
16 the cost, administrative expenses, and reporting requirements
17 associated with establishing its own private foundation, a
18 credit union may establish one or more donor-advised fund
19 accounts. The credit union shall maintain the account on its
20 books and records under a name it selects, which may identify
21 the account as a charitable or grant fund or other name that
22 reflects the charitable nature of the account. The account
23 shall be subject to the terms and restrictions set forth in
24 this subsection.

25 (a) Transfers from a donor-advised fund account shall
26 be limited to foundations exempt from taxation under

1 Section 501(c)(3) of the Internal Revenue Code.

2 (b) Distributions by a foundation receiving
3 donor-advised funds from the credit union shall be:

4 (i) based upon specific grant recommendations of
5 the credit union; and

6 (ii) limited to public charities exempt from
7 taxation under Section 501(c)(3) of the Internal
8 Revenue Code.

9 (c) Transfers by a credit union from its donor-advised
10 fund account to a foundation irrevocably conveys all
11 right, title, and interest in the funds to the foundation,
12 subject only to the continuing right of the credit union
13 to designate the entity or entities that will receive the
14 grant funds. Grants may not be used to satisfy any
15 obligation of the credit union and no goods or services
16 may be received by the credit union from the recipient
17 organization in consideration of the grant.

18 (Source: P.A. 102-774, eff. 5-13-22.)

19 (205 ILCS 305/59) (from Ch. 17, par. 4460)

20 Sec. 59. Investment of funds.

21 (a) Funds not used in loans to members may be invested,
22 pursuant to subsection (7) of Section 30 of this Act, and
23 subject to Departmental rules and regulations:

24 (1) In securities, obligations or other instruments of
25 or issued by or fully guaranteed as to principal and

1 interest by the United States of America or any agency
2 thereof or in any trust or trusts established for
3 investing directly or collectively in the same;

4 (2) In obligations of any state of the United States,
5 the District of Columbia, the Commonwealth of Puerto Rico,
6 and the several territories organized by Congress, or any
7 political subdivision thereof; however, a credit union may
8 not invest more than 10% of its unimpaired capital and
9 surplus in the obligations of one issuer, exclusive of
10 general obligations of the issuer, and investments in
11 municipal securities must be limited to securities rated
12 in one of the 4 highest rating investment grades by a
13 nationally recognized statistical rating organization;

14 (3) In certificates of deposit or passbook type
15 accounts issued by a state or national bank, mutual
16 savings bank or savings and loan association; provided
17 that such institutions have their accounts insured by the
18 Federal Deposit Insurance Corporation or the Federal
19 Savings and Loan Insurance Corporation; but provided,
20 further, that a credit union's investment in an account in
21 any one institution may exceed the insured limit on
22 accounts;

23 (4) In shares, classes of shares or share certificates
24 of other credit unions, including, but not limited to,
25 corporate credit unions; provided that such credit unions
26 have their members' accounts insured by the NCUA or other

1 approved insurers, and that if the members' accounts are
2 so insured, a credit union's investment may exceed the
3 insured limit on accounts;

4 (5) In shares of a cooperative society organized under
5 the laws of this State or the laws of the United States in
6 the total amount not exceeding 10% of the unimpaired
7 capital and surplus of the credit union; provided that
8 such investment shall first be approved by the Department;

9 (6) In obligations of the State of Israel, or
10 obligations fully guaranteed by the State of Israel as to
11 payment of principal and interest;

12 (7) In shares, stocks or obligations of other
13 financial institutions in the total amount not exceeding
14 5% of the unimpaired capital and surplus of the credit
15 union;

16 (8) In federal funds and bankers' acceptances;

17 (9) In shares or stocks of Credit Union Service
18 Organizations in the total amount not exceeding the
19 greater of 6% of the unimpaired capital and surplus of the
20 credit union or the amount authorized for federal credit
21 unions;

22 (10) In corporate bonds identified as investment grade
23 by at least one nationally recognized statistical rating
24 organization, provided that:

25 (i) the board of directors has established a
26 written policy that addresses corporate bond

1 investment procedures and how the credit union will
2 manage credit risk, interest rate risk, liquidity
3 risk, and concentration risk; and

4 (ii) the credit union has documented in its
5 records that a credit analysis of a particular
6 investment and the issuing entity was conducted by the
7 credit union, a third party on behalf of the credit
8 union qualified by education or experience to assess
9 the risk characteristics of corporate bonds, or a
10 nationally recognized statistical rating agency before
11 purchasing the investment and the analysis is updated
12 at least annually for as long as it holds the
13 investment;

14 (11) To aid in the credit union's management of its
15 assets, liabilities, and liquidity in the purchase of an
16 investment interest in a pool of loans, in whole or in part
17 and without regard to the membership of the borrowers,
18 from other depository institutions and financial type
19 institutions, including mortgage banks, finance companies,
20 insurance companies, and other loan sellers, subject to
21 such safety and soundness standards, limitations, and
22 qualifications as the Department may establish by rule or
23 guidance from time to time;

24 (12) To aid in the credit union's management of its
25 assets, liabilities, and liquidity by receiving funds from
26 another financial institution as evidenced by certificates

1 of deposit, share certificates, or other classes of shares
2 issued by the credit union to the financial institution;

3 (13) In the purchase and assumption of assets held by
4 other financial institutions, with approval of the
5 Secretary and subject to any safety and soundness
6 standards, limitations, and qualifications as the
7 Department may establish by rule or guidance from time to
8 time;

9 (14) In the shares, stocks, or obligations of
10 community development financial institutions as defined in
11 regulations issued by the U.S. Department of the Treasury
12 and minority depository institutions as defined by the
13 National Credit Union Administration; however the
14 aggregate amount of all such investments shall not at any
15 time exceed 5% of the paid-in and unimpaired capital and
16 surplus of the credit union; ~~and~~

17 (15) (A) In shares, stocks, or member units of
18 financial technology companies in the total amount not
19 exceeding 2.5% of the net worth of the credit union, so
20 long as:

21 (i) the credit union would remain well capitalized
22 as defined by 12 CFR 702.102 if the credit union
23 reduced its net worth by the full investment amount at
24 the time the investment is made or at any point during
25 the time the investment is held by the credit union;

26 (ii) the credit union and the financial technology

1 company are operated in a manner that demonstrates to
2 the public the separate corporate existence of the
3 credit union and financial technology company; and

4 (iii) the credit union has received a composite
5 rating of 1 or 2 under the CAMELS supervisory rating
6 system.

7 (B) The investment limit in subparagraph (A) of this
8 paragraph (15) is increased to 5% of the net worth of the
9 credit union if it has received a management rating of 1
10 under the CAMELS supervisory rating system at the time a
11 specific investment is made and at all times during the
12 term of the investment. A credit union that satisfies the
13 criteria in subparagraph (A) of this paragraph (15) and
14 this subparagraph may request approval from the Secretary
15 for an exception to the 5% limit up to a limit of 10% of
16 the net worth of the credit union, subject to such safety
17 and soundness standards, limitations, and qualifications
18 as the Department may establish by rule or guidance from
19 time to time. The request shall be in writing and
20 substantiate the need for the higher limit, describe the
21 credit union's record of investment activity, and include
22 financial statements reflecting a sound fiscal history.

23 (C) Before investing in a financial technology
24 company, the credit union shall obtain a written legal
25 opinion as to whether the financial technology company is
26 established in a manner that will limit potential exposure

1 of the credit union to no more than the loss of funds
2 invested in the financial technology company and the legal
3 opinion shall:

4 (i) address factors that have led courts to
5 "pierce the corporate veil", such as inadequate
6 capitalization, lack of separate corporate identity,
7 common boards of directors and employees, control of
8 one entity over another, and lack of separate books
9 and records; and

10 (ii) be provided by independent legal counsel of
11 the credit union.

12 (D) Before investing in the financial technology
13 company, the credit union shall enter into a written
14 investment agreement with the financial technology company
15 and the agreement shall contain the following clauses:

16 (i) the financial technology company will: (I)
17 provide the Department with access to the books and
18 records of the financial technology company relating
19 to the investment made by the credit union, with the
20 costs of examining those records borne by the credit
21 union in accordance with the per diem rate established
22 by the Department by rule; (II) follow generally
23 accepted accounting principles; and (III) provide the
24 credit union with its financial statements on at least
25 a quarterly basis and certified public accountant
26 audited financial statements on an annual basis; and

1 (ii) the financial technology company and credit
2 union agree to terminate their contractual
3 relationship: (I) upon 90 days' written notice to the
4 parties by the Secretary that the safety and soundness
5 of the credit union is threatened pursuant to the
6 Department's cease and desist and suspension authority
7 in Sections 8 and 61; (II) upon 30 days' written notice
8 to the parties if the credit union's net worth ratio
9 falls below the level that classifies it as well
10 capitalized as defined by 12 CFR 702.102; and (III)
11 immediately upon the parties' receipt of written
12 notice from the Secretary when the Secretary
13 reasonably concludes, based upon specific facts set
14 forth in the notice to the parties, that the credit
15 union will suffer immediate, substantial, and
16 irreparable injury or loss if it remains a party to the
17 investment agreement.

18 (E) The termination of the investment agreement
19 between the financial technology company and credit union
20 shall in no way operate to relieve the financial
21 technology company from repaying the investment or other
22 obligation due and owing the credit union at the time of
23 termination.

24 (F) Any financial technology company in which a credit
25 union invests pursuant to this paragraph (15) that
26 directly or indirectly originates, purchases, facilitates,

1 brokers, or services loans to consumers in Illinois shall
2 not charge an interest rate that exceeds the applicable
3 maximum rate established by the Board of the National
4 Credit Union Administration pursuant to 12 CFR
5 701.21(c)(7)(iii)-(iv). The maximum interest rate
6 described in this subparagraph that may be charged by a
7 financial technology company applies to all consumer loans
8 and consumer credit products; and -

9 (16) In derivatives transactions, to aid in the credit
10 union's management of interest rate risk. Before entering
11 into a derivatives transaction, and at all times during
12 its management of a derivatives transactions program, a
13 credit union shall satisfy and comply with all the
14 requirements set forth in 12 CFR 703.101 et seq. All
15 definitional terms and operational standards shall have
16 the meanings given to them in 12 CFR 703.101 et seq.,
17 except references to federal credit unions shall be
18 construed to mean Illinois-chartered credit unions, and
19 references to the National Credit Union Administration and
20 Regional Director shall be respectfully construed to mean
21 the Department and the Secretary. A credit union with
22 assets of at least \$500 million and a CAMELS management
23 component rating of 1 or 2 need not obtain prior approval
24 from the Department before engaging in derivative
25 transactions but shall notify the Secretary in writing or
26 by electronic mail within 5 business days after entering

1 into its first derivatives transaction.

2 (b) As used in this Section:

3 "Political subdivision" includes, but is not limited to,
4 counties, townships, cities, villages, incorporated towns,
5 school districts, educational service regions, special road
6 districts, public water supply districts, fire protection
7 districts, drainage districts, levee districts, sewer
8 districts, housing authorities, park districts, and any
9 agency, corporation, or instrumentality of a state or its
10 political subdivisions, whether now or hereafter created and
11 whether herein specifically mentioned or not.

12 "Financial institution" includes any bank, savings bank,
13 savings and loan association, or credit union established
14 under the laws of the United States, this State, or any other
15 state.

16 "Financial technology company" includes any corporation,
17 partnership, limited liability company, or other entity
18 organized under the laws of Illinois, another state, or the
19 United States of America:

20 (1) that the principal business of which is the
21 provision of financial products or financial services, or
22 both, that:

23 (i) currently relate or may prospectively relate
24 to the daily operations of credit unions;

25 (ii) are of current or prospective benefit to the
26 members of credit unions; or

1 (iii) are of current or prospective benefit to
2 consumers eligible for membership in credit unions;
3 and

4 (2) that applies technological interventions,
5 including, without limitation, specialized software or
6 algorithm processes, products, or solutions, to improve
7 and automate the delivery and use of those financial
8 products or financial services.

9 (c) A credit union investing to fund an employee benefit
10 plan obligation is not subject to the investment limitations
11 of this Act and this Section and may purchase an investment
12 that would otherwise be impermissible if the investment is
13 directly related to the credit union's obligation under the
14 employee benefit plan and the credit union holds the
15 investment only for so long as it has an actual or potential
16 obligation under the employee benefit plan.

17 (d) If a credit union acquires loans from another
18 financial institution or financial-type institution pursuant
19 to this Section, the credit union shall be authorized to
20 provide loan servicing and collection services in connection
21 with those loans.

22 (Source: P.A. 102-496, eff. 8-20-21; 102-774, eff. 5-13-22;
23 102-858, eff. 5-13-22; 103-154, eff. 6-30-23.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.