



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0173**

Introduced 2/2/2005, by Sen. Terry Link

**SYNOPSIS AS INTRODUCED:**

205 ILCS 305/13	from Ch. 17, par. 4414
205 ILCS 305/42	from Ch. 17, par. 4443
205 ILCS 305/47	from Ch. 17, par. 4448
205 ILCS 305/70	from Ch. 17, par. 4471

Amends the Illinois Credit Union Act. Authorizes a credit union to: (i) make reasonable contributions to certain civic, charitable, religious, or service organizations and to fundraisers to benefit persons in the credit union's service area and (ii) to act as a trustee or custodian under health savings accounts and similar tax-advantaged plans established under the federal Internal Revenue Code. Provides that loan applications shall be made in the manner prescribed by the Credit Committee, credit manager, or loan officer (now, the applications are made in writing upon a prescribed form) and may be evidenced by an electronically stored or generated record. Provides that the signature on a loan application includes any symbol executed or adopted, or any security procedure employed or adopted, using electronic means or otherwise, by or on behalf of a person with intent to authenticate a record. Prohibits any individual, firm, association, or body politic and corporate, including, without limitation, any corporation, limited liability company, general partnership, limited partnership, or joint venture that is not an authorized user from using any name or title that contains the words "credit union" or any abbreviation thereof. Authorizes the Director of the Division of Financial Institutions to impose a penalty of up to \$10,000 for each violation. Effective immediately.

LRB094 06716 MKM 36815 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 13, 42, 47, and 70 as follows:

6 (205 ILCS 305/13) (from Ch. 17, par. 4414)

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

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

10 (2) Acquire, lease (either as lessee or lessor), hold,  
11 pledge, mortgage, sell and dispose of real property, either  
12 in whole or in part, or any interest therein, as may be  
13 necessary or incidental to its present or future operations  
14 and needs, subject to such limitations as may be imposed  
15 thereon in rules and regulations promulgated by the  
16 Director; acquire, lease (either as lessee or lessor),  
17 hold, pledge, mortgage, sell and dispose of personal  
18 property, either in whole or in part, or any interest  
19 therein, as may be necessary or incidental to its present  
20 or future operations and needs;

21 (3) At the discretion of the Board of Directors,  
22 require the payment of an entrance fee or annual membership  
23 fee, or both, of any person admitted to membership;

24 (4) Receive savings from its members in the form of  
25 shares of various classes, or special purpose share  
26 accounts; act as custodian of its members' accounts; issue  
27 shares in trust as provided in this Act;

28 (5) Lend its funds to its members and otherwise as  
29 hereinafter provided;

30 (6) Borrow from any source in accordance with policy  
31 established by the Board of Directors to a maximum of 50%  
32 of capital, surplus and reserves;

1           (7) Discount and sell any obligations owed to the  
2 credit union;

3           (8) Honor requests for withdrawals or transfers of all  
4 or any part of member share accounts, and any classes  
5 thereof, in any manner approved by the credit union Board  
6 of Directors;

7           (9) Sell all or substantially all of its assets or  
8 purchase all or substantially all of the assets of another  
9 credit union, subject to the prior approval of the  
10 Director;

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

12           (11) Make deposits in banks, savings banks, savings and  
13 loan associations, trust companies; and invest in shares,  
14 classes of shares or share certificates of other credit  
15 unions;

16           (12) Assess charges and fees to members in accordance  
17 with board resolution;

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

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

23           (15) Collect, receive and disburse monies in  
24 connection with providing negotiable checks, money orders  
25 and other money-type instruments, and for such other  
26 purposes as may provide benefit or convenience to its  
27 members, and charge a reasonable fee for such services;

28           (16) Act as fiscal agent for and receive deposits from  
29 the federal government, this state or any agency or  
30 political subdivision thereof;

31           (17) Receive savings from nonmembers in the form of  
32 shares or share accounts in the case of credit unions  
33 serving predominantly low-income members. The term "low  
34 income members" shall mean those members who make less than  
35 80% of the average for all wage earners as established by  
36 the Bureau of Labor Statistics or those members whose

1 annual household income falls at or below 80% of the median  
2 household income for the nation as established by the  
3 Census Bureau. The term "predominantly" is defined as a  
4 simple majority;

5 (18) ~~To~~ Establish, maintain, and operate terminals as  
6 authorized by the Electronic Fund Transfer Act; ~~and~~

7 (19) Subject to Article XLIV of the Illinois Insurance  
8 Code, ~~to~~ act as the agent for any fire, life, or other  
9 insurance company authorized by the State of Illinois, by  
10 soliciting and selling insurance and collecting premiums  
11 on policies issued by such company; and may receive for  
12 services so rendered such fees or commissions as may be  
13 agreed upon between the said credit union and the insurance  
14 company for which it may act as agent; provided, however,  
15 that no such credit union shall in any case assume or  
16 guarantee the payment of any premium on insurance policies  
17 issued through its agency by its principal; and provided  
18 further, that the credit union shall not guarantee the  
19 truth of any statement made by an assured in filing his  
20 application for insurance; and.

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

25 (Source: P.A. 92-608, eff. 7-1-02; revised 1-20-03.)

26 (205 ILCS 305/42) (from Ch. 17, par. 4443)

27 Sec. 42. Shares in trust.

28 (1) Shares may be issued in trust to a member as trustee or  
29 to an individual or corporate trustee. If a corporate trustee  
30 is a bank or trust company, shares may be issued to the  
31 corporate trustee only if such bank or trust company is  
32 organized under the laws of the State of Illinois or is a  
33 nationally chartered bank located principally in the State of  
34 Illinois. An individual trustee shall be a member of the credit  
35 union unless the person establishing the trust in respect to

1 which such shares are issued or each beneficiary of the trust  
2 is a member of the credit union and the name of each  
3 beneficiary is disclosed to the credit union. Shares may also  
4 be issued in the name of an individual or corporate  
5 representative under the Illinois Probate Act of 1975 for or in  
6 respect to a member of a credit union. Shares may also be  
7 issued in trust under the Illinois Funeral or Burial Funds Act,  
8 for or in respect to a member of a credit union, to a trustee  
9 licensed under said Act. Any credit union which issues shares  
10 in trust as provided in this Section must be insured by the  
11 NCUA or another approved insurer. Payment of part or all of  
12 such shares to such trustee or member shall, to the extent of  
13 such payment, discharge the liability of the credit union to  
14 the member and the beneficiary and the credit union shall be  
15 under no obligation to see to the application of such payment.

16 (2) If a credit union's shares are insured as provided for  
17 in this Act, such credit union shall have power to act as  
18 trustee or custodian under individual retirement accounts or  
19 plans, health savings accounts, and similar tax-advantaged  
20 savings plans established pursuant to the Internal Revenue Code  
21 for its members or groups or organizations of its members  
22 provided the funds of such accounts or plans are invested  
23 solely in (1) share accounts of, or (2) share accounts and  
24 obligations issued by such credit union. All funds held in such  
25 fiduciary capacity shall be maintained in accordance with  
26 applicable statutes and regulations promulgated thereunder by  
27 any authority exercising jurisdiction over such trusts or  
28 custodial accounts.

29 (3) Notwithstanding any language to the contrary in this  
30 Section 42, a credit union may act as trustee or custodian of  
31 individual retirement plans of its members established  
32 pursuant to the Employee Retirement Income Security Act of 1974  
33 or self-employed retirement plans established pursuant to the  
34 Self-Employed Individuals Retirement Act of 1962, and any laws  
35 amendatory or supplementary to such Acts, provided that:

36 (a) All contributions of funds are initially made to a

1 share account in the credit union;

2 (b) Any subsequent transfer of funds to other assets is  
3 solely at the direction of the member and the credit union  
4 performs only custodial duties, exercises no investment  
5 discretion and provides no investment advice with respect  
6 to plan assets;

7 (c) The member is notified of the fact that share  
8 insurance coverage is limited to funds held in share  
9 accounts; and

10 (d) The credit union complies with all applicable  
11 provisions of this Act and applicable laws and regulations  
12 as may be promulgated by any authority exercising  
13 jurisdiction over such trust or custodial accounts.

14 (Source: P.A. 91-131, eff. 7-16-99; 92-608, eff. 7-1-02.)

15 (205 ILCS 305/47) (from Ch. 17, par. 4448)

16 Sec. 47. Loan Applications. Every application for a loan  
17 shall be made in the manner prescribed by writing upon a form,  
18 ~~which~~ the Credit Committee, credit manager, or loan officer  
19 ~~prescribes~~. The application shall state the purpose for which  
20 the loan is desired, and the security, if any, offered. Each  
21 loan shall be evidenced by a written document or by a record  
22 electronically stored or generated by any electronic or  
23 computer-generated process that accurately reproduces or  
24 records the agreement, transaction, act, occurrence, or event.  
25 The signature of any party to the loan includes any symbol  
26 executed or adopted, or any security procedure employed or  
27 adopted, using electronic means or otherwise, by or on behalf  
28 of a person with intent to authenticate a record.

29 (Source: P.A. 81-329.)

30 (205 ILCS 305/70) (from Ch. 17, par. 4471)

31 Sec. 70. Use of name, sentence.

32 (a) No individual person, firm, association, or body  
33 politic and corporate, including, without limitation, any  
34 corporation, limited liability company, general partnership,

1 limited partnership, or joint venture that is not an authorized  
2 user partnership, or corporation, except corporations  
3 organized under this Act, the credit union acts of other  
4 states, or under the Federal Credit Union Act, associations of  
5 such corporations, or subsidiaries of such associations, may  
6 use any name or title which contains the words "credit union"  
7 or any abbreviation thereof, and such use is a Class A  
8 Misdemeanor. For purposes of this Section, "authorized user"  
9 means a corporation organized under this Act, the credit union  
10 act of another state, or the Federal Credit Union Act, any  
11 association of such a corporation, and subsidiaries and  
12 affiliates of such an association.

13 (b) If the Director of the Division of Financial  
14 Institutions of the Department of Financial and Professional  
15 Regulation finds that an individual or entity that is not an  
16 authorized user has transacted or intends to transact business  
17 in this State in a manner that has a substantial likelihood of  
18 misleading the public by: (i) implying that the business is a  
19 credit union or (ii) using or intending to use the words  
20 "credit union", or any abbreviation thereof, in connection with  
21 its business, then the Director of the Division of Financial  
22 Institutions may direct the individual or entity to cease and  
23 desist from transacting its business or using the words "credit  
24 union", or any abbreviation thereof. If the individual or  
25 entity persists in transacting its business or using the words  
26 "credit union", or any abbreviation thereof, then the Director  
27 of the Division of Financial Institutions may impose a civil  
28 penalty of up to \$10,000 for each violation. Each day that the  
29 individual or entity continues transacting business or using  
30 the words "credit union", or any abbreviation thereof, in  
31 connection with its business shall constitute a separate  
32 violation of these provisions.

33 (Source: P.A. 92-293, eff. 8-9-01.)

34 Section 99. Effective date. This Act takes effect upon  
35 becoming law.