

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, 22, 30, 46, 51, and 70 as follows:

6 (205 ILCS 305/8) (from Ch. 17, par. 4409)

7 Sec. 8. Director's powers and duties. Credit unions are
8 regulated by the Department. The Director, in executing the
9 powers and discharging the duties vested by law in the
10 Department has the following powers and duties:

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

13 (2) To prescribe rules and regulations for the
14 administration of this Act. The provisions of the Illinois
15 Administrative Procedure Act are hereby expressly adopted
16 and incorporated herein as though a part of this Act, and
17 shall apply to all administrative rules and procedures of
18 the Department under this Act.

19 (3) To direct and supervise all the administrative and
20 technical activities of the Department including the
21 employment of a Credit Union Supervisor who shall have
22 knowledge in the theory and practice of, or experience in,
23 the operations or supervision of financial institutions,

1 preferably credit unions, and such other persons as are
2 necessary to carry out his functions. The Director shall
3 ensure that all examiners appointed or assigned to examine
4 the affairs of State-chartered credit unions possess the
5 necessary training and continuing education to effectively
6 execute their jobs.

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

15 (5) To suspend from office and to prohibit from further
16 participation in any manner in the conduct of the affairs
17 of his credit union any director, officer or committee
18 member who has committed any violation of a law, rule,
19 regulation or of a cease and desist order or who has
20 engaged or participated in any unsafe or unsound practice
21 in connection with the credit union or who has committed or
22 engaged in any act, omission, or practice which constitutes
23 a breach of his fiduciary duty as such director, officer or
24 committee member, when the Director has determined that
25 such action or actions have resulted or will result in
26 substantial financial loss or other damage that seriously

1 prejudices the interests of the members.

2 (6) Except for the fees established in this Act, to
3 prescribe, by rule and regulation, fees and penalties for
4 preparing, approving, and filing reports and other
5 documents; furnishing transcripts; holding hearings;
6 investigating applications for permission to organize,
7 merge, or convert; failure to maintain accurate books and
8 records to enable the Department to conduct an examination;
9 and taking supervisory actions.

10 (7) To destroy, in his discretion, any or all books and
11 records of any credit union in his possession or under his
12 control after the expiration of three years from the date
13 of cancellation of the charter of such credit unions.

14 (8) To make investigations and to conduct research and
15 studies and to publish some of the problems of persons in
16 obtaining credit at reasonable rates of interest and of the
17 methods and benefits of cooperative saving and lending for
18 such persons.

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

22 (a) promote more effective operation of credit
23 unions so as to provide members an opportunity to use
24 and control their own money to improve their economic
25 and social conditions; or

26 (b) are in the best interests of credit unions,

1 their members and the people of the State of Illinois.

2 (10) To cooperate in studies, training or other
3 administrative activities with, but not limited to, the
4 NCUA, other state credit union regulatory agencies and
5 industry trade associations in order to promote more
6 effective and efficient supervision of Illinois chartered
7 credit unions.

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

9 (205 ILCS 305/22) (from Ch. 17, par. 4423)

10 Sec. 22. Vacancies.

11 (a) The Board of Directors shall, by appointment from among
12 the credit union members, fill any vacancies occurring on the
13 Board for the remainder of the Director's unexpired term or
14 until a successor is elected and qualified following completion
15 of the term filled by the Board. The Board shall, by
16 appointment from among the credit union members, fill vacancies
17 in the Membership Committee, Credit Committee, or credit
18 manager if no Credit Committee has been appointed, and
19 Supervisory Committees.

20 (b) An office may be declared vacant by the Board when a
21 Director or a Committee member dies, resigns from the Board or
22 Committee, is removed from the Board or Committee, is no longer
23 a member of the credit union, is the owner of less than one
24 share of the credit union, or fails to attend three consecutive
25 regular meetings of the Board without good cause.

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

2 (205 ILCS 305/30) (from Ch. 17, par. 4431)

3 Sec. 30. Duties of directors.

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

5 (1) Review actions on applications for membership. A
6 record of the Membership Committee's approval or denial of
7 membership or management's approval or denial of
8 membership if no Membership Committee has been appointed
9 shall be available to the Board of Directors for
10 inspection. A person denied membership by the Membership
11 Committee or credit union management may appeal the denial
12 to the Board;

13 (2) Provide adequate fidelity bond coverage for
14 officers, employees, directors and committee members, and
15 for losses caused by persons outside of the credit union,
16 subject to rules and regulations promulgated by the
17 Director;

18 (3) Determine from time to time the interest rates, not
19 in excess of that allowed under this Act, which shall be
20 charged on loans to members and to authorize interest
21 refunds, if any, to members from income earned and received
22 in proportion to the interest paid by them on such classes
23 of loans and under such conditions as the Board prescribes.
24 The Directors may establish different interest rates to be
25 charged on different classes of loans;

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

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

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

8 (7) Have charge of the investment of funds, except that
9 the Board of Directors may designate an Investment
10 Committee or any qualified individual or entity to have
11 charge of making investments under policies established by
12 the Board of Directors;

13 (8) Authorize the employment of or contracting with
14 such persons or organizations as may be necessary to carry
15 on the operations of the credit union, provided that prior
16 approval is received from the Department before delegating
17 substantially all managerial duties and responsibilities
18 to a credit union organization, and fix the compensation,
19 if any, of the officers and provide for compensation for
20 other employees within policies established by the Board of
21 Directors;

22 (9) Authorize the conveyance of property;

23 (10) Borrow or lend money consistent with the
24 provisions of this Act;

25 (11) Designate a depository or depositories for the
26 funds of the credit union and supervise the investment of

1 funds;

2 (12) Suspend or remove, or both, any or all officers or
3 any or all members of the Membership, Credit, or other
4 committees whenever, in the judgment of the Board of
5 Directors, the best interests of the credit union will be
6 served thereby; provided that members of the Supervisory
7 Committee may not be suspended or removed except for
8 failure to perform their duties; and provided that removal
9 of any officer shall be without prejudice to the contract
10 rights, if any, of the person so removed;

11 (13) Appoint any special committees deemed necessary;
12 and

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

17 (b) The Board of Directors may delegate to the chief
18 management official, according to guidelines established by
19 the Board that may include the authority to further delegate
20 one or more duties, all of the following duties:

21 (1) determining the interest rates on loans;

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

23 and

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

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

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

1 agreement entered into by a credit union with an attorney or
2 collection agency to collect a loan of a member in default
3 shall be presumed prima facie reasonable.

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

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

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

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

1 of the owner or, if the property is in joint tenancy, upon the
2 death of the last surviving joint tenant who had such an
3 interest in the property at the time the loan was initiated,
4 provided, however, that the credit union and its member may by
5 mutual agreement, establish other repayment terms. A credit
6 union, in making a "reverse mortgage" loan, may add deferred
7 interest to principal or otherwise provide for the charging of
8 interest or premiums on such deferred interest. "Homestead"
9 property, for purposes of this Section, means the domicile and
10 contiguous real estate owned and occupied by the mortgagor. The
11 Director shall promulgate rules and regulations under this
12 Section; provided that such rules and regulations need not be
13 promulgated jointly with any other administrative agency of
14 this State.

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

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

23 Any mortgage or deed of trust given to secure a revolving
24 credit loan may, and when so expressed therein shall, secure
25 not only the existing indebtedness but also such future
26 advances, whether such advances are obligatory or to be made at

1 the option of the lender, or otherwise, as are made within
2 twenty years from the date thereof, to the same extent as if
3 such future advances were made on the date of the execution of
4 such mortgage or deed of trust, although there may be no
5 advance made at the time of execution of such mortgage or other
6 instrument, and although there may be no indebtedness
7 outstanding at the time any advance is made. The lien of such
8 mortgage or deed of trust, as to third persons without actual
9 notice thereof, shall be valid as to all such indebtedness and
10 future advances from the time said mortgage or deed of trust is
11 filed for record in the office of the Recorder of Deeds or the
12 Registrar of Titles of the county where the real property
13 described therein is located. The total amount of indebtedness
14 that may be so secured may increase or decrease from time to
15 time, but the total unpaid balance so secured at any one time
16 shall not exceed a maximum principal amount which must be
17 specified in such mortgage or deed of trust, plus interest
18 thereon, and any disbursements made for the payment of taxes,
19 special assessments, or insurance on said real property, with
20 interest on such disbursements.

21 Any such mortgage or deed of trust shall be valid and have
22 priority over all subsequent liens and encumbrances, including
23 statutory liens, except taxes and assessments levied on said
24 real property.

25 (5) Compliance with federal or Illinois preemptive laws or
26 regulations governing loans made by a credit union chartered

1 under this Act shall constitute compliance with this Act.

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

3 (205 ILCS 305/51) (from Ch. 17, par. 4452)

4 Sec. 51. Other Loan Programs.

5 (1) Subject to such rules and regulations as the Director
6 may promulgate, a credit union may participate in loans to
7 credit union members jointly with other credit unions,
8 corporations, or financial institutions. An originating credit
9 union may originate loans only to its own members. A
10 participating credit union that is not the originating lender
11 may participate in loans made to its own members or to members
12 of another participating credit union. "Originating lender"
13 means the participating credit union with which the member
14 contracts. A master participation agreement must be properly
15 executed, and the agreement must include provisions for
16 identifying, either through documents incorporated by
17 reference or directly in the agreement, the participation loan
18 or loans prior to their sale.

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

23 (3) A credit union may purchase the conditional sales
24 contracts, notes and similar instruments which evidence an
25 indebtedness of its members. In the management of its assets,

1 liabilities, and liquidity, a credit union may purchase the
2 conditional sales contracts, notes, and other similar
3 instruments that evidence the consumer indebtedness of the
4 members of another credit union. "Consumer indebtedness" means
5 indebtedness incurred for personal, family, or household
6 purposes.

7 (4) With approval of the Board of Directors, a credit union
8 may make loans, either on its own or jointly with other credit
9 unions, corporations or financial institutions, to credit
10 union organizations; provided, that the aggregate amount of all
11 such loans outstanding shall not at any time exceed the greater
12 of 3% of the paid-in and unimpaired capital and surplus of the
13 credit union or the amount authorized for federal credit
14 unions.

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

16 (205 ILCS 305/70) (from Ch. 17, par. 4471)

17 Sec. 70. Use of name, sentence.

18 (a) No individual, firm, association, or body politic and
19 corporate, including, without limitation, any corporation,
20 limited liability company, general partnership, limited
21 partnership, or joint venture that is not an authorized user
22 may use any name or title which contains the words "credit
23 union" or any abbreviation thereof, and such use is a Class A
24 Misdemeanor. For purposes of this Section, "authorized user"
25 means a corporation organized under this Act, the credit union

1 act of another state, or the Federal Credit Union Act, any
2 association of such a corporation, and subsidiaries and
3 affiliates of such an association.

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

24 (c) Except as otherwise expressly permitted by law or with
25 the written consent of the credit union, no person or group of
26 persons other than an authorized user may use the name of or a

1 name similar to the name of an existing credit union when
2 marketing or soliciting business from members or prospective
3 members if the name or similar name is used in a manner that
4 would cause a reasonable person to believe that the marketing
5 material or solicitation originated from or is endorsed by the
6 existing credit union or that the existing credit union is in
7 any other way responsible for the marketing material or
8 solicitation. The following remedies shall apply:

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

12 (2) In addition to any other available remedies, any
13 existing credit union may report an alleged violation of
14 any provision of this Section to the Director of the
15 Division of Financial Institutions. If the Director finds
16 that any person or group of persons is in violation of any
17 provision of this Section, then the Director may direct
18 that person or group of persons to cease and desist from
19 that violation. If the Director issues a cease and desist
20 order against any person or group of persons for violation
21 of subsection (c), then the order must require that person
22 or group of persons to cease and desist from using the
23 offending marketing material or solicitation in Illinois.

24 (3) If a person or group of persons against whom the
25 Director issued the cease and desist order persists in the
26 violation, then the Director may impose a civil penalty of

1 up to \$10,000 for each violation. Each day that a person or
2 group of persons is in violation of this Section
3 constitutes a separate violation of this Section and each
4 instance in which marketing material or a solicitation is
5 sent in violation of this subsection (c) constitutes a
6 separate violation of this Section.

7 (d) The Director of the Division of Financial Institutions
8 may adopt rules to administer the provisions of this Section.

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.