

1 AN ACT concerning financial 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 34 and 46 and by adding Section 42.5 as
6 follows:

7 (205 ILCS 305/34) (from Ch. 17, par. 4435)

8 Sec. 34. Duties of Supervisory Committee.

9 (1) The Supervisory Committee shall make or cause to be
10 made an annual internal audit of the books and affairs of the
11 credit union to determine that the credit union's accounting
12 records and reports are prepared promptly and accurately
13 reflect operations and results, that internal controls are
14 established and effectively maintained to safeguard the assets
15 of the credit union, and that the policies, procedures and
16 practices established by the Board of Directors and management
17 of the credit union are being properly administered. The
18 Supervisory Committee shall submit a report of that audit to
19 the Board of Directors and a summary of that report to the
20 members at the next annual meeting of the credit union. It
21 shall make or cause to be made such supplementary audits as it
22 deems necessary or as are required by the Director or by the
23 Board of Directors, and submit reports of these supplementary

1 audits to the Director or Board of Directors as applicable. If
2 the Supervisory Committee has not engaged a public accountant
3 registered by the Department of Professional Regulation to make
4 the internal audit, the Supervisory Committee or other
5 officials of the credit union shall not indicate or in any
6 manner imply that such audit has been performed by a public
7 accountant or that the audit represents the independent opinion
8 of a public accountant. The Committee must retain its tapes and
9 working papers of each internal audit for inspection by the
10 Department. The report of this audit must be made on a form
11 approved by the Director. A copy of the report must be promptly
12 mailed to the Director.

13 (2) The Supervisory Committee shall make or cause to be
14 made at least once each year a reasonable percentage
15 verification of members' share and loan accounts, consistent
16 with rules promulgated by the Director.

17 (3) The Supervisory Committee of a credit union with assets
18 of \$5,000,000 or more shall engage a public accountant
19 registered by the Department of Professional Regulation to
20 perform an annual external independent audit of the credit
21 union's financial statements in accordance with generally
22 accepted auditing standards. The Supervisory Committee of a
23 credit union with assets of \$3,000,000 or more, but less than
24 \$5,000,000, shall engage a public accountant registered by the
25 Department of Professional Regulation to perform an external
26 independent audit of the credit union's financial statements in

1 accordance with generally accepted auditing standards at least
2 once every 3 years. A copy of an external independent audit
3 shall be mailed to the Director upon completion. If the annual
4 internal audit of such a credit union is conducted by a public
5 accountant registered by the Department of Professional
6 Regulation and the annual internal audit is done in conjunction
7 with the credit union's annual external audit, the requirements
8 of subsection (1) of this Section shall be deemed met.

9 (4) In determining the appropriate balance in the allowance
10 for loan losses account, a credit union may determine its
11 historical loss rate using a defined period of time of less
12 than 5 years, provided that:

13 (A) the methodology used to determine the defined
14 period of time is formally documented in the credit union's
15 policies and procedures and is appropriate to the credit
16 union's size, business strategy, and loan portfolio
17 characteristics and the economic environment of the areas
18 and employers served by the credit union;

19 (B) supporting documentation is maintained for the
20 technique used to develop the credit union loss rates,
21 including the period of time used to accumulate historical
22 loss data and the factors considered in establishing the
23 time frames; and

24 (C) the external auditor conducting the credit union's
25 financial statement audit has analyzed the methodology
26 employed by the credit union and concludes that the

1 financial statements, including the allowance for loan
2 losses, are fairly stated in all material respects in
3 accordance with U.S. Generally Accepted Accounting
4 Principles, as promulgated by the Financial Accounting
5 Standards Board.

6 (5) A majority of the members of the Supervisory Committee
7 shall constitute a quorum.

8 (Source: P.A. 86-238.)

9 (205 ILCS 305/42.5 new)

10 Sec. 42.5. Marketing of services. For purposes of
11 promoting its services to persons eligible for membership, a
12 credit union may sell to persons within its field of membership
13 negotiable checks, including travelers checks, money orders,
14 and similar money transfer instruments (including
15 international and domestic electronic fund transfers) and may
16 cash checks and money orders, and may receive international and
17 domestic electronic fund transfers for such persons for a fee.

18 (205 ILCS 305/46) (from Ch. 17, par. 4447)

19 Sec. 46. Loans and interest rate.

20 (1) A credit union may make loans to its members for such
21 purpose and upon such security and terms, including rates of
22 interest, as the Credit Committee, credit manager, or loan
23 officer approves. Notwithstanding the provisions of any other
24 law in connection with extensions of credit, a credit union may

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

22 (2) Credit unions may make loans based upon the security of
23 any interest or equity in real estate, subject to rules and
24 regulations promulgated by the Director. In any contract or
25 loan which is secured by a mortgage, deed of trust, or
26 conveyance in the nature of a mortgage, on residential real

1 estate, the interest which is computed, calculated, charged, or
2 collected pursuant to such contract or loan, or pursuant to any
3 regulation or rule promulgated pursuant to this Act, may not be
4 computed, calculated, charged or collected for any period of
5 time occurring after the date on which the total indebtedness,
6 with the exception of late payment penalties, is paid in full.

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

1 lender may charge or collect pursuant to the preceding
2 sentence. The provisions of this amendatory Act of 1985 shall
3 apply only to contracts or loans entered into on or after the
4 effective date of this amendatory Act.

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

1 property, for purposes of this Section, means the domicile and
2 contiguous real estate owned and occupied by the mortgagor. The
3 Director shall promulgate rules and regulations under this
4 Section; provided that such rules and regulations need not be
5 promulgated jointly with any other administrative agency of
6 this State.

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

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

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

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

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

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

20 (6) Credit unions may make residential real estate mortgage
21 loans on terms and conditions established by the United States
22 Department of Agriculture through its Rural Development
23 Housing and Community Facilities Program. The portion of any
24 loan in excess of the appraised value of the real estate shall
25 be allocable only to the guarantee fee required under the
26 program.

1 (Source: P.A. 95-98, eff. 8-13-07.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.