

1 AN ACT concerning credit unions.

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 1.1, 7, 8, 9, 13, 16, 20, 23, 27, 30, 42,
6 and 61 and adding Sections 9.1 and 10.1 as follows:

7 (205 ILCS 305/1.1) (from Ch. 17, par. 4402)

8 Sec. 1.1. Definitions. Credit Union - The term "credit
9 union" means a cooperative, non-profit association,
10 incorporated under this Act, under the laws of the United
11 States of America or under the laws of another state, for the
12 purposes of encouraging thrift among its members, creating a
13 source of credit at a reasonable rate of interest, and
14 providing an opportunity for its members to use and control
15 their own money in order to improve their economic and social
16 conditions. The membership of a credit union shall consist of
17 a group or groups each having a common bond as set forth in
18 this Act.

19 Common Bond - The term "common bond" refers to groups of
20 people who meet one of the following qualifications:

21 (1) Persons belonging to a specific association, group
22 or organization, such as a church, labor union, club or
23 society and members of their immediate families which shall
24 include any relative by blood or marriage or foster and
25 adopted children.

26 (2) Persons who reside in a reasonably compact and well
27 defined neighborhood or community, and members of their
28 immediate families which shall include any relative by blood
29 or marriage or foster and adopted children.

30 (3) Persons who have a common employer or who are
31 members of an organized labor union or an organized

1 occupational or professional group within a defined
2 geographical area, and members of their immediate families
3 which shall include any relative by blood or marriage or
4 foster and adopted children.

5 Shares - The term "shares" or "share accounts" means any
6 form of shares issued by a credit union and established by a
7 member in accordance with standards specified by a credit
8 union, including but not limited to common shares, share
9 draft accounts, classes of shares, share certificates,
10 special purpose share accounts, shares issued in trust,
11 custodial accounts, and individual retirement accounts or
12 other plans established pursuant to Section 401(d) or (f) or
13 Section 408(a) of the Internal Revenue Code, as now or
14 hereafter amended, or similar provisions of any tax laws of
15 the United States that may hereafter exist.

16 Credit Union Organization - The term "credit union
17 organization" means any organization established to serve the
18 needs of credit unions, the business of which relates to the
19 daily operations of credit unions.

20 Department - The term "Department" means the Illinois
21 Department of Financial Institutions.

22 Director - The term "Director" means the Director of the
23 Illinois Department of Financial Institutions.

24 NCUA - The term "NCUA" means the National Credit Union
25 Administration, an agency of the United States Government
26 charged with the supervision of credit unions chartered under
27 the laws of the United States of America.

28 Central Credit Union - The term "central credit union"
29 means a credit union incorporated primarily to receive shares
30 from and make loans to credit unions and Directors, Officers,
31 committee members and employees of credit unions. A central
32 credit union may also accept as members persons who were
33 members of credit unions which were liquidated and persons
34 from occupational groups not otherwise served by another

1 credit union.

2 Corporate Credit Union - The term "corporate credit
3 union" means a credit union which is a cooperative,
4 non-profit association, the membership of which is limited
5 primarily to other credit unions.

6 Insolvent - "Insolvent" means the condition that results
7 when the total of all liabilities and shares exceeds net
8 assets of the credit union.

9 Danger of insolvency - For purposes of Section 61, a
10 credit union is in "danger of insolvency" if its net worth to
11 asset ratio falls below 2% or if the Department is unable to
12 ascertain, upon examination, the true financial condition of
13 the credit union. The term "Danger of insolvency" as used in
14 Section 61 means when a credit union falls below a 2% capital
15 to-asset-ratio.

16 Net Worth - "Net worth" means the retained earnings
17 balance of the credit union, as determined under generally
18 accepted accounting principles, and forms of secondary
19 capital approved by the Director pursuant to rulemaking.

20 (Source: P.A. 90-665, eff. 7-30-98.)

21 (205 ILCS 305/7) (from Ch. 17, par. 4408)

22 Sec. 7. Reciprocity - out of state credit unions.

23 (1) A credit union organized and duly chartered as a
24 credit union in another state shall be permitted to conduct
25 business as a credit union in this state if a credit union
26 chartered under the laws of this state is permitted to do
27 business in such other state, provided that:--Regardless--of
28 where---it--is--doing--business,--a--credit--union--shall--be
29 supervised-and-regulated-by-the--agency--so--charged--in--the
30 state-in-which-the-credit-union-is-chartered.

31 (a) The credit union shall register with the
32 Director prior to operating in this State, on a form
33 specified by the Director.

1 (b) The credit union may be required to pay a
2 registration fee in accordance with rules promulgated by
3 the Director.

4 (c) The credit union shall comply with rules
5 promulgated by the Director concerning the operation of
6 out of state credit unions in this State.

7 (2) It is intended that the legal existence of credit
8 unions chartered under this Act be recognized beyond the
9 limits of this State and that, subject to any reasonable
10 registration requirements, any credit union transacting
11 business outside of this State be granted the protection of
12 full faith and credit under Section 1 of Article IV of the
13 Constitution of the United States.

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

15 (205 ILCS 305/8) (from Ch. 17, par. 4409)

16 Sec. 8. Director's powers and duties. Credit unions are
17 regulated by the Department. The Director, in executing the
18 powers and discharging the duties vested by law in the
19 Department has the following powers and duties:

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

22 (2) To prescribe rules and regulations for the
23 administration of this Act. The provisions of the Illinois
24 Administrative Procedure Act are hereby expressly adopted and
25 incorporated herein as though a part of this Act, and shall
26 apply to all administrative rules and procedures of the
27 Department under this Act.

28 (3) To direct and supervise all the administrative and
29 technical activities of the Department including the
30 employment of a Credit Union Supervisor who shall have
31 knowledge in the theory and practice of, or experience in,
32 the operations or supervision of financial institutions,
33 preferably credit unions, and such other persons as are

1 necessary to carry out his functions.

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

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

23 (6) Except for the fees established in this Act, to
24 prescribe, by rule and regulation, fees and penalties for
25 preparing, approving, and filing reports and other
26 documents;i; furnishing transcripts;i; holding hearings;i and
27 investigating applications for permission to organize, merge,
28 or convert; failure to maintain accurate books and records to
29 enable the Department to conduct an examination; and taking
30 supervisory actions.

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

1 (8) To make investigations and to conduct research and
 2 studies and to publish some of the problems of persons in
 3 obtaining credit at reasonable rates of interest and of the
 4 methods and benefits of cooperative saving and lending for
 5 such persons.

6 (9) To authorize, foster or establish experimental,
 7 developmental, demonstration or pilot projects by public or
 8 private organizations including credit unions which:

9 (a) promote more effective operation of credit
 10 unions so as to provide members an opportunity to use and
 11 control their own money to improve their economic and
 12 social conditions; or

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

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

20 (Source: P.A. 91-357, eff. 7-29-99.)

21 (205 ILCS 305/9) (from Ch. 17, par. 4410)

22 Sec. 9. Reports and examinations.

23 (1) Credit unions shall report to the Department on
 24 forms supplied by the Department, in accordance with a
 25 schedule published by the Department annually--on--or--before
 26 the--first--day--of--February--in--each--year--on--forms--supplied--by
 27 the--Department. A recapitulation of the Annual Reports shall
 28 be compiled and published annually by the Department, for the
 29 use of the General Assembly, credit unions, various
 30 educational institutions and other interested parties. A
 31 credit union which fails to file any report when due shall
 32 pay to the Department a late filing fee of \$5.00 for each day
 33 the report is overdue as prescribed by rule. The Director may

1 extend the time for filing a report.

2 (2) The Director may require special examinations of and
 3 special financial reports from a credit union or a credit
 4 union organization in which a credit union loans or, invests,
 5 ~~or---delegates---substantially---all---managerial---duties---and~~
 6 ~~responsibilities~~ when he determines that such examinations
 7 and reports are necessary to enable the Department to
 8 determine the safety of a credit union's operation or its
 9 solvency. The cost to the Department of the aforesaid special
 10 examinations shall be borne by the credit union being
 11 examined as prescribed by rule.

12 (3) All credit unions incorporated under this Act shall
 13 be examined at least biennially by the Department or, at the
 14 discretion of the Director, by a public accountant registered
 15 by the Department of Professional Regulation. The costs of an
 16 examination shall be paid by the credit union. The scope of
 17 all examinations by a public accountant shall be at least
 18 equal to the examinations made by the Department. The
 19 examiners shall have full access to, and may compel the
 20 production of, all the books, papers, securities and accounts
 21 of any credit union. A special examination shall be made by
 22 the Department or by a public accountant approved by the
 23 Department upon written request of 5 or more members, who
 24 guarantee the expense of the same. Any credit union refusing
 25 to submit to an examination when ordered by the Department
 26 shall be reported to the Attorney General, who shall
 27 institute proceedings to have its charter revoked. If the
 28 Director determines that the examination of a credit union is
 29 to be conducted by a public accountant registered by the
 30 Department of Professional Regulation and the examination is
 31 done in conjunction with the credit union's external
 32 independent audit of financial statements, the requirements
 33 of this Section and subsection (3) of Section 34 shall be
 34 deemed met.

1 (4) A copy of the completed report of examination and a
2 review comment letter, if any, citing exceptions revealed
3 during the examination, shall be submitted to the credit
4 union by the Department. A detailed report stating the
5 corrective actions taken by the Board of Directors on each
6 exception set forth in the review comment letter shall be
7 filed with the Department within 40 days after the date of
8 the review comment letter, or as otherwise directed by the
9 Department. Any credit union through its officers, directors,
10 committee members or employees, which willfully provides
11 fraudulent or misleading information regarding the corrective
12 actions taken on exceptions appearing in a review comment
13 letter may have its operations restricted to the collection
14 of principal and interest on loans outstanding and the
15 payment of normal expenses and salaries until all exceptions
16 are corrected and accepted by the Department.

17 (Source: P.A. 91-755, eff. 1-1-01.)

18 (205 ILCS 305/9.1 new)

19 Sec. 9.1. Disclosures of reports of examinations and
20 confidential supervisory information; limitations.

21 (1) Any report of examination, visitation, or
22 investigation prepared by the Director under this Act or by
23 the state regulatory authority charged with enforcing the
24 Electronic Fund Transfer Act or the Corporate Fiduciary Act
25 or by the state regulatory authority of another state that
26 examines an office of an Illinois credit union in that state,
27 any document or record prepared or obtained in connection
28 with or relating to any examination, visitation, or
29 investigation, and any record prepared or obtained by the
30 Director to the extent that the record summarizes or contains
31 information derived from any report, document, or record
32 described in this subsection shall be deemed "confidential
33 supervisory information". Confidential supervisory

1 information shall not include any information or record
2 routinely prepared by a credit union and maintained in the
3 ordinary course of business or any information or record that
4 is required to be made publicly available pursuant to State
5 or federal law or rule.

6 (2) Confidential supervisory information is privileged
7 from discovery and shall only be disclosed under the
8 circumstances and for the purposes set forth in this Section.

9 (3) Relevant confidential supervisory information may be
10 disclosed under a statute that by its terms or by rules
11 promulgated thereunder requires the disclosure of
12 confidential supervisory information other than by subpoena,
13 summons, warrant, or court order; to other agencies or
14 entities having a legitimate regulatory interest; to the
15 credit union's board, officers, retained professionals, and
16 insurers; to persons seeking to merge with or purchase all or
17 part of the assets of the credit union; and where disclosure
18 is otherwise required for the benefit of the credit union.
19 Disclosure of confidential supervisory information to these
20 persons does not constitute a waiver of the legal privilege
21 otherwise available with respect to the information.

22 (4) A person to whom confidential supervisory
23 information is disclosed shall not further disseminate
24 confidential supervisory information.

25 (5) (a) Any person upon whom a demand for production of
26 confidential supervisory information is made, whether by
27 subpoena, order, or other judicial or administrative
28 process, must withhold production of the confidential
29 supervisory information and must notify the Director of
30 the demand, at which time the Director is authorized to
31 intervene for the purpose of enforcing the limitations of
32 this Section or seeking the withdrawal or termination of
33 the attempt to compel production of the confidential
34 supervisory information.

1 (b) Any request for discovery or disclosure of
 2 confidential supervisory information, whether by
 3 subpoena, order, or other judicial or administrative
 4 process, shall be made to the Director, and the Director
 5 shall determine within 15 days whether to disclose the
 6 information pursuant to procedures and standards that the
 7 Director shall establish by rule. If the Director
 8 determines that such information will not be disclosed,
 9 the Director's decision shall be subject to judicial
 10 review under the provisions of the Administrative Review
 11 Law, and venue shall be in either Sangamon County or Cook
 12 County.

13 (c) Any court order that compels disclosure of
 14 confidential supervisory information may be immediately
 15 appealed by the Director, and the order shall be
 16 automatically stayed pending the outcome of the appeal.

17 (205 ILCS 305/10.1 new)

18 Sec. 10.1. Retention of records. Unless a federal law
 19 requires otherwise, the Director may by rule prescribe
 20 periods of time for which credit unions operating under this
 21 Act must retain records and after the expiration of which the
 22 credit union may destroy those records. No liability shall
 23 accrue against the credit union, the Director, or this State
 24 for the destruction of records according to rules of the
 25 Director promulgated under the authority of this Section. In
 26 any cause or proceeding in which any records may be called in
 27 question or be demanded from any credit union, a showing of
 28 the expiration of the period so prescribed shall be
 29 sufficient excuse for failure to produce them.

30 (205 ILCS 305/13) (from Ch. 17, par. 4414)

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

32 (1) Make contracts; sue and be sued; adopt and use a

1 common seal and alter same;

2 (2) Acquire, lease (either as lessee or lessor), hold,
3 pledge, mortgage, sell and dispose of real property, either
4 in whole or in part, or any interest therein, as may be
5 necessary or incidental to its present or future operations
6 and needs, subject to such limitations as may be imposed
7 thereon in rules and regulations promulgated by the Director;
8 acquire, lease (either as lessee or lessor), hold, pledge,
9 mortgage, sell and dispose of personal property, either in
10 whole or in part, or any interest therein, as may be
11 necessary or incidental to its present or future operations
12 and needs;

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

16 (4) Receive savings from its members in the form of
17 shares of various classes, or special purpose share accounts;
18 act as custodian of its members' accounts; issue shares in
19 trust as provided in this Act;

20 (5) Lend its funds to its members and otherwise as
21 hereinafter provided;

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

25 (7) Discount and sell any obligations owed to the credit
26 union;

27 (8) Honor requests for withdrawals or transfers of all
28 or any part of member share accounts, and any classes
29 thereof, in any manner approved by the credit union Board of
30 Directors;

31 (9) Sell all or substantially all of its assets or
32 purchase all or substantially all of the assets of another
33 credit union, subject to the prior approval of the Director;

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

1 (11) Make deposits in banks, savings banks, savings and
2 loan associations, trust companies; and invest in shares,
3 classes of shares or share certificates of other credit
4 unions;

5 (12) Assess charges and fees to members in accordance
6 with board resolution;

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

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

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

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

20 (17) Receive savings from nonmembers in the form of
21 shares or share accounts in the case of credit unions serving
22 predominantly low-income members. The term "low income
23 members" shall mean those members who make less than 80% of
24 the average for all wage earners as established by the Bureau
25 of Labor Statistics or those members whose annual household
26 income falls at or below 80% of the median household income
27 for the nation as established by the Census Bureau the-lower
28 level-standard-of-living-classification-as-established-by-the
29 Bureau-of-Labor-Statistics-and-updated-by-the-Employment--and
30 Training--Administration-of-the-U.S.-Department-of-Labor. The
31 term "predominantly" is defined as a simple majority;

32 (18) To establish, maintain, and operate terminals as
33 authorized by the Electronic Fund Transfer Act; and

34 (19) Subject to Article XLIV of the Illinois Insurance

1 Code, to act as the agent for any fire, life, or other
 2 insurance company authorized by the State of Illinois, by
 3 soliciting and selling insurance and collecting premiums on
 4 policies issued by such company; and may receive for services
 5 so rendered such fees or commissions as may be agreed upon
 6 between the said credit union and the insurance company for
 7 which it may act as agent; provided, however, that no such
 8 credit union shall in any case assume or guarantee the
 9 payment of any premium on insurance policies issued through
 10 its agency by its principal; and provided further, that the
 11 credit union shall not guarantee the truth of any statement
 12 made by an assured in filing his application for insurance.

13 (Source: P.A. 89-310, eff. 1-1-96; 90-41, eff. 10-1-97;
 14 90-655, eff. 7-30-98.)

15 (205 ILCS 305/16) (from Ch. 17, par. 4417)

16 Sec. 16. Societies, associations. Societies,
 17 associations, clubs, and partnerships, corporations, and
 18 limited liability companies in which the majority of the
 19 members, partners, or shareholders are individuals who are
 20 eligible for credit union membership, ~~and corporations, the~~
 21 ~~majority of whose stockholders are individuals, who are~~
 22 ~~eligible for credit union membership,~~ may be admitted to
 23 membership in a credit union in the same manner and under the
 24 same conditions as individuals, subject to such rules as the
 25 Director may promulgate hereunder.

26 (Source: P.A. 85-249.)

27 (205 ILCS 305/20) (from Ch. 17, par. 4421)

28 Sec. 20. Election or appointment of officials.

29 (1) The credit union shall be directed by a Board of
 30 Directors consisting of no less than 7 in number, to be
 31 elected at the annual meeting by and from the members.
 32 Directors shall hold office until the next annual meeting,

1 unless their terms are staggered. Upon amendment of its
2 bylaws, a credit union may divide the Directors into 2 or 3
3 classes with each class as nearly equal in number as
4 possible. The term of office of the directors of the first
5 class shall expire at the first annual meeting after their
6 election, that of the second class shall expire at the second
7 annual meeting after their election, and that of the third
8 class, if any, shall expire at the third annual meeting after
9 their election. At each annual meeting after the
10 classification, the number of directors equal to the number
11 of directors whose terms expire at the time of the meeting
12 shall be elected to hold office until the second succeeding
13 annual meeting if there are 2 classes or until the third
14 succeeding annual meeting if there are 3 classes. A Director
15 shall hold office for the term for which he or she is elected
16 and until his or her successor is elected and qualified. In
17 all elections for Directors, every member has the right to
18 vote, in person or by proxy, the number of shares owned by
19 him, or in the case of a member other than a natural person,
20 the member's one vote, for as many persons as there are
21 Directors to be elected, or to cumulate such shares, and give
22 one candidate as many votes as the number of Directors
23 multiplied by the number of his shares equals, or to
24 distribute them on the same principle among as many
25 candidates as he may desire and the Directors shall not be
26 elected in any other manner. Shares held in a joint account
27 owned by more than one member may be voted by any one of the
28 members, however, the number of cumulative votes cast may not
29 exceed a total equal to the number of shares multiplied by
30 the number of directors to be elected. A majority of the
31 shares entitled to vote shall be represented either in person
32 or by proxy for the election of Directors. Each Director
33 shall wholly take and subscribe to an oath that he will
34 diligently and honestly perform his duties in administering

1 the affairs of the credit union, that while he may delegate
2 to another the performance of those administrative duties he
3 is not thereby relieved from his responsibility for their
4 performance, that he will not knowingly violate or willingly
5 permit to be violated any law applicable to the credit union,
6 and that he is the owner of at least one share of the credit
7 union.

8 (2) The Board of Directors shall appoint from among the
9 members of the credit union, a Supervisory Committee of not
10 less than 3 members at the organization meeting and within 30
11 days following each annual meeting of the members for such
12 terms as the bylaws provide. Members of the Supervisory
13 Committee may, but need not be, on the Board of Directors,
14 but shall not be officers of the credit union, members of the
15 Credit Committee, or the credit manager if no Credit
16 Committee has been appointed.

17 (3) The Board of Directors may appoint, from among the
18 members of the credit union, a Credit Committee consisting of
19 an odd number, not less than 3 for such terms as the bylaws
20 provide. Members of the Credit Committee may, but need not
21 be, Directors or officers of the credit union, but shall not
22 be members of the Supervisory Committee.

23 (4) The Board of Directors ~~may shall~~ appoint from among
24 the members of the credit union a Membership Committee of one
25 or more persons. If appointed, the Committee ~~It~~ shall act
26 upon all applications for membership and submit a report of
27 its actions to the Board of Directors at the next regular
28 ~~monthly~~ meeting for review. If no Membership Committee is
29 appointed, credit union management shall act upon all
30 applications for membership and submit a report of its
31 actions to the Board of Directors at the next regular meeting
32 for review.

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

1 (205 ILCS 305/23) (from Ch. 17, par. 4424)

2 Sec. 23. Compensation of officials.

3 (1) No director or committee member may receive
 4 compensation be--compensated for his service as such.
 5 "Compensation" as used in this subsection (1) refers to
 6 remuneration expense to the credit union for services
 7 provided by a director or committee member in his or her
 8 capacity as director or committee member. "Compensation" as
 9 used in this subsection (1) does not include the expense of
 10 but providing reasonable life, health, accident, and similar
 11 insurance protection benefits for a director or committee
 12 member shall-not-be-considered-compensation.

13 (2) Directors, committee members and employees, while on
 14 official business of the credit union, may be reimbursed for
 15 reasonable and necessary expenses.

16 (3) The Board of Directors may establish compensation
 17 and benefits for officers of the credit union.

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

19 (205 ILCS 305/27) (from Ch. 17, par. 4428)

20 Sec. 27. Authority of directors.

21 (1) The Board of Directors shall be charged with and
 22 have control over the general management of the operations,
 23 funds and records of the credit union.

24 (2) In discharging the duties of their respective
 25 positions, the board of directors, committees of the board,
 26 and individual directors shall be entitled to rely on advice,
 27 information, opinions, reports or statements, including
 28 financial statements and financial data, prepared or
 29 presented by: (i) one or more officers or employees of the
 30 credit union whom the director believes to be reliable and
 31 competent in the matter presented; (ii) one or more counsel,
 32 accountants, or other consultants as to matters that the
 33 Director believes to be within that person's professional or

1 expert competence; or (iii) a committee of the board upon
2 which the Director does not serve, as to matters within that
3 committee's designated authority; provided that the
4 Director's reliance under this subsection (2) is placed in
5 good faith, after reasonable inquiry if the need for such
6 inquiry is apparent under the circumstances and without
7 knowledge that would cause such reliance to be unreasonable.

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

9 (205 ILCS 305/30) (from Ch. 17, par. 4431)

10 Sec. 30. Duties of directors. It shall be the duty of
11 the directors to:

12 (1) Review ~~the---Membership---Committee's~~ actions on
13 applications for membership. A record of the Membership
14 Committee's approval or denial of membership or management's
15 approval or denial of membership if no Membership Committee
16 has been appointed shall be available to the Board of
17 Directors for inspection. A person denied membership by the
18 Membership Committee or credit union management may appeal
19 the denial to the Board;

20 (2) Provide adequate fidelity bond coverage for
21 officers, employees, directors and committee members, and for
22 losses caused by persons outside of the credit union, subject
23 to rules and regulations promulgated by the Director;

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

32 (4) Within any limitations set forth in the credit
33 union's bylaws, fix the maximum amount which may be loaned

1 with and without security to a member;

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

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

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

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

21 (9) Authorize the conveyance of property;

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

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

27 (12) Suspend or remove, or both, for cause, any or all
28 officers or any or all members of the Membership, Credit,
29 Supervisory or other committees for failure to perform their
30 duties;

31 (13) Appoint any special committees deemed necessary;
32 and i;

33 (14) Perform such other duties as the members may
34 direct, and perform or authorize any action not inconsistent

1 with this Act and not specifically reserved by the bylaws to
2 the members.

3 (Source: P.A. 84-1390.)

4 (205 ILCS 305/42) (from Ch. 17, par. 4443)

5 Sec. 42. Shares in trust.

6 (1) Shares may be issued in trust to a member as trustee
7 or to an individual or corporate trustee. If a corporate
8 trustee is a bank or trust company, shares may be issued to
9 the corporate trustee only if such bank or trust company is
10 organized under the laws of the State of Illinois or is a
11 nationally chartered bank located principally in the State of
12 Illinois. An individual trustee shall be a member of the
13 credit union unless the person establishing the trust in
14 respect to which such shares are issued or each beneficiary
15 of the trust is a member of the credit union and the name of
16 each beneficiary is disclosed to the credit union. Shares
17 may also be issued in the name of an individual or corporate
18 representative under the Illinois Probate Act of 1975 for or
19 in respect to a member of a credit union. Shares may also be
20 issued in trust under the Illinois Funeral or Burial Funds
21 Act, for or in respect to a member of a credit union, to a
22 trustee licensed under said Act. Any credit union which
23 issues shares in trust as provided in this Section must be
24 insured by the NCUA or another approved insurer. ~~No trustee~~
25 ~~or beneficiary, unless a member in his own right, shall be~~
26 ~~permitted to vote, obtain loans, hold office or be required~~
27 ~~to pay an entrance or membership fee.~~ Payment of part or all
28 of such shares to such trustee or member shall, to the extent
29 of such payment, discharge the liability of the credit union
30 to the member and the beneficiary and the credit union shall
31 be under no obligation to see to the application of such
32 payment.

33 (2) If a credit union's shares are insured as provided

1 for in this Act, such credit union shall have power to act as
2 trustee or custodian under individual retirement accounts or
3 plans established pursuant to the Internal Revenue Code for
4 its members or groups or organizations of its members
5 provided the funds of such accounts or plans are invested
6 solely in (1) share accounts of, or (2) share accounts and
7 obligations issued by such credit union. All funds held in
8 such fiduciary capacity shall be maintained in accordance
9 with applicable statutes and regulations promulgated
10 thereunder by any authority exercising jurisdiction over such
11 trusts or custodial accounts.

12 (3) Notwithstanding any language to the contrary in this
13 Section 42, a credit union may act as trustee or custodian of
14 individual retirement plans of its members established
15 pursuant to the Employee Retirement Income Security Act of
16 1974 or self-employed retirement plans established pursuant
17 to the Self-Employed Individuals Retirement Act of 1962, and
18 any laws amendatory or supplementary to such Acts, provided
19 that:

20 (a) All contributions of funds are initially made
21 to a share account in the credit union;

22 (b) Any subsequent transfer of funds to other
23 assets is solely at the direction of the member and the
24 credit union performs only custodial duties, exercises no
25 investment discretion and provides no investment advice
26 with respect to plan assets;

27 (c) The member is notified of the fact that share
28 insurance coverage is limited to funds held in share
29 accounts; and

30 (d) The credit union complies with all applicable
31 provisions of this Act and applicable laws and
32 regulations as may be promulgated by any authority
33 exercising jurisdiction over such trust or custodial
34 accounts.

1 (Source: P.A. 91-131, eff. 7-16-99.)

2 (205 ILCS 305/61) (from Ch. 17, par. 4462)

3 Sec. 61. Suspension.

4 (1) If the Director determines that any credit union is
5 bankrupt, insolvent, impaired or that it has willfully
6 violated this Act, or is operating in an unsafe or unsound
7 manner, he shall issue an order temporarily suspending the
8 credit union's operations for not more than 60 days. The
9 Board of Directors shall be given notice by registered or
10 certified mail of such suspension, which notice shall include
11 the reasons for such suspension and a list of specific
12 violations of the Act. The Director shall also notify the
13 members of the Credit Union Board of Advisors of any
14 suspension. The Director may assess to the credit union a
15 penalty, not to exceed the regulatory examination fee as set
16 forth in this Act, to offset costs incurred in determining
17 the condition of the credit union's books and records.

18 (2) Upon receipt of such suspension notice, the credit
19 union shall cease all operations, except those authorized by
20 the Director, or the Director may appoint a Manager-Trustee
21 to operate the credit union during the suspension period.
22 The Board of Directors shall, within 10 days of the receipt
23 of the suspension notice, file with the Director a reply to
24 the suspension notice by submitting a corrective plan of
25 action or a request for formal hearing on said action
26 pursuant to the Department's rules and regulations.

27 (3) Upon receipt from the suspended credit union of
28 evidence that the conditions causing the order of suspension
29 have been corrected, and after determining that the proposed
30 corrective plan of action submitted is factual, the Director
31 shall revoke the suspension notice, permit the credit union
32 to resume normal operations, and notify the Board of Credit
33 Union Advisors of such action.

1 (4) If the Director determines that the proposed
2 corrective plan of action will not correct such conditions,
3 he may take possession and control of the credit union. The
4 Director may permit the credit union to operate under his
5 direction and control and may appoint a Manager-Trustee to
6 manage its affairs until such time as the condition requiring
7 such action has been remedied, or in the case of insolvency
8 or danger of insolvency where an emergency requiring
9 expeditious action exists, the Director may involuntarily
10 merge the credit union without the vote of the suspended
11 credit union's Board of Directors or members (hereafter
12 involuntary merger) subject to rules promulgated by the
13 Director. No credit union shall be required to serve as a
14 surviving credit union in any involuntary merger. Upon the
15 request of the Director, a credit union by a vote of a
16 majority of its Board of Directors may elect to serve as a
17 surviving credit union in an involuntary merger. If the
18 Director determines that the suspended credit union should be
19 liquidated, he may appoint a Liquidating Agent and require of
20 that person such bond and security as he considers proper.

21 (5) Upon receipt of a request for a formal hearing, the
22 Director shall conduct proceedings pursuant to rules and
23 regulations of the Department. The credit union may request
24 the appropriate court to stay execution of such action.
25 Involuntary liquidation or involuntary merger may not be
26 ordered prior to the conclusion of suspension procedures
27 outlined in this Section.

28 (6) If, within the suspension period, the credit union
29 fails to answer the suspension notice or fails to request a
30 formal hearing, or both, the Director may then (i)
31 involuntarily merge the credit union if the credit union is
32 insolvent or in danger of insolvency and an emergency
33 requiring expeditious action exists or (ii) revoke the credit
34 union's charter, appoint a Liquidating Agent and liquidate

1 the credit union.

2 (Source: P.A. 90-665, eff. 7-30-98.)

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