

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Credit Union Act is amended by changing Sections 8, 9, 20 and 59 as follows:

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

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

(1) To exercise the rights, powers and duties set forth in this Act or any related Act. The Director shall oversee the functions of the Division and report to the Secretary, with respect to the Director's exercise of any of the rights, powers, and duties vested by law in the Secretary under this Act. All references in this Act to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or this Act to assume responsibility for the oversight of the functions of the Department relating to the regulatory supervision of credit unions under this Act.

(2) To prescribe rules and regulations for the administration of this Act. The provisions of the Illinois

Administrative Procedure Act are hereby expressly adopted and incorporated herein as though a part of this Act, and shall apply to all administrative rules and procedures of the Department under this Act.

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

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

(5) To suspend from office and to prohibit from further participation in any manner in the conduct of the affairs of any ~~his~~ credit union any director, officer or

committee member who has committed any violation of a law, rule, regulation or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer or committee member, when the Secretary has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members.

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

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

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

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

(B) before a civil penalty is assessed under this item (6), the Secretary must make the further reasonable determination, based on objective facts and an accurate assessment of applicable legal standards,

that the credit union's action constituting a violation under subparagraph (i) of paragraph (A) of item (6) or an unsafe and unsound practice under subparagraph (ii) of paragraph (A) of item (6):

(i) directly resulted in a substantial and material financial loss or created a reasonable probability that a substantial and material financial loss will directly result; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) an order assessing a civil penalty under this item (6) shall take effect upon service of the order, unless the credit union makes a written request for a hearing under 38 IL. Adm. Code 190.20 of the Department's rules for credit unions within 90 days after issuance of the order; in that event, the order shall be stayed until a final administrative order is entered.

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

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

(8) To destroy, in his discretion, any or all books and records of any credit union in his possession or under his control after the expiration of three years from the

date of cancellation of the charter of such credit unions.

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

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

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

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

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

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

(1) issue an order against a credit union organized under this Act for unsafe or unsound banking practices solely because the entity provides or has

provided financial services to a cannabis-related legitimate business;

(2) prohibit, penalize, or otherwise discourage a credit union from providing financial services to a cannabis-related legitimate business solely because the entity provides or has provided financial services to a cannabis-related legitimate business;

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

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

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

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

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

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

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

(Source: P.A. 101-27, eff. 6-25-19.)

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

Sec. 9. Reports and examinations.

(1) Credit unions shall report to the Department on forms supplied by the Department, in accordance with a schedule published by the Department. A recapitulation of the annual reports shall be compiled and published annually by the Department, for the use of the General Assembly, credit unions, various educational institutions and other interested parties. A credit union which fails to file any report when due shall pay to the Department a late filing fee for each day the report is overdue as prescribed by rule. The Secretary may extend the time for filing a report.

(2) The Secretary may require special examinations of and special financial reports from a credit union or a credit union organization in which a credit union loans, invests, or delegates substantially all managerial duties and responsibilities when he determines that such examinations and reports are necessary to enable the Department to determine the safety of a credit union's operation or its solvency. The

cost to the Department of the aforesaid special examinations shall be borne by the credit union being examined as prescribed by rule.

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

(3.5) Pursuant to Section 8, the Secretary shall adopt rules that ensure consistency and due process in the examination process. The Secretary may also establish guidelines that (i) define the scope of the examination process and (ii) clarify examination items to be resolved. The rules, formal guidance, interpretive letters, or opinions furnished to credit unions by the Secretary may be relied upon by the credit unions.

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

(5) The Secretary may accept an examination from the National Credit Union Administration or a private insurer of

share deposits approved by the Secretary instead of an examination conducted by the Department or by a public accountant registered by the Department pursuant to subsection (3). Acceptance of an examination from the National Credit Union Administration or an approved private insurer of share deposits shall only be permitted on an alternating basis with examinations that the Department or a registered public accountant conducts.

(Source: P.A. 102-558, eff. 8-20-21.)

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

Sec. 20. Election or appointment of officials.

(1) The credit union shall be directed by a board of directors consisting of no less than 7 in number, to be elected at the annual meeting by and from the members. Directors shall hold office until the next annual meeting, unless their terms are staggered. Upon amendment of its bylaws, a credit union may divide the directors into 2 or 3 classes with each class as nearly equal in number as possible. The term of office of the directors of the first class shall expire at the first annual meeting after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after the classification, the number of directors equal to the number of directors whose terms expire at the time of the

meeting shall be elected to hold office until the second succeeding annual meeting if there are 2 classes or until the third succeeding annual meeting if there are 3 classes. A director shall hold office for the term for which he or she is elected and until his or her successor is elected and qualified.

(1.5) Except as provided in subsection (1.10), in all elections for directors, every member has the right to vote, in person, by proxy, or by secure electronic record if approved by the board of directors, the number of shares owned by him, or in the case of a member other than a natural person, the member's one vote, for as many persons as there are directors to be elected, or to cumulate such shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares equals, or to distribute them on the same principle among as many candidates as he may desire and the directors shall not be elected in any other manner. Shares held in a joint account owned by more than one member may be voted by any one of the members, however, the number of cumulative votes cast may not exceed a total equal to the number of shares multiplied by the number of directors to be elected. A majority of the shares entitled to vote shall be represented either in person or by proxy for the election of directors. Each director shall wholly take and subscribe to an oath that he will diligently and honestly perform his duties in administering the affairs of the credit union, that while

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

(1.10) Upon amendment of a credit union's bylaws ~~approved by the members,~~ in all elections for directors, every member who is a natural person shall have the right to cast one vote, regardless of the number of his or her shares, in person, by proxy, or by secure electronic record if approved by the board of directors, for as many persons as there are directors to be elected.

(1.15) If the board of directors has adopted a policy addressing age eligibility standards on voting, holding office, or petitioning the board, then a credit union may require (i) that members be at least 18 years of age by the date of the meeting in order to vote at meetings of the members, sign nominating petitions, or sign petitions requesting special meetings, and (ii) that members be at least 18 years of age by the date of election or appointment in order to hold elective or appointive office.

(2) The board of directors shall appoint from among the members of the credit union, a supervisory committee of not less than 3 members at the organization meeting and within 30 days following each annual meeting of the members for such

terms as the bylaws provide. Members of the supervisory committee may, but need not be, on the board of directors, but shall not be officers of the credit union, members of the credit committee, or the credit manager if no credit committee has been appointed.

(3) The board of directors may appoint, from among the members of the credit union, a credit committee consisting of an odd number, not less than 3 for such terms as the bylaws provide. Members of the credit committee may, but need not be, directors or officers of the credit union, but shall not be members of the supervisory committee.

(4) The board of directors may appoint from among the members of the credit union a membership committee of one or more persons. If appointed, the committee shall act upon all applications for membership and submit a report of its actions to the board of directors at the next regular meeting for review. If no membership committee is appointed, credit union management shall act upon all applications for membership and submit a report of its actions to the board of directors at the next regular meeting for review.

(5) As used in this Section, "electronic" and "electronic record" have the meanings ascribed to those terms in the Uniform Electronic Transactions Act. As used in this Section, "secured electronic record" means an electronic record that meets the criteria set forth in the Uniform Electronic Transactions Act.

(Source: P.A. 102-38, eff. 6-25-21; revised 8-3-21.)

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

Sec. 59. Investment of funds.

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

(1) In securities, obligations or other instruments of or issued by or fully guaranteed as to principal and interest by the United States of America or any agency thereof or in any trust or trusts established for investing directly or collectively in the same;

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

(3) In certificates of deposit or passbook type accounts issued by a state or national bank, mutual savings bank or savings and loan association; provided

that such institutions have their accounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; but provided, further, that a credit union's investment in an account in any one institution may exceed the insured limit on accounts;

(4) In shares, classes of shares or share certificates of other credit unions, including, but not limited to corporate credit unions; provided that such credit unions have their members' accounts insured by the NCUA or other approved insurers, and that if the members' accounts are so insured, a credit union's investment may exceed the insured limit on accounts;

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

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

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

(8) In federal funds and bankers' acceptances;

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

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

(i) the board of directors has established a written policy that addresses corporate bond investment procedures and how the credit union will manage credit risk, interest rate risk, liquidity risk, and concentration risk; and

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

(11) To aid in the credit union's management of its assets, liabilities, and liquidity in the purchase of an investment interest in a pool of loans, in whole or in part

and without regard to the membership of the borrowers, from other depository institutions and financial type institutions, including mortgage banks, finance companies, insurance companies, and other loan sellers, subject to such safety and soundness standards, limitations, and qualifications as the Department may establish by rule or guidance from time to time;

(12) To aid in the credit union's management of its assets, liabilities, and liquidity by receiving funds from another financial institution as evidenced by certificates of deposit, share certificates, or other classes of shares issued by the credit union to the financial institution;

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

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

(b) As used in this Section:

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

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

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

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

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with those loans.

(Source: P.A. 101-567, eff. 8-23-19; 102-496, eff. 8-20-21.)

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