



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5497

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

205 ILCS 305/10	from Ch. 17, par. 4411
205 ILCS 305/34	from Ch. 17, par. 4435
205 ILCS 305/59	from Ch. 17, par. 4460

Amends the Illinois Credit Union Act. Provides that a credit union may furnish the financial records of a member to an appropriate law enforcement authority upon written request from the law enforcement authority explaining a reasonable suspicion of an imminent threat to the personal security and safety of a member exists. Provides that a supervisory committee of a credit union with assets of \$10,000,000 or more shall engage a certified public accountant or certified public accounting firm licensed by the Department of Financial and Professional Regulation to perform an annual external independent audit. Provides that a supervisory committee of a credit union with assets of \$5,000,000 or more but less than \$10,000,000 shall engage a certified public accountant or certified public accounting firm licensed by the Department to perform an annual external independent audit or an agreed-upon procedures report. Provides that the external independent audit report or agreed upon procedures report shall be delivered to the Secretary of Financial and Professional Regulation no later than 120 days after the end of the calendar or fiscal year. Provides that funds not used in loans to the credit union's members may be invested to aid in the credit union's management or in the purchase and assumption of assets held by other financial institutions. Makes other changes. Effective immediately.

LRB100 20610 LNS 36026 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 10, 34, and 59 as follows:

6 (205 ILCS 305/10) (from Ch. 17, par. 4411)

7 Sec. 10. Credit union records; member financial records.

8 (1) A credit union shall establish and maintain books,
9 records, accounting systems and procedures which accurately
10 reflect its operations and which enable the Department to
11 readily ascertain the true financial condition of the credit
12 union and whether it is complying with this Act.

13 (2) A photostatic or photographic reproduction of any
14 credit union records shall be admissible as evidence of
15 transactions with the credit union.

16 (3) (a) For the purpose of this Section, the term "financial
17 records" means any original, any copy, or any summary of (1) a
18 document granting signature authority over an account, (2) a
19 statement, ledger card or other record on any account which
20 shows each transaction in or with respect to that account, (3)
21 a check, draft or money order drawn on a financial institution
22 or other entity or issued and payable by or through a financial
23 institution or other entity, or (4) any other item containing

1 information pertaining to any relationship established in the
2 ordinary course of business between a credit union and its
3 member, including financial statements or other financial
4 information provided by the member.

5 (b) This Section does not prohibit:

6 (1) The preparation, examination, handling or
7 maintenance of any financial records by any officer,
8 employee or agent of a credit union having custody of such
9 records, or the examination of such records by a certified
10 public accountant engaged by the credit union to perform an
11 independent audit.

12 (2) The examination of any financial records by or the
13 furnishing of financial records by a credit union to any
14 officer, employee or agent of the Department, the National
15 Credit Union Administration, Federal Reserve board or any
16 insurer of share accounts for use solely in the exercise of
17 his duties as an officer, employee or agent.

18 (3) The publication of data furnished from financial
19 records relating to members where the data cannot be
20 identified to any particular customer of account.

21 (4) The making of reports or returns required under
22 Chapter 61 of the Internal Revenue Code of 1954.

23 (5) Furnishing information concerning the dishonor of
24 any negotiable instrument permitted to be disclosed under
25 the Uniform Commercial Code.

26 (6) The exchange in the regular course of business of

1 (i) credit information between a credit union and other
2 credit unions or financial institutions or commercial
3 enterprises, directly or through a consumer reporting
4 agency or (ii) financial records or information derived
5 from financial records between a credit union and other
6 credit unions or financial institutions or commercial
7 enterprises for the purpose of conducting due diligence
8 pursuant to a merger or a purchase or sale of assets or
9 liabilities of the credit union.

10 (7) The furnishing of information to the appropriate
11 law enforcement authorities where the credit union
12 reasonably believes it has been the victim of a crime.

13 (8) The furnishing of information pursuant to the
14 Revised Uniform Unclaimed Property Act.

15 (9) The furnishing of information pursuant to the
16 Illinois Income Tax Act and the Illinois Estate and
17 Generation-Skipping Transfer Tax Act.

18 (10) The furnishing of information pursuant to the
19 federal "Currency and Foreign Transactions Reporting Act",
20 Title 31, United States Code, Section 1051 et sequentia.

21 (11) The furnishing of information pursuant to any
22 other statute which by its terms or by regulations
23 promulgated thereunder requires the disclosure of
24 financial records other than by subpoena, summons, warrant
25 or court order.

26 (12) The furnishing of information in accordance with

1 the federal Personal Responsibility and Work Opportunity
2 Reconciliation Act of 1996. Any credit union governed by
3 this Act shall enter into an agreement for data exchanges
4 with a State agency provided the State agency pays to the
5 credit union a reasonable fee not to exceed its actual cost
6 incurred. A credit union providing information in
7 accordance with this item shall not be liable to any
8 account holder or other person for any disclosure of
9 information to a State agency, for encumbering or
10 surrendering any assets held by the credit union in
11 response to a lien or order to withhold and deliver issued
12 by a State agency, or for any other action taken pursuant
13 to this item, including individual or mechanical errors,
14 provided the action does not constitute gross negligence or
15 willful misconduct. A credit union shall have no obligation
16 to hold, encumber, or surrender assets until it has been
17 served with a subpoena, summons, warrant, court or
18 administrative order, lien, or levy.

19 (13) The furnishing of information to law enforcement
20 authorities, the Illinois Department on Aging and its
21 regional administrative and provider agencies, the
22 Department of Human Services Office of Inspector General,
23 or public guardians: (i) upon subpoena by the investigatory
24 entity or the guardian, or (ii) if there is suspicion by
25 the credit union that a member who is an elderly person or
26 person with a disability has been or may become the victim

1 of financial exploitation. For the purposes of this item
2 (13), the term: (i) "elderly person" means a person who is
3 60 or more years of age, (ii) "person with a disability"
4 means a person who has or reasonably appears to the credit
5 union to have a physical or mental disability that impairs
6 his or her ability to seek or obtain protection from or
7 prevent financial exploitation, and (iii) "financial
8 exploitation" means tortious or illegal use of the assets
9 or resources of an elderly person or person with a
10 disability, and includes, without limitation,
11 misappropriation of the elderly or disabled person's
12 assets or resources by undue influence, breach of fiduciary
13 relationship, intimidation, fraud, deception, extortion,
14 or the use of assets or resources in any manner contrary to
15 law. A credit union or person furnishing information
16 pursuant to this item (13) shall be entitled to the same
17 rights and protections as a person furnishing information
18 under the Adult Protective Services Act and the Illinois
19 Domestic Violence Act of 1986.

20 (14) The disclosure of financial records or
21 information as necessary to effect, administer, or enforce
22 a transaction requested or authorized by the member, or in
23 connection with:

24 (A) servicing or processing a financial product or
25 service requested or authorized by the member;

26 (B) maintaining or servicing a member's account

1 with the credit union; or

2 (C) a proposed or actual securitization or
3 secondary market sale (including sales of servicing
4 rights) related to a transaction of a member.

5 Nothing in this item (14), however, authorizes the sale
6 of the financial records or information of a member without
7 the consent of the member.

8 (15) The disclosure of financial records or
9 information as necessary to protect against or prevent
10 actual or potential fraud, unauthorized transactions,
11 claims, or other liability.

12 (16) (a) The disclosure of financial records or
13 information related to a private label credit program
14 between a financial institution and a private label party
15 in connection with that private label credit program. Such
16 information is limited to outstanding balance, available
17 credit, payment and performance and account history,
18 product references, purchase information, and information
19 related to the identity of the customer.

20 (b) (1) For purposes of this paragraph (16) of
21 subsection (b) of Section 10, a "private label credit
22 program" means a credit program involving a financial
23 institution and a private label party that is used by a
24 customer of the financial institution and the private label
25 party primarily for payment for goods or services sold,
26 manufactured, or distributed by a private label party.

1 (2) For purposes of this paragraph (16) of subsection
2 (b) of Section 10, a "private label party" means, with
3 respect to a private label credit program, any of the
4 following: a retailer, a merchant, a manufacturer, a trade
5 group, or any such person's affiliate, subsidiary, member,
6 agent, or service provider.

7 (17) The furnishing of the financial records of a
8 member to an appropriate law enforcement authority,
9 without prior notice to or consent of the member, upon
10 written request of the law enforcement authority, when
11 reasonable suspicion of an imminent threat to the personal
12 security and safety of the member exists that necessitates
13 an expedited release of the member's financial records, as
14 determined by the law enforcement authority. The law
15 enforcement authority shall include a brief explanation of
16 the imminent threat to the member in its written request to
17 the credit union.

18 (c) Except as otherwise provided by this Act, a credit
19 union may not disclose to any person, except to the member or
20 his duly authorized agent, any financial records relating to
21 that member of the credit union unless:

22 (1) the member has authorized disclosure to the person;

23 (2) the financial records are disclosed in response to
24 a lawful subpoena, summons, warrant, citation to discover
25 assets, or court order that meets the requirements of
26 subparagraph (d) of this Section; or

1 (3) the credit union is attempting to collect an
2 obligation owed to the credit union and the credit union
3 complies with the provisions of Section 2I of the Consumer
4 Fraud and Deceptive Business Practices Act.

5 (d) A credit union shall disclose financial records under
6 subparagraph (c)(2) of this Section pursuant to a lawful
7 subpoena, summons, warrant, citation to discover assets, or
8 court order only after the credit union mails a copy of the
9 subpoena, summons, warrant, citation to discover assets, or
10 court order to the person establishing the relationship with
11 the credit union, if living, and otherwise his personal
12 representative, if known, at his last known address by first
13 class mail, postage prepaid unless the credit union is
14 specifically prohibited from notifying the person by order of
15 court or by applicable State or federal law. In the case of a
16 grand jury subpoena, a credit union shall not mail a copy of a
17 subpoena to any person pursuant to this subsection if the
18 subpoena was issued by a grand jury under the Statewide Grand
19 Jury Act or notifying the person would constitute a violation
20 of the federal Right to Financial Privacy Act of 1978.

21 (e)(1) Any officer or employee of a credit union who
22 knowingly and wilfully furnishes financial records in
23 violation of this Section is guilty of a business offense and
24 upon conviction thereof shall be fined not more than \$1,000.

25 (2) Any person who knowingly and wilfully induces or
26 attempts to induce any officer or employee of a credit union to

1 disclose financial records in violation of this Section is
2 guilty of a business offense and upon conviction thereof shall
3 be fined not more than \$1,000.

4 (f) A credit union shall be reimbursed for costs which are
5 reasonably necessary and which have been directly incurred in
6 searching for, reproducing or transporting books, papers,
7 records or other data of a member required or requested to be
8 produced pursuant to a lawful subpoena, summons, warrant,
9 citation to discover assets, or court order. The Secretary and
10 the Director may determine, by rule, the rates and conditions
11 under which payment shall be made. Delivery of requested
12 documents may be delayed until final reimbursement of all costs
13 is received.

14 (Source: P.A. 99-143, eff. 7-27-15; 100-22, eff. 1-1-18.)

15 (205 ILCS 305/34) (from Ch. 17, par. 4435)

16 Sec. 34. Duties of supervisory committee.

17 (1) The supervisory committee shall make or cause to be
18 made an annual internal audit of the books and affairs of the
19 credit union to determine that the credit union's accounting
20 records and reports are prepared promptly and accurately
21 reflect operations and results, that internal controls are
22 established and effectively maintained to safeguard the assets
23 of the credit union, and that the policies, procedures and
24 practices established by the board of directors and management
25 of the credit union are being properly administered. The

1 supervisory committee shall submit a report of that audit to
2 the board of directors and a summary of that report to the
3 members at the next annual meeting of the credit union. It
4 shall make or cause to be made such supplementary audits as it
5 deems necessary or as are required by the Secretary or by the
6 board of directors, and submit reports of these supplementary
7 audits to the Secretary or board of directors as applicable. If
8 the supervisory committee has not engaged a certified public
9 accountant licensed by the Department or certified public
10 accounting firm licensed ~~registered~~ by the Department ~~of~~
11 ~~Financial and Professional Regulation~~ to make the internal
12 audit, the supervisory committee or other officials of the
13 credit union shall not indicate or in any manner imply that
14 such audit has been performed by a certified public accountant
15 licensed by the Department or certified public accounting firm
16 licensed by the Department or that the audit represents the
17 independent opinion of a certified public accountant licensed
18 by the Department or certified public accounting firm licensed
19 by the Department. The supervisory committee must retain its
20 tapes and working papers of each internal audit for inspection
21 by the Department. The report of this audit must be made on a
22 form approved by the Secretary. A copy of the report must be
23 promptly delivered ~~mailed~~ to the Secretary.

24 (2) The supervisory committee shall make or cause to be
25 made at least once each year a reasonable percentage
26 verification of members' share and loan accounts, consistent

1 with rules promulgated by the Secretary.

2 (3) (A) The supervisory committee of a credit union with
3 assets of \$10,000,000 ~~\$5,000,000~~ or more shall engage a
4 certified public accountant licensed by the Department or
5 certified public accounting firm licensed ~~registered~~ by the
6 Department ~~of Financial and Professional Regulation~~ to perform
7 an annual external independent audit of the credit union's
8 financial statements in accordance with generally accepted
9 auditing standards and the financial statements shall be issued
10 in accordance with accounting principles generally accepted in
11 the United States of America.

12 (B) The supervisory committee of a credit union with assets
13 of \$5,000,000 ~~\$3,000,000~~ or more, but less than \$10,000,000
14 ~~\$5,000,000~~, shall engage a certified public accountant
15 licensed by the Department or certified public accounting firm
16 licensed ~~registered~~ by the Department ~~of Financial and~~
17 ~~Professional Regulation~~ to perform on an annual basis: (i) an
18 agreed-upon procedures engagement under attestation standards
19 established by the American Institute of Certified Public
20 Accountants to minimally satisfy the supervisory committee
21 internal audit standards set forth in subsection (1); or (ii)
22 an external independent audit of the credit union's financial
23 statements pursuant to the standards set forth in paragraph (A)
24 of subsection (3) ~~an external independent audit of the credit~~
25 ~~union's financial statements in accordance with generally~~
26 ~~accepted auditing standards at least once every 3 years. A copy~~

~~of an external independent audit shall be completed and mailed to the Secretary no later than 90 days after December 31 of each year; provided that a credit union or group of credit unions may obtain an extension of the due date upon application to and receipt of written approval from the Secretary. If the annual internal audit of such a credit union is conducted by a public accountant registered by the Department of Financial and Professional Regulation and the annual internal audit is done in conjunction with the credit union's annual external audit, the requirements of subsection (1) of this Section shall be deemed met.~~

(C) The external independent audit report or agreed upon procedures report shall be completed and a copy thereof delivered to the Secretary no later than 120 days after the end of the calendar or fiscal year under audit or fiscal period for which the agreed upon procedures are performed. A credit union or group of credit unions may obtain an extension of the due date upon application to and receipt of written approval from the Secretary.

(D) If the credit union engages a certified public accountant licensed by the Department or certified public accounting firm licensed by the Department to perform an annual external independent audit of the credit union's financial statements pursuant to the standards in paragraph (A) of subsection (3) or an annual agreed upon procedures engagement pursuant to the standards in paragraph (B) of subsection (3),

1 then the annual internal audit requirements of subsection (1)
2 shall be deemed satisfied and met in all respects.

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

7 (A) the methodology used to determine the defined
8 period of time is formally documented in the credit union's
9 policies and procedures and is appropriate to the credit
10 union's size, business strategy, and loan portfolio
11 characteristics and the economic environment of the areas
12 and employers served by the credit union;

13 (B) supporting documentation is maintained for the
14 technique used to develop the credit union loss rates,
15 including the period of time used to accumulate historical
16 loss data and the factors considered in establishing the
17 time frames; and

18 (C) the external auditor conducting the credit union's
19 financial statement audit has analyzed the methodology
20 employed by the credit union and concludes that the
21 financial statements, including the allowance for loan
22 losses, are fairly stated in all material respects in
23 accordance with U.S. Generally Accepted Accounting
24 Principles, as promulgated by the Financial Accounting
25 Standards Board.

26 (5) A majority of the members of the supervisory committee

1 shall constitute a quorum.

2 (6) On an annual basis commencing January 1, 2015, the
3 members of the supervisory committee shall receive training
4 related to their statutory duties. Supervisory committee
5 members may receive the training through internal credit union
6 training, external training offered by the credit union's
7 retained auditors, trade associations, vendors, regulatory
8 agencies, or any other sources or on-the-job experience, or a
9 combination of those activities. The training may be received
10 through any medium, including, but not limited to, conferences,
11 workshops, audit closing meetings, seminars, teleconferences,
12 webinars, and other Internet-based delivery channels.

13 (Source: P.A. 97-133, eff. 1-1-12; 98-784, eff. 7-24-14.)

14 (205 ILCS 305/59) (from Ch. 17, par. 4460)

15 Sec. 59. Investment of funds.

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

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

24 (2) In obligations of any state of the United States,
25 the District of Columbia, the Commonwealth of Puerto Rico,

1 and the several territories organized by Congress, or any
2 political subdivision thereof; however, a credit union may
3 not invest more than 10% of its unimpaired capital and
4 surplus in the obligations of one issuer, exclusive of
5 general obligations of the issuer, and investments in
6 municipal securities must be limited to securities rated in
7 one of the 4 highest rating categories by a nationally
8 recognized statistical rating organization;

9 (3) In certificates of deposit or passbook type
10 accounts issued by a state or national bank, mutual savings
11 bank or savings and loan association; provided that such
12 institutions have their accounts insured by the Federal
13 Deposit Insurance Corporation or the Federal Savings and
14 Loan Insurance Corporation; but provided, further, that a
15 credit union's investment in an account in any one
16 institution may exceed the insured limit on accounts;

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

24 (5) In shares of a cooperative society organized under
25 the laws of this State or the laws of the United States in
26 the total amount not exceeding 10% of the unimpaired

1 capital and surplus of the credit union; provided that such
2 investment shall first be approved by the Department;

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

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

9 (8) In federal funds and bankers' acceptances;

10 (9) In shares or stocks of Credit Union Service
11 Organizations in the total amount not exceeding the greater
12 of 3% of the unimpaired capital and surplus of the credit
13 union or the amount authorized for federal credit unions;

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

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

22 (ii) the credit union has documented in its records
23 that a credit analysis of a particular investment and
24 the issuing entity was conducted by the credit union, a
25 third party on behalf of the credit union qualified by
26 education or experience to assess the risk

1 characteristics of corporate bonds, or a nationally
2 recognized statistical rating agency before purchasing
3 the investment and the analysis is updated at least
4 annually for as long as it holds the investment; ~~and~~

5 (11) To aid in the credit union's management of its
6 assets, liabilities, and liquidity in the purchase of an
7 investment interest in a pool of loans, in whole or in part
8 and without regard to the membership of the borrowers, from
9 other depository institutions and financial type
10 institutions, including mortgage banks, finance companies,
11 insurance companies, and other loan sellers, subject to
12 such safety and soundness standards, limitations, and
13 qualifications as the Department may establish by rule or
14 guidance from time to time;~~;~~

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

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

1 (b) As used in this Section:7

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

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

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

22 (Source: P.A. 100-361, eff. 8-25-17.)

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