



Rep. Jay Hoffman

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10200HB4462ham001

LRB102 22844 BMS 36534 a

1 AMENDMENT TO HOUSE BILL 4462

2 AMENDMENT NO. _____. Amend House Bill 4462 on page 1,
3 line 5, by deleting "29,"; and

4 on page 1, line 19, by replacing "Section" with "Section 15
5 or"; and

6 on page 2, line 1, after "union", by inserting "in accordance
7 with the terms of the credit union's written business plan
8 submitted to the Secretary under subsection (e)"; and

9 on page 3, by replacing lines 1 through 9 with the following:
10 "must submit the business plan to the Secretary. The Secretary
11 may, in his or her sole discretion, approve the business plan,
12 disapprove the business plan, or require the credit union to
13 modify the business plan to seek approval of the target market
14 as an occupational, community, or associational common bond or
15 common bonds, pursuant to 38 Ill. Adm. Code 190.10. The credit

1 union must be advised in writing of the findings of the
2 Secretary in support of the determination and the specific and
3 reasonable time period in which to file a modified plan. If the
4 Secretary approves the business plan the credit union shall be
5 required to add the target market to its field of
6 membership."; and

7 by deleting line 8 on page 11 through line 3 on page 13; and

8 on page 15, line 6, by replacing "or" with "~~or~~"; and

9 on page 15, line 8, after "subsection (3),", by inserting "; or
10 (iii) an external independent audit of the credit union's
11 financial statements in accordance with subsection (5)"; and

12 on page 17, line 4, after "Board", by inserting ", or the
13 regulatory basis of accounting identified in subsection (5)";
14 and

15 on page 17, line 15, after "losses", by inserting "and
16 complies with the Department's rule addressing loan loss
17 accounting procedures in 38 Ill. Adm. Code 190.70"; and

18 on page 28, by replacing lines 1 through 7 with the following:

19 "(15) (A) In shares, stocks, or member units of
20 financial technology companies in the total amount not

1 exceeding 10% of the net worth of the credit union, so long
2 as:

3 (i) the credit union is well capitalized as
4 defined under applicable supervisory capital
5 classification criteria at the time a specific
6 investment is made and at all times during the term of
7 the investment; and

8 (ii) the credit union and the financial technology
9 company are operated in a manner that demonstrates to
10 the public the separate corporate existence of the
11 credit union and financial technology company.

12 (B) Before investing in a financial technology
13 company, the credit union shall obtain a written legal
14 opinion as to whether the financial technology company is
15 established in a manner that will limit potential exposure
16 of the credit union to no more than the loss of funds
17 invested in the financial technology company and the legal
18 opinion shall:

19 (i) address factors that have led courts to
20 "pierce the corporate veil", such as inadequate
21 capitalization, lack of separate corporate identity,
22 common boards of directors and employees, control of
23 one entity over another, and lack of separate books
24 and records; and

25 (ii) be provided by independent legal counsel of
26 the credit union.

1 (C) Before investing in the financial technology
2 company, the credit union shall enter into a written
3 investment agreement with the financial technology company
4 and the agreement shall contain the following clauses:

5 (i) the financial technology company will: (I)
6 provide the Department with access to the books and
7 records of the financial technology company relating
8 to the investment made by the credit union, with the
9 costs of examining those records borne by the credit
10 union in accordance with the per diem rate established
11 by the Department by rule; (II) follow generally
12 accepted accounting principles; and (III) provide the
13 credit union with its financial statements on at least
14 a quarterly basis and certified public accountant
15 audited financial statements on an annual basis; and

16 (ii) the financial technology company and credit
17 union agree to terminate their contractual
18 relationship: (I) upon 90 days' written notice to the
19 parties by the Secretary that the safety and soundness
20 of the credit union is threatened pursuant to the
21 Department's cease and desist and suspension authority
22 in Sections 8 and 61; and (II) immediately upon the
23 parties' receipt of written notice from the Secretary
24 when the Secretary reasonably concludes, based upon
25 specific facts set forth in the notice to the parties,
26 that the credit union will suffer immediate,

1 substantial, and irreparable injury or loss if it
2 remains a party to the investment agreement.

3 (D) The termination of the investment agreement
4 between the financial technology company and credit union
5 shall in no way operate to relieve the financial
6 technology company from repaying the investment or other
7 obligation due and owing the credit union at the time of
8 termination.

9 (E) Any financial technology company in which a credit
10 union invests pursuant to this paragraph (15) that
11 directly or indirectly originates, purchases, facilitates,
12 brokers, or services loans to consumers in Illinois shall
13 not charge an interest rate that exceeds the applicable
14 maximum rate established by the Board of the National
15 Credit Union Administration from time to time for payday
16 alternative loans pursuant to 12 CFR 701.21(c) (7)."; and

17 on page 30, immediately below line 2, by inserting the
18 following:

19 "Section 99. Effective date. This Act takes effect upon
20 becoming law, except that Section 16.5 of the Illinois Credit
21 Union Act takes effect January 1, 2023."