

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 8, 9, 20 and 59 as follows:

6 (205 ILCS 305/8) (from Ch. 17, par. 4409)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (iii) Credit unions with assets of at least
 24 \$50 million and less than \$100 million \$5,000

25 (iv) Credit unions with assets of at least
 26 \$100 million and less than \$500 million .. \$10,000

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

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

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

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

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

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

1 date of cancellation of the charter of such credit unions.

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

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

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

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

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

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

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

1 provided financial services to a cannabis-related
2 legitimate business;

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

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

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

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

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

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

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

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

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

7 (205 ILCS 305/9) (from Ch. 17, par. 4410)

8 Sec. 9. Reports and examinations.

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

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

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

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

1 (3.5) Pursuant to Section 8, the Secretary shall adopt
2 rules that ensure consistency and due process in the
3 examination process. The Secretary may also establish
4 guidelines that (i) define the scope of the examination
5 process and (ii) clarify examination items to be resolved. The
6 rules, formal guidance, interpretive letters, or opinions
7 furnished to credit unions by the Secretary may be relied upon
8 by the credit unions.

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

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

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

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

10 (205 ILCS 305/20) (from Ch. 17, par. 4421)

11 Sec. 20. Election or appointment of officials.

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

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

7 (1.5) Except as provided in subsection (1.10), in all
8 elections for directors, every member has the right to vote,
9 in person, by proxy, or by secure electronic record if
10 approved by the board of directors, the number of shares owned
11 by him, or in the case of a member other than a natural person,
12 the member's one vote, for as many persons as there are
13 directors to be elected, or to cumulate such shares, and give
14 one candidate as many votes as the number of directors
15 multiplied by the number of his shares equals, or to
16 distribute them on the same principle among as many candidates
17 as he may desire and the directors shall not be elected in any
18 other manner. Shares held in a joint account owned by more than
19 one member may be voted by any one of the members, however, the
20 number of cumulative votes cast may not exceed a total equal to
21 the number of shares multiplied by the number of directors to
22 be elected. A majority of the shares entitled to vote shall be
23 represented either in person or by proxy for the election of
24 directors. Each director shall wholly take and subscribe to an
25 oath that he will diligently and honestly perform his duties
26 in administering the affairs of the credit union, that while

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

7 (1.10) Upon amendment of a credit union's bylaws ~~approved~~
8 ~~by the members~~, in all elections for directors, every member
9 who is a natural person shall have the right to cast one vote,
10 regardless of the number of his or her shares, in person, by
11 proxy, or by secure electronic record if approved by the board
12 of directors, for as many persons as there are directors to be
13 elected.

14 (1.15) If the board of directors has adopted a policy
15 addressing age eligibility standards on voting, holding
16 office, or petitioning the board, then a credit union may
17 require (i) that members be at least 18 years of age by the
18 date of the meeting in order to vote at meetings of the
19 members, sign nominating petitions, or sign petitions
20 requesting special meetings, and (ii) that members be at least
21 18 years of age by the date of election or appointment in order
22 to hold elective or appointive office.

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

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

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

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

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

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

2 (205 ILCS 305/59) (from Ch. 17, par. 4460)

3 Sec. 59. Investment of funds.

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

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

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

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

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

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

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

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

22 (7) In shares, stocks or obligations of other
23 financial institutions in the total amount not exceeding
24 5% of the unimpaired capital and surplus of the credit
25 union;

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

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

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

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

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

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

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

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

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

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

1 (b) As used in this Section:

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

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

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

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

1 with those loans.

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

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