



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5372

Introduced 2/9/2024, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

| | |
|------------------------|------------------------|
| 30 ILCS 105/5.1015 new | |
| 205 ILCS 305/2 | from Ch. 17, par. 4403 |
| 205 ILCS 305/8 | from Ch. 17, par. 4409 |
| 205 ILCS 305/9 | from Ch. 17, par. 4410 |
| 205 ILCS 305/12.5 new | |
| 205 ILCS 305/13 | from Ch. 17, par. 4414 |
| 205 ILCS 305/39 | from Ch. 17, par. 4440 |
| 205 ILCS 305/59 | from Ch. 17, par. 4460 |

Amends the Illinois Credit Union Act. Provides that a credit union regulated by the Department of Financial and Professional Regulation that is a covered financial institution under the Illinois Community Reinvestment Act shall pay an examination fee to the Department subject to the adopted by the Department. Provides that the aggregate of all credit union examination fees collected by the Department under the Illinois Community Reinvestment Act shall be paid and transferred promptly, accompanied by a detailed statement, into the State Treasury and shall be set apart in the Credit Union Community Reinvestment Act Fund. Provides the limits to the amounts of funds that a credit union may invest in the purchase of an investment interest in a pool of loans when the investment is greater than the net worth of the credit union. Provides that credit unions may invest funds in derivatives transactions to aid in the credit union's management of interest rate risk if certain specified conditions are satisfied. Makes changes to provisions concerning conflicts between bylaws adopted by the subscribers of a credit union and the Act. Makes changes to provisions concerning rules adopted by the Secretary of Financial and Professional Regulation and the Act. Makes other changes. Amends the State Finance Act. Creates the Credit Union Community Reinvestment Act Fund. Effective immediately.

LRB103 39216 RTM 69366 b

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 State Finance Act is amended by adding
5 Section 5.1015 as follows:

6 (30 ILCS 105/5.1015 new)

7 Sec. 5.1015. The Credit Union Community Reinvestment Act
8 Fund.

9 Section 10. The Illinois Credit Union Act is amended by
10 changing Sections 2, 8, 9, 13, 39, and 59 and by adding Section
11 12.5 as follows:

12 (205 ILCS 305/2) (from Ch. 17, par. 4403)

13 Sec. 2. Organization procedure.

14 (1) Any 9 or more persons of legal age, the majority of
15 whom shall be residents of the State of Illinois, who have a
16 common bond referred to in Section 1.1 may organize a credit
17 union or a central credit union by complying with this
18 Section.

19 (2) The subscribers shall execute in duplicate Articles of
20 Incorporation and agree to the terms thereof, which Articles
21 shall state:

1 (a) The name, which shall include the words "credit
2 union" and which shall not be the same as that of any other
3 existing credit union in this state, and the location
4 where the proposed credit union is to have its principal
5 place of business;

6 (b) The common bond of the members of the credit
7 union;

8 (c) The par value of the shares of the credit union,
9 which must be at least \$1;

10 (d) The names, addresses and Social Security numbers
11 of the subscribers to the Articles of Incorporation, and
12 the number and the value of shares subscribed to by each;

13 (e) That the credit union may exercise such incidental
14 powers as are necessary or requisite to enable it to carry
15 on effectively the purposes for which it is incorporated,
16 and those powers which are inherent in the credit union as
17 a legal entity;

18 (f) That the existence of the credit union shall be
19 perpetual.

20 (3) The subscribers shall prepare and adopt bylaws for the
21 general governance ~~government~~ of the credit union, consistent
22 with this Act, and execute same in duplicate. If there is a
23 conflict, inconsistency, or variation between the terms of
24 this Act and the provisions in the bylaws adopted by the credit
25 union, the terms of this Act shall control. A conflict,
26 inconsistency, or variation may not be deemed to exist if the

1 Act specifically requires that a particular matter shall be
2 adopted in the bylaws.

3 (4) The subscribers shall forward the articles of
4 incorporation and the bylaws to the Secretary in duplicate,
5 along with the required charter fee. If they conform to the
6 law, and such rules and regulations as the Secretary and the
7 Director may prescribe, if the Secretary determines that a
8 common bond exists, and that it is economically advisable to
9 organize the credit union, he or she shall within 60 days issue
10 a certificate of approval attached to the articles of
11 incorporation and return a copy of the bylaws and the articles
12 of incorporation to the applicants or their representative,
13 which shall be preserved in the permanent files of the credit
14 union. The subscribers shall file the certificate of approval,
15 with the articles of incorporation attached, in the office of
16 the recorder (or, if there is no recorder, in the office of the
17 county clerk) of the county in which the credit union is to
18 locate its principal place of business. The recorder or the
19 county clerk, as the case may be, shall accept and record the
20 documents if they are accompanied by the proper fee. When the
21 documents are so recorded, the credit union is incorporated
22 under this Act.

23 (5) The subscribers for a credit union charter shall not
24 transact any business until the certificate of approval has
25 been received.

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

1 (205 ILCS 305/8) (from Ch. 17, par. 4409)

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

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

17 (2) To adopt ~~prescribe~~ rules ~~and regulations~~ for the
18 administration of this Act. The provisions of the Illinois
19 Administrative Procedure Act are hereby expressly adopted
20 and incorporated herein as though a part of this Act, and
21 shall apply to all administrative rules and procedures of
22 the Department under this Act. Rules adopted by the
23 Secretary shall be within the statutory authority upon
24 which they are based. If there is a conflict,
25 inconsistency, or variation between the terms of this Act

1 and the provisions in a rule adopted by the Secretary, the
2 terms of this Act shall control. A conflict,
3 inconsistency, or variation may not be deemed to exist if
4 the Act specifically delegates authority to the Secretary
5 to adopt by rule standards or limitations on a particular
6 matter, provided the rule is within the statutory
7 authority upon which it is based.

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

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

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

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

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

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

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

26 (B) before a civil penalty is assessed under this

1 item (6), the Secretary must make the further
2 reasonable determination, based on objective facts and
3 an accurate assessment of applicable legal standards,
4 that the credit union's action constituting a
5 violation under subparagraph (i) of paragraph (A) of
6 this item (6) or an unsafe and unsound practice under
7 subparagraph (ii) of paragraph (A) of this item (6):

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

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

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

1 immediately preceding 12-month period, or 1% of the
 2 credit union's total gross income for the immediately
 3 preceding 12-month period, whichever is less;

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

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

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

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

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

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

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

26 (iii) Credit unions with assets of at least

1 \$50 million and less than \$100 million \$5,000

2 (iv) Credit unions with assets of at least

3 \$100 million and less than \$500 million .. \$10,000

4 (v) Credit unions with assets of at least \$500

5 million and less than \$1 billion \$25,000

6 (vi) Credit unions with assets of \$1 billion

7 and greater..... \$50,000; and

8 (F) an order assessing a civil penalty under this

9 item (6) shall take effect upon service of the order,

10 unless the credit union makes a written request for a

11 hearing under 38 Ill. Adm. Code 190.20 of the

12 Department's rules for credit unions within 90 days

13 after issuance of the order; in that event, the order

14 shall be stayed until a final administrative order is

15 entered.

16 This item (6) shall not apply to violations separately

17 addressed in rules as authorized under item (7) of this

18 Section.

19 (7) Except for the fees established in this Act, to

20 prescribe, by rule and regulation, fees and penalties for

21 preparing, approving, and filing reports and other

22 documents; furnishing transcripts; holding hearings;

23 investigating applications for permission to organize,

24 merge, or convert; failure to maintain accurate books and

25 records to enable the Department to conduct an

26 examination; and taking supervisory actions.

1 (8) To destroy, in his discretion, any or all books
2 and records of any credit union in his possession or under
3 his control after the expiration of three years from the
4 date of cancellation of the charter of such credit unions.

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

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

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

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

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

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

1 (1) issue an order against a credit union
2 organized under this Act for unsafe or unsound banking
3 practices solely because the entity provides or has
4 provided financial services to a cannabis-related
5 legitimate business;

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

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

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

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

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

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

26 (A) a cannabis-related legitimate business

1 solely because the owner or operator owns or
2 operates a cannabis-related legitimate business;
3 or

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

9 (Source: P.A. 102-858, eff. 5-13-22; 103-154, eff. 6-30-23.)

10 (205 ILCS 305/9) (from Ch. 17, par. 4410)

11 Sec. 9. Reports and examinations.

12 (1) Credit unions shall report to the Department on forms
13 supplied by the Department, in accordance with a schedule
14 published by the Department. A recapitulation of the annual
15 reports shall be compiled and published annually by the
16 Department, for the use of the General Assembly, credit
17 unions, various educational institutions and other interested
18 parties. A credit union which fails to file any report when due
19 shall pay to the Department a late filing fee for each day the
20 report is overdue as prescribed by rule. The Secretary may
21 extend the time for filing a report. Invoices for a 5300 Call
22 Report and other reports and documents shall be paid by a
23 credit union no later than 20 days after the credit union
24 receives an invoice from the Department. If an invoice is not
25 paid in a timely manner, the Department shall continue to

1 issue invoices to the credit union on a monthly basis
2 reflecting applicable late filing fees until the invoice is
3 paid.

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

14 (3) All credit unions incorporated under this Act shall be
15 examined at least biennially by the Department or, at the
16 discretion of the Secretary, by a public accountant registered
17 by the Department of Financial and Professional Regulation.
18 The costs of an examination shall be paid by the credit union.
19 The scope of all examinations by a public accountant shall be
20 at least equal to the examinations made by the Department. The
21 examiners shall have full access to, and may compel the
22 production of, all the books, papers, securities and accounts
23 of any credit union. A special examination shall be made by the
24 Department or by a public accountant approved by the
25 Department upon written request of 5 or more members, who
26 guarantee the expense of the same. Any credit union refusing

1 to submit to an examination when ordered by the Department
2 shall be reported to the Attorney General, who shall institute
3 proceedings to have its charter revoked. If the Secretary
4 determines that the examination of a credit union is to be
5 conducted by a public accountant registered by the Department
6 of Financial and Professional Regulation and the examination
7 is done in conjunction with the credit union's external
8 independent audit of financial statements, the requirements of
9 this Section and subsection (3) of Section 34 shall be deemed
10 met.

11 (3.5) Pursuant to Section 8, the Secretary shall adopt
12 rules that ensure consistency and due process in the
13 examination process. The Secretary may also establish
14 guidelines that (i) define the scope of the examination
15 process and (ii) clarify examination items to be resolved. The
16 rules, formal guidance, interpretive letters, or opinions
17 furnished to credit unions by the Secretary may be relied upon
18 by the credit unions.

19 (4) A copy of the completed report of examination and a
20 review comment letter, if any, citing exceptions revealed
21 during the examination, shall be submitted to the credit union
22 by the Department. A detailed report stating the corrective
23 actions taken by the board of directors on each exception set
24 forth in the review comment letter shall be filed with the
25 Department within 40 days after the date of the review comment
26 letter, or as otherwise directed by the Department. Any credit

1 union through its officers, directors, committee members or
2 employees, which willfully provides fraudulent or misleading
3 information regarding the corrective actions taken on
4 exceptions appearing in a review comment letter may have its
5 operations restricted to the collection of principal and
6 interest on loans outstanding and the payment of normal
7 expenses and salaries until all exceptions are corrected and
8 accepted by the Department.

9 (5) The Secretary may accept an examination from the
10 National Credit Union Administration or a private insurer of
11 share deposits approved by the Secretary instead of an
12 examination conducted by the Department or by a public
13 accountant registered by the Department pursuant to subsection
14 (3). Acceptance of an examination from the National Credit
15 Union Administration or an approved private insurer of share
16 deposits shall only be permitted on an alternating basis with
17 examinations that the Department or a registered public
18 accountant conducts.

19 (Source: P.A. 102-558, eff. 8-20-21; 102-858, eff. 5-13-22.)

20 (205 ILCS 305/12.5 new)

21 Sec. 12.5. Community Reinvestment Act examination fees.

22 (a) As used in this Section:

23 "Fiscal year" means a period beginning on July 1 of any
24 calendar year and ending on June 30 of the next calendar year.

25 "Examination fee" means the examination fee described in

1 Section 35-15 of the Illinois Community Reinvestment Act.

2 (b) For the fiscal year beginning July 1, 2025, a credit
3 union regulated by the Department that is a covered financial
4 institution under the Illinois Community Reinvestment Act
5 shall pay an examination fee to the Department at the
6 frequency and rate set forth in rules adopted by the
7 Department implementing the Illinois Community Reinvestment
8 Act, unless exempted from the payment of the examination fee
9 by those rules. The examination fee shall be separate from and
10 in addition to the regulatory fees paid by credit unions
11 regulated by the Department as prescribed in Section 12 and
12 shall be exclusively used to defray the administrative and
13 operational expenses of the Credit Union Section of the
14 Department incidental to conducting the examinations required
15 by the Illinois Community Reinvestment Act and implementing
16 rules of the Department.

17 (c) The aggregate of all credit union examination fees
18 collected by the Department under the Illinois Community
19 Reinvestment Act shall be paid and transferred promptly,
20 accompanied by a detailed statement, into the State Treasury
21 and shall be set apart in the Credit Union Community
22 Reinvestment Act Fund. All earnings received from investment
23 of the funds in the Credit Union Community Reinvestment Act
24 Fund shall be deposited in the Fund and shall be used for the
25 same purposes as examination fees deposited into the Fund.
26 Moneys deposited into the Credit Union Community Reinvestment

1 Act Fund may be transferred to the Professions Indirect Cost
2 Fund, as authorized under Section 2105-300 of the Department
3 of Professional Regulation Law of the Civil Administrative
4 Code of Illinois.

5 (d) The administrative and operational expenses of the
6 Credit Union Section of the Department in conducting
7 examinations shall have the same meaning and scope as the
8 administrative and operational expenses of the Credit Union
9 Section of the Department in conducting regulatory
10 examinations, as defined in subsection (5) of Section 12.

11 (e) When the balance in the Credit Union Community
12 Reinvestment Act Fund at the end of a fiscal year exceeds 25%
13 of the total administrative and operational expenses incurred
14 by the Department in administering and enforcing the Illinois
15 Community Reinvestment Act and rules of the Department in the
16 administration and enforcement of the Illinois Community
17 Reinvestment Act by conducting examinations of credit unions,
18 such excess shall be credited to credit unions and applied
19 against the credit unions' examination fees for the subsequent
20 fiscal year. The amount credited to each credit union shall be
21 in the same proportion as the examination fee paid by such
22 credit union for the fiscal year in which the excess is
23 produced bears to the aggregate amount of all examination fees
24 collected by the Department from credit unions under the
25 Illinois Community Reinvestment Act for the same fiscal year.

1 (205 ILCS 305/13) (from Ch. 17, par. 4414)

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

3 (1) Make contracts; sue and be sued; and adopt and use
4 a common seal and alter the same;

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

16 (3) At the discretion of the board of directors,
17 require the payment of an entrance fee or annual
18 membership fee, or both, of any person admitted to
19 membership;

20 (4) Receive savings from its members in the form of
21 shares of various classes, or special purpose share
22 accounts; act as custodian of its members' accounts; issue
23 shares in trust as provided in this Act;

24 (5) Lend its funds to its members and otherwise as
25 hereinafter provided;

26 (6) Borrow from any source in accordance with policy

1 established by the board of directors to a maximum of 50%
2 of capital, surplus and reserves;

3 (7) Discount and sell any obligations owed to the
4 credit union;

5 (8) Honor requests for withdrawals or transfers of all
6 or any part of member share accounts, and any classes
7 thereof, in any manner approved by the credit union board
8 of directors;

9 (9) Sell all or a part of its assets or purchase all or
10 a part of the assets of another credit union and assume the
11 liabilities of the selling credit union, subject to the
12 prior approval of the Director, which approval shall not
13 be required in the case of loan transactions otherwise
14 authorized under applicable law;

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

16 (11) Make deposits in banks, savings banks, savings
17 and loan associations, trust companies; and invest in
18 shares, classes of shares or share certificates of other
19 credit unions;

20 (12) Assess charges and fees to members in accordance
21 with board resolution;

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

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

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

6 (16) Act as fiscal agent for and receive deposits from
7 the federal government, this State, or any other state,
8 ~~state~~ or any agency or political subdivision thereof,
9 including, but not limited to, political subdivisions as
10 defined in subsection (b) of Section 59;

11 (17) Receive savings from nonmembers in the form of
12 shares or share accounts in the case of credit unions
13 serving predominantly low-income members. The term "low
14 income members" shall mean those members who make less
15 than 80% of the average for all wage earners as
16 established by the Bureau of Labor Statistics or those
17 members whose annual household income falls at or below
18 80% of the median household income for the nation as
19 established by the Census Bureau. The term "predominantly"
20 is defined as a simple majority;

21 (18) Establish, maintain, and operate terminals as
22 authorized by the Electronic Fund Transfer Act;

23 (19) Subject to Article XLIV of the Illinois Insurance
24 Code, act as the agent for any fire, life, or other
25 insurance company authorized by the State of Illinois, by
26 soliciting and selling insurance and collecting premiums

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

11 (20) Make reasonable contributions to civic,
12 charitable, or service organizations not organized for
13 profit; religious corporations; and fundraisers benefiting
14 persons in the credit union's service area.

15 (Source: P.A. 97-133, eff. 1-1-12.)

16 (205 ILCS 305/39) (from Ch. 17, par. 4440)

17 Sec. 39. Special purpose share accounts; charitable
18 donation accounts.

19 (1) If provided for in and consistent with the bylaws,
20 Christmas clubs, vacation clubs and other special purpose
21 share accounts may be established and offered under conditions
22 and restrictions established by the board of directors.

23 (2) Pursuant to a policy adopted by the board of
24 directors, which may be amended from time to time, a credit
25 union may establish one or more charitable donation accounts.

1 The investments and purchases to fund a charitable donation
2 account are not subject to the investment limitations of this
3 Act, provided the charitable donation account is structured in
4 accordance with this Act. At their time of purchase, the book
5 value of the investments in all charitable donation accounts,
6 in the aggregate, shall not exceed 5% of the credit union's net
7 worth.

8 (a) If a credit union chooses to establish a
9 charitable donation account using a trust vehicle, the
10 trustee must be an entity regulated by the Office of the
11 Comptroller of the Currency, the U.S. Securities and
12 Exchange Commission, another federal regulatory agency, or
13 a State financial regulatory agency. A regulated trustee
14 or other person who is authorized to make investment
15 decisions for a charitable donation account, other than
16 the credit union itself, shall either be registered with
17 the U.S. Securities and Exchange Commission as an
18 investment advisor or regulated by the Office of the
19 Comptroller of the Currency.

20 (b) The parties to the charitable donation account
21 must document the terms and conditions controlling the
22 account in a written operating agreement, trust agreement,
23 or similar instrument. The terms of the agreement shall be
24 consistent with the requirements and conditions set forth
25 in this Section. The agreement, if applicable, and
26 policies must document the investment strategies of the

1 charitable donation account trustee or other manager in
2 administering the charitable donation account and provide
3 for the accounting of all aspects of the account,
4 including its distributions and liquidation, in accordance
5 with generally accepted accounting principles.

6 (c) A credit union's charitable donation account
7 agreement, if applicable, and policies shall provide that
8 the charitable organization or non-profit entity
9 recipients of any charitable donation account funds must
10 be identified in the policy and be exempt from taxation
11 under Section 501(c)(3) or Section 501(c)(19) of the
12 Internal Revenue Code.

13 (d) Upon termination of a charitable donation account,
14 the credit union may receive a distribution of the
15 remaining assets in cash, or a distribution in kind of the
16 remaining assets, but only if those assets are permissible
17 investments for credit unions pursuant to this Act.

18 (3) Pursuant to subsection (20) of Section 13 authorizing
19 a credit union to make reasonable contributions to civic,
20 charitable, service, or religious corporations and to avoid
21 the cost, administrative expenses, and reporting requirements
22 associated with establishing its own private foundation, a
23 credit union may establish one or more donor-advised fund
24 accounts. The credit union shall maintain the account on its
25 books and records under a name it selects, which may identify
26 the account as a charitable or grant fund or other name that

1 reflects the charitable nature of the account. The account
2 shall be subject to the terms and restrictions set forth in
3 this subsection.

4 (a) Transfers from a donor-advised fund account shall
5 be limited to foundations exempt from taxation under
6 Section 501(c)(3) of the Internal Revenue Code.

7 (b) Distributions by a foundation receiving
8 donor-advised funds from the credit union shall be:

9 (i) based upon specific grant recommendations of
10 the credit union; and

11 (ii) limited to public charities exempt from
12 taxation under Section 501(c)(3) of the Internal
13 Revenue Code.

14 (c) Transfers by a credit union from its donor-advised
15 fund account to a foundation irrevocably conveys all
16 right, title, and interest in the funds to the foundation,
17 subject only to the continuing right of the credit union
18 to designate the entity or entities that will receive the
19 grant funds. Grants may not be used to satisfy any
20 obligation of the credit union and no goods or services
21 may be received by the credit union from the recipient
22 organization in consideration of the grant.

23 (Source: P.A. 102-774, eff. 5-13-22.)

24 (205 ILCS 305/59) (from Ch. 17, par. 4460)

25 Sec. 59. Investment of funds.

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

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

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

19 (3) In certificates of deposit or passbook type
20 accounts issued by a state or national bank, mutual
21 savings bank or savings and loan association; provided
22 that such institutions have their accounts insured by the
23 Federal Deposit Insurance Corporation or the Federal
24 Savings and Loan Insurance Corporation; but provided,
25 further, that a credit union's investment in an account in
26 any one institution may exceed the insured limit on

1 accounts;

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

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

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

17 (7) In shares, stocks or obligations of other
18 financial institutions in the total amount not exceeding
19 5% of the unimpaired capital and surplus of the credit
20 union;

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

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

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

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

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

19 (11) To aid in the credit union's management of its
20 assets, liabilities, and liquidity in the purchase of an
21 investment interest in a pool of loans, in whole or in part
22 and without regard to the membership of the borrowers,
23 from other depository institutions and financial type
24 institutions, including mortgage banks, finance companies,
25 insurance companies, and other loan sellers in the total
26 amount not exceeding 150% of the net worth of the credit

1 union, so long as the credit union has received a
2 composite rating of 1 or 2 under the CAMELS supervisory
3 rating system at the time of the purchase of the
4 investment interest. The limit is increased to 175% of the
5 net worth of the credit union if it has received a
6 management rating of 1 under the CAMELS supervisory rating
7 system at the time of the purchase of the investment
8 interest. A credit union that satisfies the criteria for
9 the 175% limit may request approval from the Secretary for
10 an exception to the 175% limit up to a limit of 200% of the
11 net worth of the credit union, subject to such safety and
12 soundness standards, limitations, and qualifications as
13 the Department may establish by rule or guidance from time
14 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 (13) In the purchase and assumption of assets held by
21 other financial institutions, with approval of the
22 Secretary and subject to any safety and soundness
23 standards, limitations, and qualifications as the
24 Department may establish by rule or guidance from time to
25 time;

26 (14) In the shares, stocks, or obligations of

1 community development financial institutions as defined in
2 regulations issued by the U.S. Department of the Treasury
3 and minority depository institutions as defined by the
4 National Credit Union Administration; however the
5 aggregate amount of all such investments shall not at any
6 time exceed 5% of the paid-in and unimpaired capital and
7 surplus of the credit union; ~~and~~

8 (15) (A) In shares, stocks, or member units of
9 financial technology companies in the total amount not
10 exceeding 2.5% of the net worth of the credit union, so
11 long as:

12 (i) the credit union would remain well capitalized
13 as defined by 12 CFR 702.102 if the credit union
14 reduced its net worth by the full investment amount at
15 the time the investment is made or at any point during
16 the time the investment is held by the credit union;

17 (ii) the credit union and the financial technology
18 company are operated in a manner that demonstrates to
19 the public the separate corporate existence of the
20 credit union and financial technology company; and

21 (iii) the credit union has received a composite
22 rating of 1 or 2 under the CAMELS supervisory rating
23 system.

24 (B) The investment limit in subparagraph (A) of this
25 paragraph (15) is increased to 5% of the net worth of the
26 credit union if it has received a management rating of 1

1 under the CAMELS supervisory rating system at the time a
2 specific investment is made and at all times during the
3 term of the investment. A credit union that satisfies the
4 criteria in subparagraph (A) of this paragraph (15) and
5 this subparagraph may request approval from the Secretary
6 for an exception to the 5% limit up to a limit of 10% of
7 the net worth of the credit union, subject to such safety
8 and soundness standards, limitations, and qualifications
9 as the Department may establish by rule or guidance from
10 time to time. The request shall be in writing and
11 substantiate the need for the higher limit, describe the
12 credit union's record of investment activity, and include
13 financial statements reflecting a sound fiscal history.

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

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

1 (ii) be provided by independent legal counsel of
2 the credit union.

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

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

18 (ii) the financial technology company and credit
19 union agree to terminate their contractual
20 relationship: (I) upon 90 days' written notice to the
21 parties by the Secretary that the safety and soundness
22 of the credit union is threatened pursuant to the
23 Department's cease and desist and suspension authority
24 in Sections 8 and 61; (II) upon 30 days' written notice
25 to the parties if the credit union's net worth ratio
26 falls below the level that classifies it as well

1 capitalized as defined by 12 CFR 702.102; and (III)
2 immediately upon the parties' receipt of written
3 notice from the Secretary when the Secretary
4 reasonably concludes, based upon specific facts set
5 forth in the notice to the parties, that the credit
6 union will suffer immediate, substantial, and
7 irreparable injury or loss if it remains a party to the
8 investment agreement.

9 (E) The termination of the investment agreement
10 between the financial technology company and credit union
11 shall in no way operate to relieve the financial
12 technology company from repaying the investment or other
13 obligation due and owing the credit union at the time of
14 termination.

15 (F) Any financial technology company in which a credit
16 union invests pursuant to this paragraph (15) that
17 directly or indirectly originates, purchases, facilitates,
18 brokers, or services loans to consumers in Illinois shall
19 not charge an interest rate that exceeds the applicable
20 maximum rate established by the Board of the National
21 Credit Union Administration pursuant to 12 CFR
22 701.21(c)(7)(iii)-(iv). The maximum interest rate
23 described in this subparagraph that may be charged by a
24 financial technology company applies to all consumer loans
25 and consumer credit products; and -

26 (16) In derivatives transactions, to aid in the credit

1 union's management of interest rate risk. Before entering
2 into a derivatives transaction, and at all times during
3 its management of a derivatives transactions program, a
4 credit union shall satisfy and comply with all the
5 requirements set forth in 12 CFR 703.101 et seq. All
6 definitional terms and operational standards shall have
7 the meanings given to them in 12 CFR 703.101 et seq.,
8 except references to federal credit unions shall be
9 construed to mean Illinois-chartered credit unions, and
10 references to the National Credit Union Administration and
11 Regional Director shall be respectfully construed to mean
12 the Department and the Secretary. A credit union with
13 assets of at least \$500 million and a CAMELS management
14 component rating of 1 or 2 need not obtain prior approval
15 from the Department before engaging in derivative
16 transactions but shall notify the Secretary in writing or
17 by electronic mail within 5 business days after entering
18 into its first derivatives transaction.

19 (b) As used in this Section:

20 "Political subdivision" includes, but is not limited to,
21 counties, townships, cities, villages, incorporated towns,
22 school districts, educational service regions, special road
23 districts, public water supply districts, fire protection
24 districts, drainage districts, levee districts, sewer
25 districts, housing authorities, park districts, and any
26 agency, corporation, or instrumentality of a state or its

1 political subdivisions, whether now or hereafter created and
2 whether herein specifically mentioned or not.

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

7 "Financial technology company" includes any corporation,
8 partnership, limited liability company, or other entity
9 organized under the laws of Illinois, another state, or the
10 United States of America:

11 (1) that the principal business of which is the
12 provision of financial products or financial services, or
13 both, that:

14 (i) currently relate or may prospectively relate
15 to the daily operations of credit unions;

16 (ii) are of current or prospective benefit to the
17 members of credit unions; or

18 (iii) are of current or prospective benefit to
19 consumers eligible for membership in credit unions;
20 and

21 (2) that applies technological interventions,
22 including, without limitation, specialized software or
23 algorithm processes, products, or solutions, to improve
24 and automate the delivery and use of those financial
25 products or financial services.

26 (c) A credit union investing to fund an employee benefit

1 plan obligation is not subject to the investment limitations
2 of this Act and this Section and may purchase an investment
3 that would otherwise be impermissible if the investment is
4 directly related to the credit union's obligation under the
5 employee benefit plan and the credit union holds the
6 investment only for so long as it has an actual or potential
7 obligation under the employee benefit plan.

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

13 (Source: P.A. 102-496, eff. 8-20-21; 102-774, eff. 5-13-22;
14 102-858, eff. 5-13-22; 103-154, eff. 6-30-23.)

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