

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 34 and 46 and adding Section 42.1 as follows:

6 (205 ILCS 305/34) (from Ch. 17, par. 4435)

7 Sec. 34. Duties of Supervisory Committee.

8 (1) The Supervisory Committee shall make or cause to be
9 made an annual internal audit of the books and affairs of the
10 credit union to determine that the credit union's accounting
11 records and reports are prepared promptly and accurately
12 reflect operations and results, that internal controls are
13 established and effectively maintained to safeguard the assets
14 of the credit union, and that the policies, procedures and
15 practices established by the Board of Directors and management
16 of the credit union are being properly administered. The
17 Supervisory Committee shall submit a report of that audit to
18 the Board of Directors and a summary of that report to the
19 members at the next annual meeting of the credit union. It
20 shall make or cause to be made such supplementary audits as it
21 deems necessary or as are required by the Director or by the
22 Board of Directors, and submit reports of these supplementary
23 audits to the Director or Board of Directors as applicable. If

1 the Supervisory Committee has not engaged a public accountant
2 registered by the Department of Professional Regulation to make
3 the internal audit, the Supervisory Committee or other
4 officials of the credit union shall not indicate or in any
5 manner imply that such audit has been performed by a public
6 accountant or that the audit represents the independent opinion
7 of a public accountant. The Committee must retain its tapes and
8 working papers of each internal audit for inspection by the
9 Department. The report of this audit must be made on a form
10 approved by the Director. A copy of the report must be promptly
11 mailed to the Director.

12 (2) The Supervisory Committee shall make or cause to be
13 made at least once each year a reasonable percentage
14 verification of members' share and loan accounts, consistent
15 with rules promulgated by the Director.

16 (3) The Supervisory Committee of a credit union with assets
17 of \$5,000,000 or more shall engage a public accountant
18 registered by the Department of Professional Regulation to
19 perform an annual external independent audit of the credit
20 union's financial statements in accordance with generally
21 accepted auditing standards. The Supervisory Committee of a
22 credit union with assets of \$3,000,000 or more, but less than
23 \$5,000,000, shall engage a public accountant registered by the
24 Department of Professional Regulation to perform an external
25 independent audit of the credit union's financial statements in
26 accordance with generally accepted auditing standards at least

1 once every 3 years. A copy of an external independent audit
2 shall be mailed to the Director upon completion. If the annual
3 internal audit of such a credit union is conducted by a public
4 accountant registered by the Department of Professional
5 Regulation and the annual internal audit is done in conjunction
6 with the credit union's annual external audit, the requirements
7 of subsection (1) of this Section shall be deemed met.

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

12 (A) the methodology used to determine the defined
13 period of time is formally documented in the credit union's
14 policies and procedures and is appropriate to the credit
15 union's size, business strategy, and loan portfolio
16 characteristics and the economic environment of the areas
17 and employers served by the credit union;

18 (B) supporting documentation is maintained for the
19 technique used to develop the credit union loss rates,
20 including the period of time used to accumulate historical
21 loss data and the factors considered in establishing the
22 time frames; and

23 (C) the external auditor conducting the credit union's
24 financial statement audit has analyzed the methodology
25 employed by the credit union and concludes that the
26 financial statements, including the allowance for loan

1 losses, are fairly stated in all material respects in
2 accordance with U.S. Generally Accepted Accounting
3 Principles, as promulgated by the Financial Accounting
4 Standards Board.

5 Notwithstanding any other rulemaking authority that may
6 exist, neither the Governor nor any agency or agency head under
7 the jurisdiction of the Governor has any authority to make or
8 promulgate rules to implement or enforce the provisions of this
9 amendatory Act of the 95th General Assembly. If, however, the
10 Governor believes that rules are necessary to implement or
11 enforce the provisions of this amendatory Act of the 95th
12 General Assembly, the Governor may suggest rules to the General
13 Assembly by filing them with the Clerk of the House and the
14 Secretary of the Senate and by requesting that the General
15 Assembly authorize such rulemaking by law, enact those
16 suggested rules into law, or take any other appropriate action
17 in the General Assembly's discretion. Nothing contained in this
18 amendatory Act of the 95th General Assembly shall be
19 interpreted to grant rulemaking authority under any other
20 Illinois statute where such authority is not otherwise
21 explicitly given. For the purposes of this amendatory Act of
22 the 95th General Assembly, "rules" is given the meaning
23 contained in Section 1-70 of the Illinois Administrative
24 Procedure Act, and "agency" and "agency head" are given the
25 meanings contained in Sections 1-20 and 1-25 of the Illinois
26 Administrative Procedure Act to the extent that such

1 definitions apply to agencies or agency heads under the
2 jurisdiction of the Governor.

3 (5) A majority of the members of the Supervisory Committee
4 shall constitute a quorum.

5 (Source: P.A. 86-238.)

6 (205 ILCS 305/42.1 new)

7 Sec. 42.1. Marketing of services. For purposes of
8 promoting its services to persons eligible for membership, a
9 credit union may sell to persons within its field of membership
10 negotiable checks, including travelers checks, money orders,
11 and similar money transfer instruments (including
12 international and domestic electronic fund transfers) and may
13 cash checks and money orders, and may receive international and
14 domestic electronic fund transfers for such persons for a fee.

15 (205 ILCS 305/46) (from Ch. 17, par. 4447)

16 Sec. 46. Loans and interest rate.

17 (1) A credit union may make loans to its members for such
18 purpose and upon such security and terms, including rates of
19 interest, as the Credit Committee, credit manager, or loan
20 officer approves. Notwithstanding the provisions of any other
21 law in connection with extensions of credit, a credit union may
22 elect to contract for and receive interest and fees and other
23 charges for extensions of credit subject only to the provisions
24 of this Act and rules promulgated under this Act, except that

1 extensions of credit secured by residential real estate shall
2 be subject to the laws applicable thereto. The rates of
3 interest to be charged on loans to members shall be set by the
4 Board of Directors of each individual credit union in
5 accordance with Section 30 of this Act and such rates may be
6 less than, but may not exceed, the maximum rate set forth in
7 this Section. A borrower may repay his loan prior to maturity,
8 in whole or in part, without penalty. The credit contract may
9 provide for the payment by the member and receipt by the credit
10 union of all costs and disbursements, including reasonable
11 attorney's fees and collection agency charges, incurred by the
12 credit union to collect or enforce the debt in the event of a
13 delinquency by the member, or in the event of a breach of any
14 obligation of the member under the credit contract. A
15 contingency or hourly arrangement established under an
16 agreement entered into by a credit union with an attorney or
17 collection agency to collect a loan of a member in default
18 shall be presumed prima facie reasonable.

19 (2) Credit unions may make loans based upon the security of
20 any interest or equity in real estate, subject to rules and
21 regulations promulgated by the Director. In any contract or
22 loan which is secured by a mortgage, deed of trust, or
23 conveyance in the nature of a mortgage, on residential real
24 estate, the interest which is computed, calculated, charged, or
25 collected pursuant to such contract or loan, or pursuant to any
26 regulation or rule promulgated pursuant to this Act, may not be

1 computed, calculated, charged or collected for any period of
2 time occurring after the date on which the total indebtedness,
3 with the exception of late payment penalties, is paid in full.

4 For purposes of this subsection (2) of this Section 46, a
5 prepayment shall mean the payment of the total indebtedness,
6 with the exception of late payment penalties if incurred or
7 charged, on any date before the date specified in the contract
8 or loan agreement on which the total indebtedness shall be paid
9 in full, or before the date on which all payments, if timely
10 made, shall have been made. In the event of a prepayment of the
11 indebtedness which is made on a date after the date on which
12 interest on the indebtedness was last computed, calculated,
13 charged, or collected but before the next date on which
14 interest on the indebtedness was to be calculated, computed,
15 charged, or collected, the lender may calculate, charge and
16 collect interest on the indebtedness for the period which
17 elapsed between the date on which the prepayment is made and
18 the date on which interest on the indebtedness was last
19 computed, calculated, charged or collected at a rate equal to
20 $1/360$ of the annual rate for each day which so elapsed, which
21 rate shall be applied to the indebtedness outstanding as of the
22 date of prepayment. The lender shall refund to the borrower any
23 interest charged or collected which exceeds that which the
24 lender may charge or collect pursuant to the preceding
25 sentence. The provisions of this amendatory Act of 1985 shall
26 apply only to contracts or loans entered into on or after the

1 effective date of this amendatory Act.

2 (3) Notwithstanding any other provision of this Act, a
3 credit union authorized under this Act to make loans secured by
4 an interest or equity in real estate may engage in making
5 "reverse mortgage" loans to persons for the purpose of making
6 home improvements or repairs, paying insurance premiums or
7 paying real estate taxes on the homestead properties of such
8 persons. If made, such loans shall be made on such terms and
9 conditions as the credit union shall determine and as shall be
10 consistent with the provisions of this Section and such rules
11 and regulations as the Director shall promulgate hereunder. For
12 purposes of this Section, a "reverse mortgage" loan shall be a
13 loan extended on the basis of existing equity in homestead
14 property and secured by a mortgage on such property. Such loans
15 shall be repaid upon the sale of the property or upon the death
16 of the owner or, if the property is in joint tenancy, upon the
17 death of the last surviving joint tenant who had such an
18 interest in the property at the time the loan was initiated,
19 provided, however, that the credit union and its member may by
20 mutual agreement, establish other repayment terms. A credit
21 union, in making a "reverse mortgage" loan, may add deferred
22 interest to principal or otherwise provide for the charging of
23 interest or premiums on such deferred interest. "Homestead"
24 property, for purposes of this Section, means the domicile and
25 contiguous real estate owned and occupied by the mortgagor. The
26 Director shall promulgate rules and regulations under this

1 Section; provided that such rules and regulations need not be
2 promulgated jointly with any other administrative agency of
3 this State.

4 (4) Notwithstanding any other provisions of this Act, a
5 credit union authorized under this Act to make loans secured by
6 an interest or equity in real property may engage in making
7 revolving credit loans secured by mortgages or deeds of trust
8 on such real property or by security assignments of beneficial
9 interests in land trusts.

10 For purposes of this Section, "revolving credit" has the
11 meaning defined in Section 4.1 of the Interest Act.

12 Any mortgage or deed of trust given to secure a revolving
13 credit loan may, and when so expressed therein shall, secure
14 not only the existing indebtedness but also such future
15 advances, whether such advances are obligatory or to be made at
16 the option of the lender, or otherwise, as are made within
17 twenty years from the date thereof, to the same extent as if
18 such future advances were made on the date of the execution of
19 such mortgage or deed of trust, although there may be no
20 advance made at the time of execution of such mortgage or other
21 instrument, and although there may be no indebtedness
22 outstanding at the time any advance is made. The lien of such
23 mortgage or deed of trust, as to third persons without actual
24 notice thereof, shall be valid as to all such indebtedness and
25 future advances from the time said mortgage or deed of trust is
26 filed for record in the office of the Recorder of Deeds or the

1 Registrar of Titles of the county where the real property
2 described therein is located. The total amount of indebtedness
3 that may be so secured may increase or decrease from time to
4 time, but the total unpaid balance so secured at any one time
5 shall not exceed a maximum principal amount which must be
6 specified in such mortgage or deed of trust, plus interest
7 thereon, and any disbursements made for the payment of taxes,
8 special assessments, or insurance on said real property, with
9 interest on such disbursements.

10 Any such mortgage or deed of trust shall be valid and have
11 priority over all subsequent liens and encumbrances, including
12 statutory liens, except taxes and assessments levied on said
13 real property.

14 (5) Compliance with federal or Illinois preemptive laws or
15 regulations governing loans made by a credit union chartered
16 under this Act shall constitute compliance with this Act.

17 (6) Credit unions may make residential real estate mortgage
18 loans on terms and conditions established by the United States
19 Department of Agriculture through its Rural Development
20 Housing and Community Facilities Program. The portion of any
21 loan in excess of the appraised value of the real estate shall
22 be allocable only to the guarantee fee required under the
23 program.

24 (Source: P.A. 95-98, eff. 8-13-07.)

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