

HB3953



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3953

Introduced 11/12/2019, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

New Act

Creates the Cannabis Banking and Credit Union Act. Establishes a procedure to license financial institutions to provide banking services to cannabis businesses. Sets forth provisions concerning an advisory board, application and licensure, authorizations, deposit insurance, banking services, prohibited practices, and operative conditions. Effective immediately.

LRB101 14627 BMS 63538 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Cannabis Banking and Credit Union Act.

6 Section 5. Definitions. In this Act:

7 "Applicant" means a person or entity that submits an
8 application to be licensed by the State to provide banking
9 services to a cannabis business.

10 "Banking services" means the provision of depository
11 services with respect to cash or other funds and the issuance
12 and acceptance of special purpose checks, including the
13 acceptance and maintenance of deposit proceeds, consistent
14 with the requirements and limitations provided by this Act.

15 "Board" means the Cannabis Banking and Credit Union
16 Advisory Board.

17 "Cannabis business" means a person or entity registered or
18 licensed to engage in commercial cannabis activity under the
19 Compassionate Use of Medical Cannabis Program Act or the
20 Cannabis Regulation and Tax Act. The term "cannabis business"
21 also includes an ancillary business or profession that serves a
22 person or entity registered or licensed to engage in commercial
23 cannabis activity.

1 "Cannabis limited charter bank or credit union" means a
2 person or entity that receives a license following the approval
3 of an application pursuant to this Act.

4 "Department" means the Department of Financial and
5 Professional Regulation.

6 "Licensee" means a cannabis limited charter bank or credit
7 union.

8 "Secretary" means the Secretary of Financial and
9 Professional Regulation.

10 Section 10. Cannabis Banking and Credit Union Advisory
11 Board.

12 (a) The Cannabis Banking and Credit Union Advisory Board is
13 created. The Board shall be comprised of the State Treasurer,
14 the State Comptroller, and the Secretary of Financial and
15 Professional Regulation. The Director of the Governor's Office
16 of Management and Budget shall serve as an ex officio,
17 nonvoting member. Board members may not be compensated for
18 their services.

19 (b) The Board shall be generally responsible for ensuring
20 that this Act provides a safe and efficient way to pay State
21 and local taxes and fees, to pay rent associated with the
22 account holder's cannabis business, to issue special purpose
23 checks, and to legally invest in this State's economy, while
24 reducing the burdens placed on local government that result
25 from collecting and managing large sums of cash.

1 (c) The Department shall submit reports of enforcement
2 activities to the Board for review annually or as the Board may
3 require. The Board shall meet once a year or more often as
4 needed at the Board's discretion to review enforcement activity
5 reports from the Department. These meetings shall be noticed
6 and open to public comment. The Board shall evaluate the
7 reports and the comments of the public and draft recommended
8 actions to be taken legislatively or administratively, which
9 shall be submitted to the General Assembly, as provided in
10 Section 3.1 of the General Assembly Organization Act, and the
11 Governor.

12 (d) The Board shall provide guidance and education to
13 registered broker-dealers and licensed investment advisors on
14 how to accommodate account holders of a cannabis limited
15 charter bank or credit union in purchasing, holding, and
16 selling any of the investments described in Section 25.

17 Section 15. Licensing.

18 (a) A person or entity may act as a cannabis limited
19 charter bank or credit union after obtaining a license pursuant
20 to this Act.

21 (b) A cannabis limited charter bank or credit union license
22 is not transferable or assignable.

23 (c) A licensee shall comply with all requirements of the
24 Illinois Banking Act or the Illinois Credit Union Act, as
25 applicable, except to the extent that any requirement of those

1 laws are inconsistent with a provision of this Act, in which
2 case the provisions of this Act shall prevail.

3 (d) A cannabis limited charter bank or credit union shall
4 adopt policies and practices that allow it to comply with the
5 principles and policies found in the federal Bank Secrecy Act
6 (31 U.S.C. 5311) and to cooperate with the federal Financial
7 Crimes Enforcement Network.

8 (e) The Department shall adopt rules to implement this Act.

9 Section 20. Application.

10 (a) An applicant to be licensed as a cannabis limited
11 charter bank or credit union shall submit a completed
12 application to the Department in a form prescribed by the
13 Secretary that satisfies the requirements of this Section.

14 (b) An applicant shall elect to form under either the
15 Illinois Banking Act or the Illinois Credit Union Act and shall
16 comply with all requirements imposed by those laws, as
17 applicable, except to the extent that any requirement of those
18 laws is inconsistent with the provisions of this Act.

19 (c) The name of a cannabis limited charter bank shall
20 include "cannabis limited charter bank" or the abbreviation
21 "C.L.C.B." or "CLCB". The name of a cannabis limited credit
22 union shall include "cannabis credit union" or the abbreviation
23 "C.C.U." or "CCU".

24 (d) The Department may charge the applicant a reasonable
25 fee for a cannabis limited charter bank or credit union

1 license, not to exceed the costs of regulation.

2 Section 25. Authorizations.

3 (a) A cannabis limited charter bank or credit union may
4 issue to an account holder special purpose checks that are
5 valid only for the purposes specified in subsection (b). The
6 following text shall be printed on each check in at least
7 12-point type, with the name of the issuing financial
8 institution included: "This check is issued by [insert name of
9 financial institution] and may only be deposited or cashed at
10 this cannabis limited charter bank or credit union or another
11 cannabis limited charter bank or credit union that agrees to
12 accept this check."

13 (b) Subject to the limitations of subsection (d), a special
14 purpose check issued by a cannabis limited charter bank or
15 credit union may be used only for the following purposes:

16 (1) To pay fees or taxes to the State or a local
17 jurisdiction.

18 (2) To pay rent on property that is leased by, or on
19 behalf of, the account holder's cannabis business.

20 (3) To pay a vendor that is physically located in this
21 State for expenses related to goods or services associated
22 with the account holder's cannabis business.

23 (4) To purchase the following:

24 (A) Bonds, interest-bearing notes, or
25 interest-bearing warrants of this State for which the

1 faith and credit of this State are pledged for the
2 payment of principal and interest.

3 (B) Bonds or warrants, including, but not limited
4 to, revenue warrants, of any unit of local government
5 or school district of this State.

6 (c) Subject to the limitations of subsection (d), State and
7 local government offices are authorized to accept a special
8 purpose check issued by a cannabis limited charter bank or
9 credit union.

10 (d) An individual or entity, private or public, is not
11 required to accept a special purpose check issued by a cannabis
12 limited charter bank or credit union pursuant to this Section.

13 (e) A cannabis limited charter bank or credit union is
14 authorized to cash a special purpose check presented to it by a
15 person or entity that is not an account holder if that cannabis
16 limited charter bank or credit union previously issued that
17 special purpose check to an account holder and the check was
18 used for one of the authorized purposes specified in subsection
19 (b).

20 Section 30. Deposit insurance. A cannabis limited charter
21 bank or credit union shall obtain and maintain deposit
22 insurance, in an amount acceptable to the Secretary, for the
23 cannabis depository institution and its assets at all times
24 while it is engaged in banking services. Private insurance
25 shall be satisfactory to the Secretary. In seeking and

1 retaining deposit insurance, a cannabis limited charter bank or
2 credit union may do all things and assume and discharge all
3 obligations required of it that are not in conflict with State
4 law.

5 Section 35. Banking services.

6 (a) A cannabis limited charter bank or credit union may
7 enter into an agreement with one or more other licensees in
8 order to form a banking network. That agreement shall be
9 subject to the approval of the Secretary. The network shall be
10 for the purpose of assisting each other in providing services
11 to cannabis businesses and each other. A network of this type
12 shall not include any financial institution that is not a
13 licensee under this Act.

14 (b) A cannabis limited charter bank or credit union may
15 provide accounts to people and entities other than cannabis
16 businesses pursuant to rules adopted by the Secretary.

17 (c) A cannabis limited charter bank or credit union may
18 charge fees for the banking services that it provides. Each
19 cannabis limited charter bank and credit union that charges
20 fees shall conspicuously post on its Internet website the types
21 of fees and the amount of fees it charges for its services, in
22 a format intended to provide transparency.

23 Section 40. Prohibited practices.

24 (a) A cannabis limited charter bank or credit union may not

1 engage in banking activity with any other financial institution
2 that lacks a license issued under this Act.

3 (b) Except as otherwise provided in Section 45, only a
4 cannabis limited charter bank may merge with one or more
5 cannabis limited charter banks. The provisions of the Illinois
6 Banking Act applicable to mergers between banks shall apply,
7 subject to the limitations in this Section.

8 (c) Except as otherwise provided in Section 45, only a
9 cannabis limited credit union may merge with one or more
10 cannabis limited credit unions. Section 63 of the Illinois
11 Credit Union Act shall apply, subject to the limitations in
12 this Section.

13 (d) Except as otherwise provided in Section 45, a cannabis
14 limited charter bank or credit union shall not be eligible to
15 convert to a federal bank or federal credit union or to another
16 type of business entity.

17 Section 45. Operative conditions.

18 (a) This Act shall become inoperative if either of the
19 following occurs, whichever occurs first:

20 (1) The federal government, by legislative or
21 executive action, removes cannabis and cannabis-related
22 substances from the schedule of controlled substances, as
23 defined in the federal Controlled Substances Act (21 U.S.C.
24 812, 21 CFR 1308).

25 (2) The federal government enacts legislation that

1 established protections for depository institutions that
2 provide financial services to cannabis-related legitimate
3 businesses.

4 (b) Within 30 days after the occurrence of either event set
5 forth in subsection (a), the Department shall do both of the
6 following:

7 (1) Post notice of that occurrence on the homepage of
8 its Internet website and send notice to both the Secretary
9 of State and the Legislative Reference Bureau. The notice
10 shall specify the date that this Act shall become
11 inoperative, which shall be one calendar year following the
12 effective date of the events specified in subsection (a).

13 (2) Provide guidance for the orderly resolution of all
14 cannabis limited charter banks or credit unions licensed
15 pursuant to this Act. The resolution may involve, but is
16 not limited to:

17 (A) the voluntary liquidation of a cannabis
18 limited charter bank pursuant to the Illinois Banking
19 Act;

20 (B) the sale, merger, or conversion of a cannabis
21 limited charter bank pursuant to the Illinois Banking
22 Act; or

23 (C) the merger, dissolution, or conversion of a
24 cannabis limited credit union pursuant to the Illinois
25 Credit Union Act.

26 (c) A cannabis limited charter bank or credit union shall

1 have one calendar year to orderly resolve in a manner
2 acceptable to applicable State and federal regulators.

3 (d) Notwithstanding subsection (c), a cannabis limited
4 charter bank or credit union shall comply with all applicable
5 State laws regarding filings with the Secretary of State.

6 (e) If a cannabis limited charter bank or credit union
7 fails in good faith to comply with subsection (c), the
8 Department may take any action under this Act it deems
9 necessary, including signing documents on behalf of the
10 cannabis limited charter bank or credit union, to carry out the
11 purposes of this Section.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.