

1 AN ACT concerning credit unions.

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 1.1, 7, 13, 16, 20, 23, 27, 30, and 42 and
6 adding Sections 9.1 and 10.1 as follows:

7 (205 ILCS 305/1.1) (from Ch. 17, par. 4402)

8 Sec. 1.1. Definitions. Credit Union - The term "credit
9 union" means a cooperative, non-profit association,
10 incorporated under this Act, under the laws of the United
11 States of America or under the laws of another state, for the
12 purposes of encouraging thrift among its members, creating a
13 source of credit at a reasonable rate of interest, and
14 providing an opportunity for its members to use and control
15 their own money in order to improve their economic and social
16 conditions. The membership of a credit union shall consist of
17 a group or groups each having a common bond as set forth in
18 this Act.

19 Common Bond - The term "common bond" refers to groups of
20 people who meet one of the following qualifications:

21 (1) Persons belonging to a specific association, group
22 or organization, such as a church, labor union, club or
23 society and members of their immediate families which shall
24 include any relative by blood or marriage or foster and
25 adopted children.

26 (2) Persons who reside in a reasonably compact and well
27 defined neighborhood or community, and members of their
28 immediate families which shall include any relative by blood
29 or marriage or foster and adopted children.

30 (3) Persons who have a common employer or who are
31 members of an organized labor union or an organized

1 occupational or professional group within a defined
2 geographical area, and members of their immediate families
3 which shall include any relative by blood or marriage or
4 foster and adopted children.

5 Shares - The term "shares" or "share accounts" means any
6 form of shares issued by a credit union and established by a
7 member in accordance with standards specified by a credit
8 union, including but not limited to common shares, share
9 draft accounts, classes of shares, share certificates,
10 special purpose share accounts, shares issued in trust,
11 custodial accounts, and individual retirement accounts or
12 other plans established pursuant to Section 401(d) or (f) or
13 Section 408(a) of the Internal Revenue Code, as now or
14 hereafter amended, or similar provisions of any tax laws of
15 the United States that may hereafter exist.

16 Credit Union Organization - The term "credit union
17 organization" means any organization established to serve the
18 needs of credit unions, the business of which relates to the
19 daily operations of credit unions.

20 Department - The term "Department" means the Illinois
21 Department of Financial Institutions.

22 Director - The term "Director" means the Director of the
23 Illinois Department of Financial Institutions.

24 NCUA - The term "NCUA" means the National Credit Union
25 Administration, an agency of the United States Government
26 charged with the supervision of credit unions chartered under
27 the laws of the United States of America.

28 Central Credit Union - The term "central credit union"
29 means a credit union incorporated primarily to receive shares
30 from and make loans to credit unions and Directors, Officers,
31 committee members and employees of credit unions. A central
32 credit union may also accept as members persons who were
33 members of credit unions which were liquidated and persons
34 from occupational groups not otherwise served by another

1 credit union.

2 Corporate Credit Union - The term "corporate credit
3 union" means a credit union which is a cooperative,
4 non-profit association, the membership of which is limited
5 primarily to other credit unions.

6 Insolvent - "Insolvent" means the condition that results
7 when the total of all liabilities and shares exceeds net
8 assets of the credit union.

9 Danger of insolvency - The term "Danger of insolvency" as
10 used in Section 61 means when a credit union falls below a 2%
11 capital to asset ratio.

12 Net Worth - "Net worth" means the retained earnings
13 balance of the credit union, as determined under generally
14 accepted accounting principles, and forms of secondary
15 capital approved by the Director pursuant to rulemaking.

16 (Source: P.A. 90-665, eff. 7-30-98.)

17 (205 ILCS 305/7) (from Ch. 17, par. 4408)

18 Sec. 7. Reciprocity - out of state credit unions.

19 (1) A credit union organized and duly chartered as a
20 credit union in another state shall be permitted to conduct
21 business as a credit union in this state if a credit union
22 chartered under the laws of this state is permitted to do
23 business in such other state, provided that:--Regardless--of
24 where---it--is--doing--business,--a--credit--union--shall--be
25 supervised-and-regulated-by-the--agency--so--charged--in--the
26 state-in-which-the-credit-union-is-chartered-

27 (a) The credit union shall register with the
28 Director prior to operating in this State, on a form
29 specified by the Director.

30 (b) The credit union may be required to pay a
31 registration fee in accordance with rules promulgated by
32 the Director.

33 (c) The credit union shall comply with rules

1 promulgated by the Director concerning the operation of
2 out of state credit unions in this State.

3 (2) It is intended that the legal existence of credit
4 unions chartered under this Act be recognized beyond the
5 limits of this State and that, subject to any reasonable
6 registration requirements, any credit union transacting
7 business outside of this State be granted the protection of
8 full faith and credit under Section 1 of Article IV of the
9 Constitution of the United States.

10 (Source: P.A. 81-329.)

11 (205 ILCS 305/9.1 new)

12 Sec. 9.1. Disclosures of reports of examinations and
13 confidential supervisory information; limitations.

14 (1) Any report of examination, visitation, or
15 investigation prepared by the Director under this Act or by
16 the state regulatory authority charged with enforcing the
17 Electronic Fund Transfer Act or the Corporate Fiduciary Act
18 or by the state regulatory authority of another state that
19 examines an office of an Illinois credit union in that state,
20 any document or record prepared or obtained in connection
21 with or relating to any examination, visitation, or
22 investigation, and any record prepared or obtained by the
23 Director to the extent that the record summarizes or contains
24 information derived from any report, document, or record
25 described in this subsection shall be deemed "confidential
26 supervisory information". Confidential supervisory
27 information shall not include any information or record
28 routinely prepared by a credit union and maintained in the
29 ordinary course of business or any information or record that
30 is required to be made publicly available pursuant to State
31 or federal law or rule.

32 (2) Confidential supervisory information is privileged
33 from discovery and shall only be disclosed under the

1 circumstances and for the purposes set forth in this Section.

2 (3) Relevant confidential supervisory information may be
3 disclosed under a statute that by its terms or by rules
4 promulgated thereunder requires the disclosure of
5 confidential supervisory information other than by subpoena,
6 summons, warrant, or court order; to other agencies or
7 entities having a legitimate regulatory interest; to the
8 credit union's board, officers, retained professionals, and
9 insurers; and to persons seeking to merge with or purchase
10 all the assets of the credit union or where disclosure is
11 otherwise required for the benefit of the credit union.
12 Disclosure of confidential supervisory information to these
13 persons does not constitute a waiver of the legal privilege
14 otherwise available with respect to the information.

15 (4) A person to whom confidential supervisory
16 information is disclosed shall not further disseminate
17 confidential supervisory information.

18 (5) (a) Any person upon whom a demand for production of
19 confidential supervisory information is made, whether by
20 subpoena, order, or other judicial or administrative
21 process, must withhold production of the confidential
22 supervisory information and must notify the Director of
23 the demand, at which time the Director is authorized to
24 intervene for the purpose of enforcing the limitations of
25 this Section or seeking the withdrawal or termination of
26 the attempt to compel production of the confidential
27 supervisory information.

28 (b) Any request for discovery or disclosure of
29 confidential supervisory information, whether by
30 subpoena, order, or other judicial or administrative
31 process, shall be made to the Director, and the Director
32 shall determine within 15 days whether to disclose the
33 information pursuant to procedures and standards that the
34 Director shall establish by rule. If the Director

1 determines that such information will not be disclosed,
 2 the Director's decision shall be subject to judicial
 3 review under the provisions of the Administrative Review
 4 Law, and venue shall be in either Sangamon County or Cook
 5 County.

6 (c) Any court order that compels disclosure of
 7 confidential supervisory information may be immediately
 8 appealed by the Director, and the order shall be
 9 automatically stayed pending the outcome of the appeal.

10 (205 ILCS 305/10.1 new)

11 Sec. 10.1. Retention of records. Unless a federal law
 12 requires otherwise, the Director may by rule prescribe
 13 periods of time for which credit unions operating under this
 14 Act must retain records and after the expiration of which the
 15 credit union may destroy those records. No liability shall
 16 accrue against the credit union, the Director, or this State
 17 for the destruction of records according to rules of the
 18 Director promulgated under the authority of this Section. In
 19 any cause or proceeding in which any records may be called in
 20 question or be demanded by any credit union, a showing of the
 21 expiration of the period so prescribed shall be sufficient
 22 excuse for failure to produce them.

23 (205 ILCS 305/13) (from Ch. 17, par. 4414)

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

25 (1) Make contracts; sue and be sued; adopt and use a
 26 common seal and alter same;

27 (2) Acquire, lease (either as lessee or lessor), hold,
 28 pledge, mortgage, sell and dispose of real property, either
 29 in whole or in part, or any interest therein, as may be
 30 necessary or incidental to its present or future operations
 31 and needs, subject to such limitations as may be imposed
 32 thereon in rules and regulations promulgated by the Director;

1 acquire, lease (either as lessee or lessor), hold, pledge,
2 mortgage, sell and dispose of personal property, either in
3 whole or in part, or any interest therein, as may be
4 necessary or incidental to its present or future operations
5 and needs;

6 (3) At the discretion of the Board of Directors, require
7 the payment of an entrance fee or annual membership fee, or
8 both, of any person admitted to membership;

9 (4) Receive savings from its members in the form of
10 shares of various classes, or special purpose share accounts;
11 act as custodian of its members' accounts; issue shares in
12 trust as provided in this Act;

13 (5) Lend its funds to its members and otherwise as
14 hereinafter provided;

15 (6) Borrow from any source in accordance with policy
16 established by the Board of Directors to a maximum of 50% of
17 capital, surplus and reserves;

18 (7) Discount and sell any obligations owed to the credit
19 union;

20 (8) Honor requests for withdrawals or transfers of all
21 or any part of member share accounts, and any classes
22 thereof, in any manner approved by the credit union Board of
23 Directors;

24 (9) Sell all or substantially all of its assets or
25 purchase all or substantially all of the assets of another
26 credit union, subject to the prior approval of the Director;
27 and sell part of its assets or purchase part of the assets of
28 another credit union in accordance with rules promulgated by
29 the Director;

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

31 (11) Make deposits in banks, savings banks, savings and
32 loan associations, trust companies; and invest in shares,
33 classes of shares or share certificates of other credit
34 unions;

1 (12) Assess charges and fees to members in accordance
2 with board resolution;

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

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

8 (15) Collect, receive and disburse monies in connection
9 with providing negotiable checks, money orders and other
10 money-type instruments, and for such other purposes as may
11 provide benefit or convenience to its members, and charge a
12 reasonable fee for such services;

13 (16) Act as fiscal agent for and receive deposits from
14 the federal government, this state or any agency or political
15 subdivision thereof;

16 (17) Receive savings from nonmembers in the form of
17 shares or share accounts in the case of credit unions serving
18 predominantly low-income members. The term "low income
19 members" shall mean those members whose annual income falls
20 at or below an amount defined by the Director pursuant to
21 rulemaking ~~the-lower-level-standard-of-living-classification~~
22 ~~as-established-by-the-Bureau-of-Labor-Statistics-and--updated~~
23 ~~by--the--Employment--and--Training-Administration-of-the-U.S.~~
24 ~~Department-of-Labor.~~ The term "predominantly" is defined as a
25 simple majority;

26 (18) To establish, maintain, and operate terminals as
27 authorized by the Electronic Fund Transfer Act; and

28 (19) Subject to Article XLIV of the Illinois Insurance
29 Code, to act as the agent for any fire, life, or other
30 insurance company authorized by the State of Illinois, by
31 soliciting and selling insurance and collecting premiums on
32 policies issued by such company; and may receive for services
33 so rendered such fees or commissions as may be agreed upon
34 between the said credit union and the insurance company for

1 which it may act as agent; provided, however, that no such
 2 credit union shall in any case assume or guarantee the
 3 payment of any premium on insurance policies issued through
 4 its agency by its principal; and provided further, that the
 5 credit union shall not guarantee the truth of any statement
 6 made by an assured in filing his application for insurance.
 7 (Source: P.A. 89-310, eff. 1-1-96; 90-41, eff. 10-1-97;
 8 90-655, eff. 7-30-98.)

9 (205 ILCS 305/16) (from Ch. 17, par. 4417)

10 Sec. 16. Societies, associations. Societies,
 11 associations, clubs, and partnerships, corporations, limited
 12 liability companies, and other organizations in which the
 13 majority of the members, partners, shareholders, or employees
 14 are individuals who are eligible for credit union membership,
 15 ~~and corporations, the majority of whose stockholders are~~
 16 ~~individuals, who are eligible for credit union membership,~~
 17 may be admitted to membership in a credit union in the same
 18 manner and under the same conditions as individuals, subject
 19 to such rules as the Director may promulgate hereunder.
 20 (Source: P.A. 85-249.)

21 (205 ILCS 305/20) (from Ch. 17, par. 4421)

22 Sec. 20. Election or appointment of officials.
 23 (1) The credit union shall be directed by a Board of
 24 Directors consisting of no less than 7 in number, to be
 25 elected at the annual meeting by and from the members.
 26 Directors shall hold office until the next annual meeting,
 27 unless their terms are staggered. Upon amendment of its
 28 bylaws, a credit union may divide the Directors into 2 or 3
 29 classes with each class as nearly equal in number as
 30 possible. The term of office of the directors of the first
 31 class shall expire at the first annual meeting after their
 32 election, that of the second class shall expire at the second

1 annual meeting after their election, and that of the third
2 class, if any, shall expire at the third annual meeting after
3 their election. At each annual meeting after the
4 classification, the number of directors equal to the number
5 of directors whose terms expire at the time of the meeting
6 shall be elected to hold office until the second succeeding
7 annual meeting if there are 2 classes or until the third
8 succeeding annual meeting if there are 3 classes. A Director
9 shall hold office for the term for which he or she is elected
10 and until his or her successor is elected and qualified. In
11 all elections for Directors, every member has the right to
12 vote, in person or by proxy, the number of shares owned by
13 him, or in the case of a member other than a natural person,
14 the member's one vote, for as many persons as there are
15 Directors to be elected, or to cumulate such shares, and give
16 one candidate as many votes as the number of Directors
17 multiplied by the number of his shares equals, or to
18 distribute them on the same principle among as many
19 candidates as he may desire and the Directors shall not be
20 elected in any other manner. Shares held in a joint account
21 owned by more than one member may be voted by any one of the
22 members, however, the number of cumulative votes cast may not
23 exceed a total equal to the number of shares multiplied by
24 the number of directors to be elected. A majority of the
25 shares entitled to vote shall be represented either in person
26 or by proxy for the election of Directors. Each Director
27 shall wholly take and subscribe to an oath that he will
28 diligently and honestly perform his duties in administering
29 the affairs of the credit union, that while he may delegate
30 to another the performance of those administrative duties he
31 is not thereby relieved from his responsibility for their
32 performance, that he will not knowingly violate or willingly
33 permit to be violated any law applicable to the credit union,
34 and that he is the owner of at least one share of the credit

1 union.

2 (2) The Board of Directors shall appoint from among the
3 members of the credit union, a Supervisory Committee of not
4 less than 3 members at the organization meeting and within 30
5 days following each annual meeting of the members for such
6 terms as the bylaws provide. Members of the Supervisory
7 Committee may, but need not be, on the Board of Directors,
8 but shall not be officers of the credit union, members of the
9 Credit Committee, or the credit manager if no Credit
10 Committee has been appointed.

11 (3) The Board of Directors may appoint, from among the
12 members of the credit union, a Credit Committee consisting of
13 an odd number, not less than 3 for such terms as the bylaws
14 provide. Members of the Credit Committee may, but need not
15 be, Directors or officers of the credit union, but shall not
16 be members of the Supervisory Committee.

17 (4) The Board of Directors ~~may shall~~ appoint from among
18 the members of the credit union a Membership Committee of one
19 or more persons. If appointed, the Committee ~~It~~ shall act
20 upon all applications for membership and submit a report of
21 its actions to the Board of Directors at the next regular
22 ~~monthly~~ meeting for review. If no Membership Committee is
23 appointed, credit union management shall act upon all
24 applications for membership and submit a report of its
25 actions to the Board of Directors at the next regular meeting
26 for review.

27 (Source: P.A. 91-929, eff. 12-15-00.)

28 (205 ILCS 305/23) (from Ch. 17, par. 4424)

29 Sec. 23. Compensation of officials.

30 (1) No director or committee member may receive
31 compensation ~~be--compensated~~ for his service as such.
32 "Compensation" as used in this subsection (1) refers to
33 remuneration expense to the credit union for services

1 provided by a director or committee member in his or her
 2 capacity as director or committee member. "Compensation" as
 3 used in this subsection (1) does not include the expense of
 4 but providing reasonable life, health, accident, and similar
 5 insurance protection benefits for a director or committee
 6 member shall-not-be-considered-compensation.

7 (2) Directors, committee members and employees, while on
 8 official business of the credit union, may be reimbursed for
 9 reasonable and necessary expenses.

10 (3) The Board of Directors may establish compensation
 11 and benefits for officers of the credit union.

12 (Source: P.A. 81-329.)

13 (205 ILCS 305/27) (from Ch. 17, par. 4428)

14 Sec. 27. Authority of directors.

15 (1) The Board of Directors shall be charged with and
 16 have control over the general management of the operations,
 17 funds and records of the credit union.

18 (2) In discharging the duties of their respective
 19 positions, the board of directors, committees of the board,
 20 and individual directors shall be entitled to rely on advice,
 21 information, opinions, reports or statements, including
 22 financial statements and financial data, prepared or
 23 presented by: (i) one or more officers or employees of the
 24 credit union whom the director believes to be reliable and
 25 competent in the matter presented; (ii) one or more counsel,
 26 accountants, or other consultants as to matters that the
 27 Director believes to be within that person's professional or
 28 expert competence; or (iii) a committee of the board upon
 29 which the Director does not serve, as to matters within that
 30 committee's designated authority; provided that the
 31 Director's reliance under this subsection (2) is placed in
 32 good faith, after reasonable inquiry if the need for such
 33 inquiry is apparent under the circumstances and without

1 knowledge that would cause such reliance to be unreasonable.

2 (Source: P.A. 81-329.)

3 (205 ILCS 305/30) (from Ch. 17, par. 4431)

4 Sec. 30. Duties of directors. It shall be the duty of
5 the directors to:

6 (1) Review ~~the---Membership---Committee's~~ actions on
7 applications for membership. A record of the Membership
8 Committee's approval or denial of membership or management's
9 approval or denial of membership if no Membership Committee
10 has been appointed shall be available to the Board of
11 Directors for inspection. A person denied membership by the
12 Membership Committee or credit union management may appeal
13 the denial to the Board;

14 (2) Provide adequate fidelity bond coverage for
15 officers, employees, directors and committee members, and for
16 losses caused by persons outside of the credit union, subject
17 to rules and regulations promulgated by the Director;

18 (3) Determine from time to time the interest rates, not
19 in excess of that allowed under this Act, which shall be
20 charged on loans to members and to authorize interest
21 refunds, if any, to members from income earned and received
22 in proportion to the interest paid by them on such classes of
23 loans and under such conditions as the Board prescribes. The
24 Directors may establish different interest rates to be
25 charged on different classes of loans;

26 (4) Within any limitations set forth in the credit
27 union's bylaws, fix the maximum amount which may be loaned
28 with and without security to a member;

29 (5) Declare dividends on various classes of shares in
30 the manner and form as provided in the bylaws;

31 (6) Limit the number of shares which may be owned by a
32 member; such limitations to apply alike to all members;

33 (7) Have charge of the investment of funds, except that

1 the Board of Directors may designate an Investment Committee
2 or any qualified individual or entity to have charge of
3 making investments under policies established by the Board of
4 Directors;

5 (8) Authorize the employment of or contracting with such
6 persons or organizations as may be necessary to carry on the
7 operations of the credit union, ~~provided that prior approval~~
8 ~~is received from the Department before becoming involved with~~
9 ~~a credit union organization by loaning to, investing in, or~~
10 ~~delegating substantially all managerial duties and~~
11 ~~responsibilities to such credit union organization; and fix~~
12 the compensation, if any, of the officers and provide for
13 compensation for other employees within policies established
14 by the Board of Directors;

15 (9) Authorize the conveyance of property;

16 (10) Borrow or lend money consistent with the provisions
17 of this Act;

18 (11) Designate a depository or depositories for the
19 funds of the credit union and supervise the investment of
20 funds;

21 (12) Suspend or remove, or both, for cause, any or all
22 officers or any or all members of the Membership, Credit,
23 Supervisory or other committees for failure to perform their
24 duties;

25 (13) Appoint any special committees deemed necessary;
26 and i;

27 (14) Perform such other duties as the members may
28 direct, and perform or authorize any action not inconsistent
29 with this Act and not specifically reserved by the bylaws to
30 the members.

31 (Source: P.A. 84-1390.)

32 (205 ILCS 305/42) (from Ch. 17, par. 4443)

33 Sec. 42. Shares in trust.

1 (1) Shares may be issued in trust to a member as trustee
2 or to an individual or corporate trustee. If a corporate
3 trustee is a bank or trust company, shares may be issued to
4 the corporate trustee only if such bank or trust company is
5 organized under the laws of the State of Illinois or is a
6 nationally chartered bank located principally in the State of
7 Illinois. An individual trustee shall be a member of the
8 credit union unless the person establishing the trust in
9 respect to which such shares are issued or each beneficiary
10 of the trust is a member of the credit union and the name of
11 each beneficiary is disclosed to the credit union. Shares
12 may also be issued in the name of an individual or corporate
13 representative under the Illinois Probate Act of 1975 for or
14 in respect to a member of a credit union. Shares may also be
15 issued in trust under the Illinois Funeral or Burial Funds
16 Act, for or in respect to a member of a credit union, to a
17 trustee licensed under said Act. Any credit union which
18 issues shares in trust as provided in this Section must be
19 insured by the NCUA or another approved insurer. ~~No trustee~~
20 ~~or beneficiary, unless a member in his own right, shall be~~
21 ~~permitted to vote, obtain loans, hold office or be required~~
22 ~~to pay an entrance or membership fee.~~ Payment of part or all
23 of such shares to such trustee or member shall, to the extent
24 of such payment, discharge the liability of the credit union
25 to the member and the beneficiary and the credit union shall
26 be under no obligation to see to the application of such
27 payment.

28 (2) If a credit union's shares are insured as provided
29 for in this Act, such credit union shall have power to act as
30 trustee or custodian under individual retirement accounts or
31 plans established pursuant to the Internal Revenue Code for
32 its members or groups or organizations of its members
33 provided the funds of such accounts or plans are invested
34 solely in (1) share accounts of, or (2) share accounts and

1 obligations issued by such credit union. All funds held in
2 such fiduciary capacity shall be maintained in accordance
3 with applicable statutes and regulations promulgated
4 thereunder by any authority exercising jurisdiction over such
5 trusts or custodial accounts.

6 (3) Notwithstanding any language to the contrary in this
7 Section 42, a credit union may act as trustee or custodian of
8 individual retirement plans of its members established
9 pursuant to the Employee Retirement Income Security Act of
10 1974 or self-employed retirement plans established pursuant
11 to the Self-Employed Individuals Retirement Act of 1962, and
12 any laws amendatory or supplementary to such Acts, provided
13 that:

14 (a) All contributions of funds are initially made
15 to a share account in the credit union;

16 (b) Any subsequent transfer of funds to other
17 assets is solely at the direction of the member and the
18 credit union performs only custodial duties, exercises no
19 investment discretion and provides no investment advice
20 with respect to plan assets;

21 (c) The member is notified of the fact that share
22 insurance coverage is limited to funds held in share
23 accounts; and

24 (d) The credit union complies with all applicable
25 provisions of this Act and applicable laws and
26 regulations as may be promulgated by any authority
27 exercising jurisdiction over such trust or custodial
28 accounts.

29 (4) A credit union may accept and execute trusts upon
30 obtaining a certificate of authority pursuant to the
31 Corporate Fiduciary Act.

32 (Source: P.A. 91-131, eff. 7-16-99.)

33 Section 99. Effective date. This Act takes effect upon

1 becoming law.