

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 10, 12, 51, 59, and 70 as follows:

6 (205 ILCS 305/10) (from Ch. 17, par. 4411)

7 Sec. 10. Credit union records; member financial records.

8 (1) A credit union shall establish and maintain books,  
9 records, accounting systems and procedures which accurately  
10 reflect its operations and which enable the Department to  
11 readily ascertain the true financial condition of the credit  
12 union and whether it is complying with this Act.

13 (2) A photostatic or photographic reproduction of any  
14 credit union records shall be admissible as evidence of  
15 transactions with the credit union.

16 (3) (a) For the purpose of this Section, the term  
17 "financial records" means any original, any copy, or any  
18 summary of (1) a document granting signature authority  
19 over an account, (2) a statement, ledger card or other  
20 record on any account which shows each transaction in or  
21 with respect to that account, (3) a check, draft or money  
22 order drawn on a financial institution or other entity or  
23 issued and payable by or through a financial institution  
24 or other entity, or (4) any other item containing  
25 information pertaining to any relationship established in  
26 the ordinary course of business between a credit union  
27 and its member, including financial statements or other  
28 financial information provided by the member.

29 (b) This Section does not prohibit:

30 (1) The preparation, examination, handling or  
31 maintenance of any financial records by any officer,

1           employee or agent of a credit union having custody  
 2           of such records, or the examination of such records  
 3           by a certified public accountant engaged by the  
 4           credit union to perform an independent audit;

5           (2) The examination of any financial records  
 6           by or the furnishing of financial records by a  
 7           credit union to any officer, employee or agent of  
 8           the Department, the National Credit Union  
 9           Administration, Federal Reserve board or any insurer  
 10          of share accounts for use solely in the exercise of  
 11          his duties as an officer, employee or agent;

12          (3) The publication of data furnished from  
 13          financial records relating to members where the data  
 14          cannot be identified to any particular customer of  
 15          account;

16          (4) The making of reports or returns required  
 17          under Chapter 61 of the Internal Revenue Code of  
 18          1954;

19          (5) Furnishing information concerning the  
 20          dishonor of any negotiable instrument permitted to  
 21          be disclosed under the Uniform Commercial Code;

22          (6) The exchange in the regular course of  
 23          business of (i) credit information between a credit  
 24          union and other credit unions or financial  
 25          institutions or commercial enterprises, directly or  
 26          through a consumer reporting agency or (ii)  
 27          financial records or information derived from  
 28          financial records between a credit union and other  
 29          credit unions or financial institutions or  
 30          commercial enterprises for the purpose of conducting  
 31          due diligence pursuant to a merger or a purchase or  
 32          sale of assets or liabilities of the credit union;

33          (7) The furnishing of information to the  
 34          appropriate law enforcement authorities where the

1 credit union reasonably believes it has been the  
2 victim of a crime;

3 (8) The furnishing of information pursuant to  
4 the Uniform Disposition of Unclaimed Property Act;

5 (9) The furnishing of information pursuant to  
6 the Illinois Income Tax Act and the Illinois Estate  
7 and Generation-Skipping Transfer Tax Act;

8 (10) The furnishing of information pursuant to  
9 the federal "Currency and Foreign Transactions  
10 Reporting Act", Title 31, United States Code,  
11 Section 1051 et sequentia; or

12 (11) The furnishing of information pursuant to  
13 any other statute which by its terms or by  
14 regulations promulgated thereunder requires the  
15 disclosure of financial records other than by  
16 subpoena, summons, warrant or court order.

17 (12) The furnishing of information in  
18 accordance with the federal Personal Responsibility  
19 and Work Opportunity Reconciliation Act of 1996. Any  
20 credit union governed by this Act shall enter into  
21 an agreement for data exchanges with a State agency  
22 provided the State agency pays to the credit union a  
23 reasonable fee not to exceed its actual cost  
24 incurred. A credit union providing information in  
25 accordance with this item shall not be liable to any  
26 account holder or other person for any disclosure of  
27 information to a State agency, for encumbering or  
28 surrendering any assets held by the credit union in  
29 response to a lien or order to withhold and deliver  
30 issued by a State agency, or for any other action  
31 taken pursuant to this item, including individual or  
32 mechanical errors, provided the action does not  
33 constitute gross negligence or willful misconduct. A  
34 credit union shall have no obligation to hold,

1           encumber, or surrender assets until it has been  
 2           served with a subpoena, summons, warrant, court or  
 3           administrative order, lien, or levy.

4           (13) The furnishing of information to law  
 5           enforcement authorities, the Illinois Department on  
 6           Aging and its regional administrative and provider  
 7           agencies, the Department of Human Services Office of  
 8           Inspector General, or public guardians, if the  
 9           credit union suspects that a member who is an  
 10          elderly or disabled person has been or may become  
 11          the victim of financial exploitation. For the  
 12          purposes of this item (13), the term: (i) "elderly  
 13          person" means a person who is 60 or more years of  
 14          age, (ii) "disabled person" means a person who has  
 15          or reasonably appears to the credit union to have a  
 16          physical or mental disability that impairs his or  
 17          her ability to seek or obtain protection from or  
 18          prevent financial exploitation, and (iii) "financial  
 19          exploitation" means tortious or illegal use of the  
 20          assets or resources of an elderly or disabled  
 21          person, and includes, without limitation,  
 22          misappropriation of the elderly or disabled person's  
 23          assets or resources by undue influence, breach of  
 24          fiduciary relationship, intimidation, fraud,  
 25          deception, extortion, or the use of assets or  
 26          resources in any manner contrary to law. A credit  
 27          union or person furnishing information pursuant to  
 28          this item (13) shall be entitled to the same rights  
 29          and protections as a person furnishing information  
 30          under the Elder Abuse and Neglect Act and the  
 31          Illinois Domestic Violence Act of 1986.

32          (14) The disclosure of financial records or  
 33          information as necessary to effect, administer, or  
 34          enforce a transaction requested or authorized by the

1 member, or in connection with:

2 (A) servicing or processing a financial  
3 product or service requested or authorized by  
4 the member;

5 (B) maintaining or servicing a member's  
6 account with the credit union; or

7 (C) a proposed or actual securitization  
8 or secondary market sale (including sales of  
9 servicing rights) related to a transaction of a  
10 member.

11 Nothing in this item (14), however, authorizes the  
12 sale of the financial records or information of a member  
13 without the consent of the member.

14 (c) Except as otherwise provided by this Act, a credit  
15 union may not disclose to any person, except to the member or  
16 his duly authorized agent, any financial records relating to  
17 that member of the credit union unless:

18 (1) the member has authorized disclosure to the  
19 person;

20 (2) the financial records are disclosed in response  
21 to a lawful subpoena, summons, warrant or court order  
22 that meets the requirements of subparagraph (d) of this  
23 Section; or

24 (3) the credit union is attempting to collect an  
25 obligation owed to the credit union and the credit union  
26 complies with the provisions of Section 2I of the  
27 Consumer Fraud and Deceptive Business Practices Act.

28 (d) A credit union shall disclose financial records  
29 under subparagraph (c)(2) of this Section pursuant to a  
30 lawful subpoena, summons, warrant or court order only after  
31 the credit union mails a copy of the subpoena, summons,  
32 warrant or court order to the person establishing the  
33 relationship with the credit union, if living, and otherwise  
34 his personal representative, if known, at his last known

1 address by first class mail, postage prepaid unless the  
 2 credit union is specifically prohibited from notifying the  
 3 person by order of court or by applicable State or federal  
 4 law. In the case of a grand jury subpoena, a credit union  
 5 shall not mail a copy of a subpoena to any person pursuant to  
 6 this subsection if the subpoena was issued by a grand jury  
 7 under the Statewide Grand Jury Act or notifying the person  
 8 would constitute a violation of the federal Right to  
 9 Financial Privacy Act of 1978.

10 (e) (1) Any officer or employee of a credit union who  
 11 knowingly and wilfully furnishes financial records in  
 12 violation of this Section is guilty of a business offense  
 13 and upon conviction thereof shall be fined not more than  
 14 \$1,000.

15 (2) Any person who knowingly and wilfully induces  
 16 or attempts to induce any officer or employee of a credit  
 17 union to disclose financial records in violation of this  
 18 Section is guilty of a business offense and upon  
 19 conviction thereof shall be fined not more than \$1,000.

20 (f) A credit union shall be reimbursed for costs which  
 21 are reasonably necessary and which have been directly  
 22 incurred in searching for, reproducing or transporting books,  
 23 papers, records or other data of a member required or  
 24 requested to be produced pursuant to a lawful subpoena,  
 25 summons, warrant or court order. The Director may determine,  
 26 by rule, the rates and conditions under which payment shall  
 27 be made. Delivery of requested documents may be delayed  
 28 until final reimbursement of all costs is received.

29 (Source: P.A. 90-18, eff. 7-1-97; 91-929, eff. 12-15-00.)

30 (205 ILCS 305/12) (from Ch. 17, par. 4413)

31 Sec. 12. Regulatory fees for---examination---and  
 32 administration.

33 (1) A credit union regulated by the Department shall pay

1 a regulatory fee to the Department based upon its total  
2 assets as shown by its Year-end Call Report at the following  
3 rates:

4 TOTAL ASSETS	REGULATORY FEE
5 \$25,000 or less .....	\$100
6 Over \$25,000 and not over	
7 \$100,000 .....	\$100 plus \$4 per \$1,000 of
8	assets in excess of \$25,000
9 Over \$100,000 and not over	
10 \$200,000 .....	\$400 plus \$3 per \$1,000 of
11	assets in excess of \$100,000
12 Over \$200,000 and not over	
13 \$500,000 .....	\$700 plus \$2 per \$1,000 of
14	assets in excess of \$200,000
15 Over \$500,000 and not over	
16 \$1,000,000 .....	\$1,300 plus \$1.40 per \$1,000
17	of assets in excess of
18	\$500,000
19 Over \$1,000,000 and not	
20 over \$5,000,000.....	\$2,000 plus \$0.50 per
21	\$1,000 of assets in
22	excess of \$1,000,000
23 Over \$5,000,000 and not	
24 over \$30,000,000 .....	\$4,000 plus \$0.35
25	per \$1,000 assets
26	in excess of \$5,000,000
27 Over \$30,000,000 and not	
28 over \$100,000,000 .....	\$12,750 plus \$0.30
29	per \$1,000 of assets in
30	excess of \$30,000,000
31 Over \$100,000,000 and not	
32 over \$500,000,000 .....	\$33,750 plus \$0.15 per
33	\$1,000 of assets in excess
34	of \$100,000,000

1 Over \$500,000,000 ..... \$93,750 plus \$0.05 per  
 2 \$1,000 of assets in excess  
 3 of \$500,000,000

4 (2) The Director shall review the regulatory fee  
 5 schedule in subsection (1) and the projected earnings on  
 6 those fees on an annual basis and adjust the fee schedule no  
 7 more than 5% annually if necessary to defray the estimated  
 8 administrative and operational expenses of the Department as  
 9 defined in subsection (5). The Director shall provide credit  
 10 unions with written notice of any adjustment made in the  
 11 regulatory fee schedule.

12 (3) Not later than March 1 of each calendar year, a  
 13 credit union shall pay to the Department, ~~for the preceding~~  
 14 ~~calendar year,~~ a regulatory fee for that calendar year in  
 15 accordance with the regulatory fee schedule in subsection  
 16 (1), on the basis of assets as of the Year-end Call Report of  
 17 the preceding year. The regulatory fee shall not be less  
 18 than \$100 or more than \$125,000, provided that the regulatory  
 19 fee cap of \$125,000 shall be adjusted to incorporate the same  
 20 percentage increase as the Director makes in the regulatory  
 21 fee schedule from time to time under subsection (2). No  
 22 regulatory fee shall be collected from a credit union until  
 23 it has been in operation for one year.

24 (4) The aggregate of all fees collected by the  
 25 Department under this Act shall be paid promptly after they  
 26 are received ~~receipt of the same,~~ accompanied by a detailed  
 27 statement thereof, into the State Treasury and shall be set  
 28 apart in the Credit Union Fund, a special fund hereby created  
 29 in the State treasury. The amount from time to time  
 30 deposited in the Credit Union Fund and shall be used to  
 31 offset the ordinary administrative and operational expenses  
 32 of the Department under this Act. All earnings received from  
 33 investments of funds in the Credit Union Fund shall be  
 34 deposited into the Credit Union Fund and may be used for the

1 same purposes as fees deposited into that Fund.

2 (5) The administrative and operational expenses for any  
3 calendar year shall mean the ordinary and contingent expenses  
4 for that year incidental to making the examinations provided  
5 for by, and for administering, this Act, including all  
6 salaries and other compensation paid for personal services  
7 rendered for the State by officers or employees of the State  
8 to enforce this Act; all expenditures for telephone and  
9 telegraph charges, postage and postal charges, office  
10 supplies and services, furniture and equipment, office space  
11 and maintenance thereof, travel expenses and other necessary  
12 expenses; all to the extent that such expenditures are  
13 directly incidental to such examination or administration.

14 (6) When the aggregate of all fees collected by the  
15 Department under this Act and all earnings thereon for any  
16 calendar year exceeds 150% of the total administrative and  
17 operational expenses under this Act for that year, such  
18 excess shall be credited to credit unions and applied against  
19 their regulatory fees for the subsequent year. The amount  
20 credited to a credit union shall be in the same proportion as  
21 the fee paid by such credit union for the calendar year in  
22 which the excess is produced bears to the aggregate of the  
23 fees collected by the Department under this Act for the same  
24 year.

25 (7) Examination fees for the year 2000 statutory  
26 examinations paid pursuant to the examination fee schedule in  
27 effect at that time shall be credited toward the regulatory  
28 fee to be assessed the credit union in calendar year 2001.

29 (8) Nothing in this Act shall prohibit the General  
30 Assembly from appropriating funds to the Department from the  
31 General Revenue Fund for the purpose of administering this  
32 Act.

33 (Source: P.A. 91-755, eff. 1-1-01.)

1 (205 ILCS 305/51) (from Ch. 17, par. 4452)

2 Sec. 51. Other Loan Programs.

3 (1) Subject to such rules and regulations as the  
4 Director may promulgate, a credit union may participate in  
5 loans to credit union members jointly with other credit  
6 unions, corporations, or financial institutions. An  
7 originating credit union may originate loans only to its own  
8 members. A participating credit union that is not the  
9 originating lender may participate in loans made to its own  
10 members or to members of another participating credit union.  
11 "Originating lender" means the participating credit union  
12 with which the member contracts. A master participation  
13 agreement must be properly executed, and the agreement must  
14 include provisions for identifying, either through documents  
15 incorporated by reference or directly in the agreement, the  
16 participation loan or loans prior to their sale.

17 (2) Any credit union with assets of \$500,000 or more may  
18 loan to its members under the State Scholarships Law or other  
19 scholarship programs which are subject to a federal or state  
20 law providing 100% repayment guarantee.

21 (3) A credit union may purchase the conditional sales  
22 contracts, notes and similar instruments which evidence an  
23 indebtedness of its members.

24 (4) With approval of the Board of Directors, a credit  
25 union may make loans, either on its own or jointly with other  
26 credit unions, corporations or financial institutions, to  
27 credit union organizations; provided, that the aggregate  
28 amount of all such loans outstanding shall not at any time  
29 exceed 1% of the paid-in and unimpaired capital and surplus  
30 of the credit union.

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

32 (205 ILCS 305/59) (from Ch. 17, par. 4460)

33 Sec. 59. Investment of Funds. Funds not used in loans to

1 members may be invested, pursuant to subsection (7) of  
2 Section 30 of this Act, and subject to Departmental rules and  
3 regulations:

4 (1) In securities, obligations or other instruments of  
5 or issued by or fully guaranteed as to principal and interest  
6 by the United States of America or any agency thereof or in  
7 any trust or trusts established for investing directly or  
8 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 in  
17 one of the 4 highest rating categories by a nationally  
18 recognized statistical rating organization;

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

27 (4) In shares, classes of shares or share certificates  
28 of other credit unions, including, but not limited to  
29 corporate credit unions; provided that such credit unions  
30 have their members' accounts insured by the NCUA or other  
31 approved insurers, and that if the members' accounts are so  
32 insured, a credit union's investment may exceed the insured  
33 limit on accounts;

34 (5) In shares of a cooperative society organized under

1 the laws of this State or the laws of the United States in  
2 the total amount not exceeding 10% of the unimpaired capital  
3 and surplus of the credit union; provided that such  
4 investment shall first be approved by the Department;

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

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

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

12 (9) In shares or stocks of Credit Union Service  
13 Organizations in the total amount not exceeding 1% of the  
14 unimpaired capital and surplus of the credit union.

15 As used in this Section, "political subdivision"  
16 includes, but is not limited to, counties, townships, cities,  
17 villages, incorporated towns, school districts, educational  
18 service regions, special road districts, public water supply  
19 districts, fire protection districts, drainage districts,  
20 levee districts, sewer districts, housing authorities, park  
21 districts, and any agency, corporation, or instrumentality of  
22 a state or its political subdivisions, whether now or  
23 hereafter created and whether herein specifically mentioned  
24 or not.

25 (Source: P.A. 86-432.)

26 (205 ILCS 305/70) (from Ch. 17, par. 4471)

27 Sec. 70. Use of name, sentence. No person, firm,  
28 association, partnership, or corporation, except corporations  
29 organized under this Act, the credit union acts of other  
30 states, or under the Federal Credit Union Act, or  
31 associations of such corporations, or subsidiaries of such  
32 associations, may use any name or title which contains the  
33 words "credit union" or any abbreviation thereof, and such

1 use is a Class A Misdemeanor.

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

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