

AN ACT concerning regulation.

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

Section 5. The Illinois Credit Union Act is amended by changing Sections 4, 22, 33, 46, and 52 and by adding Section 64.7 as follows:

(205 ILCS 305/4) (from Ch. 17, par. 4405)

Sec. 4. Amendments to articles of incorporation and bylaws. Amendments to the articles of incorporation or ~~may be made by the members at any regular or special meeting, if the proposed amendment is set forth in the call of the meeting and is approved by at least two thirds of the members present at a meeting at which a quorum is present.~~ Amendments to the bylaws may be made by the members at any regular or special meeting, if the proposed amendment is set forth in the call for the meeting and is approved by a majority of the members present at a meeting at which a quorum is present. Amendments to the articles of incorporation or bylaws may also be made by the board of directors at any regular or special meeting, if the proposed amendment is set forth in the call of the meeting and approved by at least two thirds of the directors present at a meeting at which a quorum is present. A report shall be made to the members at the next annual meeting of any amendments to the

articles of incorporation or bylaws adopted by the board of directors. Any amendment to the articles of incorporation or bylaws of a credit union shall be approved by the Secretary before the amendment is effective. The Secretary shall approve or disapprove of any amendments within 60 days after submission to him or her.

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

(205 ILCS 305/22) (from Ch. 17, par. 4423)

Sec. 22. Vacancies.

(a) The board of directors shall, by appointment from among the credit union members, fill any vacancies occurring on the board for the remainder of the director's unexpired term or until a successor is elected and qualified following completion of the term filled by the board. In the event the vacancy reduces the number of directors serving on the board to less than the statutory minimum set forth in subsection (1) of Section 20, then the board shall fill the vacancy no later than the next annual meeting of members or 90 days after the vacancy occurred, whichever occurs first. Upon written application to the Secretary, the board may request additional time in which to fill the vacancy. The application may be approved by the Secretary in his or her discretion. The board shall, by appointment from among the credit union members, fill vacancies in the membership committee, credit committee, ~~or credit manager if no credit committee has been appointed,~~ and

supervisory committees.

(b) An office may be declared vacant by the board when a director or a committee member dies, resigns from the board or committee, is removed from the board or committee, is no longer a member of the credit union, is the owner of less than one share of the credit union, or fails to attend three consecutive regular meetings of the board without good cause.

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

(205 ILCS 305/33) (from Ch. 17, par. 4434)

Sec. 33. Credit manager.

(1) The credit committee, board of directors, or chief management official may or, if no credit committee has been appointed, the board of directors or chief management official shall appoint a credit manager who shall be empowered to approve or disapprove loans and lines of credit under conditions prescribed by the board of directors. The credit committee or credit manager may appoint one or more loan officers with the power to approve loans and lines of credit, subject to such limitations or conditions as may be prescribed by the board of directors. The credit manager and any loan officers appointed by the credit committee or the credit manager shall keep written records of all transactions and shall report, in writing, to the credit committee if a credit committee has been appointed, otherwise to the directors at each board meeting.

(2) Applications for loans or lines of credit not approved by a loan officer shall be reviewed and acted upon by the credit committee or credit manager.

(3) The loan officers must keep written records of all loans or lines of credit granted or refused and any other transactions and submit a report to the credit committee or credit manager at least once each month.

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

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

Sec. 46. Loans and interest rate.

(1) A credit union may make loans to its members for such purpose and upon such security and terms, including rates of interest, as the credit committee, credit manager, or loan officer approves. Notwithstanding the provisions of any other law in connection with extensions of credit, a credit union may elect to contract for and receive interest and fees and other charges for extensions of credit subject only to the provisions of this Act and rules promulgated under this Act, except that extensions of credit secured by residential real estate shall be subject to the laws applicable thereto. The rates of interest to be charged on loans to members shall be set by the board of directors of each individual credit union in accordance with Section 30 of this Act and such rates may be less than, but may not exceed, the maximum rate set forth in this Section. A borrower may repay his loan prior to maturity,

in whole or in part, without penalty. A prepayment penalty does not include a waived, bona fide third-party charge that the credit union imposes if the borrower prepays all of the transaction's principal sooner than 36 months after consummation of a closed-end credit transaction, a waived, bona fide third-party charge that the credit union imposes if the borrower terminates an open-end credit plan sooner than 36 months after account opening, or a yield maintenance fee imposed on a business loan transaction. The credit contract may provide for the payment by the member and receipt by the credit union of all costs and disbursements, including reasonable attorney's fees and collection agency charges, incurred by the credit union to collect or enforce the debt in the event of a delinquency by the member, or in the event of a breach of any obligation of the member under the credit contract. A contingency or hourly arrangement established under an agreement entered into by a credit union with an attorney or collection agency to collect a loan of a member in default shall be presumed prima facie reasonable.

(2) Credit unions may make loans based upon the security of any interest or equity in real estate, subject to rules and regulations promulgated by the Secretary. In any contract or loan which is secured by a mortgage, deed of trust, or conveyance in the nature of a mortgage, on residential real estate, the interest which is computed, calculated, charged, or collected pursuant to such contract or loan, or pursuant to any

regulation or rule promulgated pursuant to this Act, may not be computed, calculated, charged or collected for any period of time occurring after the date on which the total indebtedness, with the exception of late payment penalties, is paid in full.

For purposes of this subsection (2) of this Section 46, a prepayment shall mean the payment of the total indebtedness, with the exception of late payment penalties if incurred or charged, on any date before the date specified in the contract or loan agreement on which the total indebtedness shall be paid in full, or before the date on which all payments, if timely made, shall have been made. In the event of a prepayment of the indebtedness which is made on a date after the date on which interest on the indebtedness was last computed, calculated, charged, or collected but before the next date on which interest on the indebtedness was to be calculated, computed, charged, or collected, the lender may calculate, charge and collect interest on the indebtedness for the period which elapsed between the date on which the prepayment is made and the date on which interest on the indebtedness was last computed, calculated, charged or collected at a rate equal to  $1/360$  of the annual rate for each day which so elapsed, which rate shall be applied to the indebtedness outstanding as of the date of prepayment. The lender shall refund to the borrower any interest charged or collected which exceeds that which the lender may charge or collect pursuant to the preceding sentence. ~~The provisions of this amendatory Act of 1985 shall~~

~~apply only to contracts or loans entered into on or after the effective date of this amendatory Act.~~

(3) (Blank).

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

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

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

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

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

(4-5) For purposes of this Section, "real estate" and "real property" include a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code which is real property as defined in Section 5-35 of the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act.

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

(6) Credit unions may make residential real estate mortgage loans on terms and conditions established by the United States Department of Agriculture through its Rural Development Housing and Community Facilities Program. The portion of any

loan in excess of the appraised value of the real estate shall be allocable only to the guarantee fee required under the program.

(7) For a renewal, refinancing, or restructuring of an existing loan at the credit union that is secured by an interest or equity in real estate, a new appraisal of the collateral shall not be required when (i) no new moneys are advanced other than funds necessary to cover reasonable closing costs, or (ii) there has been no obvious or material change in market conditions or physical aspects of the real estate that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of new moneys. The Department reserves the right to require an appraisal under this subsection (7) whenever the Department believes it is necessary to address safety and soundness concerns.

(Source: P.A. 98-749, eff. 7-16-14; 98-784, eff. 7-24-14; 99-78, eff. 7-20-15; 99-149, eff. 1-1-16; 99-331, eff. 1-1-16; revised 10-16-15.)

(205 ILCS 305/52) (from Ch. 17, par. 4453)

Sec. 52. Loans to directors, officers, credit committee, ~~credit manager,~~ and supervisory committee members. A credit union may make loans to its directors, officers, credit committee members, ~~credit manager,~~ and supervisory committee members, provided that the loan complies with all lawful

requirements under this Act with respect to loans to other borrowers. No loan may be made to or cosigned by any director, officer, credit committee member, ~~credit manager if no credit committee has been appointed,~~ or supervisory committee member which would cause the aggregate amount of all loans then outstanding to or cosigned by all directors, officers, credit committee members, ~~credit manager if no credit committee has been appointed,~~ or supervisory committee members to exceed 20% of the unimpaired capital and surplus of the credit union.

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

(205 ILCS 305/64.7 new)

Sec. 64.7. Network credit unions.

(a) Two or more credit unions merging pursuant to Section 63 of this Act may elect to request a network credit union designation for the surviving credit union from the Secretary. The request shall be set forth in the plan of merger and certificate of merger executed by the credit unions and submitted to the Secretary pursuant to subsection (4) of Section 63. The Secretary's approval of a certificate of merger containing a network credit union designation request shall constitute approval of the use of the network designation as a brand or other identifier of the surviving credit union. If the surviving credit union desires to include the network designation in its legal name, make any other change to its legal name, or both, it shall proceed with an amendment to the

articles of incorporation and bylaws of the surviving credit union pursuant to Section 4 of this Act.

(b) A network credit union is a cooperative business structure comprised of 2 or more merging credit unions with a collective goal of efficiently serving their combined membership and gaining economies of scale through common vision, strategy and initiative. The merging credit unions shall be identified as divisional credit unions, branches, or units of the network credit union or by other descriptive references that ensure the members understand they are dealing with one credit union rather than multiple credit unions. Each divisional credit union shall have its own advisory board of directors and chief management official to assist in maintaining and leveraging its respective local identity for the benefit of the surviving credit union. The divisional credit union advisory boards shall be appointed by the network credit union board of directors. Each divisional credit union's board of directors shall appoint its divisional credit union chief management official and may also appoint one of its directors to serve on the network credit union's nominating committee.

(c) The network credit union is the surviving legal entity in the merger and supervision, examination, audit, reporting, governance, and management shall be conducted or performed at the network credit union level. All share insurance, safety and soundness, and statutory and regulatory requirements and

Public Act 099-0614

HB5755 Enrolled

LRB099 20532 SMS 45074 b

limitations shall be evaluated at the network credit union level.

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