



Sen. Antonio Muñoz

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10200SB3145sam003

LRB102 22843 BMS 37166 a

1 AMENDMENT TO SENATE BILL 3145

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3145 on page 1,  
3 line 5, by deleting "29,"; and

4 on page 1, line 19, by replacing "Section" with "Section 15  
5 or"; and

6 on page 2, line 1, after "union", by inserting "in accordance  
7 with the terms of the credit union's written business plan  
8 submitted to the Secretary under subsection (e)"; and

9 on page 3, by replacing lines 1 through 9 with the following:  
10 "must submit the business plan to the Secretary. The Secretary  
11 may, in his or her sole discretion, approve the business plan,  
12 disapprove the business plan, or require the credit union to  
13 modify the business plan to seek approval of the target market  
14 as an occupational, community, or associational common bond or  
15 common bonds, pursuant to 38 Ill. Adm. Code 190.10. The credit

1 union must be advised in writing of the findings of the  
2 Secretary in support of the determination and the specific and  
3 reasonable time period in which to file a modified plan. If the  
4 Secretary approves the business plan, the credit union shall  
5 be required to add the target market to its field of  
6 membership."; and

7 by deleting line 8 on page 11 through line 3 on page 13; and

8 on page 15, line 6, by replacing "or" with "~~or~~"; and

9 on page 15, line 8, after "subsection (3)", by inserting "; or  
10 (iii) an external independent audit of the credit union's  
11 financial statements in accordance with subsection (5)"; and

12 on page 17, line 4, after "Board", by inserting ", or the  
13 regulatory basis of accounting identified in subsection (5)";  
14 and

15 on page 17, line 15, after "losses", by inserting "and  
16 complies with the Department's rule addressing loan loss  
17 accounting procedures in 38 Ill. Adm. Code 190.70"; and

18 on page 28, by replacing lines 1 through 7 with the following:

19 "(15) (A) In shares, stocks, or member units of  
20 financial technology companies in the total amount not

1 exceeding 2.5% of the net worth of the credit union, so  
2 long as:

3 (i) the credit union would remain well capitalized  
4 as defined by 12 CFR 702.102 if the credit union  
5 reduced its net worth by the full investment amount at  
6 the time the investment is made or at any point during  
7 the time the investment is held by the credit union;

8 (ii) the credit union and the financial technology  
9 company are operated in a manner that demonstrates to  
10 the public the separate corporate existence of the  
11 credit union and financial technology company; and

12 (iii) the credit union has received a composite  
13 rating of 1 or 2 under the CAMELS supervisory rating  
14 system.

15 (B) The investment limit in subparagraph (A) of this  
16 paragraph (15) is increased to 5% of the net worth of the  
17 credit union, if it has received a management rating of 1  
18 under the CAMELS supervisory rating system at the time a  
19 specific investment is made and at all times during the  
20 term of the investment. A credit union that satisfies the  
21 criteria in subparagraph (A) of this paragraph (15) and  
22 this subparagraph may request approval from the Secretary  
23 for an exception to the 5% limit up to a limit of 10% of  
24 the net worth of the credit union, subject to such safety  
25 and soundness standards, limitations, and qualifications  
26 as the Department may establish by rule or guidance from

1 time to time. The request shall be in writing and  
2 substantiate the need for the higher limit, describe the  
3 credit union's record of investment activity, and include  
4 financial statements reflecting a sound fiscal history.

5 (C) Before investing in a financial technology  
6 company, the credit union shall obtain a written legal  
7 opinion as to whether the financial technology company is  
8 established in a manner that will limit potential exposure  
9 of the credit union to no more than the loss of funds  
10 invested in the financial technology company and the legal  
11 opinion shall:

12 (i) address factors that have led courts to  
13 "pierce the corporate veil", such as inadequate  
14 capitalization, lack of separate corporate identity,  
15 common boards of directors and employees, control of  
16 one entity over another, and lack of separate books  
17 and records; and

18 (ii) be provided by independent legal counsel of  
19 the credit union.

20 (D) Before investing in the financial technology  
21 company, the credit union shall enter into a written  
22 investment agreement with the financial technology company  
23 and the agreement shall contain the following clauses:

24 (i) the financial technology company will: (I)  
25 provide the Department with access to the books and  
26 records of the financial technology company relating

1           to the investment made by the credit union, with the  
2           costs of examining those records borne by the credit  
3           union in accordance with the per diem rate established  
4           by the Department by rule; (II) follow generally  
5           accepted accounting principles; and (III) provide the  
6           credit union with its financial statements on at least  
7           a quarterly basis and certified public accountant  
8           audited financial statements on an annual basis; and

9           (ii) the financial technology company and credit  
10          union agree to terminate their contractual  
11          relationship: (I) upon 90 days' written notice to the  
12          parties by the Secretary that the safety and soundness  
13          of the credit union is threatened pursuant to the  
14          Department's cease and desist and suspension authority  
15          in Sections 8 and 61; (II) upon 30 days' written notice  
16          to the parties if the credit union's net worth ratio  
17          falls below the level that classifies it as  
18          well-capitalized as defined by 12 CFR 702.102; and  
19          (III) immediately upon the parties' receipt of written  
20          notice from the Secretary when the Secretary  
21          reasonably concludes, based upon specific facts set  
22          forth in the notice to the parties, that the credit  
23          union will suffer immediate, substantial, and  
24          irreparable injury or loss if it remains a party to the  
25          investment agreement.

26          (E) The termination of the investment agreement

1       between the financial technology company and credit union  
2       shall in no way operate to relieve the financial  
3       technology company from repaying the investment or other  
4       obligation due and owing the credit union at the time of  
5       termination.

6       (F) Any financial technology company in which a credit  
7       union invests pursuant to this paragraph (15) that  
8       directly or indirectly originates, purchases, facilitates,  
9       brokers, or services loans to consumers in Illinois shall  
10      not charge an interest rate that exceeds the applicable  
11      maximum rate established by the Board of the National  
12      Credit Union Administration pursuant to 12 CFR  
13      701.21(c)(7)(iii)-(iv). The maximum interest rate  
14      described in this subparagraph that may be charged by a  
15      financial technology company applies to all consumer loans  
16      and consumer credit products."; and

17      on page 30, immediately below line 2, by inserting the  
18      following:

19           "Section 99. Effective date. This Act takes effect upon  
20      becoming law, except that Section 16.5 of the Illinois Credit  
21      Union Act takes effect January 1, 2023."