



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5755

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

205 ILCS 305/4	from Ch. 17, par. 4405
205 ILCS 305/22	from Ch. 17, par. 4423
205 ILCS 305/33	from Ch. 17, par. 4434
205 ILCS 305/46	from Ch. 17, par. 4447
205 ILCS 305/52	from Ch. 17, par. 4453
205 ILCS 305/64.7 new	

Amends the Illinois Credit Union Act. Provides that amendments to the articles of incorporation of a credit union may be made with the approval of a majority (rather than two-thirds) of the members or at least two-thirds of the directors. Requires that a report of any amendments to the articles of incorporation adopted by the board of directors be made to the members at the next annual meeting. Removes a credit manager as a vacancy that can be filled by the board of directors through appointment. Provides that the credit committee, board of directors, or chief management official (rather than just the credit committee) may appoint a credit manager. Provides that if no credit committee has been appointed, the board of directors or chief management official (rather than just the board of directors) shall appoint a credit manager. Provides that a prepayment penalty does not include a waived, bona fide third-party charge that the credit union imposes if the consumer 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 consumer terminates an open-end credit plan sooner than 36 months after account opening, or a yield maintenance fee imposed on a business transaction. Allows 2 or more credit unions that are merging to elect to request a network credit union designation for the surviving credit union. Sets forth provisions for network credit unions. Effective immediately.

LRB099 20532 SMS 45074 b

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 5. The Illinois Credit Union Act is amended by
5 changing Sections 4, 22, 33, 46, and 52 and by adding Section
6 64.7 as follows:

7 (205 ILCS 305/4) (from Ch. 17, par. 4405)

8 Sec. 4. Amendments to articles of incorporation and bylaws.
9 Amendments to the articles of incorporation or ~~may be made by~~
10 ~~the members at any regular or special meeting, if the proposed~~
11 ~~amendment is set forth in the call of the meeting and is~~
12 ~~approved by at least two thirds of the members present at a~~
13 ~~meeting at which a quorum is present. Amendments to the~~ bylaws
14 may be made by the members at any regular or special meeting,
15 if the proposed amendment is set forth in the call for the
16 meeting and is approved by a majority of the members present at
17 a meeting at which a quorum is present. Amendments to the
18 articles of incorporation or bylaws may also be made by the
19 board of directors at any regular or special meeting, if the
20 proposed amendment is set forth in the call of the meeting and
21 approved by at least two thirds of the directors present at a
22 meeting at which a quorum is present. A report shall be made to
23 the members at the next annual meeting of any amendments to the

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

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

8 (205 ILCS 305/22) (from Ch. 17, par. 4423)

9 Sec. 22. Vacancies.

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

1 supervisory committees.

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

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

9 (205 ILCS 305/33) (from Ch. 17, par. 4434)

10 Sec. 33. Credit manager.

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

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

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

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

9 (205 ILCS 305/46) (from Ch. 17, par. 4447)

10 Sec. 46. Loans and interest rate.

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

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

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

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

5 For purposes of this subsection (2) of this Section 46, a
6 prepayment shall mean the payment of the total indebtedness,
7 with the exception of late payment penalties if incurred or
8 charged, on any date before the date specified in the contract
9 or loan agreement on which the total indebtedness shall be paid
10 in full, or before the date on which all payments, if timely
11 made, shall have been made. In the event of a prepayment of the
12 indebtedness which is made on a date after the date on which
13 interest on the indebtedness was last computed, calculated,
14 charged, or collected but before the next date on which
15 interest on the indebtedness was to be calculated, computed,
16 charged, or collected, the lender may calculate, charge and
17 collect interest on the indebtedness for the period which
18 elapsed between the date on which the prepayment is made and
19 the date on which interest on the indebtedness was last
20 computed, calculated, charged or collected at a rate equal to
21 $1/360$ of the annual rate for each day which so elapsed, which
22 rate shall be applied to the indebtedness outstanding as of the
23 date of prepayment. The lender shall refund to the borrower any
24 interest charged or collected which exceeds that which the
25 lender may charge or collect pursuant to the preceding
26 sentence. ~~The provisions of this amendatory Act of 1985 shall~~

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

3 (3) (Blank).

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

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

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

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

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

14 (4-5) For purposes of this Section, "real estate" and "real
15 property" include a manufactured home as defined in subdivision
16 (53) of Section 9-102 of the Uniform Commercial Code which is
17 real property as defined in Section 5-35 of the Conveyance and
18 Encumbrance of Manufactured Homes as Real Property and
19 Severance Act.

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

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

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

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

17 (Source: P.A. 98-749, eff. 7-16-14; 98-784, eff. 7-24-14;
18 99-78, eff. 7-20-15; 99-149, eff. 1-1-16; 99-331, eff. 1-1-16;
19 revised 10-16-15.)

20 (205 ILCS 305/52) (from Ch. 17, par. 4453)

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

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

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

11 (205 ILCS 305/64.7 new)

12 Sec. 64.7. Network credit unions.

13 (a) Two or more credit unions merging pursuant to Section
14 63 of this Act may elect to request a network credit union
15 designation for the surviving credit union from the Secretary.
16 The request shall be set forth in the plan of merger and
17 certificate of merger executed by the credit unions and
18 submitted to the Secretary pursuant to subsection (4) of
19 Section 63. The Secretary's approval of a certificate of merger
20 containing a network credit union designation request shall
21 constitute an amendment to the legal name of the surviving
22 credit union as set forth in its articles of incorporation and
23 bylaws, to include the reference to network. Any other change
24 to the legal name of the surviving credit union shall require
25 an amendment to the articles of incorporation and bylaws of the

1 surviving credit union pursuant to Section 4 of this Act.

2 (b) A network credit union is a cooperative business
3 structure comprised of 2 or more merging credit unions with a
4 collective goal of efficiently serving their combined
5 membership and gaining economies of sale through common vision,
6 strategy and initiative. The merging credit unions shall be
7 identified as divisional credit unions, branches, or units of
8 the network credit union. Each divisional credit union shall
9 have its own advisory board of directors and chief management
10 official to assist in maintaining and leveraging its respective
11 local identity for the benefit of the surviving credit union.
12 The divisional credit union advisory boards shall be appointed
13 by the network credit union board of directors. Each divisional
14 credit union's board of directors shall appoint its divisional
15 credit union chief management official and may also appoint one
16 of its directors to serve on the network credit union's
17 nominating committee.

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

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