

AN ACT concerning financial 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 34 and 46 and by adding Section 42.5 as follows:

(205 ILCS 305/34) (from Ch. 17, par. 4435)

Sec. 34. Duties of Supervisory Committee.

(1) The Supervisory Committee shall make or cause to be made an annual internal audit of the books and affairs of the credit union to determine that the credit union's accounting records and reports are prepared promptly and accurately reflect operations and results, that internal controls are established and effectively maintained to safeguard the assets of the credit union, and that the policies, procedures and practices established by the Board of Directors and management of the credit union are being properly administered. The Supervisory Committee shall submit a report of that audit to the Board of Directors and a summary of that report to the members at the next annual meeting of the credit union. It shall make or cause to be made such supplementary audits as it deems necessary or as are required by the Director or by the Board of Directors, and submit reports of these supplementary

audits to the Director or Board of Directors as applicable. If the Supervisory Committee has not engaged a public accountant registered by the Department of Professional Regulation to make the internal audit, the Supervisory Committee or other officials of the credit union shall not indicate or in any manner imply that such audit has been performed by a public accountant or that the audit represents the independent opinion of a public accountant. The Committee must retain its tapes and working papers of each internal audit for inspection by the Department. The report of this audit must be made on a form approved by the Director. A copy of the report must be promptly mailed to the Director.

(2) The Supervisory Committee shall make or cause to be made at least once each year a reasonable percentage verification of members' share and loan accounts, consistent with rules promulgated by the Director.

(3) The Supervisory Committee of a credit union with assets of \$5,000,000 or more shall engage a public accountant registered by the Department of Professional Regulation to perform an annual external independent audit of the credit union's financial statements in accordance with generally accepted auditing standards. The Supervisory Committee of a credit union with assets of \$3,000,000 or more, but less than \$5,000,000, shall engage a public accountant registered by the Department of Professional Regulation to perform an external independent audit of the credit union's financial statements in

accordance with generally accepted auditing standards at least once every 3 years. A copy of an external independent audit shall be mailed to the Director upon completion. If the annual internal audit of such a credit union is conducted by a public accountant registered by the Department of Professional Regulation and the annual internal audit is done in conjunction with the credit union's annual external audit, the requirements of subsection (1) of this Section shall be deemed met.

(4) In determining the appropriate balance in the allowance for loan losses account, a credit union may determine its historical loss rate using a defined period of time of less than 5 years, provided that:

(A) the methodology used to determine the defined period of time is formally documented in the credit union's policies and procedures and is appropriate to the credit union's size, business strategy, and loan portfolio characteristics and the economic environment of the areas and employers served by the credit union;

(B) supporting documentation is maintained for the technique used to develop the credit union loss rates, including the period of time used to accumulate historical loss data and the factors considered in establishing the time frames; and

(C) the external auditor conducting the credit union's financial statement audit has analyzed the methodology employed by the credit union and concludes that the

financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with U.S. Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board.

(5) A majority of the members of the Supervisory Committee shall constitute a quorum.

(Source: P.A. 86-238.)

(205 ILCS 305/42.5 new)

Sec. 42.5. Marketing of services. For purposes of promoting its services to persons eligible for membership, a credit union may sell to persons within its field of membership negotiable checks, including travelers checks, money orders, and similar money transfer instruments (including international and domestic electronic fund transfers) and may cash checks and money orders, and may receive international and domestic electronic fund transfers for such persons for a fee.

(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. 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 Director. 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) Notwithstanding any other provision of this Act, a credit union authorized under this Act to make loans secured by an interest or equity in real estate may engage in making "reverse mortgage" loans to persons for the purpose of making home improvements or repairs, paying insurance premiums or paying real estate taxes on the homestead properties of such persons. If made, such loans shall be made on such terms and conditions as the credit union shall determine and as shall be consistent with the provisions of this Section and such rules and regulations as the Director shall promulgate hereunder. For purposes of this Section, a "reverse mortgage" loan shall be a loan extended on the basis of existing equity in homestead property and secured by a mortgage on such property. Such loans shall be repaid upon the sale of the property or upon the death of the owner or, if the property is in joint tenancy, upon the death of the last surviving joint tenant who had such an interest in the property at the time the loan was initiated, provided, however, that the credit union and its member may by mutual agreement, establish other repayment terms. A credit union, in making a "reverse mortgage" loan, may add deferred interest to principal or otherwise provide for the charging of interest or premiums on such deferred interest. "Homestead"

property, for purposes of this Section, means the domicile and contiguous real estate owned and occupied by the mortgagor. The Director shall promulgate rules and regulations under this Section; provided that such rules and regulations need not be promulgated jointly with any other administrative agency of this State.

(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.

(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.

Public Act 096-0141

HB0348 Enrolled

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(Source: P.A. 95-98, eff. 8-13-07.)

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