

CREDIT UNIONS (17 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Dec. 12, 1994, P.L. 1067, No. 146

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Session of 1994

No. 1994-146

HB 2563

AN ACT

Amending Title 17 (Credit Unions) of the Pennsylvania Consolidated Statutes, further providing for definitions, for bylaws, for powers, for regulation by Department of Banking, for loans, for reserves, for loan procedures and for conversion into Federal credit unions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 103 of Title 17 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:
§ 103. Definitions.

The following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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"Retained earnings." Undivided profits.

* * *

"Shares." All savings including regular shares, share drafts, share certificates and other savings.

"Total equity capital." Regular reserve and undivided earnings.

"Total equity capital and reserves." Regular reserve, undivided earnings and all reserve accounts, including the allowance for loan loss reserve.

"Unimpaired capital." Total shares.

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Section 2. Section 305 and 501(b)(7) and (10) of Title 17 are amended to read:

§ 305. Bylaws.

(a) General rule.--The original bylaws of a credit union shall be adopted by the incorporators of the credit union and copies [thereof] shall be transmitted to the Department of Banking along with the articles of incorporation as provided in this chapter.

(b) Amendments.--[Thereafter, bylaws] **Bylaws** may be amended **or repealed** either by two-thirds of the members present and voting or a majority of the board of directors at any regular , **annual** or special meeting of the credit union[, or of the board of directors, as the case may be, if notice thereof is given and a quorum is established in accordance with the bylaws]. **Bylaws may alternatively be amended or repealed by members through mail ballot if the bylaws provide for such a procedure and if two-thirds of the responding member ballots favor the proposed**

amendment or repeal.

(c) Restrictions on board of directors.--The board of directors shall not amend any bylaws fixing their qualifications, classification, term of office or compensation.

(d) Review by members.--Whenever the board of directors amends the bylaws, written notice thereof shall be given to the members prior to the next meeting of the members or within 90 days after such action by the board of directors, whichever is sooner. Any amendment to the bylaws adopted by the board of directors may be repealed or amended by the members at [a meeting] **an annual or special meeting or by a mail ballot vote** held at least ten days after the mailing of the notice [thereof].

(e) Appeal procedure.--In the event that a bylaw amendment approved by the board of directors is rejected or changed by the members at an annual or special meeting, the board of directors may resubmit the original amendment to a vote of the entire membership through mail ballot procedures. The board of directors may take such action if the resubmittal motion is approved by a vote of at least a majority of the board of directors.

§ 501. Powers.

* * *

(b) Special powers.--Except as set forth in subsection (c), a credit union shall have the following special powers:

* * *

(7) To invest its funds in the following investments:

(i) Securities, obligations or other instruments of or fully guaranteed as to principal and interest by the United States or any agency thereof or in any trust established for investing directly or collectively in the same.

(ii) Bonds or other interest-bearing obligations of the Commonwealth or any political subdivision thereof or an authority which has been created as a body corporate and politic under any law of this Commonwealth.

(iii) Shares of any savings and loan association or credit union, organized under the laws of this Commonwealth, or of any Federal savings and loan association or Federal credit union, to the extent to which the withdrawal or repurchase value of such shares is insured by any agency of the United States or any other insurer approved by the Department of Banking.

(iv) Bonds and notes of the Pennsylvania Housing Agency created by the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law.

(v) Capital stock, obligations or other securities of any service corporation organized under the laws of this Commonwealth or under the laws of any other state and duly qualified to do business in this Commonwealth, if the entire capital stock of such corporation is available for purchase only by credit unions, organized and existing under the laws of this Commonwealth and by Federal credit unions or association of credit unions. A complete description of the service corporation and its

activities must be furnished to the department and its approval obtained by the credit union before investing in such corporation. No credit union may make an investment in a service corporation if its then aggregate outstanding investments under this subparagraph would exceed 1% of its assets.

(vi) Obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks or any corporation designated in 31 U.S.C. § 9101 **(2) and** (3) (relating to definitions) as a "[wholly owned] government corporation."

(vii) Obligations, participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association.

(viii) Mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. § 1454 (relating to purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions) or 1455 (relating to obligations and securities of the corporation).

(ix) Obligations or other instruments or securities of the Student Loan Marketing Association.

(x) Participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more government agencies to a trust or trusts for which any executive department, agency or instrumentality of the United States (or the head thereof) has been named to act as trustee.

(xi) Bankers' acceptances issued by State banks, bank and trust companies and savings banks, and national banking associations the accounts of which are Federally insured.

Before making the investments described in subparagraphs (vi) through (xi), a credit union shall [obtain the prior written approval of the department] **be in compliance with investment standards established by the department** .

* * *

(10) To hold, purchase, mortgage, alter, improve and sell such real property, and furniture and fixtures to be used therein, as the purposes of the credit union require and which the credit union occupies or intends to occupy for the transaction of its business or partly so occupies and partly leases to others, except that, without the prior written approval of the department, the cost, at the time of acquisition, of such real property and furniture and fixtures therein shall not exceed [in the aggregate 50% of the unimpaired surplus and undivided earnings of the credit union or 5% of its unimpaired capital up to \$1,000,000, plus 3% of its capital over \$1,000,000, whichever is greater] **5% of**

shares and retained earnings .

* * *

Section 3. Section 503(a) of Title 17 is amended and the section is amended by adding a subsection to read:

§ 503. Regulation by Department of Banking.

(a) General rule.--Credit unions shall be under the supervision of the Department of Banking. The department is hereby authorized and empowered to issue general rules and regulations and specific orders for the protection of members of credit unions, for insuring the conduct of the business of credit unions on a safe and sound basis and for the effective enforcement of this title. Credit unions shall report to the department as often as may be required by it and at least annually on blanks supplied by the department for that purpose. Supplementary reports may be required by the department from time to time. Credit unions shall be examined as often as may be required by the department and at least annually, and the department may use such other methods of assuring itself of the condition of the credit unions as it shall deem advisable. The cost of all such examinations and inspections shall be paid by the credit union. A credit union shall also pay annually its proportionate share of the overhead expense of the department determined by regulation of the department. **The department shall give written notice to each credit union of the costs of examinations, investigations and the credit union's proportionate share of the overhead expenses of the department. The credit union shall pay the amount of such costs within 30 days of the notice. If payment is not made within 30 days of the notice, the department may assess a penalty fee of \$150 for that 30-day period and each successive 30-day period of delinquency.** For failure to file reports when due, unless excused for cause, a credit union shall pay to the department [\$5] **\$100** for each day of its delinquency.

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(e) Report.--**A credit union shall furnish to the department copies of the report of financial condition, known as the call report, that the credit union is required to provide to the National Credit Union Administration.**

Section 4. Section 512 of Title 17 is amended to read:

§ 512. Loans.

Except as otherwise provided in this title, a credit union may make loans to its members only. Loans must be made subject to the conditions contained in the bylaws. A borrower may repay his loan, in whole or in part, any day the office of the credit union is open for business. No director, officer or member of any committee may obtain **or guarantee** a loan from the credit union in which he holds office on terms, rates or conditions more favorable than those granted to any other member [or endorse a loan granted by the credit union in which he holds office].

Section 5. Section 513(a) of Title 17 is amended and the section is amended by adding subsections to read:

§ 513. Reserves.

(a) General rule.--At the end of each accounting period, the gross income shall be determined. From this amount, there shall

be set aside[, as a regular reserve against losses on loans and against such other losses as may be specified by the Department of Banking, sums in accordance with the following schedule] a

sum in accordance with the following schedule as a regular reserve :

(1) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside:

(i) 10% of gross income until the regular reserve shall equal 4% of the total of outstanding loans and risk assets; then

(ii) 5% of gross income until the regular reserve shall equal 6% of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four years or having assets of less than \$500,000 shall set aside:

(i) 10% of gross income until the regular reserve shall equal 7.5% of the total of the outstanding loans and risk assets; then

(ii) 5% of gross income until the regular reserve shall equal 10% of the total of outstanding loans and risk assets.

(3) Whenever the regular reserve falls below the stated percentage of the total of outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(4) All entrance fees collected shall be set aside in the regular reserve fund.

(5) The regular reserve fund thus established shall not be loaned out to members and shall be deposited as authorized in section 501(b)(6) (relating to powers) or invested in such investments as are authorized by section 501(b)(7). The regular reserve fund shall belong to the credit union and shall not be distributed except in case of liquidation. [The board of directors shall decide the loans which are to be charged off against the regular reserve fund, except that the Department of Banking may, at the time of examination of a credit union, recommend for charge-off such loans which in its opinion are unsound, which loans shall be charged against the regular reserve fund within 60 days of the receipt of such recommendation from the department. Any amount received from the repayment of a loan after it has been charged off against the regular reserve fund shall be credited back to the fund.]

(6) The directors are authorized, after the required reserve has been provided for, to make additional transfers from undivided earnings to a contingent reserve for other anticipated losses and expenses, but the members at the annual meeting may retransfer any part or all of such contingent reserve to the undivided earnings account.

* * *

(c) Allowance for loan loss.--Each credit union, in addition to maintaining a regular reserve, shall establish an allowance for loan loss. The allowance for loan loss reserve shall be funded in the manner and used for the purposes as designated

from time to time by the Department of Banking. The board of directors shall decide the loans which are to be charged off against the allowance for loan loss, except that the Department of Banking may, at the time of examination of a credit union, recommend for charge-off such loans which in its opinion are unsound, which loans shall be charged against the allowance for loan loss account within 60 days of the receipt of such recommendation from the department. Any amount received from the repayment of a loan after it has been charged off against the allowance for loan loss account shall be credited back to the account.

(d) Allowance for Investment Loss.--Each credit union, in addition to maintaining a regular reserve, shall establish an Allowance for Investment Loss in compliance with Federal or State laws or regulations as well as Generally Accepted Accounting Principles. The Allowance for Investment Loss reserve shall be funded in conformity with such laws, regulations or Generally Accepted Accounting Principles.

Section 6. Sections 713(b) and (h) and 1101(a)(1) of Title 17 are amended to read:

§ 713. Loan procedures.

* * *

(b) Conflict of interest.--No credit committee member, loan officer or director of a credit union shall vote on the granting of any loan in which such official [or] **has guaranteed the repayment of the loan or where** a member of his or her immediate family has a beneficial interest.

* * *

(h) Restrictions.--No individual shall have authority to disburse funds of the credit union for any loan which has been approved by such individual in his or her capacity as loan officer. [Not more than one member of the credit committee may be appointed as loan officer.]

§ 1101. Conversion into Federal credit union.

(a) General rule.--A credit union may be converted into a Federal credit union by complying with the following requirements:

(1) The proposition for such conversion shall first be approved by a majority vote of the directors of the credit union who shall also set a date for the vote thereon by the members. The vote of the members shall be conducted at a meeting held on such date or by written ballot to be filed on or before such date. Written notice of the proposition and of the date set for the vote shall be given each member not more than 30 nor less than ten days prior to such date. Approval of the proposition shall be by the affirmative vote of a majority of the members **voting**, in person or in writing , **either at a meeting of the credit union or through a mail ballot vote. In order for a vote to be considered valid, there must be a quorum established. In the case of a meeting of the credit union, a quorum shall be established by the presence of at least 10% of the credit union's membership. In the case of a mail ballot vote, a quorum shall be established by the written response of at least 10% of the credit union's membership .**

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Section 7. This act shall take effect in 60 days.

APPROVED--The 12th day of December, A. D. 1994.

ROBERT P. CASEY