

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2563 Session of 1994

INTRODUCED BY MARKOSEK, MARCH 7, 1994

AS REPORTED FROM COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 9, 1994

AN ACT

1 Amending Title 17 (Credit Unions) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions, for
3 bylaws, for powers, for regulation by Department of Banking,
4 for loans, for reserves, for loan procedures and for
5 conversion into Federal credit union UNIONS. <—

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

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

10 § 103. Definitions.

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

14 * * *

15 "Retained earnings." Undivided profits.

16 * * *

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

19 "Total equity capital." Regular reserve and undivided

1 earnings.

2 "Total equity capital and reserves." Regular reserve,
3 undivided earnings and all reserve accounts including the
4 allowance for ~~loans~~ LOAN loss reserve. ←

5 "Unimpaired capital." Total shares.

6 * * *

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

9 § 305. Bylaws.

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

15 (b) ~~Amendments.~~ ~~Thereafter, bylaws~~ AMENDMENTS.-- ←
16 [THEREAFTER, BYLAWS] BYLAWS may be amended or repealed either by
17 two-thirds of the members present and voting or a majority of
18 the board of directors at any regular, annual or special meeting
19 of the credit union[, or of the board of directors, as the case
20 may be, if notice thereof is given and a quorum is established
21 in accordance with the bylaws].‡ Bylaws may alternatively be ←
22 amended or repealed by members through mail ballot if the bylaws
23 provide for such a procedure and if two-thirds of the responding
24 member ballots favor the proposed amendment or repeal.

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

28 (d) Review by members.--Whenever the board of directors
29 amends the bylaws, written notice thereof shall be given to the
30 members prior to the next meeting of the members or within 90

1 days after such action by the board of directors, whichever is
2 sooner. Any amendment to the bylaws adopted by the board of
3 directors may be repealed or amended by the members at [a
4 meeting] an annual or special meeting or by a mail ballot vote
5 held at least ten days after the mailing of the notice
6 [thereof].

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

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15 § 501. Powers.

16 * * *

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

19 * * *

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

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

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

30 (iii) Shares of any savings and loan association or

1 credit union, organized under the laws of this
2 Commonwealth, or of any Federal savings and loan
3 association or Federal credit union, to the extent to
4 which the withdrawal or repurchase value of such shares
5 is insured by any agency of the United States or any
6 other insurer approved by the Department of Banking.

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

10 (v) Capital stock, obligations or other securities
11 of any service corporation organized under the laws of
12 this Commonwealth or under the laws of any other state
13 and duly qualified to do business in this Commonwealth,
14 if the entire capital stock of such corporation is
15 available for purchase only by credit unions, organized
16 and existing under the laws of this Commonwealth and by
17 Federal credit unions or association of credit unions. A
18 complete description of the service corporation and its
19 activities must be furnished to the department and its
20 approval obtained by the credit union before investing in
21 such corporation. No credit union may make an investment
22 in a service corporation if its then aggregate
23 outstanding investments under this subparagraph would
24 exceed 1% of its assets.

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

30 (vii) Obligations, participations or other

1 instruments of or issued by, or fully guaranteed as to
2 principal and interest by, the Federal National Mortgage
3 Association or the Government National Mortgage
4 Association.

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

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

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

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

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

1 * * *

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

15 * * *

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

18 § 503. Regulation by Department of Banking.

19 (a) General rule.--Credit unions shall be under the
20 supervision of the Department of Banking. The department is
21 hereby authorized and empowered to issue general rules and
22 regulations and specific orders for the protection of members of
23 credit unions, for insuring the conduct of the business of
24 credit unions on a safe and sound basis and for the effective
25 enforcement of this title. Credit unions shall report to the
26 department as often as may be required by it and at least
27 annually on blanks supplied by the department for that purpose.
28 Supplementary reports may be required by the department from
29 time to time. Credit unions shall be examined as often as may be
30 required by the department and at least annually, and the

1 department may use such other methods of assuring itself of the
2 condition of the credit unions as it shall deem advisable. The
3 cost of all such examinations and inspections shall be paid by
4 the credit union. A credit union shall also pay annually its
5 proportionate share of the overhead expense of the department
6 determined by regulation of the department. THE DEPARTMENT SHALL ←
7 GIVE WRITTEN NOTICE TO EACH CREDIT UNION OF THE COSTS OF
8 EXAMINATIONS, INVESTIGATIONS AND THE CREDIT UNION'S
9 PROPORTIONATE SHARE OF THE OVERHEAD EXPENSES OF THE DEPARTMENT.
10 THE CREDIT UNION SHALL PAY THE AMOUNT OF SUCH COSTS WITHIN 30
11 DAYS OF THE NOTICE. IF PAYMENT IS NOT MADE WITHIN 30 DAYS OF THE
12 NOTICE, THE DEPARTMENT MAY ASSESS A PENALTY FEE OF \$150 FOR THAT
13 30-DAY PERIOD AND EACH SUCCESSIVE 30-DAY PERIOD OF DELINQUENCY.

14 For failure to file reports when due, unless excused for cause,
15 a credit union shall pay to the department [\$5] \$100 for each
16 day of its delinquency.

17 * * *

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

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

23 § 512. Loans.

24 Except as otherwise provided in this title, a credit union
25 may make loans to its members only. Loans must be made subject
26 to the conditions contained in the bylaws. A borrower may repay
27 his loan, in whole or in part, any day the office of the credit
28 union is open for business. No director, officer or member of
29 any committee may obtain or guarantee a loan from the credit
30 union in which he holds office on terms, rates or conditions

1 more favorable than those granted to any other member [or
2 endorse a loan granted by the credit union in which he holds
3 office].

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

6 § 513. Reserves.

7 (a) General rule.--At the end of each accounting period, the
8 gross income shall be determined. From this amount, there shall
9 be set aside[, as a regular reserve against losses on loans and
10 against such other losses as may be specified by the Department
11 of Banking, sums in accordance with the following schedule] a
12 sum in accordance with the following schedule as a regular
13 reserve:

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

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

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

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

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

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

30 (3) Whenever the regular reserve falls below the stated

1 percentage of the total of outstanding loans and risk assets,
2 it shall be replenished by regular contributions in such
3 amounts as may be needed to maintain the stated reserve
4 goals.

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

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

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

29 * * *

30 (c) Allowance for loan loss.--Each credit union, in addition

1 to maintaining a regular reserve, shall establish an allowance
2 for loan loss. The allowance for loan loss reserve shall be
3 funded in the manner and used for the purposes as designated
4 from time to time by the Department of Banking. The board of
5 directors shall decide the loans which are to be charged off
6 against the allowance for loan losses LOSS, except that the ←
7 Department of Banking may at the time of examination of a credit
8 union recommend for charge-off such loans which in its opinion
9 are unsound, which loans shall be charged against the allowance
10 for loan loss account within 60 days of the receipt of such
11 recommendation from the department. Any amount received from the
12 repayment of a loan after it has been charged off against the
13 allowance for loan loss account shall be credited back to the
14 account.

15 (d) Allowance for Investment ~~loans~~ LOSS.--Each credit union, ←
16 in addition, to maintaining a regular reserve, shall establish
17 an Allowance for Investment Loss in compliance with Federal or
18 State laws or regulations as well as ~~generally accepted~~ ←
19 ~~accounting principles~~ GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. ←
20 The Allowance for Investment Loss reserve shall be funded in
21 conformity with such laws, regulations or ~~generally accepted~~ ←
22 ~~accounting principles~~ GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. ←

23 Section 6. Sections 713(b) and (h) and 1101(a)(1) of Title
24 17 are amended to read:

25 § 713. Loan procedures.

26 * * *

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

1 family has a beneficial interest.

2 * * *

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

8 § 1101. Conversion into Federal credit union.

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

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

30 * * *

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