

SENATE BILL No. 202

DIGEST OF INTRODUCED BILL

Citations Affected: IC 28-7-1.

Synopsis: Credit union membership and loans. Allows persons who reside in or are employed in a community to be considered a qualified group to form a credit union. Eliminates existing criteria by which the department of financial institutions determines whether a group seeking to form a credit union is a community. Changes the credit union real estate improvement loan requirements.

Effective: July 1, 2002.

Paul

January 7, 2002, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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SENATE BILL No. 202



A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 28-7-1-0.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 0.5. The following
- 3 definitions apply throughout this chapter:
- 4 (1) "Automated teller machine" (ATM) means a piece of
- 5 unmanned electronic or mechanical equipment that performs
- 6 routine financial transactions for authorized individuals.
- 7 (2) "Branch office" means an office, agency, or other place of
- 8 business at which deposits are received, share drafts are paid, or
- 9 money is lent to members of a credit union. The term does not
- 10 include:
- 11 (A) the principal office of a credit union;
- 12 (B) the principal office of a credit union affiliate;
- 13 (C) a branch office of a credit union affiliate;
- 14 (D) an automated teller machine; or
- 15 (E) a night depository.
- 16 (3) "Credit union" is a cooperative, nonprofit association,
- 17 incorporated under this chapter, for the purposes of educating its



1 members in the concepts of thrift and to encourage savings among
 2 its members. A credit union should provide a source of credit at
 3 a fair and reasonable rate of interest and provide an opportunity
 4 for its members to use and control their own money in order to
 5 improve their economic and social condition.

6 (4) "Department" refers to the department of financial institutions.

7 (5) "Surplus" means the credit balance of undivided earnings after
 8 losses. The term does not include statutory reserves.

9 (6) "Unimpaired shares" means paid in shares less any losses for
 10 which no reserve exists and for which there is no charge against
 11 undivided earnings.

12 (7) "Related credit union service organization" means, in
 13 reference to a credit union, a credit union service organization in
 14 which the credit union has invested under section 9(4)(J) of this
 15 chapter.

16 (8) "Premises" means any office, branch office, suboffice, service
 17 center, parking lot, real estate, or other facility where the credit
 18 union transacts or will transact business.

19 (9) "Furniture, fixtures, and equipment" means office furnishings,
 20 office machines, computer hardware, computer software,
 21 automated terminals, and heating and cooling equipment.

22 (10) "Fixed assets" means:

23 (A) premises; and

24 (B) furniture, fixtures, and equipment.

25 (11) "Audit period" means a twelve (12) month period designated
 26 by the board of directors of a credit union.

27 **(12) "Community" means:**

28 **(A) a second class city;**

29 **(B) a third class city;**

30 **(C) a town;**

31 **(D) a county other than a county containing a consolidated**
 32 **city;**

33 **(E) a census tract;**

34 **(F) a township; or**

35 **(G) any other municipal corporation (as defined in**
 36 **IC 36-1-2-10).**

37 SECTION 2. IC 28-7-1-10 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) The
 39 membership of credit unions shall be clearly and specifically identified.
 40 The membership of a credit union shall be limited to one (1) or more
 41 qualified groups of persons, immediate family members of the persons
 42 in the qualified group or groups, and organizations of those persons.



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1 For purposes of this section, a qualified group consists of:

- 2 (1) persons having a common bond of occupation, trade, or
 3 professional association;
 4 (2) members of a labor organization;
 5 (3) members of a church;
 6 (4) persons engaged in a common trade or profession within a
 7 well defined geographical location;
 8 (5) employees of the credit union; ~~or~~
 9 (6) persons who are members of a farm bureau cooperative, or
 10 other farm bureau organization, and who have subscribed to one
 11 (1) or more shares; **or**
 12 **(7) persons who reside or are employed within a community.**

13 **(b) A credit union may expand its membership with an additional**
 14 **qualified group or groups upon prior approval of the department.**

15 ~~(b) A credit union may also be organized by persons living within~~
 16 ~~a well defined neighborhood, community, or rural district, as~~
 17 ~~determined by the department in accordance with the following~~
 18 ~~criteria:~~

- 19 ~~(1) The community to be served is politically or geographically~~
 20 ~~well defined;~~
 21 ~~(2) The total population of the community does not exceed~~
 22 ~~thirty-five thousand (35,000);~~
 23 ~~(3) The economic feasibility of serving the community is~~
 24 ~~adequately supported;~~
 25 ~~(4) Community support for the credit union is adequately proven;~~
 26 ~~(5) Other credit unions within the community are specifically~~
 27 ~~excluded from the application or request;~~
 28 ~~(6) The character, qualifications, and experience of the officers~~
 29 ~~and management of the credit union or the incorporators of the~~
 30 ~~proposed credit union are found to be satisfactory with the~~
 31 ~~department.~~

32 ~~(c) A credit union organized or reorganized under subsection (b)~~
 33 ~~may not further expand its field of membership by adding additional~~
 34 ~~qualified groups unless the department finds that a merger, under~~
 35 ~~section 33 of this chapter, is necessary to prevent the insolvency of the~~
 36 ~~credit union.~~

37 SECTION 3. IC 28-7-1-17, AS AMENDED BY P.L.62-1999,
 38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2002]: Sec. 17. (a) Every loan application shall be submitted
 40 on a form approved by the board of directors. When making a
 41 application, a member shall state the security offered. Loans may be
 42 dispersed upon written approval by a majority of the credit committee



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1 or a loan officer. If the credit committee or loan officer fails to approve
 2 an application for a loan, the applicant may appeal to the board of
 3 directors, providing such appeal is authorized by the bylaws.

4 (b) Loans to members may be made only under the following terms
 5 and conditions:

6 (1) All loans shall be evidenced by notes signed by the borrowing
 7 member. A loan shall not be made to a member if it would cause
 8 the member to become indebted to the credit union in an
 9 aggregate amount in excess of ten percent (10%) of the total
 10 unimpaired shares and surplus.

11 (2) Unsecured loans shall not exceed five percent (5%) of the
 12 current assets of the credit union. The board of directors shall
 13 establish written lending policies and maintain such policies on
 14 file in the credit union. For the purposes of this section, an
 15 assignment of shares or the endorsement of a note is considered
 16 security.

17 (3) Except as otherwise provided in this section, the terms of any
 18 loan to a member with a maturity of more than six (6) months
 19 shall provide for principal and interest payments that will
 20 amortize the obligation in full within the terms of the loan
 21 contract. If the income of the borrowing member is seasonal, the
 22 terms of the loan contract may provide for seasonal amortization.

23 (4) Loans may be made upon the security of improved or
 24 unimproved real estate. Except as otherwise specified in this
 25 section, such loans must be secured by a first lien upon real estate
 26 prior to all other liens, except for taxes and assessments not
 27 delinquent, and may be made with repayment terms other than as
 28 provided in subdivision (3). When the amount of a loan is at least
 29 two hundred fifty thousand dollars (\$250,000), the fair cash value
 30 of real estate security shall be determined by a written appraisal
 31 made by one (1) or more qualified state licensed or certified
 32 appraisers designated by the board of directors. The credit union
 33 loan folder for real estate mortgage loans shall include, when
 34 applicable:

- 35 (A) the loan application;
- 36 (B) the mortgage instrument;
- 37 (C) the note;
- 38 (D) the disclosure statement;
- 39 (E) the documentations of property insurance;
- 40 (F) an appraisal on the real estate for which the loan is made;
- 41 and
- 42 (G) the attorney's opinion of titles or a certificate of title

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1 insurance on the real estate upon which the mortgage loan is
2 made.

3 (5) The total unpaid balance of all loans authorized by this
4 subdivision shall, at no time, exceed thirty-three and one-third
5 percent (33 1/3%) of the total assets of the credit union at the time
6 the loans are granted. This section does not limit unpaid balances
7 secured by adjustable rate mortgages or loans with a remaining
8 maturity of five (5) years or less. Loans made upon security of
9 real estate are subject to the following restrictions:

10 (A) Real estate loans in which no principal amortization is
11 required shall provide for the payment of interest at least
12 annually and shall mature within five (5) years of the date of
13 the loan unless extended and shall not exceed fifty percent
14 (50%) of the fair cash value of the real estate used as security.

15 (B) Real estate loans on improved real estate, except for
16 variable rate mortgage loans and rollover mortgage loans
17 provided for in subdivision (6), shall require substantially
18 equal payments at successive intervals of not more than one
19 (1) year, shall mature within thirty (30) years, and shall not
20 exceed ninety percent (90%) of the fair cash value of the real
21 estate used as security, unless the excess of any loan over the
22 authorized percentage of fair cash value is guaranteed or
23 insured by a government agency or a private insurer authorized
24 to engage in such business in Indiana.

25 (C) Real estate loans on unimproved real estate may be made.
26 ~~only if such real estate is included as additional security on~~
27 ~~eligible improved residential real estate; or the funds borrowed~~
28 ~~will be used for the construction of improvements that will~~
29 ~~make such real estate eligible as security and the funds will be~~
30 ~~advanced as the work progresses.~~ The terms of the loan shall:

31 ~~(i) require the payment~~ **substantially equal payments** of
32 ~~interest and principal at least annually; shall successive~~
33 **intervals of one (1) year or less;**

34 ~~(ii) mature within five (5)~~ **ten (10)** years; and ~~shall~~

35 ~~(iii) not exceed seventy-five percent (75%)~~ **eighty-five**
36 **percent (85%)** of the fair cash value of the real estate used
37 as security. ~~The fair cash value for purposes of this clause~~
38 ~~shall be based upon the condition of the real estate after~~
39 ~~such improvements have been made.~~

40 (D) Loans primarily secured by a mortgage which constitutes
41 a second lien on improved real estate may be made only if the
42 aggregate amount of all loans on the real estate does not

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1 exceed one hundred percent (100%) of the fair cash value of
 2 the real estate after such loan is made. Repayment terms shall
 3 be in accordance with subdivision (3).
 4 **(E) Real estate loans may be made for the construction of**
 5 **improvements to real property. Funds borrowed may be**
 6 **advanced as work on the improvements progresses.**
 7 **Repayment terms must comply with subdivision (3).**
 8 (6) Subject to the limitations of subdivision (4), variable rate
 9 mortgage loans and rollover mortgage loans may be made under
 10 the same limitations and rights provided state chartered savings
 11 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or
 12 federal credit unions.
 13 (7) A credit union may participate with other financial institutions
 14 in making loans to credit union members and may sell a
 15 participating interest in any of its loans. However, the credit union
 16 may not sell more than ninety percent (90%) of the principal of
 17 participating loans outstanding at the time of sale.
 18 (c) Nothing in this section prevents any credit union from taking an
 19 indemnifying or second mortgage on real estate as additional security.

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