

No. 1982-283

AN ACT

SB 314

Amending the act of September 20, 1961 (P.L.1548, No.658), entitled "An act to provide for the organization, incorporation, operation and supervision of cooperative savings and credit associations, to be termed credit unions; designating such credit unions as corporations and defining their powers and duties; conferring certain powers and duties on the Department of Banking; and providing penalties," further providing for the method of incorporation; the powers of a credit union, its membership, reports and examinations, credit committee, capital rates of interest, loans, reserves, dividends and adverse claims.

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

Section 1. Subsection A and clause (5) of subsection B of section 3, act of September 20, 1961 (P.L.1548, No.658), known as the "Credit Union Act," are amended to read:

Section 3. Method of Incorporation.—A. A credit union may be formed, pursuant to the provisions of this act, by seven or more incorporators. Such incorporators shall be natural persons of full age [**who**], **the majority of whom** are residents of this Commonwealth and who have a common bond of association as provided in section 6 of this act.

B. Articles of incorporation shall be signed by each of the incorporators and acknowledged by at least seven of them before any officer authorized to take acknowledgments within this Commonwealth. The articles of incorporation shall set forth:

* * *

(5) The par value of its shares[, **which par value shall not exceed ten dollars (\$10) for each share**].

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Section 2. Section 5 of the act, amended December 14, 1967 (P.L.735, No.343), May 31, 1974 (P.L.315, No.101), June 23, 1978 (P.L.525, No.88) and December 9, 1980 (P.L.1142, No.204), is amended to read:

Section 5. Powers.—A. A credit union shall have the following general powers:

(1) To continue as a corporation for the time specified in its articles of incorporation subject to the power of the General Assembly under the Constitution of this Commonwealth.

(2) To maintain and defend judicial proceedings in its corporate name.

(3) To adopt and use a corporate seal, and alter the same at pleasure.

(4) To have and exercise all of the powers and means necessary to effect the purpose or purposes for which the credit union is organized.

B. A credit union shall have the following special powers:

(1) To receive the savings of its members as payments on shares.

(2) To make loans to members for provident or productive purposes.

(3) To make loans to any cooperative society or societies, or other organization or organizations, which have membership in the credit union.

(4) To make loans to members secured by mortgages which are first liens on improved real property situated within this Commonwealth, or within one hundred miles of a boundary thereof, the improvement being an established dwelling house for not more than four families which is owned by the member of the credit union making the mortgage and occupied or to be occupied in whole or in part by such member. Such mortgages shall not exceed ninety per centum of the fair market value of the property: Provided, That shares of the credit union owned by the mortgagor may be assigned or pledged as additional collateral security for the mortgage loan and, in such event, the mortgage loan granted upon such property may be increased by the withdrawal value of the additional pledged shares to an amount not to exceed a maximum total mortgage loan of one hundred per centum of the fair market value of such real property and the credit union may release this additional collateral whenever the mortgage loan meets all of the requirements of this act and could be made legally at the time of release without the requirement of additional collateral. Mortgage loans shall be amortized by approximately equal payments sufficient in amount to pay all interest and effect full repayment of principal within a period not in excess of thirty years. Mortgage loans on any one property shall not exceed **[thirty-five thousand dollars (\$35,000)]** *ninety per centum of the fair market value of the property, except as provided heretofore in this subsection*, or five per centum of the paid-in capital of the credit union, whichever is lesser. The aggregate total of mortgage loans shall not exceed twenty-five per centum of the paid-in capital of the credit union. **[The provisions of this clause shall not be construed to apply to any mortgage loan owed to the credit union upon the effective date of this act or to the readjustment or refinancing of any such mortgage loan, nor to a purchase money mortgage taken by the credit union upon real estate owned by it.]**

Without regard to the limitations as to the amount and term of any mortgage loan or the aggregate amount of all mortgage loans set forth in this clause, a credit union may grant any mortgage loan which is insured or guaranteed, in whole or in part, by the United States or any instrumentality thereof, or if there is a commitment to so insure or guarantee.

(5) To make loans to credit unions organized under the laws of this Commonwealth or under the laws of any state or under the laws of the United States: Provided, That the aggregate amount outstanding on all such loans shall not exceed twenty-five per centum of the unimpaired capital of the lending credit union.

(6) To deposit its funds in insured State banks, bank and trust companies, savings banks, national banking associations, savings associations, Federal saving and loan associations, *insured credit unions and insured Federal credit unions* and central-type credit union organizations.

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

(a) **[Bonds or other interest-bearing obligations of the United States or those for the payment of the principal and interest on which the faith and credit of the United States are pledged, or those of any wholly owned United States Government corporation as so designated by section 101 of the Governmental Corporation Control Act of December 6, 1945 (c. 557, Title I, Sec. 101, 59 Stat. 597), its amendments and supplements;] *Securities, obligations or other instruments of or fully guaranteed as to principal and interest by the United States of America or any agency thereof or in any trust established for investing directly or collectively in the same, provided such trust is created and fully controlled by credit unions or credit union organizations or wholly owned subsidiaries thereof;***

(b) Bonds or other interest-bearing obligations of the Commonwealth of Pennsylvania or any county, city, borough, township, incorporated town or school district thereof or an authority which has been created as a body corporate and politic under any law of this Commonwealth;

(c) Shares of any building and loan **[or]**, 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 **[the Federal Savings and Loan Insurance Corporation pursuant to the provisions of the National Housing Act, its amendments and supplements heretofore or hereafter enacted] any agency of the United States or any other insurer approved by the Pennsylvania Department of Banking;**

(d) 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."

(e) Capital stock, obligations or other securities of any service corporation organized under the laws of the Commonwealth of Pennsylvania, or under the laws of any other State and duly qualified to do business in the State of Pennsylvania, if the entire capital stock of such corporation is available for purchase only by credit unions, organized and existing under the laws of the Commonwealth of Pennsylvania 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 Secretary of Banking and his 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 paragraph of this section would exceed one per centum of its assets.

The provisions of this clause shall not apply to any investments lawfully owned by a credit union upon the effective date of this act.

(8) To borrow money subject to the limitations hereinafter set forth.

(9) To make, amend, alter and repeal bylaws not inconsistent with law, for the regulation of its affairs and the conduct and management of

the credit union. Immediately upon the adoption of the bylaws, or any additions thereto, or any alteration, amendment or repeal thereof, notice of such fact and a copy of such bylaws or such alteration, amendment or repeal, shall forthwith be sent to the Department of Banking. The Department of Banking shall, within sixty days after receipt thereof, have the power to disapprove, for any reasonable cause stated in writing, any such bylaw or any such alteration, amendment or repeal thereof, but the bylaw, alteration, amendment or repeal shall be effective until the department disapproves it and gives notice thereof to the credit union.

(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: Provided, That the cost, at the time of acquisition, of such real property and furniture and fixtures therein shall not exceed in the aggregate fifty per centum of the unimpaired surplus and undivided profits of the credit union or five per centum of its unimpaired capital up to one million dollars (\$1,000,000), plus three per centum of its capital over one million dollars (\$1,000,000), whichever is greater, except with the prior written approval of the Department of Banking. *Further, a credit union with the prior written approval of the department shall generally have the power to sell any of its assets and to purchase the assets of another credit union or Federal credit union.*

(11) To purchase group insurance at reasonable rates on the lives of its members in an amount not to exceed the respective shares balances of such members.

(12) To act as an issuing agent of the United States Treasury for the sale, issuance and redemption of United States Savings Bonds to its members.

(13) To invest its funds in shares and become members of any insured central-type credit union organized under the laws of the United States or under the laws of the Commonwealth of Pennsylvania in which such investments are specifically authorized by the board of directors of the State credit union making the investment.

(14) To receive payments on shares and deposits from other credit unions and Federal credit unions. As used in this clause the term "deposit" means a type of time or demand account in which the credit union incurs a debt to the depositor.

Section 3. Section 6 of the act, amended November 22, 1968 (P.L.1082, No.334) and May 31, 1974 (P.L.315, No.101), is amended to read:

Section 6. Membership.—A. Credit union organizations shall be limited to groups having a potential membership of **[one hundred] two hundred** or more adult persons and *having* a common bond of association within a well defined community or rural district by reason of occupation or of membership in a religious congregation or fraternal or labor organization. *A credit union may also retain its original field of membership and, additionally, include in its field of membership other occupa-*

tional groups, as well as like associational groups having a common bond with the original field of membership, with insufficient number of members to form or conduct the affairs of a separate credit union: Provided, That the group is located in the same municipality as the existing credit union and obtains prior permission from the Pennsylvania Department of Banking. The membership of a credit union shall be limited to and consist of the incorporators of the credit union and such other persons, having the common bond of association, set forth in the Articles of Incorporation, as have been duly admitted members, have paid the entrance fee as provided in the bylaws, **have subscribed for one or more shares, and have paid the initial installment thereon] and own and retain one or more shares.** Organizations composed principally of the same group as the credit union membership may be members. Employees of credit unions may be members of such credit unions.

B. Persons who are members of the immediate family of a member of the credit union and who share the same domicile with **[a] that member may be elected to membership[, but may not hold office].**

C. Shares may be issued in trust for or in joint tenancy with the right of survivorship with any person designated by the credit union member, but no joint tenant or beneficiary of a trust shall be permitted to vote, obtain a loan, or hold office, unless he is within the field of membership and is a qualified member in his own right.

D. Any member who leaves or has left the field of membership and has not withdrawn all of his share account shall not cease to be a member of the credit union by reason thereof, and he shall have all of the rights and obligations of membership including, but not limited to, the right to retain and to add to his share account, and the right to vote. Upon leaving the field of membership as aforesaid, the provisions of this subsection shall apply to persons who have become members of the credit union solely by reason of the provisions of subsection B of this section, but the provisions of subsection C of this section shall not be affected hereby.

E. The unremarried widow/widower of a deceased member may become a member of the credit union.

Section 4. The last paragraph of section 7 of the act, amended May 31, 1974 (P.L.312, No.100), is amended to read:

Section 7. Reports and Examination.—***

Whenever the shares of a credit union are insured by the National Credit Union Share Insurance Fund *or any other share insurance fund approved by the Pennsylvania Department of Banking*, the Department of Banking is authorized to furnish to the Administrator of the National Credit Union Administration *or to any other approved insurer* any reports of examination made by the Department of Banking under this section.

Section 5. Section 13 of the act, amended June 23, 1978 (P.L.525, No.88), is amended to read:

Section 13. Credit Committee.—The credit committee shall have the supervision of all loans to members other than mortgage loans and loans

to other credit unions and Federal credit unions. *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 a member of his or her immediate family has a beneficial interest.* Applications for loans shall be in writing on a form prepared for that purpose by the credit committee, and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section, a pledge of shares in the credit union or the endorsement of a note may be deemed security. At least a majority of the members of the credit committee shall pass on all loans, and no loan shall be approved unless it is approved **[unanimously]** by *a majority of the members of the credit committee present and voting*: Provided, That the credit committee may appoint one or more loan officers, and delegate to such person the power to approve loans, share withdrawals, releases and substitutions of security, within limits specified by the committee. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by such person within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by such individual in **[their]** *his or her* capacity as loan officer. Not more than one member of the credit committee may be appointed as loan officer. The credit committee shall meet as often as may be necessary after due notice to each member.

Section 6. Subsection A of section 15 of the act, amended October 5, 1978 (P.L.1096, No.256), is amended to read:

Section 15. Capital.—A. The capital of a credit union shall consist of the payments that have been made to it **[by the members thereof]** on shares. The credit union shall have an automatic lien on the shares of a member for any sum due it from such member or for any loan endorsed by him. Shares of a credit union shall be transferable only to other members of the credit union.

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Section 7. Section 19 of the act, amended December 9, 1980 (P.L.1143, No.205), is amended to read:

Section 19. Rates and Fines.—Interest rates on loans made by a credit union to its members shall not exceed **[twelve per centum per annum, when calculated on the unpaid principal balances, except that the board of directors of a credit union may increase the rate of interest to a maximum of]** fifteen per centum per annum **[if at a meeting of the board of directors the board approves a resolution increasing the rate of interest to a rate not to exceed fifteen per centum per annum by a vote of at least two-thirds of the entire board. Subsequent to the board of directors' approval, the board shall, in writing, notify members of the board's decision and of the new interest rate to be charged. The written notice shall be mailed to the members not less than thirty days prior to the effective date of the rate increase.]**, *when calculated on the unpaid principal balances. Before any credit union shall charge any higher rate authorized*

hereunder, it shall obtain approval for such higher rate from at least two-thirds of the credit union's board of directors and such higher approved rate shall then apply only to loans made by the credit union thereafter. Members shall be notified in writing of the board of directors' action not later than the next regular mailing of the member's account statement, which is at least twenty days subsequent to the board's action. Interest shall be computed for the actual number of days which have elapsed at the time of payment. No other charges or fines shall be collected other than fees to public officials and reasonable fees of attorneys and outside collectors or outside collection agencies, provided the aggregate of such fees does not exceed twenty per centum of the outstanding loan balance. *However, on loans secured by mortgages on real estate, a credit union may also collect late payment charges not in excess of four per centum of the principal and interest due on any installment payment that is more than fifteen days delinquent.* The taking, receiving, reserving, or charging interest greater than allowed by this section shall be deemed a forfeiture of the entire interest on the loan, except when such overcharge is the result of a clerical error in computation. In case an interest greater than that which is allowed by this section has been paid, the borrower may within six months after payment recover from the credit union the entire amount of interest paid, except when such overcharge is the result of a clerical error in computation in which case only the excess interest paid may be recovered.

Section 8. Section 21 of the act, amended June 23, 1978 (P.L.525, No.88), is amended to read:

Section 21. Loans.—**[A] Except as otherwise provided herein, a credit union may make loans to its members only. Loans must be for a purpose deemed by the credit committee to be provident or for productive purposes, and 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. A director, officer, or member of any committee may [only borrow] obtain an unsecured loan from the credit union in which he holds office[,] in an amount not exceeding the unsecured loan limit or [twenty-five hundred dollars (\$2,500)] five thousand dollars (\$5,000), whichever is less[, plus the member's shareholdings or the unpledged and free shares of another member of this credit union pledged as security for such loan].** He/she shall have the same *secured borrowing privileges and mortgage borrowing privilege as [defined in section 5B clause (4)] any other member of the credit union in which he/she holds office.* No director, officer, or member of any committee may endorse a loan granted by the credit union in which he holds office.

Section 9. Clause (5) of subsection (a) of section 22 of the act, amended December 9, 1980 (P.L.1140, No.203), is amended to read:

Section 22. Reserves.—(a) 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 in regulations prescribed under this act,

sums in accordance with the following schedule:

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(5) The regular reserve fund thus established shall not be loaned out to members and shall be deposited **[in a bank account]** *as authorized in section 5B clause (6)* or invested in such investments as are authorized by section 5B clause (7) of this act. 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: Provided, 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 sixty days of the receipt of such recommendation from the Department of Banking. 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 said fund.

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Section 10. Section 23 of the act, amended December 14, 1967 (P.L.735, No.343), is amended to read:

Section 23. Dividends.—The board of directors of a credit union or the members on recommendation of the board of directors, whichever the bylaws provide, may declare **[an annual, semi-annual or quarterly dividend from net earnings, which dividend shall be paid on all shares outstanding at the end of the fiscal year, semi-annual or quarterly period thereof, whichever the bylaws provide. Shares which have become fully paid-up during the dividend period at the end of which the dividend is paid shall be entitled to a proportional part of such dividend calculated from the first day of the month following such payment of the shares in full. The equivalent of the par value of one share of stock shall be considered as a full paid share in the calculation of dividends]** *dividends to be paid on all shares and share certificates from the net earnings and undivided profits at such intervals and for such periods as the board of directors may authorize and after provision for the required reserves.* Within the discretion of the board of directors, payments on all shares which are made within the first ten days of a month may be entitled to dividends for the full month in which such payment is made. Dividends may be added to the credit of the members' share accounts, paid in cash, or partially credited to share accounts and partially paid in cash, at the option of the board of directors.

Section 11. Section 29 of the act is amended to read:

Section 29. Adverse Claims.—Notice to a credit union *or Federal credit union* of an adverse claim against shares standing in the name of any member shall not be effectual to cause the credit union *or Federal credit union* to recognize such adverse claim, unless the adverse claimant shall procure either an attachment or proper restraining order against the credit union *or Federal credit union* from a court of competent jurisdiction in a cause of action therein instituted by him, wherein the member or his legal representative is made a party in the manner provided by law, or unless he shall execute to the credit union *or Federal credit union* in

form, and with sureties acceptable to it a bond indemnifying the credit union *or Federal credit union* from any liability, loss, damages, costs and expenses arising from the recognition of such adverse claim.

This section shall not apply in any instance, where the person in whose name the shares are held is a trustee for such adverse claimant, and the facts constituting such relationship, as well as the facts showing reasonable cause of belief on the part of the claimant that such trustee is about to misappropriate the shares are made to appear by an affidavit of such claimant.

Section 12. Section 2, act of December 9, 1980 (P.L.1143, No.205), entitled "An act amending the act of September 20, 1961 (P.L.1548, No.658), entitled 'An act to provide for the organization, incorporation, operation and supervision of cooperative savings and credit associations, to be termed credit unions; designating such credit unions as corporations and defining their powers and duties; conferring certain powers and duties on the Department of Banking; and providing penalties,' further providing for interest rates," is hereby repealed.

Section 13. This act shall take effect immediately.

APPROVED—The 14th day of December, A. D. 1982.

DICK THORNBURGH