March 23, 1999

ENGROSSED
HOUSE BILL No. 1564

DIGEST OF HB1564 (Updated March 18, 1999 11:16 am - DI 100)

Citations Affected: IC 28-1; IC 28-6.1; IC 28-7.

Synopsis: Credit union matters. Allows a credit union to convert to a mutual savings bank. Eliminates the cap on locator fees for accounts without current address information. Eliminates the requirement that credit union real estate loan proceeds be used for development within one year of the date of the loan. Makes certain other changes related to credit unions.

Effective: July 1, 1999.

Mahern, Yount, Porter, Burton

(SENATE SPONSORS — SERVER, LEWIS)

January 21, 1999, read first time and referred to Committee on Financial Institutions.
February 15, 1999, reported — Do Pass.
February 18, 1999, read second time, ordered engrossed. Engrossed.
February 22, 1999, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 25, 1999, read first time and referred to Committee on Insurance and Financial Institutions.
March 22, 1999, reported favorably — Do Pass.

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March 23, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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ENGROSSED HOUSE BILL No. 1564

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:

SECTION 1. IC 28-1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Unless a different meaning is required by the context, the following definitions apply throughout this article:

(1) "Financial institution" means any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, and includes a consumer finance institution licensed to make supervised or regulated loans under IC 24-4.5.

(2) "Bank" or "bank or trust company" means a financial institution organized or reorganized as a bank, bank of discount and deposit, or trust company under the laws of this state with the express power to receive and accept deposits of money subject to withdrawal by check, and possessing such other rights and powers granted by the provisions of this article in express terms or by

implication. The term "bank" or "bank or trust company" does not include a savings association, credit union, or industrial loan and investment company.

(3) "Domestic corporation" means a corporation formed under the laws of this state, and "foreign corporation" means every other corporation.

(4) "Articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger and consolidation, and, in the case of corporations organized before July 1, 1933, articles of reorganization, and all amendments thereto.

(5) "Incorporator" means one (1) of the signers of the original articles of incorporation.

(6) "Subscriber" means one who subscribes for shares of stock in a financial institution.

(7) "Shareholder" means one who is a holder of record of shares of stock in a financial institution.

(8) "Capital stock" means the aggregate amount of the par value of all shares of capital stock.

(9) "Capital" means the aggregate amount paid in on the shares of capital stock of a financial institution issued and outstanding.

(10) "Sound capital" means and includes the paid-in and unimpaired capital, the unimpaired surplus, and the unimpaired proceeds of the notes and debentures of any bank which have been issued under the authority and with the approval, in writing, of the department.

(11) "Assets" includes all of the property and rights of every kind of a financial institution and the term "fixed assets" means such assets as are not intended to be sold or disposed of in the ordinary course of business.

(12) "Principal office" means that office maintained by the financial institution in this state, the address of which is required by the provisions of this article to be kept on file in the office of the secretary of state.

(13) "Subscription" means any written agreement or undertaking, accepted by a financial institution, for the purchase of shares of capital stock in the financial institution.

(14) "Department" means the department of financial institutions.

(15) "Member" means a member of the department of financial institutions.

(16) "Branch" means any office, agency, or other place of

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business, other than the principal office of a financial institution, at which deposits are received, checks paid, or money lent.

(17) "Subsidiary" means any foreign or domestic corporation or limited liability company in which the parent bank has at least eighty percent (80%) ownership.

(18) "Savings bank" means a financial institution that:

(A) was organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993;

(B) is formed as the result of a conversion under:

(i) IC 28-1-21.7;

(ii) IC 28-1-21.8; ~~or~~

(iii) IC 28-1-21.9; or

(iv) IC 28-1-30; or

(C) is incorporated under IC 28-12.

(19) "Corporate fiduciary" means a financial institution whose primary business purpose is to engage in the trust business (as defined in IC 28-14-1-8) and the execution and administration of fiduciary accounts as a nondepository trust company incorporated under Indiana law.

SECTION 2. IC 28-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 30. Charter Conversion of a Credit Union to a Mutual Savings Bank

Sec. 1. As used in this chapter, "credit union" has the meaning set forth in IC 28-7-1-0.5.

Sec. 2. As used in this chapter, "mutual bank" means a mutual savings bank governed by IC 28-6.1.

Sec. 3. As used in this chapter, "mutual bank conversion" means the conversion of a credit union to a mutual bank.

Sec. 4. As used in this chapter, "voting parties" means a credit union's members.

Sec. 5. (a) A credit union may convert to a mutual bank with the approval of the department and, if required by law, the appropriate federal agency.

(b) The department shall prescribe procedures for mutual bank conversions. The procedures must require the following:

(1) The credit union must prepare and submit to the department a plan of mutual bank conversion that:

(A) provides the terms and conditions of the mutual bank conversion as required by the department;

(B) complies with any federal requirements for conversion;

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and

(C) provides for a two (2) year period after conversion that a director or employee of the credit union may not acquire stock in the resulting institution or a successor institution on terms other than those readily available to all members of the former credit union.

(2) The credit union must submit evidence with the conversion plan that is satisfactory to the department proving that:

(A) the credit union has applied for deposit insurance from the Federal Deposit Insurance Corporation or its successor in interest; and

(B) upon conversion, the deposits in the resulting mutual bank will be insured by the Federal Deposit Insurance Corporation.

(3) The plan of mutual bank conversion is conditioned upon the approval of at least a majority of the total number of votes cast at a regular or special meeting of the membership.

(4) Notice of the meeting must be delivered in person to each member or mailed to each member not more than thirty (30) days but not less than fourteen (14) days before the date of the meeting.

(c) The notice of the meeting of the membership required under subsection (b)(4) must include the following:

(1) The date, time, and location of the meeting.

(2) A description of the matters to be voted upon at the meeting.

(3) A ballot that contains:

(A) two (2) voting options:

(i) a vote to approve the conversion; and

(ii) a vote to disapprove the conversion; and

(B) a notice that the member has the right to vote either by mail ballot or at the meeting.

(4) A disclosure that:

(A) the board of directors of the credit union has proposed that the credit union convert to a mutual savings bank charter;

(B) the conversion could shift voting rights from each member having one (1) vote to a certain number of shares qualifying for one (1) vote;

(C) subsequent to the conversion management, may solicit proxies and vote them as a block;

(D) a mutual savings bank can convert to a stock savings

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bank;

(E) upon conversion, the credit union will lose its federal tax exempt status;

(F) members may vote by mail ballot or in person at the meeting; and

(G) the complete application and proposal for the conversion are available for inspection at the credit union's offices during normal business hours.

(d) The board of directors of the converting credit union shall certify the results of the membership vote to the department within ten (10) days after the vote is taken.

(e) Upon the approval of a plan of mutual bank conversion by the board of directors of the credit union, the plan of mutual bank conversion and a certified copy of the resolution of the board of directors approving the plan of mutual bank conversion be submitted to the department and, if required, the appropriate federal agency for approval.

(f) The credit union shall provide the department with additional relevant information concerning the plan of mutual bank conversion as requested by the department.

Sec. 6. (a) The department may approve or disapprove the plan of mutual bank conversion filed under section 5 of this chapter.

(b) The department may not approve a plan of mutual bank conversion unless the department finds, after appropriate investigation or examination, but without the requirement of a public hearing, that:

(1) the resulting mutual bank will operate in a safe, sound, and prudent manner;

(2) the proposed mutual bank conversion will not result in a mutual bank that has inadequate capital, unsatisfactory management, or poor earnings prospects;

(3) the management or other principals of the credit union are qualified by character and financial responsibility to control and operate in a legal and proper manner the mutual bank proposed to be formed as a result of the mutual bank conversion; and

(4) the interests of the:

(A) members and creditors of the credit union;

(B) depositors and creditors of the mutual bank; and

(C) public generally;

will not be jeopardized by the proposed mutual bank conversion.

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Sec. 7. Upon the conversion of a credit union, the resulting mutual bank:

(1) possesses all of the rights, privileges, immunities, and powers of a mutual bank;

(2) unless otherwise provided in this chapter, is subject to all of the duties, restrictions, obligations, and liabilities of a mutual bank;

(3) succeeds by operation of law to all rights and property of the converting credit union; and

(4) is subject to all debts, obligations, and liabilities of the converting credit union as if the mutual bank had incurred the debts and liabilities.

Sec. 8. (a) During a transitional period not to exceed ten (10) years from the effective date of the conversion, the department may authorize the resulting mutual bank to do the following:

(1) Wind up any activities legally engaged in by the credit union at the time of mutual bank conversion but not permitted to mutual banks.

(2) Retain any assets legally held by the credit union at the time of the mutual bank conversion that may not be held by a mutual bank.

(3) Attain and maintain sixty percent (60%) of its assets in investments that qualify under 26 U.S.C. 7701(a)(19).

(b) The terms and conditions of any transitional period under this section are at the discretion of the department.

Sec. 9. A mutual bank created by charter conversion may retain all branches lawfully established.

Sec. 10. (a) The converting credit union shall file articles of mutual bank conversion, approved in writing by the director, with the secretary of state.

(b)The effective date of the mutual bank conversion is the date and time that the approved articles of mutual bank conversion are filed with the secretary of state, unless a later effective date is specified in the articles of mutual bank conversion.

(c) The converting credit union shall record a copy of the articles of mutual bank conversion with the county recorder of the county where the principal office of the mutual bank is located.

Sec. 11. Upon filing the articles of mutual bank conversion, the converted mutual bank, unless otherwise provided in this chapter, immediately is subject to all statutes and rules applicable to mutual banks.

Sec. 12. The department may adopt rules under IC 4-22-2 or

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policies to implement this chapter.

SECTION 3. IC 28-6.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) This section applies only to a savings bank (whether in stock or mutual form of ownership) that was:

(1) formed as a result of conversion under IC 28-1-21.7, IC 28-1-21.8, or IC 28-1-21.9 after December 31, 1992; ~~or~~

(2) incorporated under IC 28-12; **or**

(3) formed as a result of conversion under IC 28-1-30.

(b) A savings bank described in subsection (a) is governed by IC 28-13 in addition to this article.

(c) A reference in this article to formation and operation by a board means formation by conversion and operation by an elected board of directors.

(d) As to a mutual savings bank, a reference in IC 28-13-5, IC 28-13-6, IC 28-1-7, or IC 28-1-8 to shareholders and shareholders' meetings means members and members' meetings.

SECTION 4. IC 28-6.1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Subject to this section, a savings bank is entitled to establish one (1) or more branches de novo and one (1) or more branches by acquisition in any location or locations within Indiana.

(b) A branch de novo may not be established under this section without the written approval of the department. A savings bank desiring to establish one (1) or more branches de novo under this section must file a written application to do so in the form, and containing the information, required by the director.

(c) The department may approve or disapprove the application. Before the department approves the application, the department shall determine to its satisfaction that the applicant savings bank will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the branch. The investigation of the department relative to any application as required by this section shall be conducted without a public hearing.

(d) The location of a branch established under this section may be changed at any time to a location within Indiana when the change of location is authorized by the board of the savings bank and approved by the department.

(e) Except as provided in IC 28-6.1-6-23, a savings bank organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993, may not establish a branch by acquisition.

(f) A savings bank created as a result of a conversion under

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IC 28-1-30 may retain all branches in existence on the date of conversion.

SECTION 5. IC 28-7-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to members or other credit unions. A loan to another credit union may not exceed twenty percent (20%) of the paid-in capital and surplus of the credit union making the loan.

(3) To make loans to officers, directors, or committee members, but only if:

(A) the loan complies with all requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(B) upon the making of the loan, the aggregate amount of loans outstanding under this subdivision will not exceed twenty percent (20%) of the unimpaired capital and surplus of the credit union;

(C) the loan is approved by the credit committee or loan officer; and

(D) the borrower takes no part in the consideration of or vote on the application.

(4) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Interest-bearing obligations of the FSLIC Resolution Fund and obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

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(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5 and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 701.27 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than five percent (5%) of the total paid in and unimpaired capital of the credit union may be invested under this clause.

(5) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

(7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

(8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

(9) To charge the member's share account for the actual cost of necessary locator service when the member has failed to keep the credit union informed about the member's current address.

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~~However, the charge shall not exceed ten dollars ($10).~~ The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

(10) To transfer to an accounts payable, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of two (2) years. The credit union shall not consider the payment of dividends on the transferred account.

(11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.

(12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

(13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(15) To sell and cash negotiable checks, travelers checks, and money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of its unimpaired capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan which qualifies or qualified for

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specific tax treatment under Section 408(a) or Section 401(d) of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(19) To issue shares of its capital stock or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(20) Subject to the restrictions in section 9.1 of this chapter, to engage in any activities in which the credit union could engage if the credit union were a federally chartered credit union, if the department authorizes the credit union to engage in the activities.

(21) To sell, pledge, or discount any of its assets, to purchase all or part of the assets of another credit union, and to assume the liabilities of the selling credit union. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(22) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed ten percent (10%) of the total assets of that credit union, excluding those public funds.

(23) To join the National Credit Union Administration Central Liquidity Facility.

(24) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a

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contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(25) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

(26) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

SECTION 6. IC 28-7-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Not more than thirty (30) business days after the conclusion of the annual meeting, the board of directors shall elect from its own members:

(1) a chairperson;

(2) a vice chairperson or vice chairpersons;

(3) a secretary; and

(4) a treasurer.

(b) The board may appoint officers of the credit union.

(c) The office of secretary and treasurer may be held by the same person. The board may appoint:

(1) an assistant secretary;

(2) an assistant treasurer; or

(3) both an assistant secretary and an assistant treasurer.

(d) The board of directors shall have the general management of the affairs, funds, and records of the credit union and shall meet at least monthly.

(e) The board may appoint an executive committee to exercise authority delegated to it by the board. All actions taken by the executive committee shall be subject to ratification by the board.

(f) Unless the bylaws provide otherwise, it is the duty of the directors to do the following:

(1) To act upon all applications for membership unless the board has appointed a membership officer. The board shall receive the report of the membership officer monthly and shall act upon all

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those applications for membership not approved by the membership officer.

(2) To determine rates of interest on loans.

(3) To determine:

(A) the maximum number of shares which may be held by a member; and

(B) the maximum amount which may be loaned to a member.

(4) To declare dividends.

(5) To amend the bylaws, provided that the qualifications for membership in the credit union are principally defined in the articles of incorporation.

(6) To fill vacancies on the board and the credit committee until the next election.

(7) To invest the funds of the credit union or to delegate the authority for investments to an executive committee or manager. However, the board of directors shall review all investments made by the executive committee or manager at least monthly.

(8) To set the compensation of members of the board, credit committee, or supervisory committee.

(g) The board may appoint loan officers. Each loan officer shall furnish to the credit committee or to the board a record of each loan approved or denied at its next meeting. ~~All loans not approved by a loan officer shall be acted upon by the credit committee or board of directors.~~ A loan officer, including the treasurer or assistant treasurer, shall not have authority to disburse funds of the credit union for any loan which has been approved by the loan officer. Not more than one (1) member of the credit committee may be appointed as loan officer.

SECTION 7. IC 28-7-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. When making an application, a member shall state the security offered. Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer. ~~except under conditions described in section 16(g) of this chapter.~~ If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, providing such appeal is authorized by the bylaws.

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

(1) All loans shall be evidenced by notes signed by the borrowing member. A loan shall not be made to a member if it would cause the member to become indebted to the credit union in an

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aggregate amount in excess of ten percent (10%) of the total unimpaired shares and surplus.

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

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

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

(A) the loan application;

(B) the mortgage instrument;

(C) the note;

(D) the disclosure statement;

(E) the documentations of property insurance;

(F) an appraisal on the real estate for which the loan is made; and

(G) the attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.

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

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real estate are subject to the following restrictions:

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

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

(C) Real estate loans on unimproved real estate may be made only if such real estate is included as additional security on eligible improved residential real estate, or the funds borrowed will be used for the construction of improvements that will make such real estate eligible as security and the funds will be advanced as the work progresses. The terms of the loan shall require the ~~borrower to commence development of the real estate within one (1) year after the date of the loan, shall require the~~ payment of interest at least annually, shall mature within five (5) years, and shall not exceed seventy-five percent (75%) of the fair cash value of the real estate used as security. The fair cash value for purposes of this clause shall be based upon the condition of the real estate after such improvements have been made.

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (3).

(6) Subject to the limitations of subdivision (4), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.

(7) A credit union may participate with other financial institutions

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in making loans to credit union members and may sell a participating interest in any of its loans. However, the credit union may not sell more than ninety percent (90%) of the principal of participating loans outstanding at the time of sale.

(c) Nothing in this section prevents any credit union from taking an indemnifying or second mortgage on real estate as additional security.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1564, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BODIKER, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1564, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1564 as printed February 16, 1999.)

PAUL, Chairperson

Committee Vote: Yeas 6, Nays 0.

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