



February 16, 1999

HOUSE BILL No. 1564

DIGEST OF HB1564 (Updated February 10, 1999 7:14 pm - DI 94)

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

January 21, 1999, read first time and referred to Committee on Financial Institutions.
February 15, 1999, reported — Do Pass.

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HB 1564—LS 7968/DI 94+



February 16, 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.

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:

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

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

11 (2) "Bank" or "bank or trust company" means a financial
12 institution organized or reorganized as a bank, bank of discount
13 and deposit, or trust company under the laws of this state with the
14 express power to receive and accept deposits of money subject to
15 withdrawal by check, and possessing such other rights and powers
16 granted by the provisions of this article in express terms or by
17 implication. The term "bank" or "bank or trust company" does not

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- 1 include a savings association, credit union, or industrial loan and
2 investment company.
- 3 (3) "Domestic corporation" means a corporation formed under the
4 laws of this state, and "foreign corporation" means every other
5 corporation.
- 6 (4) "Articles of incorporation" includes both the original articles
7 of incorporation and any and all amendments thereto, except
8 where the original articles of incorporation only are expressly
9 referred to, and includes articles of merger and consolidation, and,
10 in the case of corporations organized before July 1, 1933, articles
11 of reorganization, and all amendments thereto.
- 12 (5) "Incorporator" means one (1) of the signers of the original
13 articles of incorporation.
- 14 (6) "Subscriber" means one who subscribes for shares of stock in
15 a financial institution.
- 16 (7) "Shareholder" means one who is a holder of record of shares
17 of stock in a financial institution.
- 18 (8) "Capital stock" means the aggregate amount of the par value
19 of all shares of capital stock.
- 20 (9) "Capital" means the aggregate amount paid in on the shares of
21 capital stock of a financial institution issued and outstanding.
- 22 (10) "Sound capital" means and includes the paid-in and
23 unimpaired capital, the unimpaired surplus, and the unimpaired
24 proceeds of the notes and debentures of any bank which have
25 been issued under the authority and with the approval, in writing,
26 of the department.
- 27 (11) "Assets" includes all of the property and rights of every kind
28 of a financial institution and the term "fixed assets" means such
29 assets as are not intended to be sold or disposed of in the ordinary
30 course of business.
- 31 (12) "Principal office" means that office maintained by the
32 financial institution in this state, the address of which is required
33 by the provisions of this article to be kept on file in the office of
34 the secretary of state.
- 35 (13) "Subscription" means any written agreement or undertaking,
36 accepted by a financial institution, for the purchase of shares of
37 capital stock in the financial institution.
- 38 (14) "Department" means the department of financial institutions.
- 39 (15) "Member" means a member of the department of financial
40 institutions.
- 41 (16) "Branch" means any office, agency, or other place of
42 business, other than the principal office of a financial institution,

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1 at which deposits are received, checks paid, or money lent.

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

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

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

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

9 (i) IC 28-1-21.7;

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

11 (iii) IC 28-1-21.9; or

12 (iv) **IC 28-1-30; or**

13 (C) is incorporated under IC 28-12.

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

19 SECTION 2. IC 28-1-30 IS ADDED TO THE INDIANA CODE AS
20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 1999]:

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

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

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

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

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

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

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

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

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

41 **(B) complies with any federal requirements for conversion;**
42 **and**



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- 1 (C) provides for a two (2) year period after conversion that
 2 a director or employee of the credit union may not acquire
 3 stock in the resulting institution or a successor institution
 4 on terms other than those readily available to all members
 5 of the former credit union.
- 6 (2) The credit union must submit evidence with the conversion
 7 plan that is satisfactory to the department proving that:
- 8 (A) the credit union has applied for deposit insurance from
 9 the Federal Deposit Insurance Corporation or its successor
 10 in interest; and
- 11 (B) upon conversion, the deposits in the resulting mutual
 12 bank will be insured by the Federal Deposit Insurance
 13 Corporation.
- 14 (3) The plan of mutual bank conversion is conditioned upon
 15 the approval of at least a majority of the total number of votes
 16 cast at a regular or special meeting of the membership.
- 17 (4) Notice of the meeting must be delivered in person to each
 18 member or mailed to each member not more than thirty (30)
 19 days but not less than fourteen (14) days before the date of the
 20 meeting.
- 21 (c) The notice of the meeting of the membership required under
 22 subsection (b)(4) must include the following:
- 23 (1) The date, time, and location of the meeting.
- 24 (2) A description of the matters to be voted upon at the
 25 meeting.
- 26 (3) A ballot that contains:
- 27 (A) two (2) voting options:
- 28 (i) a vote to approve the conversion; and
- 29 (ii) a vote to disapprove the conversion; and
- 30 (B) a notice that the member has the right to vote either by
 31 mail ballot or at the meeting.
- 32 (4) A disclosure that:
- 33 (A) the board of directors of the credit union has proposed
 34 that the credit union convert to a mutual savings bank
 35 charter;
- 36 (B) the conversion could shift voting rights from each
 37 member having one (1) vote to a certain number of shares
 38 qualifying for one (1) vote;
- 39 (C) subsequent to the conversion management, may solicit
 40 proxies and vote them as a block;
- 41 (D) a mutual savings bank can convert to a stock savings
 42 bank;



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- 1 (E) upon conversion, the credit union will lose its federal
 2 tax exempt status;
 3 (F) members may vote by mail ballot or in person at the
 4 meeting; and
 5 (G) the complete application and proposal for the
 6 conversion are available for inspection at the credit
 7 union's offices during normal business hours.
- 8 (d) The board of directors of the converting credit union shall
 9 certify the results of the membership vote to the department within
 10 ten (10) days after the vote is taken.
- 11 (e) Upon the approval of a plan of mutual bank conversion by
 12 the board of directors of the credit union, the plan of mutual bank
 13 conversion and a certified copy of the resolution of the board of
 14 directors approving the plan of mutual bank conversion be
 15 submitted to the department and, if required, the appropriate
 16 federal agency for approval.
- 17 (f) The credit union shall provide the department with
 18 additional relevant information concerning the plan of mutual
 19 bank conversion as requested by the department.
- 20 **Sec. 6. (a)** The department may approve or disapprove the plan
 21 of mutual bank conversion filed under section 5 of this chapter.
- 22 (b) The department may not approve a plan of mutual bank
 23 conversion unless the department finds, after appropriate
 24 investigation or examination, but without the requirement of a
 25 public hearing, that:
- 26 (1) the resulting mutual bank will operate in a safe, sound,
 27 and prudent manner;
 28 (2) the proposed mutual bank conversion will not result in a
 29 mutual bank that has inadequate capital, unsatisfactory
 30 management, or poor earnings prospects;
 31 (3) the management or other principals of the credit union are
 32 qualified by character and financial responsibility to control
 33 and operate in a legal and proper manner the mutual bank
 34 proposed to be formed as a result of the mutual bank
 35 conversion; and
 36 (4) the interests of the:
- 37 (A) members and creditors of the credit union;
 38 (B) depositors and creditors of the mutual bank; and
 39 (C) public generally;
 40 will not be jeopardized by the proposed mutual bank
 41 conversion.
- 42 **Sec. 7.** Upon the conversion of a credit union, the resulting

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- 1 **mutual bank:**
- 2 (1) possesses all of the rights, privileges, immunities, and
- 3 powers of a mutual bank;
- 4 (2) unless otherwise provided in this chapter, is subject to all
- 5 of the duties, restrictions, obligations, and liabilities of a
- 6 mutual bank;
- 7 (3) succeeds by operation of law to all rights and property of
- 8 the converting credit union; and
- 9 (4) is subject to all debts, obligations, and liabilities of the
- 10 converting credit union as if the mutual bank had incurred
- 11 the debts and liabilities.
- 12 **Sec. 8. (a) During a transitional period not to exceed ten (10)**
- 13 **years from the effective date of the conversion, the department**
- 14 **may authorize the resulting mutual bank to do the following:**
- 15 (1) Wind up any activities legally engaged in by the credit
- 16 union at the time of mutual bank conversion but not
- 17 permitted to mutual banks.
- 18 (2) Retain any assets legally held by the credit union at the
- 19 time of the mutual bank conversion that may not be held by
- 20 a mutual bank.
- 21 (3) Attain and maintain sixty percent (60%) of its assets in
- 22 investments that qualify under 26 U.S.C. 7701(a)(19).
- 23 **(b) The terms and conditions of any transitional period under**
- 24 **this section are at the discretion of the department.**
- 25 **Sec. 9. A mutual bank created by charter conversion may retain**
- 26 **all branches lawfully established.**
- 27 **Sec. 10. (a) The converting credit union shall file articles of**
- 28 **mutual bank conversion, approved in writing by the director, with**
- 29 **the secretary of state.**
- 30 **(b) The effective date of the mutual bank conversion is the date**
- 31 **and time that the approved articles of mutual bank conversion are**
- 32 **filed with the secretary of state, unless a later effective date is**
- 33 **specified in the articles of mutual bank conversion.**
- 34 **(c) The converting credit union shall record a copy of the**
- 35 **articles of mutual bank conversion with the county recorder of the**
- 36 **county where the principal office of the mutual bank is located.**
- 37 **Sec. 11. Upon filing the articles of mutual bank conversion, the**
- 38 **converted mutual bank, unless otherwise provided in this chapter,**
- 39 **immediately is subject to all statutes and rules applicable to mutual**
- 40 **banks.**
- 41 **Sec. 12. The department may adopt rules under IC 4-22-2 or**
- 42 **policies to implement this chapter.**



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

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

7 (2) incorporated under IC 28-12; ~~or~~

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

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

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

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

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

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

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

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

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

41 **(f) A savings bank created as a result of a conversion under**
 42 **IC 28-1-30 may retain all branches in existence on the date of**

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1 **conversion.**

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

- 5 (1) To issue shares of its capital stock to its members. No
6 commission or compensation shall be paid for securing members
7 or for the sale of shares.
- 8 (2) To make loans to members or other credit unions. A loan to
9 another credit union may not exceed twenty percent (20%) of the
10 paid-in capital and surplus of the credit union making the loan.
- 11 (3) To make loans to officers, directors, or committee members,
12 but only if:
- 13 (A) the loan complies with all requirements under this chapter
14 with respect to loans to other borrowers and is not on terms
15 more favorable than those extended to other borrowers;
- 16 (B) upon the making of the loan, the aggregate amount of
17 loans outstanding under this subdivision will not exceed
18 twenty percent (20%) of the unimpaired capital and surplus of
19 the credit union;
- 20 (C) the loan is approved by the credit committee or loan
21 officer; and
- 22 (D) the borrower takes no part in the consideration of or vote
23 on the application.
- 24 (4) To invest in any of the following:
- 25 (A) Bonds, notes, or certificates that are the direct or indirect
26 obligations of the United States, or of the state, or the direct
27 obligations of a county, township, city, town, or other taxing
28 district or municipality or instrumentality of Indiana and that
29 are not in default.
- 30 (B) Bonds or debentures issued by the Federal Home Loan
31 Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners'
32 Loan Act (12 U.S.C. 1461 through 1468).
- 33 (C) Interest-bearing obligations of the FSLIC Resolution Fund
34 and obligations of national mortgage associations issued under
35 the authority of the National Housing Act.
- 36 (D) Mortgages on real estate situated in Indiana which are
37 fully insured under Title 2 of the National Housing Act (12
38 U.S.C. 1707 through 1715z).
- 39 (E) Obligations issued by farm credit banks and banks for
40 cooperatives under the Farm Credit Act of 1971 (12 U.S.C.
41 2001 through 2279aa-14).
- 42 (F) In savings and loan associations, other credit unions that

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

8 (G) Corporate credit unions.

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

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

15 (J) Shares, stocks, or obligations of any credit union service
 16 organization (as defined in Section 701.27 of the Rules and
 17 Regulations of the National Credit Union Administration) with
 18 the approval of the department. Not more than five percent
 19 (5%) of the total paid in and unimpaired capital of the credit
 20 union may be invested under this clause.

21 (5) To deposit its funds into:

22 (A) depository institutions that are federally insured; or

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

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

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

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

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

42 However, the charge shall not exceed ten dollars (\$10). The

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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 specific tax treatment under Section 408(a) or Section 401(d) of

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1 the Internal Revenue Code, if the funds of the trust are invested
2 only in share accounts or insured certificates of the credit union.

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

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

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

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

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

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

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

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

36 Participation may be in the form of either charitable contributions
37 or participation loans. In either case, disbursement of funds
38 through the administering organization is not required to be
39 limited to members of the credit union. Total contributions or
40 participation loans may not exceed one tenth of one percent
41 (0.001) of total assets of the credit union. A recipient of a
42 contribution or loan is not considered qualified for credit union

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1 membership. A contribution or participation loan made under this
 2 subdivision must be approved by the board of directors.
 3 (25) To establish and operate an automated teller machine
 4 (ATM):
 5 (A) at any location within Indiana; or
 6 (B) as permitted by the laws of the state in which the
 7 automated teller machine is to be located.
 8 (26) To demand and receive, for the faithful performance and
 9 discharge of services performed under the powers vested in the
 10 credit union by this article:
 11 (A) reasonable compensation, or compensation as fixed by
 12 agreement of the parties;
 13 (B) all advances necessarily paid out and expended in the
 14 discharge and performance of its duties; and
 15 (C) unless otherwise agreed upon, interest at the legal rate on
 16 the advances referred to in clause (B).
 17 SECTION 6. IC 28-7-1-16 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Not more than
 19 thirty (30) business days after the conclusion of the annual meeting, the
 20 board of directors shall elect from its own members:
 21 (1) a chairperson;
 22 (2) a vice chairperson or vice chairpersons;
 23 (3) a secretary; and
 24 (4) a treasurer.
 25 (b) The board may appoint officers of the credit union.
 26 (c) The office of secretary and treasurer may be held by the same
 27 person. The board may appoint:
 28 (1) an assistant secretary;
 29 (2) an assistant treasurer; or
 30 (3) both an assistant secretary and an assistant treasurer.
 31 (d) The board of directors shall have the general management of the
 32 affairs, funds, and records of the credit union and shall meet at least
 33 monthly.
 34 (e) The board may appoint an executive committee to exercise
 35 authority delegated to it by the board. All actions taken by the
 36 executive committee shall be subject to ratification by the board.
 37 (f) Unless the bylaws provide otherwise, it is the duty of the
 38 directors to do the following:
 39 (1) To act upon all applications for membership unless the board
 40 has appointed a membership officer. The board shall receive the
 41 report of the membership officer monthly and shall act upon all
 42 those applications for membership not approved by the

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- 1 membership officer.
- 2 (2) To determine rates of interest on loans.
- 3 (3) To determine:
 - 4 (A) the maximum number of shares which may be held by a
 - 5 member; and
 - 6 (B) the maximum amount which may be loaned to a member.
- 7 (4) To declare dividends.
- 8 (5) To amend the bylaws, provided that the qualifications for
- 9 membership in the credit union are principally defined in the
- 10 articles of incorporation.
- 11 (6) To fill vacancies on the board and the credit committee until
- 12 the next election.
- 13 (7) To invest the funds of the credit union or to delegate the
- 14 authority for investments to an executive committee or manager.
- 15 However, the board of directors shall review all investments made
- 16 by the executive committee or manager at least monthly.
- 17 (8) To set the compensation of members of the board, credit
- 18 committee, or supervisory committee.
- 19 (g) The board may appoint loan officers. Each loan officer shall
- 20 furnish to the credit committee or to the board a record of each loan
- 21 approved or denied at its next meeting. ~~All loans not approved by a~~
- 22 ~~loan officer shall be acted upon by the credit committee or board of~~
- 23 ~~directors.~~ A loan officer, including the treasurer or assistant treasurer,
- 24 shall not have authority to disburse funds of the credit union for any
- 25 loan which has been approved by the loan officer. Not more than one
- 26 (1) member of the credit committee may be appointed as loan officer.
- 27 SECTION 7. IC 28-7-1-17 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Every loan
- 29 application shall be submitted on a form approved by the board of
- 30 directors. When making an application, a member shall state the
- 31 security offered. Loans may be dispersed upon written approval by a
- 32 majority of the credit committee or a loan officer. ~~except under~~
- 33 ~~conditions described in section 16(g) of this chapter.~~ If the credit
- 34 committee or loan officer fails to approve an application for a loan, the
- 35 applicant may appeal to the board of directors, providing such appeal
- 36 is authorized by the bylaws.
- 37 (b) Loans to members may be made only under the following terms
- 38 and conditions:
 - 39 (1) All loans shall be evidenced by notes signed by the borrowing
 - 40 member. A loan shall not be made to a member if it would cause
 - 41 the member to become indebted to the credit union in an
 - 42 aggregate amount in excess of ten percent (10%) of the total

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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 real estate are subject to the following restrictions:

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(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 in making loans to credit union members and may sell a

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1 participating interest in any of its loans. However, the credit union
2 may not sell more than ninety percent (90%) of the principal of
3 participating loans outstanding at the time of sale.

4 (c) Nothing in this section prevents any credit union from taking an
5 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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