

SENATE BILL No. 444

DIGEST OF INTRODUCED BILL

Citations Affected: IC 28-7-1-9.

Synopsis: Public deposits with credit unions. Removes a provision in the statute governing state chartered credit unions that limits the total amount of public funds that may be deposited by state and county governments and political subdivisions in a state chartered credit union to 20% of the total assets of the credit union not including such public funds.

Effective: July 1, 2020.

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January 16, 2020, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 444

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

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

1 SECTION 1. IC 28-7-1-9, AS AMENDED BY P.L.69-2018,
2 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 9. (a) A credit union has the following powers:
4 (1) To issue shares of its capital stock to its members. No
5 commission or compensation shall be paid for securing members
6 or for the sale of shares.
7 (2) To make loans to officers, directors, or committee members
8 under sections 17.1 and 17.2 of this chapter.
9 (3) To invest in any of the following:
10 (A) Bonds, notes, or certificates that are the direct or indirect
11 obligations of the United States, or of the state, or the direct
12 obligations of a county, township, city, town, or other taxing
13 district or municipality or instrumentality of Indiana and that
14 are not in default.
15 (B) Bonds or debentures issued by the Federal Home Loan
16 Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners'
17 Loan Act (12 U.S.C. 1461 through 1468).



- 1 (C) Obligations of national mortgage associations issued under
 2 the authority of the National Housing Act.
- 3 (D) Mortgages on real estate situated in Indiana which are
 4 fully insured under Title 2 of the National Housing Act (12
 5 U.S.C. 1707 through 1715z).
- 6 (E) Obligations issued by farm credit banks and banks for
 7 cooperatives under the Farm Credit Act of 1971 (12 U.S.C.
 8 2001 through 2279aa-14).
- 9 (F) Savings and loan associations, other credit unions that are
 10 insured under section 31.5 of this chapter, and certificates of
 11 indebtedness or investment of an industrial loan and
 12 investment company if the association or company is federally
 13 insured. Not more than twenty percent (20%) of the assets of
 14 a credit union may be invested in the shares or certificates of
 15 an association or company, nor more than forty percent (40%)
 16 in all such associations and companies.
- 17 (G) Corporate credit unions.
- 18 (H) Federal funds or similar types of daily funds transactions
 19 with other financial institutions.
- 20 (I) Shares or certificates of an open-end management
 21 investment company registered with the Securities and
 22 Exchange Commission under the Investment Company Act of
 23 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C.
 24 80a-4 through 15 U.S.C. 80a-64), if all of the following
 25 conditions are met:
- 26 (i) The fund's assets consist of and are limited to securities
 27 in which a credit union may invest directly.
- 28 (ii) The credit union has an equitable and undivided interest
 29 in the underlying assets of the fund.
- 30 (iii) The credit union is not liable for acts or obligations of
 31 the fund.
- 32 (iv) The credit union's investment in any one (1) fund does
 33 not exceed fifteen percent (15%) of the amount of the credit
 34 union's net worth.
- 35 (J) For a credit union that is well capitalized (as defined in Part
 36 702 of the Rules and Regulations of the National Credit Union
 37 Administration, 12 CFR 702), investment securities, as may be
 38 defined by a statute or a policy or rule of the department and
 39 subject to the following:
- 40 (i) The department may prescribe, by policy or rule,
 41 limitations or restrictions on a credit union's investment in
 42 investment securities.



- 1 (ii) The total aggregate amount of investment securities
2 purchased or held by a credit union may never exceed at any
3 given time ten percent (10%) of the capital and surplus of
4 the credit union. However, the limitations imposed by this
5 item do not apply to investments in the direct or indirect
6 obligations of the United States or in the direct obligations
7 of a United States territory or insular possession, or in the
8 direct obligations of the state or any municipal corporation
9 or taxing district in Indiana.
- 10 (iii) A credit union may not purchase for its own account
11 any bond, note, or other evidence of indebtedness that is
12 commonly designated as a security that is speculative in
13 character or that has speculative characteristics. For the
14 purposes of this item, a security is speculative or has
15 speculative characteristics if at the time of purchase the
16 security is in default, is rated below the first four (4) rating
17 classes by a generally recognized security rating service, or
18 is otherwise considered speculative by the director.
- 19 (iv) A credit union may purchase for its own account a
20 security that is not rated by a generally recognized security
21 rating service if the credit union at the time of purchase
22 obtains financial information that is adequate to document
23 the investment quality of the security and if the security is
24 not otherwise considered speculative by the director.
- 25 (v) A credit union that purchases a security for its own
26 account shall maintain sufficient records of the security to
27 allow the security to be properly identified by the
28 department for examination purposes.
- 29 (vi) Except as otherwise authorized by this title, a credit
30 union may not acquire for its own account, whether by
31 purchase or otherwise, any share of stock of a corporation
32 that is not a subsidiary of that credit union unless the
33 acquisition is considered expedient to prevent loss from a
34 debt previously contracted in good faith. Any shares of stock
35 or other ownership interest in a corporation or another entity
36 thus acquired by a credit union and that would not have been
37 eligible for acquisition shall be sold and disposed of within
38 six (6) months from the date of acquisition unless the
39 director grants an extension of time for the sale and
40 disposition.
- 41 (vii) Subject to items (i) through (iv), a credit union may
42 purchase yankee dollar deposits, eurodollar deposits,



1 banker's acceptances, deposit notes, bank notes with original
2 weighted average maturities of less than five (5) years, and
3 investments in obligations of, or issued by, any state or
4 political subdivision (including any agency, corporation, or
5 instrumentality of a state or political subdivision).

6 (K) Collateralized obligations that are eligible for purchase
7 and sale by federal credit unions. However, a credit union may
8 purchase for its own account and sell the obligations only to
9 the extent that a federal credit union can purchase and sell
10 those obligations.

11 (4) With the prior approval of the department, and subject to the
12 limitations of this subsection, a credit union may organize, invest
13 in, or loan money to a credit union service organization (as
14 defined in Part 712 of the regulations of the National Credit
15 Union Administration, 12 CFR 712). A credit union may not loan
16 or invest in a credit union service organization if the aggregate
17 amount of all such loans or investments in a particular credit
18 union service organization is greater than ten percent (10%) of the
19 capital, surplus, and unimpaired shares of the credit union without
20 the prior written approval of the department. A credit union may
21 organize, invest in, or loan money to a credit union service
22 organization described in this subdivision only if the following
23 requirements are met:

24 (A) The credit union service organization is adequately
25 capitalized or has a reasonable plan for adequate capitalization
26 if the credit union service organization is to be formed or is
27 newly formed.

28 (B) The credit union service organization is structured and
29 operated as a separate legal entity from the credit union.

30 (C) The credit union obtains a written legal opinion that the
31 credit union service organization is structured and operated in
32 a manner that limits the credit union's potential liability for the
33 debts and liabilities of the credit union service organization to
34 not more than the loss of money invested in or loaned to the
35 credit union service organization by the credit union.

36 (D) The credit union service organization agrees in writing to
37 prepare financial statements and provide the financial
38 statements to the credit union at least quarterly, and to the
39 department upon request.

40 (E) The credit union service organization agrees in writing to
41 obtain an audit of the credit union service organization from a
42 certified public accountant at least annually and provide a



- 1 copy of each audit report to the credit union, and to the
2 department upon request. A wholly owned credit union service
3 organization is not required to obtain a separate annual audit
4 if the credit union service organization is included in the
5 annual consolidated audit of the credit union that is the credit
6 union service organization's parent.
- 7 (F) The credit union service organization operates in
8 compliance with all applicable federal and state laws.
- 9 (5) To deposit its funds into:
- 10 (A) depository institutions that are federally insured; or
11 (B) state chartered credit unions that are privately insured by
12 an insurer approved by the department.
- 13 (6) To purchase, hold, own, or convey real estate as may be
14 conveyed to the credit union in satisfaction of debts previously
15 contracted or in exchange for real estate conveyed to the credit
16 union.
- 17 (7) To own, hold, or convey real estate as may be purchased by
18 the credit union upon judgment in its favor or decrees of
19 foreclosure upon mortgages.
- 20 (8) To issue shares of stock and upon the terms, conditions,
21 limitations, and restrictions and with the relative rights as may be
22 stated in the bylaws of the credit union, but no stock may have
23 preference or priority over the other to share in the assets of the
24 credit union upon liquidation or dissolution or for the payment of
25 dividends except as to the amount of the dividends and the time
26 for the payment of the dividends as provided in the bylaws.
- 27 (9) To charge the member's share account for the actual cost of a
28 necessary locator service when the member has failed to keep the
29 credit union informed about the member's current address. The
30 charge shall be made only for amounts paid to a person or concern
31 normally engaged in providing such service, and shall be made
32 against the account or accounts of any one (1) member not more
33 than once in any twelve (12) month period.
- 34 (10) To transfer to an accounts payable account, a dormant
35 account, or a special account share accounts which have been
36 inactive, except for dividend credits, for a period of at least two
37 (2) years. The credit union shall not consider the payment of
38 dividends on the transferred account.
- 39 (11) To invest in fixed assets with the funds of the credit union.
40 An investment in fixed assets in excess of five percent (5%) of its
41 assets is subject to the approval of the department. A credit union
42 may rent excess space at the credit union's main office or branch



- 1 as a source of income.
- 2 (12) To establish branch offices, upon:
- 3 (A) approval of the department; or
- 4 (B) meeting the department's established criteria to be exempt
- 5 from the department's approval;
- 6 provided that all books of account shall be maintained at the
- 7 principal office.
- 8 (13) To pay an interest refund on loans proportionate to the
- 9 interest paid during the dividend period by borrowers who are
- 10 members at the end of the dividend period.
- 11 (14) To purchase life savings and loan protection insurance for
- 12 the benefit of the credit union and its members, if:
- 13 (A) the coverage is placed with an insurance company licensed
- 14 to do business in Indiana; and
- 15 (B) no officer, director, or employee of the credit union
- 16 personally benefits, directly or indirectly, from the sale or
- 17 purchase of the coverage.
- 18 (15) To sell and cash negotiable checks, travelers checks, and
- 19 money orders for members.
- 20 (16) To purchase members' notes from any liquidating credit
- 21 union, with written approval from the department, at prices agreed
- 22 upon by the boards of directors of both the liquidating and the
- 23 purchasing credit unions. However, the aggregate of the unpaid
- 24 balances of all notes of liquidating credit unions purchased by any
- 25 one (1) credit union shall not exceed ten percent (10%) of the
- 26 purchasing credit union's capital and surplus unless special
- 27 written authorization has been granted by the department.
- 28 (17) To exercise such incidental powers necessary or requisite to
- 29 enable it to carry on effectively the business for which it is
- 30 incorporated.
- 31 (18) To act as a custodian or trustee of any trust created or
- 32 organized in the United States and forming part of a tax
- 33 advantaged savings plan which qualifies or qualified for specific
- 34 tax treatment under Section 223, 401(d), 408, 408A, or 530 of the
- 35 Internal Revenue Code, if the funds of the trust are invested only
- 36 in share accounts or insured certificates of the credit union.
- 37 (19) To issue shares or insured certificates to a trustee or
- 38 custodian of a pension plan, profit sharing plan, or stock bonus
- 39 plan which qualifies for specific tax treatment under Sections
- 40 401(d) or 408(a) of the Internal Revenue Code.
- 41 (20) To exercise any rights and privileges that are:
- 42 (A) granted to federal credit unions; but



- 1 (B) not authorized for credit unions under the Indiana Code
 2 (except for this section) or any rule adopted under the Indiana
 3 Code;
 4 if the credit union complies with section 9.2 of this chapter.
- 5 (21) To sell, pledge, or discount any of its assets. However, a
 6 credit union may not pledge any of its assets as security for the
 7 safekeeping and prompt payment of any money deposited, except
 8 that a credit union may, for the safekeeping and prompt payment
 9 of money deposited, give security as authorized by federal law.
- 10 (22) To purchase assets of a corporation (as defined in
 11 IC 28-1-8-0.5) and to assume the liabilities of the corporation, or
 12 to sell, lease, exchange, or otherwise dispose of all or
 13 substantially all of the credit union's property and assets to a
 14 corporation, if:
- 15 (A) the credit union complies with IC 28-1-8; and
 16 (B) the transaction is authorized in accordance with
 17 IC 28-1-8-4.
- 18 (23) 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 twenty percent (20%) of the total~~
 27 ~~assets of that credit union, excluding those public funds.~~
- 28 (24) To join the National Credit Union Administration Central
 29 Liquidity Facility.
- 30 (25) 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 (0.1%) of total assets of the credit union. A recipient of a
 42 contribution or loan is not considered qualified for credit union



- 1 membership. A contribution or participation loan made under this
 2 subdivision must be approved by the board of directors.
- 3 (26) 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 (27) 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 (28) Subject to any restrictions the department may impose, to
 18 become the owner or lessor of personal property acquired upon
 19 the request and for the use of a member and to incur additional
 20 obligations as may be incident to becoming an owner or lessor of
 21 such property.
- 22 (b) A credit union shall maintain files containing credit and other
 23 information adequate to demonstrate evidence of prudent business
 24 judgment in exercising the investment powers granted under this
 25 chapter or by rule, order, or declaratory ruling of the department.
- 26 (c) Subject to any limitations or restrictions that the department or
 27 a federal regulator may impose by regulation, rule, policy, or guidance,
 28 a credit union may purchase and hold life insurance as follows:
- 29 (1) Life insurance purchased or held in connection with employee
 30 compensation or benefit plans approved by the credit union's
 31 board of directors.
- 32 (2) Life insurance purchased or held to recover the cost of
 33 providing preretirement or postretirement employee benefits
 34 approved by the credit union's board of directors.
- 35 (3) Life insurance on the lives of borrowers.
- 36 (4) Life insurance held as security for a loan.
- 37 (5) Life insurance that a federal credit union may purchase or
 38 hold under 12 CFR 701.19(c).

