

1973 Bill 85

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Second Session, 17th Legislature, 22 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 85**

**The Credit Union Amendment Act, 1973**

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THE MINISTER OF AGRICULTURE

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First Reading .....

Second Reading .....

Third Reading .....

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## BILL 85

1973

### THE CREDIT UNION AMENDMENT ACT, 1973

(Assented to \_\_\_\_\_, 1973)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Credit Union Act is hereby amended.*

2. *Section 2 is amended*

(a) *by adding after clause (a) the following:*

(a1) "current deposit" means a deposit out of which money may be withdrawn upon presentation of a bill of exchange;

(a2) "deposit" means both a current deposit and savings deposit, or either of them;

(b) *by adding after clause (b) the following:*

(b1) "Federation" means the Credit Union Federation of Alberta Limited;

(c) *by adding after clause (c) the following:*

(d) "savings deposit" means any deposit other than a current deposit;

(e) "share" means a share in a credit union;

(f) "Stabilization Fund" or "Fund" means the credit union stabilization fund heretofore established with the consent of the Director and administered by the Federation for the purpose of providing financial aid to credit unions.

3. *Section 16 is struck out and the following is substituted therefor:*

**16.** (1) A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which any deposit or share is subject.

(2) When all or any portion of any deposit or share is subject to a trust of which the credit union has notice, a bill of exchange, withdrawal slip or receipt either of the person

## EXPLANATORY NOTES

**1.** This Bill will amend chapter 74 of the Revised Statutes of Alberta 1970.

**2.** Defines the terms "current deposit", "deposit", "Federation", "savings deposit", "share", and "Stabilization Fund".

**3. Section 16 presently reads:**

16. (1) A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which any deposit, deposit moneys, deposit account, shares, share moneys or share account is subject.

(2) When all or any portion of any deposit, deposit moneys, deposit account, shares, share moneys or share account is subject to a trust of which the credit union has notice, the cheque, withdrawal slip, or receipt either of the person

(a) in whose name the deposit, deposit moneys, deposit account, shares, share moneys or share account stands, or

(b) who is according to the document creating the trust entitled to deal therewith

is, notwithstanding any such trust, sufficient authorization to the credit union and the credit union is not bound to see to the application of any money paid upon or with respect to any such cheque, withdrawal slip or receipt.

- (a) in whose name the deposit or share stands, or
- (b) who is according to the document creating the trust entitled to deal therewith,

is, notwithstanding any such trust, a valid discharge to the credit union for any payment made by it pursuant to the bill of exchange, withdrawal slip or receipt and the credit union is not bound to see to the application of any money paid upon or with respect to any such bill of exchange, withdrawal slip or receipt.

(3) Where property has been hypothecated or pledged to a credit union, that credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which that property is subject.

*4. Section 18 is amended by striking out the words "standing to his credit in share or deposit accounts" and by substituting therefor the words "from his deposits or moneys standing to his credit as payment on his shares".*

*5. Section 19 is amended*

- (a) as to subsection (2), clause (j), by striking out the figure "\$1500" and by substituting therefor the figure "\$2500",*
- (b) by striking out subsection (3) and by substituting the following therefor:*

(3) Notwithstanding section 35, subsection (1), a credit union may accept money on deposit or as payment on shares from, or make loans to, a co-operative association as defined in *The Co-operative Associations Act*.

- (c) as to subsection (4), by striking out the words "deposit accounts" and by substituting therefor the word "deposits",*
- (d) as to subsection (5), by striking out the word "account" wherever it occurs,*
- (e) as to subsection (6), by striking out the word "account".*

*6. The following section is added after section 25:*

**25.1** (1) Where a credit union operates one or more branch offices, the board of directors may appoint a credit committee for any branch office and the credit committee so appointed shall be the credit committee for that branch office.

(2) A credit committee appointed under this section shall consist of not less than three members or such greater number as required by the supplemental by-laws, one of whom shall be designated as the chairman of the committee.

**4. Section 18 presently reads:**

18. Subject to sections 52 and 63 and the standard by-laws a member of a credit union who appears in person at the office of the credit union may withdraw moneys standing to his credit in share or deposit accounts.

**5. Section 19 (2) (j), (3) to (6) presently read:**

(2) For the purpose of carrying out its objects, every credit union may

(j) immediately upon the death of a member and upon completion of such forms as may be required by the by-laws, pay a sum not exceeding \$1500 out of the moneys standing to the credit of the deceased member, whether as payment on shares or as deposit,

(i) to the executor or administrator of the estate of the deceased member, or

(ii) if there is then no executor or administrator, to the widow of the deceased member, or

(iii) if there is no such executor, administrator or widow, to the Public Trustee for the benefit of the person or persons who would be beneficiaries of the estate of the deceased member under The Intestate Succession Act if the member had died intestate and without a widow,

and a payment made under this clause releases the credit union from any further liability with respect to the moneys so paid, and

(3) Notwithstanding section 35, subsection (1), a credit union may accept deposits on share or deposit account from or make loans to a co-operative association incorporated under The Co-operative Associations Act.

(4) Subject to the standard by-laws a credit union may with the consent of the Director permit its members to withdraw moneys from deposit accounts only, by means of negotiable or non-negotiable orders upon itself.

(5) No officer or employee of a credit union shall permit any withdrawal of funds from the deposit account of a member unless the funds in the deposit account are equal to or in excess of the amount sought to be withdrawn, and an officer or employee who contravenes this subsection is guilty of an offence under this Act.

(6) Nothing in this section curtails, abridges or defeats any remedy for the recovery from a member of any amount withdrawn in excess of the amount standing to his credit in his deposit account.

**6. Provides for the establishment of additional credit committees.**

*7. The following section is added after section 28:*

**28.1** Where a credit union operates one or more branch offices, a member shall only make a loan through a branch office in which he has a deposit.

*8. Section 32 is amended by striking out subsection (1) and by substituting therefor the following:*

**32.** (1) A credit committee shall not grant a loan in an amount greater than the sum obtained by adding together

- (a) the amount prescribed by the standard by-laws for the purposes of this section, and
- (b) the value of the unencumbered portion of the shares and savings deposits of the borrower,

unless adequate security is taken for the loan.

*9. Section 33 is amended*

(a) *by adding the following subsection after subsection (1):*

(1.1) Where a credit union operates one or more branch offices, the board of directors, with the consent of the Director, may appoint an employee of the credit union as loan officer for a branch office with authority to make immediate loans to members without first obtaining the approval of the credit committee for that branch office.

(b) *as to subsection (2), clause (b) by adding after the word "shares" the words "and savings deposits".*

*10. Section 37 is struck out and the following is substituted therefor:*

**37.** A borrower may repay his loan in whole or in part at the office or branch office of the credit union that made the loan on any day that office or branch office is open for business.

*11. Section 38 is amended*

(a) *as to clause (a) by adding after the word "make" the words "or cause to be made", and*

(b) *as to clause (f) by striking out the words "in such manner" and by substituting therefor the words "in the manner prescribed by the standard by-laws".*

*12. Section 41 is amended by striking out subsection (5).*

*13. The following section is added after section 41:*

**41.1** (1) The Stabilization Fund shall continue to be maintained for the purpose of providing financial aid to credit unions.

**7. Self explanatory.**

**8. Section 32 (1) presently reads:**

32. (1) The credit committee shall not grant a loan in an amount greater than the sum obtained by adding together

(a) the amount prescribed by the standard by-laws for the purposes of this section, and

(b) the value of the unencumbered portion of the shares of the borrower,

unless security is taken for the loan.

**9.**

(a) Authorizes the appointing of a loan officer for a branch.

(b) Section 33 (2) presently reads:

(2) A loan officer may make a loan in excess of a member's shares to a maximum of one-half of one per cent of the assets of the credit union in a single loan, but in no case may the amount of the loan so granted be greater than the sum obtained by adding together

(a) the amount prescribed by the standard by-laws for the purposes of this section, and

(b) the value of the unencumbered portion of the shares of the borrower.

**10. Section 37 presently reads:**

37. A borrower may repay his loan in whole or in part on any day on which the office of the credit union is open for business.

**11. Section 38 (a) and (f) presently read:**

38. The supervisory committee shall

(a) make an examination of the affairs of the credit union at least quarterly, audit its books, and if deemed necessary by the committee, call a meeting of the credit union for consideration of the report of the committee,

(f) verify the accounts of the members in such manner and at such times as may be prescribed by the Director.

**12. Section 41 (5) presently reads:**

(5) Every credit union shall make an annual investment in the credit union stabilization fund established pursuant to section 79 in the amount prescribed by the standard by-laws.

**13. Provides for the continuance and management of the Stabilization Fund.**

(2) The Fund shall be administered by a committee called the "Stabilization Committee".

(3) The Stabilization Committee shall consist of five persons, four of whom shall be appointed by the Federation and one of whom shall be appointed by the Minister.

(4) Every credit union shall make an annual payment into the Stabilization Fund in the amount prescribed by the standard by-laws.

(5) The Lieutenant Governor in Council may make regulations governing the operation and management of the Stabilization Fund.

*14. Section 42 is amended*

- (a) *as to subsection (1), by striking out the words "the share and deposit accounts of members" and by substituting therefor the words "deposits of members or money paid by members for shares",*
- (b) *as to subsection (2), clause (a) by striking out the word "deposit" and by substituting therefor the words "depositing the funds".*

*15. Section 47 is struck out and the following is substituted therefor:*

**47.** Subject to section 48, the membership of a credit union shall consist of persons, groups of persons or corporations who qualify for membership in the credit union under the supplemental by-laws.

*16. Section 49 is renumbered as subsection (1) and the following subsection is added:*

(2) A person who has not attained the age of 18 years may purchase shares in and make deposits with a credit union in his own name and the money held in a deposit or as payment on shares may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority.

*17. Section 50 is struck out and the following is substituted therefor:*

**50.** A membership register shall be maintained by each credit union and the register shall show and is prima facie proof of

- (a) the name, address, social insurance number and birth date of each member who is a natural person,
- (b) the name of each member that is a corporation and the address of its registered office,

**14. Section 42 presently reads:**

42. (1) The board of directors shall, in the manner prescribed by the standard by-laws, establish and maintain reserve funds against possible withdrawals from the share and deposit accounts of members.
- (2) All reserve funds shall be invested by the board of directors
- (a) by deposit in a chartered bank or in any other institution approved by the Director, or
  - (b) in any investment authorized under section 19, subsection (2), clauses (e) and (f).

**15. Section 47 presently reads:**

47. Subject to section 48, the membership of a credit union shall be limited to groups of persons having a common bond of occupation or association, or to persons within a well defined neighbourhood, community, or rural or urban district.

**16. Section 49 presently reads:**

49. A minor may be a member of a credit union and may vote at meetings, but no minor shall be elected as a director or member of the credit committee or supervisory committee of the credit union and no minor under the age of 18 years shall be permitted to vote upon any resolution pertaining to the expenditure or borrowing of any money.

**17. Section 50 presently reads:**

50. A register, or list of shareholders, shall be kept by each credit union, and the register shall show and is **prima facie** proof of
- (a) the names, addresses and occupations of the shareholders,
  - (b) the number of shares held by them respectively,
  - (c) the number of shares and the amount paid or considered as paid thereon,
  - (d) the date on which each shareholder was registered, and
  - (e) the date at which a shareholder ceased to be such.

- (c) the date upon which the membership began, and
- (d) the date upon which the membership was terminated.

*18. Section 53 is struck out and the following is substituted therefor:*

**53.** (1) Where a member is expelled or withdraws from a credit union the credit union shall, after deducting all amounts due from that person to the credit union, pay to that person

- (a) all amounts that the person paid in on shares or as deposits, and
- (b) any dividends or interest due or accruing due to that person.

(2) Notwithstanding subsection (1), a credit union may withhold from amounts payable under subsection (1) such amounts as are necessary to secure any primary, collateral, joint, accruing or contingent liability of the member to the credit union.

*19. Section 58 is struck out and the following is substituted therefor:*

**58.** (1) Where the Director is of the opinion that the affairs of a credit union are being mismanaged or are being conducted in an unsound manner he shall make an order

- (a) requiring the credit union to re-organize its affairs to the satisfaction of the Director within 90 days or such longer period as the Director may from time to time prescribe, or
- (b) authorizing the Stabilization Committee or such person as he considers proper to re-organize, manage and supervise the affairs of the credit union so as to ensure that the affairs of the credit union will be properly managed in a sound manner.

(2) Where the Director makes an order under subsection (1), clause (a) or (b)

- (a) he may prescribe the terms under which the credit union shall be re-organized, supervised or managed, and
- (b) he shall serve the order upon the credit union.

(3) Where the Director makes an order under subsection (1), clause (b) he may

- (a) suspend the powers of the board of directors in whole or in part, and
- (b) authorize the Stabilization Committee or the person appointed to carry on the affairs of the credit union to exercise the powers of the board of directors in whole or in part.

**18. Section 53 presently reads:**

53. All amounts paid in on shares or as deposits by a member who is expelled or withdraws from a credit union and any dividends or interest due or accruing due thereon shall be paid to him as funds become available and after deducting all amounts due from him to the credit union.

**19. Section 58 presently reads:**

58. (1) If it appears to the Minister upon the report of the Director made after an inquiry by him under this Act, that the affairs of the credit union are being mismanaged or are being conducted upon an unsound basis, the Director, with the approval of the Minister, may

- (a) appoint a liquidator to wind up the affairs of the credit union and upon completion of the liquidation, cancel its incorporation, or
- (b) notify the credit union that unless its affairs are reorganized to the satisfaction of the Director within 90 days, or such longer period as the Director may from time to time prescribe, a liquidator will be appointed to wind up its affairs and upon completion of the liquidation the incorporation of the credit union will be cancelled, or
- (c) appoint an administrator to reorganize, manage and supervise the affairs of the credit union for such period of time as the Director in his discretion, may direct, and an administrator may exercise such powers and shall perform such duties as the Director vests in or imposes upon him.

(2) If the credit union fails to reorganize its affairs to the satisfaction of the Director within 90 days or the prescribed period after receipt of the notice, the Director, with the approval of the Minister, may appoint a liquidator and upon completion of the liquidation, cancel the incorporation of the credit union.

(3) No credit union after receipt of notice to reorganize its affairs under subsection (1), clause (b) shall disburse any moneys for any purpose whatsoever without the consent of the Director until its affairs have been reorganized to the satisfaction of the Director.

(4) Where the Director has made an order under subsection (1), clause (b) and thereafter the Director is of the opinion that affairs of the credit union have been corrected and are once again in a position to be managed by the board of directors, he shall revoke the order.

(5) No credit union, after service upon it of an order made under subsection (1), shall disburse money for any purpose without the consent of the Director.

*20. Section 63 is amended by striking out subsection (2) and by substituting the following therefor:*

(2) A credit union has a lien upon the shares and deposits of a member for any debt, loan, obligation or judgment owing by him to the credit union with respect to which he is a debtor, borrower, maker, co-maker, endorser, guarantor or judgment debtor.

(3) Without restricting any other rights a credit union may have with respect to any other security or collateral, a credit union may, from time to time or at any time, apply or credit to the debt mentioned in subsection (2) the shares or deposits of a member.

(4) In this section, a debt includes costs and expenses for which a liability exists in favour of a credit union and also includes interest.

*21. Section 72, subsection (1) is amended by striking out the words "share and deposit accounts" and by substituting therefor the words "deposits and for shares".*

*22. Section 75 is amended by adding after subsection (1) the following:*

(1.1) Where

(a) a credit union that is required to reorganize its affairs pursuant to section 58, subsection (1), clause (a) does not do so to the satisfaction of the Director, or

(b) the Stabilization Committee or a person authorized, pursuant to section 58, subsection (1), clause (b), to reorganize, manage and supervise the affairs of a credit union, recommends to the Director that the credit union be wound up,

the Director may appoint himself or such other person as he considers proper as liquidator of the credit union and upon completion of the winding up of the credit union the Director shall direct the Registrar to cancel the incorporation of the credit union.

*23. Section 79 is amended by striking out subsections (2) and (3).*

*24. This Act comes into force on the day upon which it is assented to.*

**20. Section 63 presently reads:**

63. (1) Moneys payable by a member of a credit union are a debt due from him to the credit union and recoverable as such in a court of competent jurisdiction.

(2) A credit union has a lien on the shares and deposits of a member,

(a) for any debt due to the credit union by him, or

(b) for any loan endorsed by him,

and may set off any amount credited to the member thereon in or toward payment of the debt.

**21. Section 72, subsection (1) presently reads:**

72. (1) A credit union whose financial position enables it to return to its members in full the moneys standing to their credit in share and deposit accounts may be dissolved by a resolution

(a) passed at a general meeting of which not less than 10 days' notice has been given, specifying the intention to propose the resolution, and

(b) passed by a majority of not less than three fourths of the votes cast by the members entitled to vote who are present in person at the meeting.

**22. Section 75 deals with the liquidation of credit unions.**

**23. Section 79 presently reads:**

79. (1) Credit unions may be members of regional, provincial, national or international associations or federations of credit unions or of credit unions and co-operatives.

(2) The credit union stabilization fund referred to in section 41, subsection (5) is the Stabilization Fund heretofore established with the consent of the Director and administered by the Credit Union Federation of Alberta Limited for the purpose of providing financial aid to credit unions.

(3) The Federation shall continue to administer the Fund by means of a committee known as the Stabilization Committee appointed or continued as may be authorized or approved by the Lieutenant Governor in Council.

The contents of subsections (2) and (3) are now contained in section 41.1; see section 13 of this Bill.