

AMENDED IN SENATE JUNE 6, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1076**

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**Introduced by Assembly Member Achadjian**

February 18, 2011

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An act to amend Section 15050 of the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1076, as amended, Achadjian. Credit unions.

Existing law, the California Credit Union Law, provides for the regulation and certification of credit unions by the Commissioner of Financial Institutions. Existing law regulates loans to officials of a credit union and defines an official as a director, officer, or member of the supervisory committee or the credit committee of a credit union. Existing law prohibits a credit union from entering into any obligation with an official of the credit union, directly or indirectly, not fully secured by shares or certificates for funds unless specified requirements are satisfied. Existing law makes it a crime for specified employees of a credit union to knowingly permit, or participate in, the creation of an obligation that is not in conformity with the requirements of the Credit Union Law, except as specified.

This bill would revise these requirements in order for a credit union to enter into an obligation, *as defined*, with an official of the credit union, directly or indirectly, ~~not fully secured by shares or certificates for funds~~. The bill would, among other things, in order for a credit union to be authorized to enter into these obligations with an official, *prohibit*

*the aggregate amount of obligations outstanding to all officials, except obligations fully secured by shares, from exceeding 20% of the aggregate dollar amount of all savings capital of the credit union and would require ~~the that any obligation to~~ which would cause the aggregate amount of obligations outstanding to the official to exceed \$50,000, excluding any portion fully secured by shares, be approved by the credit committee or credit manager, and by the board of directors of the credit union and require the approval of the board of directors for an obligation or aggregate of obligations to an official in excess of \$20,000 plus pledged shares or when an official acts as guarantor or endorser of an obligation or aggregate of obligations in excess of \$20,000 to other members of the credit union.*

Because knowingly creating or participating in the creation of an obligation in violation of these provisions by an employee of a credit union would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 15050 of the Financial Code is amended
- 2 to read:
- 3 15050. (a) For purposes of this section, *“official” the following*
- 4 *definitions shall apply:*
- 5 (1) *“Credit manager” means any individual, regardless of title,*
- 6 *designated pursuant to Section 14600 to fulfill the duties of a credit*
- 7 *manager.*
- 8 (2) *“Obligation” means any loan or approved line of credit,*
- 9 *including both used and unused portions, on which the official is*
- 10 *a borrower, coborrower, cosigner, endorser, or guarantor.*
- 11 (3) *“Official” means a director, officer, or member of the*
- 12 *supervisory committee or, or member of the credit committee of*
- 13 *a credit union.*

1 (b) No credit union shall enter into any obligation with any  
2 official, directly or indirectly, unless (1) the obligation complies  
3 with all lawful requirements of this division with respect to  
4 obligations permitted for other members of the credit union ~~and,~~  
5 (2) *the obligation* is not on terms more favorable than those  
6 extended to other members of the credit union, and (3) the  
7 obligation is entered into in accordance with a written policy  
8 adopted by the directors establishing that all officials shall have  
9 an equal opportunity to enter into obligations with the credit union.

10 (c) No credit union shall enter into any obligation with any  
11 official, directly or indirectly, ~~not fully secured by shares or~~  
12 ~~certificates for funds~~ unless all of the following requirements are  
13 satisfied:

14 ~~(1) The obligation is approved by the credit committee, or in~~  
15 ~~the alternative the credit manager, except that the credit manager~~  
16 ~~shall not take part in any credit decision directly or indirectly for~~  
17 ~~his or her benefit. The board of directors may select a loan officer~~  
18 ~~to prepare a report and recommendation as to any extension of~~  
19 ~~credit or other obligation requested by the credit manager.~~

20 ~~(2) The obligation is approved by the board of directors if either~~  
21 ~~of the following apply:~~

22 ~~(A) The obligation or the aggregate of obligations to the official~~  
23 ~~is in excess of twenty thousand dollars (\$20,000) plus pledged~~  
24 ~~shares.~~

25 ~~(B) The obligation is to be guaranteed or endorsed by the official~~  
26 ~~and the obligation or the aggregate of obligations guaranteed or~~  
27 ~~endorsed by the official is in excess of twenty thousand dollars~~  
28 ~~(\$20,000).~~

29 ~~(3) The credit union member entering into the obligation takes~~  
30 ~~no part in the consideration of his or her application and does not~~  
31 ~~attend any committee or board meeting while his or her application~~

32 *(1) Upon the making of the obligation, the aggregate amount*  
33 *of obligations outstanding to all officials, except obligations fully*  
34 *secured by shares, shall not exceed 20 percent of the aggregate*  
35 *dollar amount of all savings capital of the credit union.*

36 *(2) The obligation, except any portion of an obligation fully*  
37 *secured by shares, shall not exceed the maximum obligation to the*  
38 *credit union set forth in subdivisions (b) and (c) of Section 15100.*

39 *(3) Any obligation that would cause the aggregate amount of*  
40 *obligations outstanding to the official to exceed fifty thousand*

1 *dollars (\$50,000), excluding any portion fully secured by shares,*  
 2 *shall be approved by the credit committee or the credit manager,*  
 3 *and by the board of directors. An official shall not take part in any*  
 4 *credit decision, directly or indirectly, for his or her benefit and*  
 5 *shall not be present during any portion of any committee or board*  
 6 *meeting where his or her credit application is under consideration.*

7 (4) The names of members of the credit committee, ~~or in the~~  
 8 ~~alternative,~~ the credit manager, and board of directors who voted  
 9 to authorize or ratify the obligation shall be entered in their  
 10 respective minutes.

11 (d) No credit union shall permit an official ~~or the credit manager~~  
 12 to become surety for any obligation created by the credit union for  
 13 anyone other than a member of ~~their~~ *his or her* immediate family.

14 (e) No credit union shall enter into any obligation with any  
 15 credit manager or any officer employed by the credit union, ~~directly~~  
 16 ~~or indirectly,~~ unless the obligation is in compliance with all  
 17 requirements of this division with respect to obligations permitted  
 18 for other *nonemployee* members, and not on terms more favorable  
 19 than those extended to other employees, and approved by the board  
 20 of directors.

21 SEC. 2. No reimbursement is required by this act pursuant to  
 22 Section 6 of Article XIII B of the California Constitution because  
 23 the only costs that may be incurred by a local agency or school  
 24 district will be incurred because this act creates a new crime or  
 25 infraction, eliminates a crime or infraction, or changes the penalty  
 26 for a crime or infraction, within the meaning of Section 17556 of  
 27 the Government Code, or changes the definition of a crime within  
 28 the meaning of Section 6 of Article XIII B of the California  
 29 Constitution.