



Illinois Department of Financial and Professional Regulation
Division of Financial Institutions

JB PRITZKER
Governor

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Secretary

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Director
Division of Financial Institutions

March 5, 2020

Christopher R. Smith, Senior Vice President
Land of Lincoln Credit Union
P.O. Box 3310
Decatur, Illinois 62524
csmith@llcu.org

Re: Land of Lincoln Credit Union

VIA ELECTRONIC MAIL

Non-Binding Statement Request 2020-03

Dear Mr. Smith:

Thank you for your letter dated January 30, 2020 and supplemental letter dated February 13, 2020. You requested a non-binding opinion pursuant Title 38, Section 200.310 of the Illinois Administrative Code regarding whether the Land of Lincoln Credit Union (“Land of Lincoln”) may receive a grant from the Howard G. Buffet Foundation (“Foundation”) for the purpose of hiring an individual to provide financial literacy education and business development services to the community. You have not requested confidential treatment.

Please be advised that consistent with governing law, the Illinois Department of Professional and Financial Regulation, Division of Financial Institutions (“Division”), does not render formal legal opinions or interpretations, and non-binding statements do not have precedent value. In addition, facts or conditions different than those presented will require different conclusions, and persons other than those requesting the statement should not rely on this statement. In reaching its opinion, the Division has not independently verified any represented facts, and instead has relied upon the statements and representations contained in your correspondence.

LAW

The relevant sections of the Illinois Credit Union Act (“Act”) (205 ILCS 305/1 et seq.) are as follows:

Section §14 of the Act regarding incidental powers provides:

A credit union may exercise such incidental powers as are granted corporations organized under the laws of this State including, to the extent such powers are not inconsistent with powers and prohibitions contained in this Act, such powers as are necessary or convenient to enable credit unions to promote and carry on their purposes. The provisions of this Section shall be interpreted liberally and not restrictively.

Section §27(1) of the Act provides that “the board of directors shall be charged with and have control over the general management of the operations, funds and records of the credit union.”

Section §30(a) of the Act provides inter alia, it shall be the duty of the directors to:

(14) Perform such other duties as the members may direct, and perform or authorize any action not inconsistent with this Act and not specifically reserved by the bylaws to the members.

Pursuant to Section §103.10(d) of the General Not for Profit Corporation Act of 1986, a not-for profit corporation shall have power:

(d) To purchase, receive, lease as lessee, take by gift, devise, or bequest, otherwise acquire, and to own, hold, hold as trustee, use, and otherwise deal in and with any real or personal property, or any interest therein, situation in or out of this State;

ANALYSIS

Based on Land of Lincoln’s representations, Land of Lincoln would not be prohibited from accepting the proposed grant from the Foundation. Land of Lincoln represents that the grant would be for the purpose of hiring an individual to provide financial literacy education and business development services to the community.

The provisions of the Act and regulations neither specifically authorize nor prohibit a credit union from accepting such a grant. Section §14 of the Act provides a credit union the ability to exercise such incidental powers as are granted corporations organized under the laws of this State, including such powers as are necessary or convenient to enable credit unions to promote and carry on their purposes, provided such powers are not inconsistent with powers and prohibitions contained in this Act. A not-for-profit entity organized in Illinois may “take by gift” a grant pursuant to Section §103.10(d) of the General Not for Profit Corporation Act of 1986. Additionally, Sections §§27(1) of the Act and Land of Lincoln’s bylaws¹ charge the board of directors with providing control over the general management of the operations, funds and records of the credit union, to the extent that their actions are not inconsistent with the Act, rules, regulations and the credit union bylaws. Accepting a grant for the sole purpose of

¹ Article V, Section 6 of the bylaws.

hiring an individual to provide financial literacy education and business development services to the community would not be inconsistent with powers and prohibitions contained in the Act, rules, regulations, and/or the Credit Union's bylaws so long as the net worth² of the credit union is not adversely affected. A grant of this nature would be permissible because it clearly and specifically serves the public good and the interests of the members.

This statement is made as of the date set forth and the Division expressly disclaims any obligation to advise you of any changes in the circumstances, laws or events that may occur after this date or otherwise update this response. This letter does not address the applicability of any law except the Illinois Credit Union Act.

Sincerely,

Francisco Menchaca
Director, Division of Financial Institutions

By,

Helen Kim
Associate General Counsel

² Net worth means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, and forms of secondary capital approved by the Secretary and the Director pursuant to rulemaking. 205 ILCS 305/1.1.