

OPINION
49-36

December 9, 1949 (OPINION)

CREDIT UNIONS

RE: Refund of Interest

Your letter of December 6 addressed to the Attorney General has been received and referred to the undersigned for attention and reply.

The question you present for consideration by this office is whether or not a chartered credit union may legally refund interest paid by a borrower as a patronage dividend and in this connection you refer to Section 6-0626 which provides that at the end of any fiscal year a credit union upon recommendation of its board of directors may declare a dividend which shall be paid on all outstanding and paid up shares. Such dividend must be paid on all outstanding and paid up shares. Such dividend must be paid from the net earnings of the union, but shall not exceed six percent per month on unpaid balances.

Section 6-0612 prescribing the duties and powers of the directors of a credit union provides, among other things, that the directors have the power to determine interest rates on loans and deposits. By Section 6-0618 such interest rates may not exceed one percent per month on unpaid balances.

At the end of any fiscal year the board of directors may recommend the declaration of a dividend. This action is undoubtedly taken after the financial condition and the net earnings of the union have been carefully considered. If interest earned and collected during the year has been transferred to the net earnings of the union, then there would be no authority to reduce the earnings by taking out of same any interest collected and return same to the member who paid the same.

However, since the directors have the power to determine the rate of interest to be charged on loans, they would have authority, in my opinion, before the interest collected is put into the net earnings of the union to discount to the borrowers part of the interest payable on the loans. In such cases it would be advisable that a resolution be adopted by the board of directors setting forth such facts as may be pertinent and which would warrant such action.

However, as I have already pointed out, where interest collected has once been covered into the net earnings of the union, then they may not be withdrawn and paid to the borrower as a discount.

WALLACE E. WARNER

Attorney General