

Act No. 246
Public Acts of 1992
Approved by the Governor
November 18, 1992
Filed with the Secretary of State
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**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Randall, Gnodtke, Murphy, Bankes, Middaugh, London, Ostling, Jaye and Robertson

ENROLLED HOUSE BILL No. 5876

AN ACT to amend sections 1, 4, 5a, 6, 6b, 8, 9, 11a, 12, 14, 16, 16a, 17, 18, 20, 23, 25, 26, and 31 of Act No. 285 of the Public Acts of 1925, entitled as amended "An act to provide for the organization, operation, and supervision of credit unions; to provide for the conversion of a state credit union into a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States and for the conversion of a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States into a state credit union; and to provide for the merger of credit unions organized and supervised under the laws of this state, credit unions organized and supervised under the laws of any other state or territory of the United States, and federal credit unions," sections 4, 8, 9, 16, 17, 20, 23, 25, and 26 as amended and sections 6b, 11a, and 16a as added by Act No. 278 of the Public Acts of 1986, section 5a as amended by Act No. 369 of the Public Acts of 1980, section 6 as amended by Act No. 2 of the Public Acts of 1991, and section 14 as amended by Act No. 3 of the Public Acts of 1992, being sections 490.1, 490.4, 490.5a, 490.6, 490.6b, 490.8, 490.9, 490.11a, 490.12, 490.14, 490.16, 490.16a, 490.17, 490.18, 490.20, 490.23, 490.25, 490.26, and 490.31 of the Michigan Compiled Laws,

The People of the State of Michigan enact:

Section 1. Sections 1, 4, 5a, 6, 6b, 8, 9, 11a, 12, 14, 16, 16a, 17, 18, 20, 23, 25, 26, and 31 of Act No. 285 of the Public Acts of 1925, sections 4, 8, 9, 16, 17, 20, 23, 25, and 26 as amended and sections 6b, 11a, and 16a as added by Act No. 278 of the Public Acts of 1986, section 5a as amended by Act No. 369 of the Public Acts of 1980, section 6 as amended by Act No. 2 of the Public Acts of 1991, and section 14 as amended by Act No. 3 of the Public Acts of 1992, being sections 490.1, 490.4, 490.5a, 490.6, 490.6b, 490.8, 490.9, 490.11a, 490.12, 490.14, 490.16, 490.16a, 490.17, 490.18, 490.20, 490.23, 490.25, 490.26, and 490.31 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. Any 7 residents of this state may apply to the commissioner for permission to organize a credit union. A credit union is organized in the following manner:

(a) The applicants shall file an application on forms furnished by the commissioner. The application shall state all of the following:

- (1) The name and location of the proposed credit union.
- (2) The names and addresses of the organizers and the number of shares subscribed by each.
- (3) The par value of the shares of the credit union that shall not exceed \$25.00 each.
- (4) All other information the commissioner may require.

(b) The application shall be forwarded to the commissioner, together with the sum of \$25.00 which shall be paid into the state treasury to the credit of the general fund.

(c) Within 60 days after receipt of an application or the last amendment or supplement to the application, the commissioner shall determine whether the organization of the proposed credit union would benefit its members, that a firm commitment to insure share and deposit accounts has been issued under the provisions of title II of the federal credit union act up to the maximum provided under that act, and that it will be consistent with the purposes of this act. The approval to organize a credit union is discretionary with the commissioner.

(d) The commissioner shall notify the applicants of his or her decision. If the decision is favorable, he or she shall issue in duplicate certificates of organization and approved bylaws. Upon execution of the certificates of organization and adoption of bylaws by the organizers and their return to the commissioner a certificate of approval authorizing the commencement of business shall be issued. If the decision is not favorable, he or she shall state the reasons for the decision. The applicant may request a hearing before the commissioner within 30 days after the mailing of a copy of the decision to the applicant and the commissioner, within 10 days after receipt of a request for a hearing, shall set a date for the hearing at a time and place convenient to the commissioner and the applicants, but not longer than 60 days after the date the request was received. If the decision after the hearing is not favorable to the applicant, the applicant may file an appeal upon the record in the circuit court for the county stated in the application as the location for the proposed credit union or Ingham county within 30 days after the date of mailing by certified mail of a copy of the decision to the applicant. In case of an appeal, the commissioner shall retain the exhibits introduced at the hearing and shall forward them to the circuit court. The cost of preparation of the stenographer's record shall be borne by the applicant.

(e) Upon issuance of the certificate of approval authorizing the credit union to commence business, the credit union shall be considered organized under this act.

(f) The original certificate of organization and the original bylaws shall be filed in the office of the commissioner. The certificate of approval and a copy of the bylaws approved by the commissioner in writing shall be returned to the credit union.

(g) The commissioner shall prepare an approved form of certificate of organization and a form of bylaws consistent with this act and shall furnish them upon request without charge to credit unions and persons desiring to organize credit unions.

Sec. 4. (1) A credit union shall have the powers specified or implied by this act or any other act of this state addressing the activities of credit unions.

(2) A credit union may do all of the following:

(a) Enter into contracts.

(b) Sue and be sued.

(c) Adopt and alter a seal.

(d) Individually or jointly with other credit unions, purchase, lease, or otherwise acquire and hold tangible personal property necessary or incidental to its operations. A credit union shall depreciate or appreciate personal property in the manner and at the rates the commissioner may prescribe by rule or order from time to time.

(e) Sell, lease, assign, pledge, hypothecate, or otherwise dispose of, in whole or in part, its tangible personal property, including property obtained as a result of defaults under obligations owing to it. A credit union may finance any sale of its personal property to any person at any interest rate permitted under this act or other applicable law for loans to its members for the purchase of equivalent property.

(f) Incur and pay necessary and incidental operating expenses.

(g) Receive the funds of its members either as payment on shares or as deposits. A credit union may have 1 or more classes of share or deposit accounts in the classifications and in the form and under the terms and conditions as authorized by its board of directors, subject to the limitations on payment of dividends on shares provided in section 18. A credit union shall provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the board of directors determines best serve the convenience and needs of members.

(h) Impose fines on delinquent loan installments as may be provided in its bylaws.

(i) Make loans to its members for any purpose and upon any security, real or personal, or on an unsecured basis.

(j) Borrow from any source. Funds borrowed pursuant to this subdivision shall not be considered to be deposits and may be secured by a pledge of some or all of the credit union's assets. Except for a corporate central credit union, a credit union's borrowed funds may not, in the aggregate, exceed 50% of its shares, deposits, undivided earnings, and reserves without the approval of the commissioner.

- (k) Make loans to a trade association of which it is a member. These loans shall not exceed, in the aggregate, 1% of the credit union's shares, deposits, undivided earnings, and reserves.
- (l) Provide debt counseling and other financial counseling services to its members. If the counseling includes debt management as defined in section 1a(f) with respect to a given member and the member has any delinquent indebtedness outstanding with the credit union at the time, the credit union shall not charge that member, directly or indirectly, a fee for providing the services involved.
- (m) Disburse loan proceeds as the borrower directs.
- (n) Act as trustee or custodian of retirement accounts or other accounts permitting tax deferrals under federal or state law, whether established on an individual basis or as part of an employer group program.
- (o) Act as agent for its members and depositors in the purchase, sale, or other disposition of securities, interests in mutual funds, and interests or participations in any other type of investment, if the purchase, sale, or other disposition is done solely for the accounts of its members and depositors and is done on a nonrecourse basis.
- (p) Discount, sell, assign, pledge, hypothecate, or otherwise dispose of, in whole or in part, its intangible personal property. The approval of the commissioner is required before a credit union may discount, sell, assign, pledge, hypothecate, or otherwise dispose of 20% or more of its intangible personal property within a 1-month period unless the credit union is in liquidation.
- (q) Purchase any of the assets of another credit union or assume any of the liabilities of another credit union, with the approval of the commissioner. A credit union may also purchase any of the assets of a credit union that is in liquidation or receivership.
- (r) Make deposits in or loans to banks, savings banks, savings and loan associations, trust companies, and other credit unions, and purchase shares of mutual savings and loan associations and other credit unions if the bank, savings bank, savings and loan association, trust company, or other credit union is insured by an agency of the United States; make deposits in, loans to, or purchase shares of a corporate central credit union; and invest funds as otherwise provided in section 16a.
- (s) Join, make deposits in or loans to, or purchase shares of any federal reserve bank, federal home loan bank, and any central liquidity facility established under federal or state law.
- (t) Hold membership in associations and organizations controlled by or fostering the interests of credit unions, and hold membership in a central liquidity facility organized under federal or state law.
- (u) Engage in activities and programs of the federal government, a state, a territory of the United States, or an agency or political subdivision of the federal government or a state or territory of the United States, if approved by the board of directors and not inconsistent with this act.
- (v) Receive funds either as shares or deposits from other credit unions.
- (w) Receive funds either as shares or deposits from a retirement plan that serves all or a portion of the credit union's members and potential members.
- (x) Receive funds either as shares or deposits from a public employee retirement system or plan.
- (y) Lease tangible personal property to its members, if the credit union does not acquire an interest in the property before selection of the property by the member.
- (z) Purchase, sell, pledge, discount, or otherwise acquire and dispose of, in whole or in part, obligations of its members, in accordance with rules promulgated by the commissioner. This subdivision shall not apply to participation loans originated pursuant to section 16(6).
- (aa) At the expense of the credit union, purchase insurance for its members in connection with its members' share, deposit, loan, and other accounts.
- (bb) Establish, operate, participate in, and hold membership in systems that allow the transfer of credit union funds and funds of its members or other account holders by electronic or other means, including, but not limited to, clearinghouse associations, data processing and other electronic networks, the federal reserve system, or any other payment or liquidity program.
- (cc) Service loans sold by the credit union, in whole or in part, to a third party.
- (dd) Receive payments on shares or deposits from or make loans to the United States or an agency or instrumentality of the United States.
- (ee) Act as a fiscal agent of, and maintain treasury tax and loan accounts of, the United States.
- (ff) Receive payments on shares or deposits from a state, a territory of the United States, or from an agency, political subdivision, or instrumentality of a state or territory of the United States. A credit union may act as fiscal agent for, maintain tax and loan accounts of, and make loans to an entity that the credit union has authority to receive payments from under this subdivision.

(gg) In addition to loan and investment powers otherwise authorized by this act, organize, invest in, and make loans to corporations or other organizations that engage in activities incidental to the conduct of a credit union or in activities which further or facilitate the purposes of a credit union, or which furnish services to credit unions. The commissioner shall determine by rule or order the activities and services that fall within the meaning of this subdivision. A credit union shall notify the commissioner of any investment or loan that would cause the aggregate of the investments and loans described in this subdivision to exceed 2% of the credit union's shares, deposits, undivided earnings, and reserves. Investments and loans described in this subdivision shall not, in the aggregate, exceed 5% of the shares, deposits, undivided earnings, and reserves of the credit union. A credit union may not invest in or make loans to a corporation or other organization pursuant to this subsection unless the corporation or other organization agrees in writing to allow the commissioner to conduct an examination of the corporation or other organization to the same extent that the commissioner is authorized to examine credit unions and agrees in writing to make reports to the commissioner as the commissioner may require.

(hh) Individually or jointly with other credit unions or other financial organizations, purchase, lease, construct, or otherwise acquire and hold land and buildings for the purpose of providing adequate facilities for the transaction of present and potential future business. A credit union may use land and buildings for home office functions, service centers, and any other activity in which it engages. Excess space may be rented as a source of income. A credit union shall depreciate or appreciate buildings owned by it in the manner and at the rates the commissioner may prescribe by rule or order from time to time. A credit union's investment and contractual obligations, direct, indirect, or contingent, in land and buildings under this subdivision may not exceed 5% of its shares, deposits, undivided earnings, and reserves without the prior approval of the commissioner. This subdivision shall not affect the legality of investments in land and buildings made prior to December 19, 1986. An agreement to acquire and hold buildings or land jointly with other credit unions or other financial organizations is subject to the prior approval of the commissioner. The commissioner shall act on a completed application within 30 days after the application is filed.

(ii) Own stock in a corporation that owns land or buildings used to provide the facilities described in subdivision (hh), but the investment in stock shall be treated as an investment in the land and buildings for all purposes under subdivision (hh). If a credit union owns less than 100% of the stock in such a corporation, the investment shall be treated as a joint agreement and subject to the commissioner's approval as required by subdivision (hh).

(jj) Sell, lease, assign, mortgage, pledge, hypothecate, or otherwise dispose of, in whole or in part, its land and buildings, including land and buildings obtained as a result of defaults under obligations owing to it, and stock in a corporation described in subdivision (ii). A credit union may finance the sale of its land and buildings to any person at any interest rate permitted under this act or other applicable law for loans to its members for the purchase of land and buildings.

(kk) Perform services for members of other credit unions organized under this act, the laws of another state or territory of the United States, or the laws of the United States pursuant to a written contractual arrangement. A credit union may allow other credit unions organized under this act, the laws of another state or territory of the United States, or the laws of the United States to perform services for its members pursuant to a written contractual arrangement. All services provided pursuant to this subdivision shall be performed in accordance with the laws of this state.

(ll) Perform services for persons who are not its members if the services are performed pursuant to a contractual arrangement whereby other financial organizations perform the same services for the credit union's members. For purposes of this subdivision, "services" means 1 or more of the following:

(i) Cash advances.

(ii) Funds transfers.

(iii) Cashing travelers checks.

(iv) Any other services specified by the commissioner by rule or order.

(mm) Guarantee the signature of a member in connection with any transaction involving tangible or intangible property in which the member has or seeks to acquire an interest.

(3) The commissioner may promulgate rules authorizing credit unions to exercise additional powers considered necessary to effectuate the purposes of credit unions and to permit credit unions to meet their members' financial needs, if these additional powers are not inconsistent with this act or other applicable Michigan law.

Sec. 5a. The shareholdings of a member who fails to complete payment of 1 share within 1 year after admission to membership, or of a member whose share balance is reduced to less than the par value of 1 share and is not increased to at least the par value of 1 share within 1 year after the reduction, shall be returned to the member, if the member can be located, or may be escheated, subject to Act No. 63 of the Public Acts of 1949, as amended, being sections 567.201 to 567.206 of the Michigan Compiled Laws, and the membership shall be terminated.

Sec. 6. (1) Credit unions shall be under the supervision of the commissioner. Each credit union shall report its financial condition at least annually before January 31 for its previous calendar year and more often if requested by the commissioner on forms supplied by the commissioner. Additional reports may be required. Credit unions shall be examined at least annually by the commissioner except that the commissioner may accept the audit of a certified public accountant in place of an examination. Each credit union shall pay an operating fee and other fees as provided in this section.

(2) The commissioner shall charge annually an operating fee to each credit union. The operating fee shall be sufficient to defray the estimated expenses to be incurred by the financial institutions bureau in performing all credit union examinations and the supervision of credit unions. Each credit union shall be invoiced by the commissioner for the operating fee before July 1 of each year and shall pay the operating fee indicated on the invoice before July 16 of each year. The operating fee shall be computed on the total assets of the credit union as of December 31 of the previous year as shown on the statement of condition of the credit union filed with the financial institutions bureau pursuant to subsection (1). The operating fee shall be the greater of \$250.00 or a fee computed by adding all of the following:

(a) A base fee as determined by the commissioner of not less than \$1.75 or more than \$3.50 per \$1,000.00 of assets up to \$500,000.00.

(b) A fee of 40% of the base fee per \$1,000.00 of assets greater than \$500,000.00 up to \$1,000,000.00.

(c) A fee of 30% of the base fee per \$1,000.00 of assets greater than \$1,000,000.00 up to \$5,000,000.00.

(d) A fee of 20% of the base fee per \$1,000.00 of assets greater than \$5,000,000.00 up to \$10,000,000.00.

(e) A fee of 10% of the base fee per \$1,000.00 for all assets greater than \$10,000,000.00.

(3) The commissioner shall not require a credit union to pay an operating fee more often than annually. A corporate central credit union shall pay an operating fee in the same manner as other credit unions but the fee shall not exceed \$80,000.00 annually. If the commissioner fails to transmit an examination report to a credit union during the preceding calendar year, the credit union shall receive an operating fee credit of not less than 30% or more than 70% against its next annual operating fee. The credit percentage shall be determined annually by the commissioner and applied equally to all credit unions receiving a credit.

(4) All funds received by the commissioner from the federal government for the purpose of reimbursing the financial institutions bureau for the costs of credit union examinations and supervision services shall be paid into the state treasury to the credit of the financial institutions bureau. The funds received under this subsection shall be used only for costs relating to the examination and supervision of state chartered credit unions.

(5) For failure to file reports when due, unless excused for cause by the commissioner, the credit union shall pay \$25.00 for each day of its delinquency. If the report is not filed within 15 days, the commissioner may revoke the credit union's certificate of approval and take possession of the business and property of the credit union and maintain possession until the commissioner permits it to continue business or its affairs are finally liquidated.

(6) If the commissioner determines that the credit union is insolvent or is in an unsound or unsafe condition, the commissioner may serve notice on the credit union of his or her intention to revoke the certificate of approval. If for a period of 15 days after the notice the violation or unsound or unsafe condition continues, the commissioner may revoke the certificate and take possession of the business and property of the credit union and maintain possession until the commissioner permits it to continue business or its affairs are finally liquidated pursuant to section 20(2).

(7) Amendments to the bylaws or certificate of organization of a credit union properly adopted shall be filed with the commissioner with the payment of a fee of \$10.00 for each amendment, but not in excess of \$30.00 for any 1 filing.

(8) Except as provided in subsection (4), all fees required by this act shall be paid into the state treasury to the credit of the financial institutions bureau and the money in this account shall be used only for the operation of the financial institutions bureau.

Sec. 6b. (1) Whenever, in the opinion of the commissioner, a director, officer, committee member, employee, agent, or other person participating in the affairs of a credit union has committed a violation of law, a rule, or a cease and desist order that has become final, has engaged or participated in an unsafe or unsound practice in connection with the credit union, or has committed or engaged in an act, omission, or practice that constitutes a breach of his or her fiduciary duty as a director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union and the commissioner determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its shareholders or depositors could be seriously prejudiced by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon the individual a written notice of the commissioner's intention to remove the individual from his or her position with the credit union.

(2) Whenever, in the opinion of the commissioner, a director, officer, committee member, employee, or agent of a credit union, by conduct or practice with respect to that credit union or other financial institution or other business organization that resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to continue as a director, officer, committee member, employee, or agent, and whenever, in the opinion of the commissioner, any other person participating in the conduct of the affairs of a credit union, by conduct or practice with respect to that credit union or other financial institution or other business organization that resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to participate in the conduct of the affairs of the credit union, the commissioner may serve upon the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union, a written notice of the commissioner's intention to remove him or her from his or her position with the credit union or to prohibit his or her further participation in any manner in the conduct of the affairs of the credit union.

(3) With respect to a director, officer, committee member, employee, agent, or other person participating in the affairs of a credit union or any other person upon whom notice is served pursuant to subsection (1) or (2), if the commissioner considers it necessary for the protection of the credit union or the interests of its shareholders or depositors that the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union, be suspended from his or her position with the credit union or prohibited from further participation in any manner in the conduct of the affairs of the credit union, the commissioner may serve upon the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union, a written notice suspending him or her from his or her position with the credit union or prohibiting him or her from further participation in any manner in the conduct of the affairs of the credit union. The suspension or prohibition shall become effective upon service of the notice and, unless stayed by a court in proceedings authorized by subsection (5), shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (1) or (2) and until the commissioner dismisses the charges specified in the notice or, if an order of removal or prohibition is issued against the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union, until the effective date of that order. Copies of the notice shall also be served upon the credit union of which the suspended person is a director, officer, committee member, employee, or agent, or in the conduct of whose affairs he or she has participated.

(4) A notice of intention to remove a director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union, from his or her position with the credit union or to prohibit his or her participation in the conduct of the affairs of a credit union shall contain a statement of the facts constituting grounds for the removal or prohibition, and shall fix a time and place at which a hearing will be held. The hearing shall be held not earlier than 30 days and not later than 60 days after the date of service of the notice, unless an earlier or a later date is set by the commissioner at the request of the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union and for good cause shown. Unless the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union appears at the hearing in person or by a duly authorized representative, he or she shall be considered to have consented to the issuance of an order of removal or prohibition. In the event of consent, or if upon the record made at the hearing the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue such orders of suspension or removal of such person from his or her position with the credit union or prohibition from participation in the conduct of the affairs of the credit union, as the commissioner considers appropriate. The order shall become effective at the expiration of 30 days after service upon the credit union and the director, officer, committee member, employee, agent, or other person participating in the affairs of the credit union concerned except in the case of an order issued upon consent, which shall become effective at the time specified in the order. The order shall remain effective and enforceable except to the extent it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court.

(5) A person or credit union aggrieved and directly affected by an order of the commissioner may appeal to the circuit court for the county in which the main office of the credit union is located or to the circuit court in Ingham county within 30 days after issuance of the order. Unless specifically ordered by the court, the commencement of proceedings for judicial review under this section shall not operate as a stay of an order issued by the commissioner.

Sec. 8. (1) The organizational meeting shall be the first annual meeting. At the annual meeting the credit union shall elect a board of directors of not less than 5 members to hold office for such terms as the bylaws provide and until successors qualify. If the bylaws provide for a credit committee or a supervisory committee, the committee shall have at least 3 members, may have alternate members, and shall be appointed by the board of directors or elected by the members in such numbers and for such terms as the bylaws provide. The credit committee and the supervisory committee shall have and perform such duties as this act and the bylaws provide. If the bylaws do not provide for a credit committee or a supervisory committee, the board of directors

shall perform the duties of the credit committee or the supervisory committee or delegate those duties as it considers advisable. A member of the supervisory committee shall not be a director, officer, loan officer, credit committee member, or other employee of the credit union while serving on the supervisory committee.

(2) All of the members of the board of directors, the supervisory committee, if any, and the credit committee, if any, of a corporate central credit union shall be residents of this state.

(3) A record of the names and addresses of the members of the board and the members of the credit and supervisory committees, if any, shall be filed with the commissioner within 10 days of their election.

(4) A member of the board of directors or the credit or supervisory committee shall hold at least 1 share fully paid in.

(5) If the commissioner considers it expedient, the commissioner may call a meeting of the board of directors of a credit union, for any purpose, by giving a notice of the time, place, and purpose of the meeting at least 3 days prior to the meeting to the directors either by personal service or by registered or certified mail sent to their last known addresses as shown by the books of the credit union.

Sec. 9. (1) At their first meeting the directors shall elect from their own number the following officers: a chairperson, vice-chairperson, treasurer, and secretary, of whom the last 2 named may be the same individual. The directors shall have general management of the affairs of the credit union, particularly all of the following:

(a) To act on applications for membership.

(b) To determine the interest rates on loans and on deposits.

(c) To fix the amount of the surety bond which shall be required of all officers and employees handling money.

(d) To declare dividends, and to transmit to the members recommended amendments to the bylaws.

(e) Except as provided in section 11a(3), to fill vacancies on the board and on the credit committee until successors are chosen and qualify.

(f) To determine the maximum individual share holdings and the maximum individual loans that can be made with and without security, subject to limitations upon loans as may have been placed upon them by the bylaws previously adopted and approved by the commissioner.

(g) To have charge of investments other than loans to members.

(2) The duties of the officers shall be as determined in the bylaws. The board of directors may by resolution designate a general manager and define his or her duties. A member of the board or of the credit or supervisory committee, if any, shall not, as such, be compensated. A credit union, by vote of the board of directors, may use any titles that it chooses for the officials holding the positions described in this section as long as these titles are not misleading.

(3) The board may appoint an investment officer who shall be either a member of the board of directors or an employee of the credit union to act for it in the purchase and sale of securities or the making of loans to or the deposits in other credit unions. If the board of directors appoints an investment officer, the investment officer shall act only within the limits of an investment policy and list of approved investments that the board of directors shall establish. The investment officer shall make a report at each regular board of directors meeting.

(4) The board of directors may appoint an executive committee, consisting of not less than 3 directors, which may act on any matter specifically authorized by the board.

(5) The board of directors shall have the authority and responsibility for the general direction of the business affairs, funds, and records of the credit union and shall be responsible for maintaining its safety and soundness.

Sec. 11a. (1) By a majority vote, the supervisory committee, if any, may call a special meeting of the members to consider any matter submitted to the special meeting of the members by the committee. The committee shall fill vacancies in its own membership.

(2) The supervisory committee, if any, by a unanimous vote, may suspend any member of the credit committee and shall report such action and the reason for the action to the board of directors. At its next meeting, the board of directors shall vote on whether to remove or reinstate the suspended credit committee member. A 2/3 vote of the board membership shall be required to remove the suspended credit committee member. If the credit union does not have a supervisory committee, the board of directors by a 2/3 vote of the board membership may remove a credit committee member.

(3) The supervisory committee, by a unanimous vote, may suspend or remove any member of the board of directors for cause. If there is no supervisory committee, the board of directors, by a 2/3 vote of the board membership, may take such an action. If a member of the board of directors is suspended, the remaining directors shall report the suspension and the cause for the suspension to the commissioner within 3 days and shall call a special members' meeting which shall be held not less than 7 nor more than 21 days after the

suspension. At the special members' meeting the cause for the suspension shall be reported, the suspended director shall have the right to be heard, and the members shall decide whether to sustain or reverse the action of the supervisory committee or the board of directors. If the members sustain the action, they shall replace the suspended board member at the special members' meeting. In the event that the supervisory committee suspends a majority of the board of directors, the remaining board members shall have general management of the affairs of the credit union until the suspended board members are reinstated or replaced at the special members' meeting.

(4) The board of directors, by a 2/3 vote of the board membership, may suspend or remove any member of the supervisory committee for failure to perform his or her duties in accordance with this act, the certificate of organization, or the bylaws.

(5) The board of directors, by a majority vote, may suspend or remove any officer from his or her duties as an officer.

(6) The members of the credit union may remove any member of the board of directors or any credit or supervisory committee member elected by the membership of the credit union from office but only at a special meeting of the members called for that purpose.

Sec. 12. The capital of a credit union shall consist of the payments that have been made to it by the members on shares. The credit union shall have a lien on the shares and deposits of a member in his or her individual, joint, or trust account for any sum due to the credit union from said member or for any loan endorsed by the member. A credit union may charge an entrance fee as may be provided by the bylaws.

Sec. 14. Interest rates on loans made by a credit union shall not exceed 15% per annum on unpaid balances, except that a rate of 16.5% or less per annum on unpaid balances may be charged on a loan which is made on or before December 31, 1993, for the purchase of a motor vehicle. Loans made for the purchase of a motor vehicle regardless of whether the loan specifies a term to maturity or is made pursuant to a line of credit, credit card, or other similar agreements are subject to the applicable interest rate ceiling of this section. Loans made by a credit union to another credit union as permitted under this act are not subject to the interest rate limitations of this section or any other provisions of the laws of this state.

Sec. 16. (1) Loans to members shall be made subject to the conditions contained in the bylaws. A borrower may repay his or her loan in whole or in part any day the credit union is open for business.

(2) Except when the bylaws of a credit union otherwise provide, a director or member of either the credit committee or supervisory committee shall not borrow from the credit union in which he or she holds office beyond the amount of his or her holdings in shares and deposits.

(3) A credit union, through provision in its bylaws, at its option, may permit its directors, credit committee members, and supervisory committee members to borrow in excess of their share and deposit holdings on such terms and conditions and in such amounts as the bylaws may provide. A director, officer, credit committee member, or supervisory committee member shall not act as a cosigner, guarantor, or indorser for borrowers other than members of his or her immediate family.

(4) Loans to directors or members of the credit committee or supervisory committee shall be made in the same manner as are loans to other members, except that the applicant shall not pass on his or her own loan. The aggregate amount of loans to or guaranteed by directors and members of the credit committee and supervisory committee except to the extent they are secured by a specific pledge of shares or deposits shall not exceed 10% of the share capital of a credit union and shall be shown in aggregate as a separate item in the balance sheet of the credit union and in all reports rendered by the credit union.

(5) Upon written application by a member, the credit union may approve a line of credit or other open-end credit agreement, and may grant loan advances to the member within the limit of that open-end credit agreement. If an open-end credit agreement has been approved, an additional loan application shall not be required by this act as long as the aggregate indebtedness does not exceed the approved limit. At its option, the credit union may require reapplication for an open-end credit agreement, either periodically or as circumstances warrant.

(6) A credit union may participate in loans to credit union members jointly with other credit unions, credit union organizations, or other financial organizations. If a credit union incorporated under this act originates such a loan, it shall retain an interest in the loan of at least 10%.

(7) A credit union may participate in any guaranteed loan program of the federal or state government under the terms and conditions specified in the law under which such a program is provided.

Sec. 16a. (1) A credit union may invest funds not used in loans to members in any of the following:

(a) Securities, obligations, or other instruments of or issued by or fully guaranteed as to principal and interest by the United States or an agency or instrumentality of the United States, or in any trust or trusts established for investing directly or collectively in such securities, obligations, or instruments.

(b) Securities, obligations, or other instruments of or issued by any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any of the several territories organized by congress, or any of their political subdivisions.

(c) Securities, obligations, or other instruments of any central liquidity facility or corporate central credit union established under the laws of this state, the laws of another state or territory of the United States, or the laws of the United States, or any federal reserve bank.

(d) Investment securities, as follows:

(i) Investment securities, when in the credit union's prudent judgment, which may be based in part upon estimates which it believes to be reliable, there is adequate evidence that the obligor will be able to perform all it undertakes to perform in connection with the securities, including all debt service requirements, and that the securities may be sold with reasonable promptness at a price that corresponds to their fair value.

(ii) The purchase of investment securities in which the investment characteristics are considered distinctly or predominantly speculative, or the purchase of investment securities that are in default, whether as to principal or interest, is prohibited.

(iii) As used in this subdivision, an "investment security" means a marketable obligation in the form of a bond, note, or debenture, commonly regarded as an investment security and that is salable under ordinary circumstances with reasonable promptness at a fair value.

(e) Shares or certificates of an open-end management investment company registered with the securities and exchange commission under the investment company act of 1940, Public Law 96-477, 94 Stat. 2275, 2295, if all of the following conditions are met:

(i) Not less than 90% of the fund's assets consist of and are limited to securities in which a credit union may invest directly.

(ii) The credit union has an equitable and undivided interest in the underlying assets of the fund.

(iii) The credit union is not liable for acts or obligations of the fund.

(iv) The credit union's investment in any 1 fund does not exceed the amount of its reserves and undivided earnings.

(2) A credit union shall not invest more than the amount of its reserves and undivided earnings in any obligor or related obligors except for investments authorized by subsection (1)(a) and (c), or authorized by section 4(2). This limitation shall not apply to a corporate central credit union.

(3) A credit union may not invest in or hold common stock or other equity investments except as provided in section 4(2) or bank and bank holding company stock legally acquired before December 19, 1986. If a credit union comes into possession of common stock or other equity investments as the result of a loan default, it shall dispose of such items within a reasonable period of time, not to exceed 2 years, or a longer period of time as the commissioner may approve on a case by case basis.

(4) In addition to investments expressly permitted by this act, a credit union may make any other type of investment approved by the commissioner by rule or order.

Sec. 17. (1) The gross income of the credit union shall be determined at the end of each month. From this amount, there shall be set aside sums as a regular reserve in accordance with the following schedule:

(a) A credit union in operation for more than 4 years and having assets of \$500,000.00 or more shall set aside 10% of gross income until the regular reserve equals 4% of the total of outstanding loans and risk assets, then 5% of gross income until the regular reserve equals 6% of the total of outstanding loans and risk assets.

(b) A credit union in operation 4 years or less or having assets of less than \$500,000.00 shall set aside 10% of gross income until the regular reserve equals 7-1/2% of the total of outstanding loans and risk assets, then 5% of gross income until the regular reserve equals 10% of the total of outstanding loans and risk assets.

(c) If the regular reserve falls below the required percentage of the total of outstanding loans and risk assets, the credit union shall replenish the reserve by regular contributions in such amounts as may be needed to maintain the required reserve amount.

(2) A credit union shall establish an allowance for loan losses account based upon its reasonably foreseeable loan losses. The allowance for loan losses account shall initially be established by charging the regular reserve account. For the purpose of calculating required transfers of income to regular reserves pursuant to subsection (1), any balances in the allowance for loan losses account may be included with the balance in the regular

reserve account. A loan or any portion of a loan shall be charged to the allowance for loan losses account if any of the following occur:

- (a) The board of directors considers the loan or any portion of a loan uncollectible.
- (b) The loan is past due 12 or more contractual payments and there has not been a contractual payment made in the past 90 days and judicial proceedings to collect the loan have not been instituted.
- (c) The commissioner orders the credit union to do so.
- (3) The commissioner may define by rule the terms "gross income", "outstanding loans", and "risk assets" for the purpose of establishing the regular reserve.
- (4) In addition to a regular reserve, special reserves to protect the interests of members shall be established when required by rule of the commissioner, or when found by the board of directors of the credit union or by the commissioner, in any special case, to be necessary for that purpose.
- (5) The commissioner may waive, in whole or in part and on a general or case by case basis, the reserve requirements of subsection (1) when, in the commissioner's opinion, such a waiver is necessary or desirable to protect the public interest and fulfill the purposes of this act.
- (6) This section does not apply to a corporate central credit union except to the extent determined by the commissioner to be necessary to protect the interests of the members and other share and deposit account holders of the corporate central credit union.

Sec. 18. (1) The board of directors may declare and pay dividends on shares from current or accumulated net earnings, or both, but only after provision for required reserves, accrued and unpaid expenses, and for established losses. Dividends, if paid, may be paid on partial as well as full shares.

(2) Dividends may be paid on shares received during the first 10 days of any calendar month calculated from the first day of the calendar month and dividends may be paid on shares withdrawn during the last 3 business days of any calendar month ending a regular monthly, quarterly, semiannual, or annual dividend period calculated to the end of the calendar month. As to share accounts upon which dividends are calculated daily from date of deposit to date of withdrawal and paid whenever the member withdraws the dividends, the dividends shall be calculated and paid only for days the shares were actually on deposit.

Sec. 20. (1) The process of voluntary dissolution shall be as follows:

(a) The majority of the entire membership of the credit union, by ballot or written consent, may agree to a dissolution of the credit union.

(b) They shall file with the commissioner a statement of their consent to dissolution, attested by a majority of the members of the board of directors and including the names and addresses of all of the members of the board of directors.

(c) The commissioner shall determine whether the credit union is solvent. If solvency is determined, he or she shall issue in duplicate a certificate to the effect that the provisions of this section relating to voluntary dissolution have been complied with and the credit union shall be dissolved and cease to carry on business except for the purpose of liquidation.

(d) The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all other acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing those debts and obligations until its affairs are fully adjusted and wound up, for a period of 3 years.

(2) The process for involuntary dissolution shall be as follows:

(a) If the commissioner shall determine that the credit union is insolvent or has made a determination to revoke the credit union's certificate of organization pursuant to section 6, the commissioner may take immediate possession of the assets of the credit union.

(b) Upon taking possession of the assets of the credit union, the commissioner may appoint a receiver for the credit union, which receiver may be a league, the national credit union administration, or a person designated by the commissioner, and the commissioner may prescribe the amount of bond and such other terms and conditions with which the receiver shall comply before entering upon his or her office.

(c) Upon qualifying the receiver shall take possession of the assets and proceed to liquidate the credit union, to collect all assets and distribute and pay all obligations, and distribute the remaining assets to the shareholders in accordance with their respective interests. The receiver, whether the commissioner or a receiver appointed by him or her, shall have full power and authority to sue and be sued, for the purpose of enforcing the debts and obligations due the credit union and do all things and perform all acts necessary to wind up the affairs of the credit union. The commissioner shall have power to issue rules as he or she considers proper for the purpose of winding up the affairs of a credit union in involuntary dissolution.

(d) A credit union shall be considered insolvent when the total of share capital and deposit accounts is more than the value of the assets of the credit union as determined by an appraisal of assets made by the commissioner or other person authorized or directed by him or her to make such an appraisal.

(3) The commissioner may permit a credit union in either voluntary or involuntary dissolution because of insolvency to reorganize its affairs and continue in business, if a majority of the members of the credit union approve a scale-down of their share balances in an amount sufficient to offset the deficit in assets as determined by the commissioner, under such rules as the commissioner may establish not inconsistent with or contrary to law.

Sec. 23. If a credit union has completed or is about to complete the term of its corporate existence, the credit union may extend its corporate life by the affirmative vote of a majority of the members present at a duly constituted meeting called for the purpose and by delivery of a copy of the resolution certified by the secretary and attested by the chairperson of the board of directors of the credit union to the commissioner. Instead of having this matter considered by the members, the board of directors may adopt a resolution to extend the credit union's corporate existence and report such action to the membership at the next annual meeting of the membership. The commissioner shall authorize the credit union to continue its existence for the period of time stated in the resolution, or if no period is stated in the resolution, the commissioner shall authorize the credit union to continue its existence perpetually. The commissioner by rule shall determine the forms to be filed for the purpose of extending the charters of credit unions.

Sec. 25. (1) With the approval of the commissioner and upon the affirmative vote of 2/3 of the members who vote on the proposal, a credit union organized under this act may convert, subject to this section, into a credit union chartered under the laws of the United States or any other state or territory of the United States. The board of directors, by a majority vote of the entire board, shall approve any conversion plan prior to the plan being submitted to the commissioner for approval in accordance with this subsection. Before voting to approve the plan, the board of directors shall give 30 days' prior notice to the credit union's members that it is considering a conversion. The notice shall be mailed to the credit union's membership and may be included as part of any mailing sent to the credit union's membership. The notice shall include a brief statement as to why the board is considering the matter and a brief statement of the major positive and negative effects of the proposed conversion. The notice shall also state that prior to the submission of the conversion plan to the members, the board is soliciting the comments of the membership in writing and that such comments may also be sent to the commissioner. Prior to approval of the contents of the conversion plan, the commissioner shall consider those comments submitted to the board or to the commissioner. The commissioner shall approve the contents of the conversion plan before the credit union presents the conversion plan to the members for a vote. The commissioner shall approve the contents of the conversion plan only if the commissioner is satisfied of both of the following:

(a) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion and contains a statement indicating any material differences in powers.

(b) The conversion would be made for sound economic reasons and would not be made to circumvent a pending supervisory action that is initiated by the commissioner because of a concern over the safety and soundness of the credit union.

(2) Upon approval of the contents of the conversion plan by the commissioner, the credit union shall call a special meeting of the members to provide information on the conversion plan. At least 14 days prior to the meeting, a notice of the meeting, a copy of the conversion plan, and a ballot with postage-paid return envelope shall be mailed to all members. After the special meeting is held, the members shall be given until a specified date, which shall be at least 15 days after the meeting, to return their ballots. The votes cast by members shall be counted upon the expiration of the time given to the members to return their ballots. Certified copies of all proceedings held by the board of directors and members of the credit union shall be filed with the commissioner. In addition, the credit union shall furnish a certified copy of consent or approval of the national credit union administration or the regulatory authority of the applicable state or territory of the United States if the consent or approval is required by the laws of the United States or by the laws of the applicable state or territory of the United States. If a credit union converting into a credit union organized under the laws of another state or territory of the United States intends to maintain an office in this state, it must comply with section 4h. If all of the conditions required by this section have been met, the commissioner shall approve the conversion and the conversion shall become effective. Two copies of the proceedings shall be filed in the office of the commissioner.

(3) If the conversion becomes effective, all the property of the credit union, including all its right, title, and interest in and to all property of whatever kind, whether real, personal, or mixed and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, belonging, or pertaining to it, or that would inure to it, shall immediately by act of law and without any conveyance or

transfer, and without any further act or deed, be vested in and remain the property of the converted credit union. The converted credit union shall have, hold, and enjoy the property in its own right as fully and to the same extent as the property was possessed, held, and enjoyed prior to the conversion. The converted credit union shall be considered to be a continuation of the same entity. All the rights, obligations, and relations of the credit union to or in respect to any person, estate, creditor, member, depositor, trust, trustee, or beneficiary of any trust or fiduciary function shall remain unimpaired. The credit union shall continue to hold all the rights, obligations, relations, and trusts, and the duties and liabilities connected with them, and shall execute and perform each and every trust and relation in the same manner as if the credit union had not converted. The conversion shall not release the credit union from its obligations to pay and discharge all the liabilities created by law or incurred by it before the conversion, or any tax imposed by the laws of this state up to the day of the conversion in proportion to the time which has elapsed since the last preceding tax payment, or any assessment, penalty, or forfeiture imposed or incurred under the laws of this state up to the date of the conversion.

Sec. 26. (1) With the approval of the commissioner and compliance with the applicable law under which it is chartered, a credit union chartered under the laws of the United States or any other state or territory of the United States and meeting all the requirements to become a credit union under this act may convert to a credit union organized under this act. The required certificate of organization shall be executed in triplicate by a majority of the board of directors of the converting credit union and presented to the commissioner for appropriate examination and approval. After executing the certificate of organization, a majority of the directors may execute all other papers, including the adoption of bylaws for the general government of the credit union consistent with the provisions of this act, and to do whatever may be required to complete its conversion. The directors of the converting credit union may continue to be directors of the credit union. If the commissioner approves the certificate of organization as presented by the board of directors, the commissioner shall notify the applicants of the commissioner's decision and shall immediately issue a certificate of approval attached to the duplicate certificate of organization and return it to the credit union. The certificate shall indicate that the laws of this state have been complied with and the credit union and all its members, officers, and employees shall have the same rights, powers, and privileges and be subject to the same duties, liabilities, and obligations in all respects as shall be applicable to credit unions originally organized under this act.

(2) The approval of a conversion under this section by the commissioner shall be based on an examination of the credit union and the proceedings had by its directors and members with respect to conversion and a conversion shall not defeat or defraud any of the creditors of the credit union. The expenses of the examination shall be paid by the credit union in an amount established and published by the commissioner. The amount paid for the examination is not refundable. Upon approval of the conversion, the credit union shall pay an operating fee, determined pursuant to section 6, on a prorated basis for the operating fee period in which the conversion becomes effective. The date that the conversion becomes effective shall be the basis for the proration.

(3) If the conversion becomes effective, all the property of the converted credit union, including its right, title, and interest in and to all property of whatever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, belonging or pertaining to it, or that would inure to it, shall immediately by act of law and without any conveyance or transfer and without any further acts or deeds, be vested in and remain the property of the converted credit union. The converted credit union shall have, hold, and enjoy the property in its own right as fully and to the same extent as the property was previously possessed, held, and enjoyed by it. The converted credit union shall be considered to be a continuation of the same entity. All the rights, obligations, and relations of the credit union to or in respect to any person, estate, creditor, depositor, member, trustee, or beneficiary of any trust, or fiduciary function, shall remain unimpaired. The credit union shall continue to hold all rights, obligations, relations, and trusts and the duties and liabilities connected with them, and shall execute and perform each and every trust and relation in the same manner as if it had after the conversion assumed the trust or relation and obligations and liabilities connected with the trust or relation.

Sec. 31. (1) Each credit union except a corporate central credit union shall apply for and maintain insurance of member share and deposit accounts under title II of the federal credit union act. A credit union that has been denied a commitment for insurance of its share and deposit accounts or that has been given notice by the national credit union share insurance fund of its intent to terminate insurance of the credit union's shares and deposits shall either dissolve, merge with another credit union that is insured under title II of the federal credit union act, or apply in writing within 30 days after denial to the commissioner for additional time to obtain an insurance commitment.

(2) The commissioner shall grant additional time or times to obtain or reinstate an insurance commitment, upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.