

HOUSE BILL No. 5971

June 25, 1992, Introduced by Reps. Keith, Gagliardi and DeMars and referred to the Committee on Corporations and Finance.

A bill to amend section 4 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,"

as amended by Act No. 278 of the Public Acts of 1986, being section 490.4 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4 of Act No. 285 of the Public Acts of
2 1925, as amended by Act No. 278 of the Public Acts of 1986, being

1 section 490.4 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 4. (1) A credit union shall have the powers specified
4 or implied in this section, as well as the powers specified or
5 implied by other sections of this act or any other act of this
6 state addressing the activities of credit unions.

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

8 (a) Enter into contracts.

9 (b) Sue and be sued.

10 (c) Adopt and alter a seal.

11 (d) Individually or jointly with other credit unions, pur-
12 chase, lease, or otherwise acquire and hold tangible personal
13 property necessary or incidental to its operations. A credit
14 union shall depreciate or appreciate such personal property in
15 the manner and at the rates the commissioner may prescribe by
16 rule or order from time to time.

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

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

26 (g) Receive the funds of its members either as payment on
27 shares or as deposits. A credit union may have 1 or more classes

1 of share or deposit accounts in the classifications and in the
2 form and under the terms and conditions as authorized by its
3 board of directors, subject to the limitations on payment of div-
4 idends on shares provided in section 18. A credit union shall
5 provide for the transfer and withdrawal of funds from accounts by
6 the means and through the payment systems that the board of
7 directors determines best serve the convenience and needs of
8 members.

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

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

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

20 (k) Make loans to a trade association of which it is a
21 member. Such loans shall not exceed, in the aggregate, 1% of the
22 credit union's shares, deposits, undivided earnings, and
23 reserves.

24 (l) Provide debt counseling and other financial counseling
25 services to its members. If such counseling includes debt man-
26 agement as defined in section 1a(f) with respect to a given
27 member and the member has any delinquent indebtedness outstanding

1 with the credit union at the time, the credit union shall not
2 charge that member, directly or indirectly, a fee for providing
3 the services involved.

4 (m) Disburse loan proceeds as the borrower directs.

5 (n) Act as trustee or custodian of retirement accounts or
6 other accounts permitting tax deferrals under federal or state
7 law, whether established on an individual basis or as part of an
8 employer group program.

9 (o) Act as agent for its members and depositors in the pur-
10 chase, sale, or other disposition of securities, interests in
11 mutual funds, and interests or participations in any other type
12 of investment, if the purchase, sale, or other disposition is
13 done solely for the accounts of its members and depositors and is
14 done on a nonrecourse basis.

15 (p) Discount, sell, assign, pledge, hypothecate, or other-
16 wise dispose of, in whole or in part, its intangible personal
17 property. The approval of the commissioner is required before a
18 credit union may discount, sell, assign, pledge, hypothecate, or
19 otherwise dispose of 20% or more of its intangible personal prop-
20 erty within a 1-month period unless the credit union is in
21 liquidation.

22 (q) Purchase any of the assets of another credit union or
23 assume any of the liabilities of another credit union, with the
24 approval of the commissioner. A credit union may also purchase
25 any of the assets of a credit union which is in liquidation or
26 receivership.

1 (r) Make deposits in or loans to banks, savings banks,
2 savings and loan associations, trust companies, and other credit
3 unions, and purchase shares in mutual savings and loan associa-
4 tions and other credit unions if the bank, savings bank, savings
5 and loan association, trust company, or other credit union is
6 insured by an agency of the United States; make deposits in,
7 loans to, or purchase shares of a corporate central credit union;
8 and invest funds as otherwise provided in section 16a.

9 (s) Make deposits in or loans to or purchase shares of any
10 federal reserve bank and any central liquidity facility estab-
11 lished under federal or state law.

12 (t) Hold membership in associations and organizations con-
13 trolled by or fostering the interests of credit unions, including
14 a central liquidity facility organized under federal or state
15 law.

16 (u) Engage in activities and programs of the federal govern-
17 ment, a state or territory of the United States, or an agency or
18 political subdivision of the federal government or a state or
19 territory of the United States, if approved by the board of
20 directors and not inconsistent with this act.

21 (v) Receive funds either as shares or deposits from other
22 credit unions.

23 (w) Receive funds either as shares or deposits from a
24 retirement plan that serves all or a portion of the credit
25 union's members and potential members.

26 (x) Receive funds either as shares or deposits from a public
27 employee retirement system or plan.

1 (y) Lease tangible personal property to its members, if the
2 credit union does not acquire an interest in the property before
3 selection of the property by the member.

4 (z) Purchase, sell, pledge, discount, or otherwise acquire
5 and dispose of, in whole or in part, obligations of its members,
6 in accordance with rules promulgated by the commissioner. This
7 subdivision shall not apply to participation loans originated
8 pursuant to section 16(6).

9 (aa) At the expense of the credit union, purchase insurance
10 for its members in connection with its members' share, deposit,
11 loan, and other accounts.

12 (bb) Establish, operate, participate in, and hold membership
13 in systems that allow the transfer of credit union funds and
14 funds of its members or other account holders by electronic or
15 other means, including but not limited to clearinghouse associa-
16 tions, data processing and other electronic networks, the federal
17 reserve system, or any other payment or liquidity program.

18 (cc) Service loans sold by the credit union, in whole or in
19 part, to a third party.

20 (dd) Receive payments on shares or deposits from or make
21 loans to the United States or an agency or instrumentality of the
22 United States.

23 (ee) Act as a fiscal agent of, and maintain treasury tax and
24 loan accounts of, the United States.

25 (ff) Receive payments on shares or deposits from a state or
26 territory of the United States, or from an agency, political
27 subdivision, or instrumentality of a state or territory of the

1 United States. A credit union may act as fiscal agent for,
2 maintain tax and loan accounts of, and make loans to an entity
3 that the credit union has authority to receive payments from
4 under this subdivision.

5 (gg) In addition to loan and investment powers otherwise
6 authorized by this act, organize, invest in, and make loans to
7 corporations or other organizations which engage in activities
8 incidental to the conduct of a credit union or in activities
9 which further or facilitate the purposes of a credit union, or
10 which furnish services to credit unions. The commissioner shall
11 determine by rule or order the activities and services which fall
12 within the meaning of this subdivision. A credit union shall
13 notify the commissioner of any such investment or loan that would
14 cause the aggregate of such investments and loans to exceed 2% of
15 the credit union's shares, deposits, undivided earnings, and
16 reserves. Investments and loans described in this subdivision
17 shall not, in the aggregate, exceed 5% of the shares, deposits,
18 undivided earnings, and reserves of the credit union. A credit
19 union may not invest in or make loans to a corporation or other
20 organization pursuant to this subsection unless the corporation
21 or other organization agrees in writing to allow the commissioner
22 to conduct an examination of the corporation or other organi-
23 zation to the same extent that the commissioner is authorized to
24 examine credit unions and agrees in writing to make such reports
25 to the commissioner as the commissioner may require from time to
26 time.

1 (hh) Individually or jointly with other credit unions or
2 other financial organizations, purchase, lease, construct, or
3 otherwise acquire and hold land and buildings for the purpose of
4 providing adequate facilities for the transaction of present and
5 potential future business. A credit union may use such land and
6 buildings for principal office functions, service centers, and
7 any other activity in which it engages. Excess space may be
8 rented as a source of income. A credit union shall depreciate or
9 appreciate such buildings owned by it in the manner and at the
10 rates the commissioner may prescribe by rule or order from time
11 to time. A credit union's investment and contractual obliga-
12 tions, direct, indirect, or contingent, in land and buildings
13 under this subdivision may not exceed 5% of its shares, deposits,
14 undivided earnings, and reserves without the prior approval of
15 the commissioner. This subdivision shall not affect the legality
16 of investments in land and buildings made prior to the effective
17 date of this 1986 amendatory act. An agreement to acquire and
18 hold buildings or land jointly with other credit unions or other
19 financial organizations is subject to the prior approval of the
20 commissioner. The commissioner shall act on a completed applica-
21 tion within 30 days after the application is filed.

22 (ii) Own stock in a corporation that owns land or buildings
23 used to provide the facilities described in subdivision (hh), but
24 the investment in stock shall be treated as an investment in the
25 land and buildings for all purposes under subdivision (hh). If a
26 credit union owns less than 100% of the stock in such a
27 corporation, such an investment shall be treated as a joint

1 agreement and subject to the commissioner's approval as required
2 by subdivision (hh).

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

11 (kk) Perform services for members of other credit unions
12 organized under this act, the laws of another state or territory
13 of the United States, or the laws of the United States pursuant
14 to a written contractual arrangement. A credit union may allow
15 other credit unions organized under this act, the laws of another
16 state or territory of the United States, or the laws of the
17 United States to perform services for its members pursuant to a
18 written contractual arrangement. All services provided pursuant
19 to this subdivision shall be performed in accordance with
20 Michigan law.

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

26 (i) Cash advances.

1 (ii) Funds transfers.

2 (iii) Cashing travelers checks.

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

5 (MM) EXCEPT AS OTHERWISE PROVIDED IN THE INSURANCE CODE OF
6 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956, BEING SECTIONS
7 500.100 TO 500.8302 OF THE MICHIGAN COMPILED LAWS, ENGAGE IN ANY
8 ASPECT OF THE INSURANCE AND SURETY BUSINESS AS PRINCIPAL, UNDER-
9 WRITER, AGENT, BROKER, SOLICITOR, OR INSURANCE COUNSELOR.

10 (NN) PURCHASE SHARES OF A CORPORATION ENGAGED, OR ORGANIZED
11 FOR THE PURPOSE OF ENGAGING, IN ANY ASPECT OF THE INSURANCE AND
12 SURETY BUSINESS AS A PRINCIPAL, UNDERWRITER, AGENT, BROKER,
13 SOLICITOR, OR INSURANCE COUNSELOR. HOWEVER, THE CREDIT UNION
14 SHALL AT ALL TIMES OWN AT LEAST 80% OF THE ISSUED AND OUTSTANDING
15 VOTING SHARES OF THE CORPORATION.

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

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. _____ or House Bill No. 5973 (request
23 no. 06128'92) of the 86th Legislature is enacted into law.