

Act No. 163
Public Acts of 1995
Approved by the Governor
October 9, 1995
Filed with the Secretary of State
October 9, 1995

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995

Introduced by Reps. Kaza, Gnoddke, Kukuk, Randall and Gernaat
Reps. Brackenridge, Bullard, Byl, Dalman, Gustafson, Jaye, Law, Middleton and Perricone named
co-sponsors

ENROLLED HOUSE BILL No. 4616

AN ACT to amend sections 1a, 4, 4h, and 14 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," section 1a as amended and section 4h as added by Act No. 278 of the Public Acts of 1986, section 4 as amended by Act No. 406 of the Public Acts of 1994, and section 14 as amended by Act No. 261 of the Public Acts of 1993, being sections 490.1a, 490.4, 490.4h, and 490.14 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 1a, 4, 4h, and 14 of Act No. 285 of the Public Acts of 1925, section 1a as amended and section 4h as added by Act No. 278 of the Public Acts of 1986, section 4 as amended by Act No. 406 of the Public Acts of 1994, and section 14 as amended by Act No. 261 of the Public Acts of 1993, being sections 490.1a, 490.4, 490.4h, and 490.14 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1a. As used in this act:

(a) "Commissioner" means the commissioner of the financial institutions bureau in the department of commerce.

(b) "Credit union" means a cooperative, nonprofit association, incorporated under this act for the purposes of encouraging thrift among its members, creating a source of credit at rates of interest not greater than the rates of interest permitted by the credit reform act, and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition. In provisions of this act governing the relationship of a credit union to 1 or more other credit unions, the term "credit union" includes a credit union incorporated under this act, under the laws of another state or territory of the United States, or under the laws of the United States.

(c) "League" means a trade association of credit unions.

(d) "Home office" means a place of business where all the business of a credit union may be transacted.

(e) "Service center" means a place of business other than the home office of a credit union where business of the credit union authorized by the board of directors may be transacted, except the keeping of the principal books and records required for examination purposes.

(f) "Debt management" means the planning and management of the financial affairs of a debtor and the receiving of money or evidences of money from the debtor for distribution to the debtor's creditors and debt prorating organizations in payment or partial payment of the debtor's obligations.

(g) "Corporate central credit union" means a credit union whose field of membership consists primarily of other credit unions including credit unions chartered by this state, by another state or territory of the United States, or by the United States.

(h) "Officer" means the chairperson of the board, vice-chairperson of the board, secretary, treasurer, general manager, any individual given the title of "president" or "vice president", an assistant treasurer, an assistant secretary, or any other person specifically designated as an officer by the board of directors.

(i) "Official" means a member of the board of directors, an officer, a member of the credit committee, if any, or a member of the supervisory committee, if any.

Sec. 4. (1) A credit union has the powers specified or implied by this act or any other act of this state.

(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 prescribes 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 the credit union. A credit union may finance the sale of its personal property to a person at a rate of interest not greater than the rate of interest permitted by the credit reform act 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 its members.

(h) Impose fines on delinquent loan installments as 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 funds from any source. Funds borrowed pursuant to this subdivision are not 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. Loans made under this subdivision 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) With the approval of the commissioner, purchase any of the assets of another credit union or assume any of the liabilities of another credit union. 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. A credit union may also 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 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 as shares or deposits from other credit unions.

(w) Receive funds 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 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) In accordance with rules promulgated by the commissioner, purchase, sell, pledge, discount, or otherwise acquire and dispose of, in whole or in part, obligations of its members. This subdivision does not apply to participation loans originated pursuant to section 16(6).

(aa) At the credit union's expense, purchase insurance for its members in connection with 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 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 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) 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 that further or facilitate the purposes of a credit union or that 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 an investment or loan that would cause the aggregate of the investments and loans made under 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 subdivision unless the corporation or organization agrees in writing to allow the commissioner to conduct an examination of the corporation or 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 business. A credit union may use land and buildings for home office functions, service centers, and 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 does 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 a rate of interest not greater than the rate of interest permitted by the credit reform act 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) Other services specified by the commissioner by rule or order.

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

(nn) Engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(oo) Own an insurance agency in whole or in part as provided under Act No. 218 of the Public Acts of 1956.

(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. 4h. (1) A credit union organized under the laws of another state or territory of the United States may conduct its business as a credit union in this state only with the written approval of the commissioner. The commissioner shall not grant approval unless the commissioner finds that the out-of-state credit union meets all of the following requirements:

(a) The credit union was organized under laws similar to this act.

(b) The credit union is financially solvent.

(c) The credit union has insurance of member share and deposit accounts under the provisions of title II of the federal credit union act, 12 U.S.C. 1781 to 1790.

(d) The credit union is effectively examined and supervised by the supervisory authority of the state or territory in which it is organized.

(e) The credit union needs to conduct business in this state to adequately serve its members in this state.

(2) The commissioner shall not grant approval under subsection (1) unless the out-of-state credit union agrees in writing as a condition of the approval to all of the following:

(a) To charge a rate of interest not greater than the rate of interest permitted by the credit reform act when making a loan in Michigan.

(b) Comply with the same consumer protection laws, as may be enacted from time to time, that credit unions organized under this act must comply with when making loans or providing other services in Michigan. For purposes of this subdivision, a loan is considered to be made or granted in Michigan if any person, other than a guarantor, while physically in Michigan, signed the loan agreement setting forth the terms and conditions of any obligation created or to be created under the agreement. For purposes of this subdivision, a service other than a loan is considered to be provided in this state if a person does not physically travel out of Michigan to obtain the service or if an agreement to provide the service is signed by a person in this state. This section does not exempt an out-of-state credit union from complying with Michigan law to the extent such compliance is otherwise required.

(c) Designate and maintain an agent for the service of process in this state.

(d) File reports as the commissioner may require.

(e) Allow the commissioner to conduct an examination, if necessary, to the same extent as the commissioner is authorized to conduct examinations of credit unions pursuant to section 6.

(f) Meet other requirements as are specified in this act for credit unions incorporated under this act as the commissioner may require from time to time.

(3) The commissioner shall not grant approval under subsection (1) if the state or territory in which the credit union is organized does not permit credit unions organized in this state to do business in that state or territory.

Sec. 14. Interest rates on loans made by a credit union shall not exceed the rate of interest permitted by the credit reform act, regardless of whether the loan specifies a term to maturity or is made pursuant to a line of credit, credit card, or other similar agreement. A loan made by a credit union to another credit union is not subject to the interest rate limitations of this section or any other provisions of the laws of this state.

Section 2. This amendatory act shall not take effect unless House Bill No. 4614 of the 88th Legislature is enacted into law.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.