



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**CREDIT UNION RESERVES
REVISIONS**

**House Bill 6328 (Substitute H-1)
First Analysis (9-24-02)**

**Sponsor: Rep. Mary Ann Middaugh
Committee: Insurance and Financial
Services**

THE APPARENT PROBLEM:

Under current state law, credit unions are required to set aside a percentage of gross income until its regular reserve equals a percentage of total loans and risk assets. The percentages required to make up the reserve are specified in statute and the required amounts are different for credit unions in operation for more than four years and those in operation for less than four years. If the regular reserve falls short of the required percentage, the credit union must replenish the reserve by regular contributions in such amounts as may be needed to maintain the required reserve amount.

According to the Office of Financial and Insurance Services (OFIS), this reserve requirement is outdated and conflicts with current federal law and practice. Rather than the statute's focus on having reserves that are a percentage of total loans and risk assets, the National Credit Union Administration (NCUA) and the OFIS now evaluate the adequacy of net worth by focusing on the total net worth as a percentage of total assets. Legislation has been proposed to delete conflicting and outdated language in the Credit Union Act, and update provisions regarding special reserves that are used to protect the interests of credit union members.

THE CONTENT OF THE BILL:

Currently, Public Act 285 of 1925, known as the Michigan Credit Union Act, requires that a special reserve to protect the interests of members (in addition to the regular reserve) must be established when required by rule of the commissioner of the Office of Financial and Insurance Services (OFIS), or when found by the board of directors or by the commissioner to be necessary for a special case. The bill would eliminate the maintenance of a regular reserve. However, the bill would require a credit union to establish and maintain reserves in such amounts as may be required to qualify for insurance

of its accounts under federal law and as otherwise required by the commissioner.

Further, the bill would delete a number of provisions pertaining to regular reserve requirements, including the following:

- provisions describing the schedule for how sums would be set aside monthly for a regular reserve, and a provision allowing the commissioner to waive these requirements;
- with regard to credit unions, a provision allowing – for the purpose of calculating required transfers of income to regular reserves - any balances in the allowance for a loan losses account to be included with the balance in the regular reserve account and the requirement that the allowance for loan losses account initially be established by charging the regular reserve account (a credit union would still have to establish an allowance for loan losses account based upon its reasonably foreseeable loan losses); and,
- a provision allowing the commissioner to define by rule the terms “gross income”, “outstanding loans”, and “risk assets” for the purpose of establishing the regular reserve.

MCL 490.17

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state or on local units of government. (9-18-02)

ARGUMENTS:

For:

From time to time, it becomes apparent that statutes that once served the public interest have now become

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outdated or even conflict with newer laws or practices. Such is the case with a statute requiring credit unions to establish regular reserves. According to information in an OFIS analysis dated 9-18-02, the current statute may, for state-chartered credit unions, duplicate and even conflict with federal rules and regulations (the “prompt corrective action” rules and regulations) to which all credit unions must now adhere. The bill would simply eliminate needless regulatory and administrative burdens that state-chartered credit unions currently face in trying to comply with both state and federal law. Under other provisions of the Credit Union Act and federal law, the interests of credit union members will still be protected.

POSITIONS:

The Office of Financial and Industry services supports the bill. (9-18-02)

The Michigan Credit Union League supports the bill. (9-18-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.