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BILL



ANALYSIS

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House Bill 5017 (Substitute S-1 as reported)
House Bill 5018 (Substitute S-1 as reported)
House Bill 5019 (Substitute S-1 as reported)
House Bill 5020 (Substitute S-1 as reported)
House Bill 5021 (Substitute S-1 as reported)
House Bill 5022 (Substitute S-1 as reported)
Sponsor: Representative Anthony G. Forlini (H.B. 5017)
Representative Peter Pettalia (H.B. 5018)
Representative Paul Clemente (H.B. 5019)
Representative Lana Theis (H.B. 5020)
Representative Tom Barrett (H.B. 5021)
Representative Leslie Love (H.B. 5022)

House Committee: Financial Services
Senate Committee: Banking and Financial Institutions

CONTENT

Each of the bills would amend the Credit Union Act as described below.

House Bill 5017 (S-1) would do the following:

- Create the "Credit Union Regulatory Fund" and require fees, fines, and other money received by the Director of the Department of Insurance and Financial Services (DIFS) to be deposited into the Fund for credit union regulatory purposes.
- Require a credit union board to appoint either a general manager (as currently required) or a chief executive officer (CEO).
- Allow a credit union board to delegate to the general manager or CEO certain responsibilities that currently may not be delegated.
- Require a credit union board to meet six times, rather than nine times, each year.
- Allow a credit union board to appoint nonvoting associate board members.
- Allow a credit union to provide insurance protection and expense reimbursement to board members, associate board members, and committee members.
- Allow a credit union to accept a legal entity as a member if it did business within the geographic area of the credit union's field of membership.
- Require a credit union to deliver to the Department of Treasury money or property in an account designated inactive, and terminate membership, if the designation were not removed within three years, rather than five years.
- Allow a general manager or CEO, rather than a credit union board, to terminate a membership or suspend services to a member for certain reasons; include inappropriate behavior among those reasons; and allow the member to appeal to the credit union board.
- Allow a credit union to purchase the assets, or assume the liabilities, of another depository institution.
- Make an exception to the requirement that a credit union's investment or contractual obligations in land and buildings not exceed 5% of the credit union's assets without the Director's approval.
- Allow a credit union to establish charitable donation accounts, provide educational scholarships, and invest in interest rate derivatives.

- Allow a credit union to perform financial counseling services for nonmembers under a reciprocal arrangement with another financial institution.
- Revise requirements governing the use of a vendor's automated information processing services.
- Delete provisions allowing a credit union to contract with a borrower for the borrower to reimburse the credit union for third party costs under certain circumstances.
- Prohibit a credit union from loaning to a borrower an amount that exceeded 25% of its unimpaired capital, rather than \$20,000 or 25% of its net worth.
- Allow the Director to require a credit union to develop a plan for divestiture of an investment that had been permitted but became impermissible.

The bill also would create Part 4 (Trusts), which would do the following:

- Allow the Director to grant a credit union service organization full trust powers, subject to certain conditions and limitations.
- Allow a domestic credit union to contract with a credit union service organization to carry on trust services in the credit union's name.
- Require a credit union service organization that exercised a trust power to segregate assets held in a fiduciary capacity from its general assets, and keep a separate set of books and records for those transactions.
- Require a credit union service organization to invest the money or property it held as fiduciary in the manner specified in the agreement or order creating the trust.
- Allow the Director to examine trust services provided by a credit union service organization, and require the Director to charge a fee and costs for the examination.
- Prohibit the Director from using any portion of the regulatory fees received from credit unions for the regulation and oversight of a credit union service organization's trust activities

House Bill 5018 (S-1) would allow a domestic credit union, with prior written notice to the Director, instead of prior approval of Director, to conduct its business solely by mail or through electronic communication without having a physical location where members may transact business with the credit union.

House Bill 5019 (S-1) would do the following:

- Allow a domestic credit union to organize, invest in, or loan money to a credit union service organization that provided investment administration and other services related to small business equity interests or venture capital fund investments, if various conditions were met; or that provided trust services.
- Create an exception to a requirement that a credit union service organization agree to obtain an annual audit from a certified public accountant.

House Bill 5020 (S-1) would do the following:

- Provide for the confidentiality of information related to an examination of a credit union.
- Allow the Director to share information, including confidential information, with other regulatory agencies and law enforcement agencies; receive information from them; and enter into agreements governing information sharing and use.
- Require any request for confidential information to be made to the Director, and require the Director to determine whether to disclose the information within seven days.
- Provide that the Director's decision not to disclose confidential information would be subject to judicial review; allow a court to order disclosure only of information that was relevant and otherwise unobtainable by the requesting party; and allow the Director to appeal the order.
- Allow the Director to suggest best practices or other improvements in operation not required by law or regulation, or to address safety and soundness of a credit union.

- Require the Director to issue guidance to promote consistency and due process in the examination process.

House Bill 5021 (S-1) would revise requirements related to the effective date of a merger of domestic credit unions with other domestic credit unions or with foreign credit unions.

House Bill 5022 (S-1) would allow a domestic credit union to conduct a loan promotion raffle if certain conditions were met.

The bills also would refer to the "director", rather than the "commissioner", throughout the Act. (Executive Order 2013-1 created the Department of Financial and Insurance Services, abolished the Office of Financial and Insurance Regulation (OFIR), and transferred the duties of the Commissioner of OFIR to the Director of the Department.)

All of the bills are tie-barred to each other. Each bill would take effect 90 days after its enactment.

MCL 490.102 et al. (H.B. 5017)
490.201 et al. (H.B. 5018)
490.407 (H.B. 5019)
490.207 (H.B. 5020)
490.371 (H.B. 5021)
490.411 (H.B. 5022)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 5017 (S-1) would result in increased administrative burdens for the Department of Treasury and the Department of Insurance and Financial Services related to the establishment and administration of the Credit Union Regulatory Fund. The bill would have no fiscal impact at the local level.

House Bills 5018 (S-1)-5022 (S-1) would have no fiscal impact on State or local government.

Date Completed: 3-14-16

Fiscal Analyst: Glenn Steffens

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.