

Act No. 152
Public Acts of 2016
Approved by the Governor
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Forlini, Iden, McCreedy, Love, Muxlow, Lucido, Barrett, Theis, Clemente and Victory

ENROLLED HOUSE BILL No. 5017

AN ACT to amend 2003 PA 215, entitled “An act to provide for the organization, operation, regulation, and supervision of credit unions; to prescribe the powers and duties of credit unions; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties, civil sanctions, and remedies; and to repeal acts and parts of acts,” by amending the title and sections 102, 103, 202, 214, 304, 305, 342, 345, 353, 355, 357, 401, 408, 409, 423, 431, and 432 (MCL 490.102, 490.103, 490.202, 490.214, 490.304, 490.305, 490.342, 490.345, 490.353, 490.355, 490.357, 490.401, 490.408, 490.409, 490.423, 490.431, and 490.432), sections 102, 214, 304, 342, 345, 357, 401, and 423 as amended by 2004 PA 471.

The People of the State of Michigan enact:

TITLE

An act to provide for the organization, operation, regulation, and supervision of credit unions; to prescribe the powers and duties of credit unions; to prescribe the powers and duties of certain state agencies and officials; to create the credit union regulatory fund; to prescribe penalties, civil sanctions, and remedies; and to repeal acts and parts of acts.

Sec. 102. As used in this act:

(a) “Affiliate” means a person, other than an individual or governmental entity, to which any of the following apply:

(i) A credit union directly or indirectly owns or controls a majority of the person’s voting shares or other voting ownership interests.

(ii) A credit union directly or indirectly owns or controls more than 50% of the number of shares or other ownership interests voted at the most recent election for the election of its directors, trustees, or other individuals who exercise similar functions.

(iii) A credit union has the power to directly or indirectly elect a majority of the person’s directors, trustees, or other individuals who exercise similar functions.

(iv) A majority of a credit union board constitutes a majority of the directors, trustees, or other persons exercising similar functions of the person.

(b) “Alien credit union” means a credit union that is organized under the laws of a country other than the United States.

(c) “Associate board member” means an individual appointed by a credit union board to the position described in section 342(10).

(d) “Bank” means a bank that is organized under the laws of this state, any other state, the District of Columbia, or a territory or protectorate of the United States, or a national banking association chartered by the federal government under the national bank act, 12 USC 21 to 216d, and whose deposits are insured by an agency of the federal government.

(e) "Board member" means a member of a board of directors, board of trustees, or similar governing body of an organization. In connection with a credit union board, the term does not include an associate board member.

(f) "Borrower" means a member who obtains a loan from a credit union.

(g) "Branch" means, except as otherwise provided in this subdivision, an office or other place of business at which a credit union receives deposits, pays checks, or lends money. Branch does not include any of the following:

(i) An elementary, middle, or high school at which an employee or agent of a credit union only accepts deposits.

(ii) An electronic funds transfer facility that is made available to 2 or more depository institutions under 1978 PA 322, MCL 488.1 to 488.31.

(iii) A loan production office of a credit union.

(iv) A mobile office. As used in this subparagraph, "mobile office" means a credit union office or facility that does not have a permanent location and is designed to be moveable from place to place.

(h) "Commissioner" means the director.

(i) "Corporate credit union" means a credit union whose field of membership consists primarily of other credit unions.

(j) "Credit union" means a domestic or foreign credit union.

(k) "Credit union board" means a board of directors, board of trustees, or other governing body of a credit union. A credit union board does not include associate board members.

(l) "Credit union service organization" means a corporation or other legal entity that is engaged primarily in providing 1 or more of the products or services described in section 407 to credit unions or their members, that a domestic credit union may organize, invest in, or lend to under section 401(2)(gg), and that may or may not be controlled by 1 or more credit unions.

(m) "Debt management" means that term as defined in section 2 of the debt management act, 1975 PA 148, MCL 451.412.

(n) "Department" means the department of insurance and financial services.

(o) "Director" means the director of the department.

(p) "Domestic credit union" means a cooperative, nonprofit entity organized under this act for the purposes of encouraging thrift among its members, providing a variety of financial services to its members, 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.

(q) "Eligibility record date" means a record date that is 1 year or more before the adoption of a plan of conversion by a credit union board and is set forth in a plan of conversion for determining eligible members of a converting credit union.

(r) "Emergency" means a condition, event, or occurrence that meets both of the following:

(i) It has or may interfere with the conduct of normal business operations, or poses an imminent or existing threat to the safety and security of a person or property, at the principal place of business or 1 or more branches of a credit union.

(ii) It is the result of a fire, flood, earthquake, hurricane, tornado, wind, rain, snowstorm, labor dispute or strike, power failure, transportation failure, fuel shortage, interruption of a communication facility, shortage of housing, epidemic or other natural or manmade catastrophe, riot, civil commotion, or any other act of lawlessness or violence.

(s) "Federal credit union" means a credit union that is organized under the laws of the United States.

(t) "Field of membership" means that term as established under section 352.

(u) "Financial institution" means a credit union, bank, savings bank, or savings and loan association.

(v) "Foreign credit union" means a credit union organized under the laws of another state or territory of the United States or a federal credit union.

(w) "Insolvent" means a credit union that meets either of the following:

(i) It is not able to pay its debts and other obligations, including those related to member shares, as they become due.

(ii) Its liabilities exceed its assets.

Sec. 103. As used in this act:

(a) "Membership share" means a share of a domestic credit union equal in amount to the par value of the credit union's shares that is credited to an account of a member by the credit union, is required as a condition of membership in the credit union, and is subject to any withdrawal restriction or other standards established by the domestic credit union for membership shares.

(b) "Mutual savings and loan association" means a savings and loan association that is not authorized by its articles of incorporation to issue capital stock.

(c) “Mutual savings bank” means a savings bank that is not authorized by its articles of incorporation to issue capital stock.

(d) “Net worth” means the sum of a credit union’s undivided earnings and reserves. The term does not include allowances for loan and lease losses accounts.

(e) “Office of financial and insurance services” means the department.

(f) “Officer” means the chairperson of the board, the vice-chairperson of the board, the secretary, the treasurer, the general manager, an individual whose title is “president”, an assistant treasurer, or an assistant secretary of a credit union, or any other individual who is specifically designated as an officer of a credit union by the credit union board.

(g) “Official” means a member of a credit union board or an officer, member of a credit committee or supervisory committee, or member of any other committee performing functions similar to a credit committee or supervisory committee, of a credit union.

(h) “Person” means an individual, corporation, partnership, limited liability company, association, governmental entity, or any other legal entity.

(i) “Principal place of business” means the place where a domestic credit union keeps its principal records.

(j) “Savings and loan association” means a savings association that is organized under the laws of this state, a savings and loan association, building and loan association, or homestead association that is organized under the laws of any other state, the District of Columbia, or a territory or protectorate of the United States, or a federal savings association organized under the home owners’ loan act, 12 USC 1461 to 1470, and whose deposits are insured by an agency of the federal government.

(k) “Savings bank” means a savings bank that is organized under the laws of this state, any other state, the District of Columbia, a territory or protectorate of the United States, or of the United States, and whose deposits are insured by an agency of the federal government.

(l) “Senior management employee” means any individual who is designated as a senior policy-making employee of a credit union by the board of the credit union.

(m) “Service center” means a place of business of a credit union, other than the principal place of business or a branch, where the credit union may transact business authorized by the credit union board.

(n) “Stock savings and loan association” means a savings and loan association that is authorized by its articles of incorporation to issue capital stock.

(o) “Stock savings bank” means a savings bank that is authorized by its articles of incorporation to issue capital stock.

Sec. 202. (1) A fee, a civil or administrative fine, or any other money received or collected by the director or the department under this act, except a fine imposed for a violation of section 217, is not refundable and shall be deposited into the credit union regulatory fund created in subsection (2).

(2) The credit union regulatory fund is established in the department of treasury. All of the following apply to the credit union regulatory fund:

(a) The fund shall consist of the following:

(i) Fees, civil or administrative fines, and any other money received or collected under this act, except fines imposed for violations of section 217.

(ii) Money appropriated to the fund.

(iii) Donations of money made to the fund from any source.

(iv) Interest and earnings from fund investments.

(b) Money in the fund at the close of a fiscal year shall remain in the fund and shall not revert to the general fund.

(c) Upon appropriation, the department shall use the money in the fund only for credit union regulatory purposes, as determined by the director.

(d) The state treasurer shall direct the investment of the fund.

(e) The department is the administrator of the fund for auditing purposes.

Sec. 214. (1) If an individual who participates in the conduct of the affairs of a domestic credit union is charged in any information, indictment, warrant, or complaint by a county, state, or federal authority with the commission of, or participation in, a crime that involves dishonesty or breach of trust, the director may, by written notice served on the individual, suspend the individual from office or prohibit the individual from further participation in any manner in the conduct of the affairs of the domestic credit union. The director shall also serve a copy of the suspension or prohibition on the domestic credit union. A suspension or prohibition is in effect until the information, indictment, warrant, or complaint is finally disposed of or until terminated by the director.

(2) If a judgment of conviction with respect to an offense described in subsection (1) is entered against an individual, after the judgment is not subject to further appellate review, the director may issue an order removing the individual from office or prohibiting the individual from further participation in the conduct of the affairs of any domestic credit union. If an order described in this subsection is issued, the individual must obtain the prior consent of the director before participating in any manner in the conduct of the affairs of any domestic credit union.

(3) An individual who is removed from office under subsection (2) is removed when a copy of the order is served on the domestic credit union.

(4) A finding of not guilty or other disposition of the charge does not preclude the director from instituting proceedings to suspend or remove an individual from office or to prohibit further participation in the affairs of a domestic credit union under section 212(1), (2), or (3).

Sec. 304. (1) If a domestic credit union changes the location of its principal place of business in this state, the domestic credit union must provide the director with written notice at least 7 days before the change of location.

(2) A domestic credit union shall file the address of the principal place of business and the names and titles of the officials and senior management employees of the domestic credit union with the director on a form prescribed by the director. If the name or title of an official or senior management employee of a domestic credit union changes, the credit union shall provide the director with written notice of the change within 7 days after the change.

(3) A domestic credit union may establish and maintain branches. The credit union shall provide written notice to the director of the location of a branch before establishing the branch.

(4) A domestic credit union and 1 or more domestic or foreign credit unions or other financial organizations may establish and maintain service centers. One or more of the financial organizations that establish a service center may operate the service center, or the financial organizations organizing the service center may contract with another person to operate the service center. A domestic credit union may refer to a service center as a branch.

(5) Subject to all of the following, a domestic credit union may adopt or change 1 or more assumed names:

(a) The domestic credit union shall give written notice of a proposed assumed name to the director at least 30 days before using the assumed name.

(b) The director may deny a domestic credit union the right to use an assumed name or terminate a credit union's right to use an assumed name if the director determines that the assumed name is confusing or misleading or for any other reason.

(c) A domestic credit union using an assumed name shall clearly and conspicuously disclose the name of the credit union and the assumed name in all signs, advertising, mailings, and similar materials and shall clearly and conspicuously disclose the assumed name and the name of the credit union in all legal documents, certificates of deposit, signature cards, loan agreements, account statements, checks, drafts, and other similar documents.

(d) An assumed name may contain the phrase "credit union".

Sec. 305. (1) A domestic credit union shall maintain its books and records at its principal place of business filed with the director under section 304 and make the books and records available for examination by the director or his or her authorized agent, except as follows:

(a) A credit union may maintain specified books and records at a location in this state other than its principal place of business if it gives notice to the director of the location of the specified books and records and can produce those books and records at its principal place of business within 3 business days after a request from the commissioner to examine them.

(b) Except as required by other applicable law, a credit union may store records at an off-site facility or on alternative storage media if the records are available for examination by the director or his or her appointed agent.

(c) A domestic credit union may maintain records specific to a branch located outside of this state at that branch if the credit union can make the originals of those records available to the director within this state within 3 business days after a request from the director to examine them. If a law applicable in the state where the branch is located prohibits the removal of the original records from that state, the credit union shall notify the director of that law and provide copies of the records to the director.

(2) If a domestic credit union does not make its books and records available to the director or his or her authorized agent in the manner described in subsection (1), the director may obtain an order from the circuit court of the county in which the credit union is located that requires the credit union to produce the books and records for examination.

Sec. 342. (1) At its first meeting, the credit union board shall elect from the credit union board members a chairperson, vice-chairperson, treasurer, and secretary. An individual may serve as both treasurer and secretary. A credit union may refer to these officers by different titles. The credit union shall establish the duties of all of the officers of the credit union in its bylaws.

(2) A credit union board has general management of the affairs of the domestic credit union. The credit union board has the authority and responsibility for the general direction of the business affairs, funds, and records of the domestic credit union and is responsible for maintaining its safety and soundness. The duties of the credit union board include, but are not limited to, the duties described in subsection (3) or (4).

(3) The credit union board shall perform all of the following duties, which the credit union board may not delegate to another person or committee:

(a) Except as provided in section 345(3), filling a vacancy on the board until a successor is elected by the members.

(b) Establishing the maximum amount of secured and unsecured loans made by the domestic credit union, subject to section 423(11) and any limitations under the bylaws of the domestic credit union adopted and approved by the director.

(c) Employing a general manager or chief executive officer and fixing his or her compensation.

(d) Approving an annual operating budget.

(e) Appointing special committees that the board considers necessary.

(f) Determining the par value of shares under section 301.

(g) Recommending changes in the bylaws to the members.

(h) Adopting investment policies.

(i) Adopting other policies the board considers necessary for the operation of the domestic credit union.

(j) Establishing the titles of the board officers who hold the positions described in subsection (1). The credit union board shall not establish any misleading titles for those officers.

(k) Performing any other duties required by the members.

(4) A credit union board shall perform, or, subject to subsection (5), delegate to the general manager or chief executive officer of the domestic credit union according to guidelines established by the credit union board that may include the authority to further delegate 1 or more duties, all of the following duties:

(a) Approving, disapproving, or otherwise acting on applications for membership.

(b) Determining the interest rates on loans and on deposits.

(c) Hiring employees other than the general manager or chief executive officer and fixing their compensation.

(d) Making and selling investments according to investment policies adopted by the board.

(e) Designating 1 or more depositories for funds.

(f) Establishing procedures to implement policies of the credit union board.

(g) Establishing internal controls as necessary.

(h) Determining the amount of a dividend after providing for any required reserves and declaring the dividend.

(i) Establishing the maximum individual shareholdings of members.

(j) Acquiring, selling, or encumbering real property.

(k) Borrowing money under section 401(2)(j).

(l) Fixing the amount of the surety bonds for all officers and employees who handle money.

(m) Specifying forms and procedures for applications for membership and set criteria for use in determining whether to accept an applicant into membership.

(5) If a credit union board delegates a duty described in subsection (4)(i) to (m) to the general manager or chief executive officer, and the general manager or chief executive officer acts pursuant to that delegation, the general manager or chief executive officer shall provide a summary of the actions he or she took to the credit union board at the next regularly scheduled meeting of the credit union board.

(6) A credit union board may do any of the following:

(a) By resolution, designate a general manager or chief executive officer and define his or her duties.

(b) Appoint an executive committee that consists of at least 3 board members. An executive committee may act on any matter specifically authorized by the board.

(c) Remove a board member by a 2/3 vote of the credit union board, for cause or for any reason set forth in the bylaws. In addition to removal under section 341(9), the domestic credit union's bylaws may also provide for immediate removal of a board member from that office without further action of the members or credit union board if 1 or more events specified in the bylaws occur.

(d) If the domestic credit union does not have a supervisory committee, remove a credit committee member by a 2/3 vote of the credit union board.

(e) If there is no supervisory committee, suspend a member of the credit union board by a 2/3 vote of the credit union board. If a member of the credit union board is suspended under this subdivision or section 345(2), the remaining board members shall report the suspension and the cause for the suspension to the director within 3 days and shall call a special members' meeting that shall take place not fewer than 7 or more than 45 days after the suspension. At the special members' meeting, the remaining board members shall report the cause for the suspension, the suspended board member has the right to be heard, and the members shall decide whether to sustain or reverse the action of the supervisory committee or the credit union board. If the members sustain the action, they shall replace the suspended board member at the special members' meeting. If a supervisory committee suspends a majority of the credit union board under section 345(2), the remaining board members have general management of the affairs of the domestic credit union until the suspended board members are reinstated or replaced at the special members' meeting.

(f) Suspend or remove a 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 by a 2/3 vote of the credit union board.

(g) By a majority vote, suspend or remove any officer from his or her duties as an officer.

(7) An individual who is elected or appointed to serve as a board member, associate board member, supervisory committee member, or credit committee member of a domestic credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the domestic credit union, shall not receive compensation for his or her service as a board member, associate board member, or committee member, subject to the following:

(a) A domestic credit union may provide reasonable life, health, accident, disability, or similar insurance protection, and reimbursement for reasonable expenses that are incidental to the performance of official business of the credit union, to board members, associate board members, supervisory committee members, or credit committee members of the credit union or to the members of any other committee that performs significant ongoing functions relating to the ongoing operations of the domestic credit union.

(b) This section does not prevent an employee of a domestic credit union who serves on a credit union committee from receiving compensation for his or her duties as a credit union employee.

(8) If a loan made to or cosigned, endorsed, or guaranteed by a board member or a member of the supervisory, credit, or other committee is more than 2 months delinquent, the individual is automatically removed from his or her position as board member or committee member and he or she is ineligible to serve as a board member or committee member for 2 years. The director may waive the application of this provision in a given situation if the director determines that it is in the best interests of the domestic credit union to do so.

(9) The board of a domestic credit union shall meet at least 6 times in each calendar year and at least every other month. The board shall meet in person or by means of electronic communication devices that enable all participants in a meeting to communicate with each other.

(10) In addition to the board members required under section 341, the board of a domestic credit union may appoint 1 or more associate board members. All of the following apply concerning associate board members:

(a) A credit union board in its discretion shall determine whether to appoint associate board members, the number of associate board members, if any, and their duties. The credit union board has authority concerning the appointment and removal of individuals as associate board members.

(b) A credit union board shall not appoint an individual as an associate board member if he or she does not meet the eligibility requirements described in section 341(8) for board members.

(c) An individual appointed as an associate board member serves in an ex officio capacity. An associate board member may participate in meetings of a credit union board, but only in an advisory capacity; has no authority to vote or otherwise act as a board member; and is not considered a board member for purposes of this act.

(d) An associate board member must sign a confidentiality agreement, to ensure that any information concerning the credit union remains confidential and that he or she shall not disclose that information to any other person. Disclosure of confidential information by an associate board member without approval of the director is a violation of this act.

(11) A majority of the credit union board constitutes a quorum for the transaction of business.

(12) Unless specifically prohibited by the bylaws, if this act requires or allows a credit union board to take an action at a meeting, the board may take that action without a meeting if a consent in writing setting forth the action taken is signed by all of the board members who are entitled to vote on that matter. A written consent under this subsection shall contain 1 or more written approvals, each of which sets forth the action taken and bears the signature of 1 or more board members. The board members shall deliver their signed approvals to the secretary, and he or she shall file them in the corporate records of the domestic credit union. An action taken by written consent under this subsection is effective when all of the board members have approved the consent unless the consent specifies a different effective date. A consent signed by all of the board members has the same effect as a unanimous vote of the credit union board, and the domestic credit union may represent that the action was approved by a unanimous vote in any document filed with the director under this act.

(13) When he or she is first elected or appointed to the credit union board, a board member shall take and subscribe an oath that he or she will diligently and honestly perform the duties of the office and will not knowingly violate, or permit to be violated, any provisions of this act. The secretary shall file the oaths in the corporate records of the domestic credit union. An oath made by a board member under this subsection remains in effect as long as he or she remains in office.

Sec. 345. (1) A domestic credit union may have a supervisory committee. If authorized by the bylaws, 1 board member who is not an officer of the domestic credit union may serve as a member of the supervisory committee. Otherwise, a board member may not serve as a member of the supervisory committee.

(2) If a domestic credit union has a supervisory committee, the supervisory committee may do any of the following:

(a) By majority vote, call a special meeting of the members to consider any matter submitted to the special meeting of the members by the committee.

(b) By a unanimous vote, suspend any member of the credit committee and report the suspension and the reason for the suspension to the credit union board. At its next meeting, the credit union board shall vote on whether to remove or reinstate the suspended credit committee member. A 2/3 vote of the credit union board is required to remove the suspended credit committee member.

(c) By a unanimous vote, suspend a member of the credit union board for cause.

(d) Access any credit union records.

(3) If a domestic credit union has a supervisory committee and the members elect the supervisory committee, the committee shall fill vacancies on the supervisory committee. If a domestic credit union has a supervisory committee and the credit union board appoints the supervisory committee, the credit union board shall fill vacancies on the supervisory committee. An individual appointed to fill a vacancy on the supervisory committee under this subsection shall serve for the remainder of the term of the vacant position.

Sec. 353. (1) Except as provided in this part, ownership of a share is a condition of membership in a domestic credit union. A domestic credit union may require ownership of a membership share rather than a share as a condition of membership. Except as provided in this section, a member may own only 1 membership share.

(2) A domestic credit union may accept and maintain deposits under section 401(2)(x) without the depositor subscribing to or paying for a share in the domestic credit union.

(3) If it is composed for the most part of the same general group as the membership of the domestic credit union, a domestic credit union may accept a legal entity as a member of a domestic credit union.

(4) If the domestic credit union elects, a single account jointly owned by 2 or more individuals may serve as the basis for membership of any of those individual owners who are otherwise eligible for membership if the account contains at least 1 share for each of them.

(5) If an individual was a member of the domestic credit union at the time of his or her death, a domestic credit union may accept the estate of the individual as a member.

Sec. 355. A domestic credit union may allow a member to designate an account on which his or her membership is based as inactive. If the account is the basis for the membership of more than 1 individual, each individual must agree to the designation. While an account is inactive, the member involved shall retain his or her membership but is not entitled to any of the privileges of membership. While an account is inactive, the domestic credit union shall not charge any fees to the account. The member who designated an account as inactive may remove the designation of inactive at any time. If the inactive designation is not removed within 3 years, the domestic credit union shall deliver all money or other property in the account to the department of treasury under the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265, and terminate any membership based on the account.

Sec. 357. (1) The general manager or chief executive officer of a domestic credit union, or his or her designee, may suspend some or all services to a member, or terminate the membership of any person, that does any of the following:

(a) Causes a loss to the domestic credit union.

(b) Commits fraud or another misdeed against the domestic credit union or against a person on the premises of the domestic credit union.

(c) Engages in inappropriate behavior involving another individual, such as physical or verbal abuse of another member or an employee of the credit union.

(2) A member that has its services suspended or a person that has its membership terminated under subsection (1) may appeal the suspension or termination to the credit union board within 90 days after the date of the suspension or termination. The credit union board has final authority to resolve an appeal under this subsection.

(3) A member may withdraw from a domestic credit union at any time, but the domestic credit union may require a notice of withdrawal from the withdrawing member as a condition of withdrawal.

(4) When money becomes available, and after deducting all amounts owed to the domestic credit union by the member, a domestic credit union shall pay a person whose membership is terminated or that is a withdrawing member any amounts paid on shares or as deposits of the member and any dividends or interest accrued on the shares or deposits before the date of payment.

(5) Unless the withdrawal of a member occurs on a maturity date or within 7 days after a maturity date, a domestic credit union may require that a withdrawing member give a 60-day notice of intention to withdraw shares or a 30-day notice of intention to withdraw deposits. A domestic credit union that requires a notice of intention to withdraw may wait until the expiration of the applicable notice period before complying with subsection (4). A domestic credit union may waive an applicable notice period for a specific member or account in writing.

(6) After a termination or withdrawal under this section, a former member has no rights in a domestic credit union, but the termination or withdrawal does not release the former member from any remaining liability to the domestic credit union.

Sec. 401. (1) A domestic credit union has the powers described in this section, specified or implied by this act, and specified in any other law of this state.

(2) A domestic credit union has all of the following powers:

(a) To enter into contracts.

(b) To sue and be sued.

(c) To adopt and alter a seal.

(d) To individually or jointly with other credit unions, purchase, lease, or otherwise acquire and hold tangible personal property necessary or incidental to its operations. A domestic credit union shall depreciate or appreciate personal property in the manner and at the rates the director prescribes by rule, order, or declaratory ruling.

(e) To sell, convey, lease, or otherwise dispose of, or assign, pledge, or create a security interest in, all or part of its tangible personal property, including property obtained as a result of a default of an obligation owed to the domestic credit union. A domestic credit union may finance the sale of its personal property to a person at a rate of interest that does not exceed the rate of interest permitted under the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for loans to its members for the purchase of equivalent property.

(f) To incur and pay necessary and incidental operating expenses.

(g) To receive the funds of its members either as payment on shares or as deposits. Subject to the limitation on payment of dividends in section 362, a domestic credit union may have 1 or more classes of share or deposit accounts in the classifications and form, under the terms and conditions and with liquidation priorities authorized by the credit union board, unless otherwise prescribed by law. A domestic credit union shall provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the credit union board determines best serve the convenience and needs of its members.

(h) To charge fees in connection with shares, savings, extensions of credit, and other services by contract or agreement.

(i) To make secured or unsecured loans to any member, at fixed or variable interest rates, and take and hold any real or personal property as security. In establishing an interest rate, the domestic credit union shall consider the collateral provided, the creditworthiness of the borrower, the duration of the loan, and any other factor reasonably determined by the domestic credit union to affect the risks related to the loan.

(j) To borrow funds from any source. Funds borrowed under this subdivision are not deposits. The domestic credit union may secure a loan described in this subdivision with a pledge of some or all of the domestic credit union's assets.

(k) To make loans to a trade association of which it is a member.

(l) To provide debt counseling and other financial counseling services to its members. If the counseling includes debt management for a member and the member is delinquent in any indebtedness owed to the domestic credit union, the domestic credit union shall not charge that member, directly or indirectly, a fee for providing the counseling services.

(m) To disburse loan proceeds as the borrower directs.

(n) To act as trustee or custodian of and administer, for individuals or as part of an employer group plan, retirement accounts, or other accounts that permit tax deferrals or provide other tax benefits under federal or state law.

(o) To 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) To discount, sell, convey, or otherwise dispose of, or assign, pledge, or create a security interest in, all or part of its intangible personal property.

(q) To purchase any of the assets of another depository institution, or with the approval of the director assume any of the liabilities of another depository institution.

(r) To make deposits in or loans to banks, savings banks, savings and loan associations, trust companies, and other credit unions, or purchase shares of mutual savings banks, mutual savings and loan associations, and other credit unions. A domestic credit union may also make deposits in, loans to, or purchase shares of a corporate credit union and invest funds as provided in section 431.

(s) To join, make deposits in or loans to, or purchase shares of any federal reserve bank, federal home loan bank, or central liquidity facility established under federal or state law.

(t) To hold membership in associations and organizations controlled by or fostering the interests of credit unions or in a central liquidity facility organized under federal or state law.

(u) To, if approved by the credit union board and not inconsistent with this act, 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.

(v) To receive funds as shares or deposits from a credit union, bank, savings bank, savings and loan association, or any other type of depository institution.

(w) To receive funds as shares or deposits from a retirement plan that serves all or any of the domestic credit union's members or potential members.

(x) To receive funds as shares or deposits from a public employee retirement system or plan.

(y) To lease tangible personal property to its members.

(z) To purchase, sell, pledge, discount, or otherwise acquire, or dispose of all or part of the obligations of its members in accordance with section 432. This subdivision does not apply to participation loans originated pursuant to section 423(6).

(aa) At the domestic credit union's expense, to purchase insurance for its members in connection with share, deposit, loan, or other accounts.

(bb) To establish, operate, participate in, or 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 and contract with outside vendors to process member payments, send or receive funds for member investments, or initiate and execute electronic funds transfers on behalf of its members.

(cc) To service loans sold by the domestic credit union, in whole or in part, to a third party.

(dd) To receive payments on shares or deposits from or make loans to the United States or an agency or instrumentality of the United States.

(ee) To act as a fiscal agent and maintain treasury tax and loan accounts of the United States.

(ff) To 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 domestic credit union may act as fiscal agent for, maintain tax and loan accounts of, and make loans to, an entity that the domestic credit union has authority to receive payments from under this subdivision.

(gg) To organize, invest in, and make loans to credit union service organizations. In addition to the activities described in section 407(1) or (2) for credit union service organizations, the director shall determine the activities and services that fall within the meaning of this subdivision. Investments and loans described in this subdivision shall not in the aggregate exceed 12% of the assets of the domestic credit union, and without the prior approval of the director shall not in the aggregate exceed 6% of the assets of the domestic credit union. A domestic credit union may invest in or make loans to a credit union service organization under this subdivision if the credit union service organization allows the director to conduct an examination of the credit union service organization to the same extent that the director is authorized to examine credit unions and agrees to make any reports to the director that he or she requires.

(hh) To 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 domestic credit union may use land and buildings for its principal place of business functions, a branch, a service center, or another facility used to conduct an activity in which it engages. A domestic credit union may rent excess space as a source of income. A domestic credit union shall depreciate or appreciate buildings owned by it in the manner and at the rates the commissioner may prescribe by rule, order, or declaratory ruling. An agreement to acquire and hold buildings or land jointly with other credit unions or other financial organizations requires the prior approval of the director. The director shall act on a completed application within 30 days after the application is filed. A domestic credit union's investment or contractual obligations, direct, indirect, or contingent, in land and buildings under this subdivision may not exceed 5% of its assets without the prior approval of the director, unless all of the following requirements are met:

(i) Pro forma projections over the next 3 years are reasonably estimated to provide positive earnings and document the ability of the credit union to meet its short- and long-term liquidity obligations.

(ii) The director has determined that the credit union is well capitalized.

(iii) The credit union has not been the subject of a cease and desist order, or placed in receivership or conservatorship, by the director within the preceding 3 years.

(iv) The director has determined that the credit union is in overall sound or fundamentally sound condition.

(ii) To own stock in a corporation that owns land or buildings used to provide a facility described in subdivision (hh), but ownership of the stock is an investment in the land and buildings for all purposes under subdivision (hh). If a domestic credit union owns less than 100% of the stock in a corporation described in this subdivision, the investment is a joint agreement that requires the director's approval under subdivision (hh).

(jj) To sell, convey, lease, or otherwise dispose of, or assign, mortgage, pledge, or create a lien in, all or part of its land and buildings, including land and buildings obtained as a result of a default of an obligation owed to it, or stock in a corporation described in subdivision (ii). A domestic credit union may finance the sale of its land and buildings to any person at a rate of interest that does not exceed the rate of interest permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for loans to its members for the purchase of land and buildings.

(kk) Pursuant to a written agreement, to perform services for members of other domestic or foreign credit unions. A domestic credit union may allow other credit unions to perform services for its members pursuant to a written agreement. A domestic credit union shall perform services described in this subdivision in accordance with the laws of this state.

(ll) To 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, 1956 PA 218, MCL 500.100 to 500.8302.

(mm) To own an insurance agency in whole or in part as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(nn) To make charitable contributions, if the individual contributions and the aggregate amount of the contributions are reasonable in amount, or to establish charitable donation accounts if those accounts meet the requirements of 12 CFR part 721.3. Investment yields generated in a charitable donation account must be used for charitable donations. A credit union shall notify the director before it establishes a charitable donation account under this subdivision.

(oo) To offer tax return preparation and filing services.

(pp) To contract with entities that offer funds transfer services and provide those services to any person.

(qq) To receive payments on shares or deposits or make loans to corporations that are wholly owned by 1 or more of the types of entities from which the domestic credit union may receive payments on shares under subdivision (dd) or (ff).

(rr) To enter into marketing and other support arrangements to facilitate members' purchases of goods and services from third parties that may include compensation to the domestic credit union.

(ss) To purchase insurance policies and other investment products to fund deferred compensation arrangements for its employees. If the deferred compensation arrangement does not present a risk to the safety and soundness of the domestic credit union, the purchase of those investment products is not subject to the limitations of this act.

(tt) Subject to section 352, to establish and revise its field of membership.

(uu) To guarantee the signature of a member in connection with a transaction that involves tangible or intangible property in which a member has or seeks to acquire an interest.

(vv) To perform any of the following services for a person that is not a member of the credit union if the service is performed under a contractual arrangement in which another financial organization performs the same service for the credit union's members:

(i) Cash advances.

(ii) Funds transfers.

(iii) Cashing travelers checks.

(iv) Any other service specified by the director by rule, order, or declaratory ruling.

(ww) To perform any of the following services for any person in an underserved area or that does not have an established relationship with a financial institution:

(i) Cashing and selling checks, drafts, or money orders.

(ii) Purchasing and selling foreign currencies in exchange for United States currency.

(iii) Wire transfers.

(iv) Financial counseling services.

(xx) To provide educational scholarships.

(yy) To invest in interest rate derivatives for the purpose of mitigating portfolio risk. A domestic credit union must notify the director at least 60 days before it begins a program to invest in interest rate derivatives under this subdivision. A domestic credit union must conduct an investment program described in this subdivision in a safe and sound manner, and any investments in interest rate derivatives must meet the standards for an obligation described in section 431(1)(d).

Sec. 408. (1) A domestic credit union that utilizes automated information processing services of a vendor must enter into a written contract, lease, or licensing agreement with the vendor for those services. The credit union board shall review the contract, lease, or licensing agreement to ensure the interests of the domestic credit union are protected. Approval of the contract, lease, or licensing agreement by the credit union board or its designee is required before any automated information processing services are performed or provided to the domestic credit union.

(2) A domestic credit union that utilizes the services of a vendor under subsection (1) retains permanent and exclusive ownership of all internal information and member information in the possession of the vendor. The vendor shall not disclose any of that information to third parties except as explicitly authorized in writing by the domestic credit union; the vendor shall not use any of that information for the vendor's own purposes except as explicitly authorized in writing by the domestic credit union; and if the vendor or any subcontractor of the vendor has access to any member information, the vendor or that subcontractor are subject to regulation and examination by the director.

(3) As used in this section:

(a) "Automated information processing" means automated processing, updating, and storage of internal information or member information.

(b) "Internal information" means the accounts, books, and records of a domestic credit union maintained in any form.

(c) "Member information" means the share, deposit, loan account balances, or other information related to any member of a domestic credit union maintained in any form.

(d) "Vendor" means a person who supplies hardware, software, or systems used for automated information processing services to a domestic credit union or performs automated information processing services for a domestic credit union. The term includes a subcontractor of a vendor.

Sec. 409. (1) A credit union board may offer insurance programs to members of the domestic credit union, individually or as a group, including insurance programs at the individual member's own expense. An insurance program offered under this section shall meet 1 of the following conditions:

(a) Except for insurance described in subdivision (b), the purchase of the insurance coverage by a member is voluntary and a copy of the written election to purchase the insurance is on file at the domestic credit union.

(b) If the insurance is a condition of a loan, the member who is borrowing may purchase or provide the insurance from a carrier of the member's choice or may assign any existing insurance coverage.

(2) A domestic credit union may receive payment for making an insurance program available to its members.

(3) Other than a refund of premium if he or she is a purchaser of the insurance services, a credit union officer, board member, committee member, or employee shall not directly or indirectly be paid or receive, and a person shall not directly or indirectly offer, a fee, compensation, commission, gift, or other consideration for insurance sold to the domestic credit union or its membership from any person other than the domestic credit union. This subsection does not prevent a credit union officer, board member, committee member, or employee from receiving customary salary or commission as an employee or agent of an insurance company if the salary or commission is not related to making insurance programs available to credit union members or to placing insurance with a domestic credit union served by the credit union officer, board member, committee member, or employee.

(4) A domestic credit union shall not directly or indirectly enter into any act or transaction that involves an insurance program unless all of the parties to the insurance program expressly agree in writing to meet all of the requirements of this section.

(5) Before a domestic credit union makes an insurance program available to its members, the domestic credit union shall conduct a reasonable due diligence review of that product. The domestic credit union shall provide the director with access to any files that are relevant to that review on request.

(6) A domestic credit union may advise its members of the availability of an insurance program and of its action taken under subsection (5) and may use marketing materials supplied by the insurance carrier.

(7) If authorized by the credit union board, a domestic credit union may furnish to an insurance carrier or an agent membership lists of addresses without compensation from the insurance carrier or agent. For an appropriate fee, if authorized by the credit union board, a domestic credit union may mail marketing materials about an insurance program to its membership.

(8) A domestic credit union may assist a member in filing a claim and with other matters dealing with an insurance carrier if that assistance does not violate any applicable insurance law and regulation.

Sec. 423. (1) A loan by a domestic credit union to a member shall conform to any conditions contained in the bylaws.

(2) A borrower may repay a loan from a domestic credit union in whole or in part at any time the domestic credit union is open for business or otherwise capable of receiving payment on the loan.

(3) Except as provided in subsection (8), a domestic credit union shall not agree to rates, terms, or conditions on any loan or line of credit that is made to or endorsed or guaranteed by an official or an immediate family member of an official that are more favorable than the rates, terms, and conditions for comparable loans or lines of credit to other credit union members. A domestic credit union shall not agree to rates, terms, and conditions on any loan or line of

credit to any person that has a common ownership, investment, or other pecuniary interest in a business with an official or immediate family member of an official that are more favorable than the rates, terms, and conditions for comparable loans or lines of credit to other credit union members.

(4) A domestic credit union shall process a loan to an official or employee in the same manner as a loan to other members, except that the applicant shall not participate in the approval process for his or her loan.

(5) A domestic credit union may provide open-end or closed-end credit arrangements for its members if the credit union board has established a policy for those credit arrangements. Unless prohibited by the agreement for the open-end credit arrangement, a domestic credit union may under an open-end credit arrangement unilaterally increase the approved limit or may increase the approved limit on the request of the member.

(6) A domestic credit union may participate in loans to credit union members jointly with other credit unions, credit union service organizations, or other financial institutions.

(7) A domestic credit union may participate in a guaranteed loan program of the federal or state government under the terms and conditions specified in the law establishing that program.

(8) A domestic credit union may offer reduced rate loans and other extensions of credit to its employees, other than employees who are board members, supervisory committee members, credit committee members, or members of any other committee that performs significant ongoing functions relating to the ongoing operations of the domestic credit union, under a policy adopted by its credit union board.

(9) The credit union board, or the credit committee if the domestic credit union has a credit committee that does not include any credit union employees, must approve of any loan or other extension of credit to or purchase of an obligation of the general manager or chief executive officer.

(10) A domestic credit union shall not make a loan or extend a line of credit if an official or senior management employee will receive a commission, fee, or compensation other than salary if the loan or line of credit is approved. However, this subsection does not limit or prohibit arrangements that compensate employees who are not senior management employees based on the volume of loans generated by those employees.

(11) A domestic credit union shall not loan an amount that exceeds 25% of the credit union's unimpaired capital to a borrower. This subsection does not apply to a corporate credit union. All of the following apply for purposes of this subsection:

(a) If the director determines at any time that the interests of a group of more than 1 person are so interrelated that they should be considered as a unit for the purpose for which credit was extended, the total loans and extensions of credit and leases of persons of that group shall be combined and considered loans and extensions of credit and leases to 1 borrower under this subsection.

(b) A credit union does not violate this subsection solely because the indebtedness of a group described in subdivision (a) exceeds the percentage limitation described in this section at the time of a determination by the director that the indebtedness of that group shall be combined under subdivision (a). However, it is a violation of this section if the credit union described in this subdivision does not do 1 of the following:

(i) Subject to subparagraph (ii), if required by the director, within a reasonable time dispose of a sufficient amount of the indebtedness of the group so that the amount of the remaining indebtedness is within the percentage limitation described in this subsection. As used in this subdivision, "reasonable time" means a period of time that the director determines is reasonable, and, if the credit union is making a reasonable effort to dispose of the excess indebtedness in a manner designed to avoid a loss of any portion of that excess indebtedness, is a period of at least 180 days.

(ii) If permitted by the director, if the credit union is well capitalized, establish a reserve in the amount that the group's indebtedness exceeds the percentage limitation described in this subsection rather than disposing of that excess amount under subparagraph (i).

(12) As additional security for a loan transaction with a borrower, a domestic credit union may permit a person that is not a member of the domestic credit union to act as an additional borrower, a cosigner, or a guarantor of the loan.

Sec. 431. (1) A domestic credit union may invest funds that are 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 those 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, or a territory organized by Congress, or any of their political subdivisions.

(c) Securities, obligations, or other instruments of any central liquidity facility or corporate 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) An obligation that meets all of the following:

(i) In the domestic credit union's prudent judgment, which may be based in part on estimates that it believes are reliable, there is adequate evidence that the obligor of the obligation will be able to perform all it undertakes to perform

in connection with the obligation, including all debt service requirements, and that the obligation may be sold with reasonable promptness at a price that corresponds to its fair value.

(ii) The investment characteristics of the obligation are not considered distinctly or predominantly speculative.

(iii) The obligation is not in default in the payment of principal or interest.

(iv) The obligation is a marketable obligation in the form of a bond, note, or debenture, commonly regarded as an investment security, and 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, 15 USC 80a-1 to 80a-64, if all of the following conditions are met:

(i) At least 90% of the fund's assets consist of and are limited to securities in which a domestic credit union may invest directly.

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

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

(iv) The domestic credit union's investment in any 1 fund does not exceed the amount of its net worth.

(f) Investments in mortgage-backed securities either issued by or guaranteed by a private organization if the securities involved meet the investment standards for an obligation described in subdivision (d).

(2) A domestic credit union other than a corporate credit union shall not invest an amount that exceeds 25% of its net worth in an obligor or affiliate of the obligor. This subsection does not apply to the extent that the investment is insured or guaranteed by the United States government or an agency of the United States government or a state or local government, or the investment is in a corporate credit union.

(3) A domestic credit union may not invest in or hold common stock or another equity investment except as provided in section 401(2), or in bank and bank holding company stock legally acquired before December 19, 1986. If a domestic credit union possesses capital stock or another equity investment as the result of a loan default, it shall dispose of that investment within a reasonable period of time that does not exceed 1 year, or a longer period of time approved by the director for that domestic credit union.

(4) In addition to investments authorized by this act, a domestic credit union may make any other type of investment approved by the director by rule, order, or declaratory ruling.

(5) A domestic credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this act or by rule, order, or declaratory ruling of the director.

(6) If a domestic credit union invests funds in a security, obligation, or other instrument that at the time is permitted under this section, the investment subsequently becomes impermissible because of a change in circumstances or law, and the director finds that continuing to hold the investment will have an adverse effect on the safety and soundness of the credit union, the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

Sec. 432. (1) If the purchase meets the conditions of a written policy of the credit union board, a domestic credit union may purchase 1 or more of the following obligations:

(a) An obligation of a member that satisfies this act, the bylaws, and the lending policies established by the credit union board, other than any annual percentage interest rate requirement.

(b) An obligation of a member if before the domestic credit union agrees to purchase the obligation the member agrees in writing to refinance the obligation within 60 days after the purchase in a manner that will result in the obligation meeting subdivision (a).

(2) A domestic credit union may purchase an obligation of a member under this section if the credit union board approves the purchase of the obligation or a class of obligations that includes the obligation, there is a written agreement for the purchase, and the domestic credit union retains the written agreement and a schedule of the obligations covered by the agreement at its principal place of business.

(3) If a domestic credit union agrees to purchase a partial interest in an obligation of a member, the agreement shall disclose the responsibilities of each party if the obligation is subject to collection, loss, or foreclosure and shall provide that in the event of a loss each owner shares in the loss in proportion to the owner's interest in the obligation.

(4) A domestic credit union may purchase an obligation of a member at a discount or premium if the discount or premium is amortized monthly over the remaining term of the obligation.

(5) A domestic credit union may sell all or part of an obligation of a member if all of the following are met:

(a) The sale meets the conditions of the sale policy adopted by the credit union board.

(b) The credit union board approves the sale or the sale is approved by senior management employees to whom the credit union board has, in a written board policy, delegated the authority to approve sales described in this subsection.

(c) There is a written agreement for the sale, and the domestic credit union retains the written agreement and a schedule of the obligations covered by the agreement at its principal place of business.

(6) An agreement to sell a partial interest in an obligation of a member shall not include a recourse or repurchase provision other than 1 or more of the following:

- (a) A provision that requires the seller to repurchase the obligation because of a breach of warranty or misrepresentation.
- (b) A provision that allows the domestic credit union to repurchase the obligation at its discretion.
- (c) A provision that allows substitution of 1 loan for another loan.

(7) A domestic credit union may pledge all or any part of an obligation of a member if either of the following is met:

(a) The pledge meets the conditions of the pledge policy adopted by the credit union board and the credit union board approves the pledge.

(b) The pledge meets the conditions of the pledge policy adopted by the credit union board and the pledge is approved by senior management employees to whom the credit union board has, in a written board policy, delegated the authority to approve pledges described in this subdivision. If 1 or more pledges are approved by a senior management employee under this subdivision, he or she shall provide a summary of the pledges to the credit union board at the next regularly scheduled meeting of the credit union board.

(8) An agreement to pledge an obligation of a member shall identify the obligations covered by the agreement and set forth the responsibilities of each party if an obligation covered by the agreement is subject to collection, loss, foreclosure, or default.

(9) This section does not permit a domestic credit union to pledge an obligation of a member unless authorized in section 401(2).

(10) For a fee, a domestic credit union may agree to service all or part of an obligation it purchases or sells.

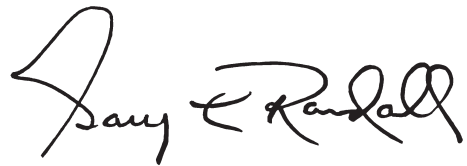
(11) A member shall not directly or indirectly give and a senior management employee shall not directly or indirectly receive a fee, compensation, commission, gift, or other consideration as an inducement to purchase, sell, or pledge an obligation of a member.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

- (a) House Bill No. 5018.
- (b) House Bill No. 5019.
- (c) House Bill No. 5020.
- (d) House Bill No. 5021.
- (e) House Bill No. 5022.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor