

Act No. 153
Public Acts of 2016
Approved by the Governor
June 8, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

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

ENROLLED HOUSE BILL No. 5018

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 sections 201, 210, 221, 303, 306, and 341 (MCL 490.201, 490.210, 490.221, 490.303, 490.306, and 490.341), sections 201 and 341 as amended by 2004 PA 471.

The People of the State of Michigan enact:

Sec. 201. (1) The director shall administer the laws of this state relating to credit unions that are transacting business in this state and shall supervise domestic credit unions and foreign credit unions other than federal credit unions that are transacting business in this state. Each domestic credit union shall report its financial condition as required by the director.

(2) The director shall charge an annual operating fee to each domestic credit union. All of the following apply to the annual operating fee:

(a) Subject to subdivision (d), the director shall establish a fee amount that is sufficient to defray the estimated expenses of the department in performing all credit union examinations and the supervision of domestic credit unions.

(b) The director shall invoice each domestic credit union for the fee before July 1 of each year and each domestic credit union shall pay the operating fee before July 16 of that year.

(c) The director shall compute the fee based on the total assets of the domestic credit union on December 31 of the previous year as shown on the report of the domestic credit union filed with the director under subsection (1).

(d) The amount of the fee is the greater of \$500.00 or the sum of all of the following:

(i) A base fee established by the director of not less than \$1.00 or more than \$3.50 per \$1,000.00 of assets up to \$500,000.00.

(ii) A fee of 40% of the base fee per \$1,000.00 of assets greater than \$500,000.00 up to \$1,000,000.00.

(iii) A fee of 30% of the base fee per \$1,000.00 of assets greater than \$1,000,000.00 up to \$5,000,000.00.

(iv) A fee of 20% of the base fee per \$1,000.00 of assets greater than \$5,000,000.00 up to \$10,000,000.00.

(v) A fee of 10% of the base fee per \$1,000.00 for all assets greater than \$10,000,000.00.

(e) The director shall not require a domestic credit union to pay an operating fee more often than annually.

(3) A corporate credit union organized under this act shall pay an operating fee in the same manner as other domestic credit unions, but the fee shall not exceed \$50,000.00 annually.

(4) Each domestic credit union shall report its financial condition as required by the director. A domestic credit union that fails to file a report with the director when it is due shall pay a fee of \$100.00 for each day the report is delinquent. The director may waive the fee for cause. If a delinquency continues for 15 days, the director may revoke the domestic credit union's certificate of approval and take possession of the business and property of the domestic credit union and maintain possession until the director permits it to continue business or involuntarily dissolves the credit union under section 331(3).

(5) A domestic credit union that amends its bylaws or certificate of organization must file the amendment with the director. The director shall not charge a fee for reviewing and approving or disapproving of an amendment for purposes of section 303.

(6) A domestic credit union shall make all of its accounts, books, and records, in whatever form maintained, available for examination by the director or the director's appointed agent during the normal business hours of the director. A domestic credit union shall do all of the following:

- (a) Provide the director with a current schedule of the hours during which the domestic credit union is open.
 - (b) Designate an individual to provide access to the credit union records and a substitute for that individual.
 - (c) Provide the director with the current name, address, and telephone number of the individual designated in subdivision (b) and of his or her substitute if the individual is absent.
 - (d) If the credit union processes any of its records at any location other than its principal place of business, provide the director with the current name and address of the person that processes the records.
- (7) As used in subsection (6), "records" includes audit reports and audit working papers described in section 344 unless privileged by law.

Sec. 210. (1) If in the opinion of the director a domestic credit union is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of the domestic credit union or is violating, has violated, or is about to violate a law or rule, the director may issue and serve upon the domestic credit union a notice of charges. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or violation and shall fix a time and place for a hearing to determine whether the director should issue an order to cease and desist. The hearing shall be held at least 30 and not more than 60 days after service of the notice unless an earlier or later date is set by the director at the request of the domestic credit union. If the domestic credit union does not appear at the hearing by a duly authorized representative, it has consented to the issuance of a cease and desist order.

(2) If a domestic credit union consents to a cease and desist order under subsection (1), or if on the record made at the hearing under subsection (1) the director finds that an unsafe or unsound practice or violation specified in the notice of charges has occurred, the director may issue and serve on the domestic credit union an order to cease and desist from the practice or violation. The order may require the domestic credit union and its directors, officers, employees, and agents to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(3) A cease and desist order issued after a hearing under subsection (2) is effective 30 days after the service of the order on the domestic credit union. A cease and desist order issued with the consent of the domestic credit union under subsection (2) is effective at the time specified in the order. A cease and desist order is effective and enforceable as provided in the order, except to the extent it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

(4) If the director determines that a foreign credit union that is conducting business in this state is acting in violation of the laws of this state or that the activities of the foreign credit union are being conducted in an unsafe and unsound manner, the director may take any enforcement action that would be permitted under this act if the foreign credit union were a domestic credit union.

(5) If the director determines that a federal credit union is acting in violation of the laws of this state, the director shall notify the National Credit Union Administration and the attorney general.

Sec. 221. (1) The director may by order require a domestic credit union to close its principal place of business or 1 or more branches if it appears to the director that the action is required because an emergency exists. The facilities closed shall remain closed until the director by order finds that the emergency is ended. The director shall promptly notify the governor of the issuance of an order under this section.

(2) The director may authorize a domestic credit union to close on a day designated by the president of the United States or the governor of this state as a day of national mourning, rejoicing, or other special observance.

(3) If the director has not issued and does not issue an order of emergency under subsection (1) and the general manager or other designated officer of a domestic credit union determines that an emergency exists, the officer may close the principal place of business or 1 or more branches of the domestic credit union until he or she finds that the emergency is ended.

(4) A domestic credit union closing its principal place of business or 1 or more branches under this section shall give notice to the director, and to any other appropriate governmental entity if required by law.

(5) The period during which the principal place of business of a domestic credit union is closed under this section is considered an emergency condition or a legal holiday, and not a banking day, if the status of the closing as a legal holiday, banking day, or a response to an emergency is relevant to any legal obligation of the domestic credit union.

(6) This section does not alter any obligations of a domestic credit union to its employees or to the employees of another employer under state or federal law.

Sec. 303. (1) If approved by a majority of the members present at a duly constituted annual or special meeting of the members, the membership may amend the certificate of organization or bylaws of a domestic credit union or delegate authority to the credit union board, or rescind the authority of the credit union board, to amend the certificate of organization or bylaws.

(2) Any proposed action to amend the certificate of organization or the bylaws or to delegate authority to amend the certificate of organization or bylaws to the credit union board under subsection (1) shall be stated in a notice of the meeting.

(3) An amendment to the certificate of organization or bylaws of a domestic credit union is not effective unless it is submitted to the director for review and approved by the director.

Sec. 306. With prior written notice to the director, a domestic credit union may conduct its business solely by mail or through electronic communication without having a physical location where members may transact business with the credit union. A domestic credit union conducting business under this section shall maintain a principal place of business in this state.

Sec. 341. (1) The organizers shall hold an organizational meeting of a domestic credit union organized under this act. The organizational meeting of the domestic credit union is the first annual meeting of the members required under section 351.

(2) Each board member of a domestic credit union shall be a member of the domestic credit union. The bylaws shall establish the number of board members, but a credit union board must consist of 5 or more individuals. A board member shall hold office for the term established in the bylaws and until a successor takes office.

(3) If the bylaws of a domestic credit union provide for a credit committee or a supervisory committee, that committee shall consist of 3 or more individuals and may have alternate committee members, as established in the bylaws, each of whom is a member of the domestic credit union. The bylaws shall provide whether the credit union board may appoint or the members may elect committee members and their terms of office and the duties of the committee. Except as provided in section 345, a current board member, officer, loan officer, credit committee member, or other employee of the domestic credit union shall not serve on the supervisory committee.

(4) If the bylaws of a domestic credit union do not provide for a credit committee or a supervisory committee, the credit union board shall perform the duties of the credit committee or the supervisory committee or delegate those duties as it considers advisable.

(5) A corporate credit union organized under this act shall have at least 1 member of the credit union board, the supervisory committee, if any, and the credit committee, if any, who is a resident of this state.

(6) A domestic credit union shall provide the director with a record of the names and addresses of the members of the credit union board and the members of the credit and supervisory committees, if any, within 30 days after their election.

(7) If the director considers it appropriate, the director may call a meeting of the credit union board, for any purpose, by giving a notice of the time, place, and purpose of the meeting at least 3 days before the meeting to the board members. The director shall deliver the notice to the board members' last known addresses as shown by the books of the domestic credit union.

(8) Each individual elected or appointed to serve as a 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 meet all of the following criteria:

(a) He or she is a member of the domestic credit union, in good standing according to reasonable criteria established by the credit union board.

(b) He or she is acceptable as a bonding risk by a bonding company licensed to do business in this state.

(c) He or she has not been removed as a board member, officer, committee member, or employee of a financial institution by a federal regulator, a state regulator other than the director, or a court of competent jurisdiction.

(d) The director has not removed him or her as a board member, officer, committee member, or employee of a credit union, financial institution, or other legal entity pursuant to the director's enforcement powers under any law of this state.

(e) He or she has not been convicted within the preceding 20 years of a crime involving dishonesty or breach of trust.

(f) He or she is not habitually negligent in paying his or her financial obligations as determined by criteria reasonably established by the credit union board.

(g) He or she has not been convicted by a court of competent jurisdiction of a violation, or found in violation by a court of competent jurisdiction or the director, of any law of this state enforced or administered by the director.

(9) If an individual no longer meets 1 or more of the requirements of subsection (8) while serving as a 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, he or she is immediately removed from that office without further action of the members or credit union board and the domestic credit union shall appoint or elect a replacement to fill the vacancy in the manner described in the bylaws.

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. 5017.
- (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.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor