

CREDIT UNION ACT (EXCERPT)
Act 215 of 2003

PART 3
INVESTMENTS

490.431 Investment of funds not used in member loans; limitations; maintenance of files; plan for divestiture of investment.

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.

History: 2003, Act 215, Eff. June 1, 2004;—Am. 2016, Act 152, Eff. Sept. 7, 2016.

490.432 Purchase, sale, or pledge of member obligation.

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.

History: 2003, Act 215, Eff. June 1, 2004;—Am. 2016, Act 152, Eff. Sept. 7, 2016.