

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5018

A bill to amend 2003 PA 215, entitled
"Credit union act,"
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:

1 Sec. 201. (1) The ~~commissioner~~**DIRECTOR** shall administer the
2 laws of this state relating to credit unions **THAT ARE** transacting
3 business in this state and shall supervise domestic credit unions ~~7~~
4 and foreign credit unions other than federal credit unions **THAT ARE**
5 transacting business in this state. Each domestic credit union
6 shall report its financial condition as required by the
7 ~~commissioner~~**DIRECTOR**.

8 (2) The ~~commissioner~~**DIRECTOR** shall charge an annual operating

1 fee to each domestic credit union. All of the following apply to
2 the annual operating fee:

3 (a) Subject to subdivision (d), the ~~commissioner~~**DIRECTOR**
4 shall establish a fee amount that is sufficient to defray the
5 estimated expenses of the ~~credit union division of the office of~~
6 ~~financial and insurance services~~**DEPARTMENT** in performing all
7 credit union examinations and the supervision of domestic credit
8 unions.

9 (b) The ~~commissioner~~**DIRECTOR** shall invoice each domestic
10 credit union for the fee before July 1 of each year and each
11 domestic credit union shall pay the operating fee before July 16 of
12 that year.

13 (c) The ~~commissioner~~**DIRECTOR** shall compute the fee based on
14 the total assets of the domestic credit union on December 31 of the
15 previous year as shown on the report of the domestic credit union
16 filed with the ~~commissioner~~**DIRECTOR** under subsection (1).

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

19 (i) A base fee established by the ~~commissioner~~**DIRECTOR** of not
20 less than \$1.00 or more than \$3.50 per \$1,000.00 of assets up to
21 \$500,000.00.

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

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

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

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

3 (e) The ~~commissioner~~**DIRECTOR** shall not require a domestic
4 credit union to pay an operating fee more often than annually.

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

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

19 (5) A domestic credit union that amends its bylaws or
20 certificate of organization ~~shall~~**MUST** file the amendment with the
21 ~~commissioner~~**DIRECTOR**. The ~~commissioner~~**DIRECTOR** shall not charge
22 a fee for reviewing and approving or disapproving of an amendment
23 ~~under~~**FOR PURPOSES OF** section 303.

24 (6) A domestic credit union shall make all of its accounts,
25 books, and records, in whatever form maintained, available for
26 examination by the ~~commissioner~~**DIRECTOR** or the ~~commissioner's~~
27 **DIRECTOR'S** appointed agent during the normal business hours of the

1 ~~commissioner~~-**DIRECTOR**. A domestic credit union shall do all of the
2 following:

3 (a) Provide the ~~commissioner~~-**DIRECTOR** with a current schedule
4 of the hours during which the domestic credit union is open.

5 (b) Designate an individual to provide access to the credit
6 union records and a substitute for that individual.

7 (c) Provide the ~~commissioner~~-**DIRECTOR** with the current name,
8 address, and telephone number of the individual designated in
9 subdivision (b) ~~and~~ and of his or her substitute if the individual is
10 absent.

11 (d) If the credit union processes any of its records at any
12 location other than its principal place of business, provide the
13 ~~commissioner~~-**DIRECTOR** with the current name and address of the
14 person that processes the records.

15 (7) As used in subsection (6), "records" includes audit
16 reports and audit working papers described in section 344 unless
17 privileged by law.

18 Sec. 210. (1) If in the opinion of the ~~commissioner~~-**DIRECTOR** a
19 domestic credit union is engaging, has engaged, or is about to
20 engage in an unsafe or unsound practice in conducting the business
21 of the domestic credit union or is violating, has violated, or is
22 about to violate a law or rule, the ~~commissioner~~-**DIRECTOR** may issue
23 and serve upon the domestic credit union a notice of charges. The
24 notice shall contain a statement of the facts constituting the
25 alleged unsafe or unsound practice or violation and shall fix a
26 time and place for a hearing to determine whether the ~~commissioner~~
27 **DIRECTOR** should issue an order to cease and desist. The hearing

1 shall be ~~not earlier than 30 days nor later than~~ **HELD AT LEAST 30**
2 **AND NOT MORE THAN** 60 days after service of the notice unless an
3 earlier or later date is set by the ~~commissioner~~ **DIRECTOR** at the
4 request of the domestic credit union. If the domestic credit union
5 does not appear at the hearing by a duly authorized representative,
6 it has consented to the issuance of a cease and desist order.

7 (2) If a domestic credit union consents to a cease and desist
8 order under subsection (1), or if ~~upon~~ **ON** the record made at the
9 hearing under subsection (1) the ~~commissioner~~ **DIRECTOR** finds that
10 an unsafe or unsound practice or violation specified in the notice
11 of charges has occurred, the ~~commissioner~~ **DIRECTOR** may issue and
12 serve ~~upon~~ **ON** the domestic credit union an order to cease and
13 desist from the practice or violation. The order may require the
14 domestic credit union and its directors, officers, employees, and
15 agents to cease and desist from the practice or violation and to
16 take affirmative action to correct the conditions resulting from
17 the practice or violation.

18 (3) A cease and desist order issued after a hearing under
19 subsection (2) is effective 30 days after the service of the order
20 ~~upon~~ **ON** the domestic credit union. A cease and desist order issued
21 with the consent of the domestic credit union under subsection (2)
22 is effective at the time specified in the order. A cease and desist
23 order is effective and enforceable as provided in the order, except
24 to the extent it is stayed, modified, terminated, or set aside by
25 action of the ~~commissioner~~ **DIRECTOR** or a reviewing court.

26 (4) If the ~~commissioner~~ **DIRECTOR** determines that a foreign
27 credit union ~~branch located~~ **THAT IS CONDUCTING BUSINESS** in this

1 state is acting in violation of the laws of this state or that the
2 activities of the ~~branch~~**FOREIGN CREDIT UNION** are being conducted
3 in an unsafe and unsound manner, the ~~commissioner~~**DIRECTOR** may take
4 any enforcement action that would be permitted under this act if
5 the ~~branch~~**FOREIGN CREDIT UNION** were a domestic credit union.

6 (5) If the ~~commissioner~~**DIRECTOR** determines that a federal
7 credit union is acting in violation of the laws of this state, the
8 ~~commissioner~~**DIRECTOR** shall notify the ~~national credit union~~
9 ~~administration~~**NATIONAL CREDIT UNION ADMINISTRATION** and the
10 attorney general.

11 Sec. 221. (1) The ~~commissioner~~**DIRECTOR** may by order require a
12 domestic credit union to close its principal place of business or 1
13 or more branches if it appears to the ~~commissioner~~**DIRECTOR** that
14 the action is required because an emergency exists. The facilities
15 closed shall remain closed until the ~~commissioner~~**DIRECTOR** by order
16 finds that the emergency is ended. The ~~commissioner~~**DIRECTOR** shall
17 promptly notify the governor of the issuance of an order under this
18 section.

19 (2) The ~~commissioner~~**DIRECTOR** may authorize a domestic credit
20 union to close on a day designated by the president of the United
21 States or the governor of this state as a day of national mourning,
22 rejoicing, or other special observance.

23 (3) If the ~~commissioner~~**DIRECTOR** has not issued and does not
24 issue an order of emergency under subsection (1) and the general
25 manager or other designated officer of a domestic credit union
26 determines that an emergency exists, the officer may close the
27 principal place of business or 1 or more branches of the domestic

1 credit union until he or she finds that the emergency is ended.

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

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

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

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

21 (2) Any proposed action to amend the certificate of
22 organization or the bylaws or to delegate authority to amend the
23 certificate of organization or bylaws to the credit union board
24 **UNDER SUBSECTION (1)** shall be stated in a notice of the meeting.

25 (3) An amendment to the certificate of organization or bylaws
26 **OF A DOMESTIC CREDIT UNION** is not effective unless it is submitted
27 to the ~~commissioner~~ **DIRECTOR** for review and approved by the

1 ~~commissioner.~~**DIRECTOR.**

2 Sec. 306. ~~With the prior approval of the commissioner,~~**WITH**
3 **PRIOR WRITTEN NOTICE TO THE DIRECTOR,** a domestic credit union may
4 conduct its business solely by mail or through electronic
5 communication without having a physical location where members may
6 transact business with the credit union. A domestic credit union
7 conducting business under this section shall maintain a principal
8 place of business in this state.

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

13 (2) Each ~~member of the credit union~~ board **MEMBER** of a domestic
14 credit union shall be a member of the domestic credit union. The
15 bylaws shall establish the number of ~~directors,~~**BOARD MEMBERS,** but
16 a credit union board must consist of 5 or more individuals. A
17 ~~director~~**BOARD MEMBER** shall hold office for the term established in
18 the bylaws and until a successor takes office.

19 (3) If the bylaws of a domestic credit union provide for a
20 credit committee or a supervisory committee, that committee shall
21 consist of 3 or more individuals and may have alternate committee
22 members, as established in the bylaws, each of whom is a member of
23 the domestic credit union. The bylaws shall provide whether the
24 credit union board may appoint or the members may elect committee
25 members and their terms of office and the duties of the committee.
26 Except as provided in section 345, a current ~~director,~~**BOARD**
27 **MEMBER,** officer, loan officer, credit committee member, or other

1 employee of the domestic credit union shall not serve on the
2 supervisory committee.

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

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

12 (6) A domestic credit union shall provide the ~~commissioner~~
13 **DIRECTOR** with a record of the names and addresses of the members of
14 the credit union board and the members of the credit and
15 supervisory committees, if any, within 30 days after their
16 election.

17 (7) If the ~~commissioner~~**DIRECTOR** considers it appropriate, the
18 ~~commissioner~~**DIRECTOR** may call a meeting of the credit union board,
19 for any purpose, by giving a notice of the time, place, and purpose
20 of the meeting at least 3 days ~~prior to~~**BEFORE** the meeting to the
21 ~~directors.~~**BOARD MEMBERS.** The ~~commissioner~~**DIRECTOR** shall deliver
22 the notice to ~~their~~**THE BOARD MEMBERS'** last known addresses as
23 shown by the books of the domestic credit union.

24 (8) Each individual elected or appointed to serve as a
25 ~~director,~~**BOARD MEMBER,** supervisory committee member, or credit
26 committee member of a domestic credit union, or as a member of any
27 other committee that performs significant ongoing functions

1 relating to the ongoing operations of the domestic credit union,
2 shall meet all of the following criteria:

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

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

8 (c) He or she has not been removed as a ~~director~~, **BOARD**
9 **MEMBER**, officer, committee member, or employee of a financial
10 institution by a federal regulator, a state regulator other than
11 the ~~commissioner~~, **DIRECTOR**, or a court of competent jurisdiction.

12 (d) The ~~commissioner~~ **DIRECTOR** has not removed him or her as a
13 ~~director~~, **BOARD MEMBER**, officer, committee member, or employee of a
14 credit union, financial institution, or other legal entity pursuant
15 to the ~~commissioner's~~ **DIRECTOR'S** enforcement powers under any law
16 of this state.

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

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

22 (g) He or she has not been convicted by a court of competent
23 jurisdiction of a violation, or found in violation by a court of
24 competent jurisdiction or the ~~commissioner~~, **DIRECTOR**, of any law of
25 this state enforced or administered by the ~~commissioner~~ **DIRECTOR**.

26 (9) If an individual no longer meets 1 or more of the
27 requirements of subsection (8) while serving as a ~~director~~, **BOARD**

1 **MEMBER**, supervisory committee member, or credit committee member of
2 a domestic credit union, or as a member of any other committee that
3 performs significant ongoing functions relating to the ongoing
4 operations of the domestic credit union, he or she is immediately
5 removed from that office without further action of the members or
6 credit union board and the domestic credit union shall appoint or
7 elect a replacement to fill the vacancy in the manner described in
8 the bylaws.

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

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

14 (a) House Bill No. 5017.

15 (b) House Bill No. 5019.

16 (c) House Bill No. 5020.

17 (d) House Bill No. 5021.

18 (e) House Bill No. 5022.