CREDIT UNION ACT

Act 215 of 2003

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.

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

The People of the State of Michigan enact:

Article 1

GENERAL PROVISIONS

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490.101 Short title.

Sec. 101.

This act shall be known and may be cited as the "credit union act".

History: 2003, Act 215, Eff. June 1, 2004

490.102 Definitions; A to I.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

490.103 Definitions; M to S.

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.

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(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.

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

490.104 "Credit union"; use in name or title; restrictions; "corporate" or "corporate central"; use in name.

Sec. 104.

(1) A person shall not use the words "credit union" in its name or any assumed names, unless it is 1 of the following:

(a) A domestic credit union or a foreign credit union.

(b) A credit union trade association.

(c) A credit union service organization.

(d) An organization that is wholly owned by 1 or more domestic credit unions, foreign credit unions, credit union trade associations, or credit union service organizations.

(e) A separate segregated fund established under section 55 of the Michigan campaign finance act, 1976 PA 388, MCL 169.255, or a political action committee under federal law.

(2) A credit union may not use the word "corporate" or the words "corporate central" immediately before the words "credit union" in its name unless it is a corporate credit union organized under this act, the laws of another state or territory of the United States, or the laws of the United States.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.105 Domestic credit union; exemption from tax; exception; stock transfer tax.

Sec. 105.

A domestic credit union is exempt from taxation by this state or a political subdivision of this state except property taxes on real property. The shares of a domestic credit union are not subject to a stock transfer tax when issued by the credit union or when transferred from 1 member to another.

History: 2003, Act 215, Eff. June 1, 2004

Article 2
SUPERVISION BY COMMISSIONER
Part 1
ADMINISTRATION, SUPERVISION, AND ENFORCEMENT

CAUTION! This document is from an archive and may contain outdated information.

490.201 Administration and supervision by director; annual operating fee; limitation; report filed by domestic credit union; delinquent fee; waiver; amendment to bylaws or certificate of organization; examination of accounts, books, and records; "records" defined.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

490.202 Fee, fine, or other money received or collected by director; disposition; establishment of credit union regulatory fund.

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.

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

490.203 Office of financial and insurance services; hearing or proceeding; document retention; order or ruling.

Sec. 203.

(1) Any hearing or other proceeding pending before the office of financial and insurance services under former 1925 PA 285 before the effective date of this act is transferred to the office of financial and insurance services under this act, and the office of financial and insurance services shall conduct and determine the proceeding as follows:

(a) If the commissioner determines that this act establishes an identical or substantially similar proceeding for the conduct or act that was the basis of the proceeding under former 1925 PA 285, the office of financial and insurance services shall conduct and determine the proceeding under this act.

(b) If the commissioner determines that this act does not establish an identical or substantially similar proceeding for the conduct or act that was the basis of the proceeding under former 1925 PA 285, the office of financial and insurance services shall conduct and determine the proceeding in the manner described in former 1925 PA 285.

(2) The office of financial and insurance services shall retain all of its property, credits, books, correspondence, funds, appropriations, records, files, and other papers acquired or retained under former 1925 PA 285.

(3) An order or declaratory ruling issued by the commissioner under former 1925 PA 285 that is in effect on the effective date of this act shall continue in effect until modified, suspended, revoked, or repealed by the commissioner.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.204 Immunity.

Sec. 204.

The commissioner and the other employees of the office of financial and insurance services are not liable in any civil action for damages for any act done or omitted in performing the functions of their office under this act to the same extent protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415.

History: 2003, Act 215, Eff. June 1, 2004

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490.205 Disclosure of information.

Sec. 205.

(1) The commissioner and all deputies, agents, and employees of the office of financial and insurance services shall keep secret all facts and information obtained in the course of their duties, except if the person is required under law to report upon, take official action, or testify in any proceedings regarding the affairs of a credit union. This subsection applies to all former commissioners, deputies, agents, and employees of the office of financial and insurance services.

(2) This section does not apply to, and does not prohibit the furnishing of information or documents to, any federal, foreign, or out-of-state credit union regulatory agencies, and is not applicable to disclosures made in the public interest by the commissioner, at his or her discretion.

History: 2003, Act 215, Eff. June 1, 2004

490.206 Rules; orders; declaratory rulings.

Sec. 206.

The commissioner may promulgate rules or issue orders or declaratory rulings for the enforcement and administration of this act. The commissioner shall promulgate rules and issue orders and declaratory rulings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2003, Act 215, Eff. June 1, 2004

490.207 Examination by director; conduct; report; document, material, or information; confidentiality; disclosure; demand for production; request for discovery or disclosure; judicial review; appeal; best practices or other improvements; guidance to promote consistency and due process.

Sec. 207.

(1) The director or his or her authorized agent shall examine the condition and affairs of each domestic credit union, and may examine the condition and affairs of any subsidiary of a domestic credit union, at least once every 18 months. The director shall determine whether the domestic credit union transacts its business in the manner prescribed by law and the rules promulgated under law.

(2) In connection with an examination under subsection (1), the director or the director's authorized agent may examine under oath a board member, officer, agent, or employee of a domestic credit union concerning the affairs and business of the domestic credit union. The director or the director's authorized agent may examine an affiliate of a domestic credit union if necessary to fully disclose the relationship between the domestic credit union and the affiliate and the effect of the relationship on the domestic credit union.

(3) The director may examine a branch or branches located in this state of a foreign credit union.

(4) In an examination under this section, the director may use an examination made under the federal credit union act, 12 USC 1751 to 1795k, any other federal law related to the chartering or insuring of financial institutions, or the law of another state governing the activities of foreign credit unions organized in or regulated by that state. The director may require a credit union to furnish a copy of any report required by a federal or state credit union regulatory agency.

(5) The director may contract with another state credit union regulatory agency to assist in the conduct of examinations of domestic credit unions with 1 or more branches located in that other state and in examinations of foreign credit unions with 1 or more branches located in this state.

(6) The contents of a report of examination and examination-related documents, materials, or information that are prepared or obtained under this act remain the property of the director. Any document, material, or information related to an examination under this act is confidential by law and privileged, is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use the documents, materials, or information in the furtherance of any supervisory activity or legal action brought as part of the director's duties.

(7) The director, or any person that received documents, materials, or information while acting under the director's authority, is not permitted and may not be required to testify in any private civil action concerning any confidential documents, materials, or information described in subsection (6).

(8) To assist in the performance of the director's duties under this act, the director may do any of the following:

(a) Share documents, materials, or information, including the confidential and privileged documents, materials, or information that are subject to subsection (6), with other state, federal, and international regulatory agencies, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or information.

(b) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from regulatory and law enforcement officials of other foreign or domestic jurisdictions. The director shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that the documents, materials, or information the director receives are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(c) Enter into agreements governing the sharing and use of information that are consistent with this subsection.

(9) The disclosure of any documents, materials, or information to the director, or the sharing of documents, materials, or information under subsection (8), is not a waiver of, and shall not be construed as a waiver of, any privilege applicable to or claim of confidentiality in those documents, materials, or information.

(10) This article does not prohibit the director from releasing final, adjudicated actions that are open to public inspection under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, to a database or other clearinghouse service maintained by the National Credit Union Administration or its affiliates or subsidiaries.

(11) A person to which confidential and privileged documents, materials, or information is disclosed shall not further disseminate those confidential and privileged documents, materials, or information.

(12) Any person on which a demand for production of confidential and privileged documents, materials, or information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential and privileged documents, materials, or information and must notify the director of the demand. If the director is notified of a demand under this subsection, the director may intervene for the purpose of enforcing the limitations of this section or seeking the withdrawal or termination of the attempt to compel production of the confidential and privileged documents, materials, or information.

(13) Any request for discovery or disclosure of confidential and privileged documents, materials, or information, whether by subpoena, order, or other judicial or administrative process, shall be made to the director, and the director shall determine within 7 days whether to disclose the documents, materials, or information under this act. If the director determines that the documents, materials, or information will not be disclosed, the director's decision is subject to judicial review.

(14) The judicial review of a decision of the director under subsection (13) may include in camera judicial review of the confidential and privileged documents, materials, or information. After judicial review, a court may only order disclosure of the portions of the confidential and privileged documents, materials, or information that are relevant and otherwise unobtainable by the requesting party.

(15) The director may immediately appeal any court order described in subsection (14) that compels disclosure of confidential and privileged documents, materials, or information, and the order is automatically stayed pending the outcome of the appeal.

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(16) In an addendum to a report of an examination under this section, the director or his or her authorized agent may suggest best practices or other improvements in the operation of a domestic credit union that are not required by law or regulation or to address safety and soundness of the domestic credit union. The manner in which a domestic credit union addresses issues concerning its operations is within the discretion of the credit union in the exercise of its business judgment, except as required by law or regulation or to address a concern over safety and soundness. The director shall not take action against a domestic credit union under this act based on a failure or refusal of a domestic credit union to follow a best practice or other recommended improvement in the operation of the domestic credit union that is suggested informally by an examiner or that is contained in an addendum to a report of examination.

(17) Within 1 year after the effective date of the amendatory act that added this subsection, the director shall issue guidance to promote consistency and due process in the examination process under this section, including, but not limited to, establishing guidelines that define the scope of the examination process and clarify how examination issues will be resolved.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 155, Eff. Sept. 7, 2016

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490.208 Application for additional powers by domestic credit unions.

Sec. 208.

(1) If 1 or more domestic credit unions apply for authority to exercise powers not specifically authorized by this act, the commissioner may by rule, order, or declaratory ruling authorize domestic credit unions to exercise those powers if the commissioner finds that those powers are appropriate and necessary to compete with other providers of financial services in this state.

(2) In acting under subsection (1), the commissioner shall consider the ability of the domestic credit unions to exercise the additional power in a safe and sound manner, the authority of the domestic credit unions under state or federal law or regulation, the powers of other competing entities providing financial services, and any specific limitations on domestic credit union powers contained in this act or in any rules or other law of this state.

(3) The commissioner shall make any rules, declaratory rulings, orders, or findings made under this section available to domestic credit unions.

History: 2003, Act 215, Eff. June 1, 2004

490.209 Issuance of subpoena by circuit court.

Sec. 209.

The commissioner may petition the circuit court for the county of Ingham or the circuit court in the jurisdiction where an examination is being conducted to issue a subpoena on behalf of the commissioner that requires the person subpoenaed to appear and testify under oath to any matter related to the examination and to produce any relevant documents.

History: 2003, Act 215, Eff. June 1, 2004

490.210 Notice of charges; issuance and service; statement of facts; hearing; issuance of cease and desist order; enforcement; violation by foreign or federal credit union.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

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490.211 Temporary cease and desist order; conditions; injunction for setting aside order.

Sec. 211.

(1) If the commissioner determines that a violation or threatened violation or an unsafe or unsound practice or practices specified in the notice of charges served upon a domestic credit union under section 210, or the continuation of the violation or practice, is likely to cause insolvency or substantial dissipation of assets or earnings of the domestic credit union, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the domestic credit union to cease and desist from that violation or practice. The temporary order is effective upon service upon the domestic credit union and is effective and enforceable until a cease and desist order under section 210 is issued and becomes effective or until it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court in a proceeding under subsection (2).

(2) Within 10 days after a domestic credit union has been served with a temporary cease and desist order under subsection (1), the domestic credit union may apply to the circuit court for the county in which the principal office of the domestic credit union is located for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the proceedings under section 210.

History: 2003, Act 215, Eff. June 1, 2004

490.212 Notice of intention to remove person from office or to prohibit participation in conduct of affairs; conditions; hearing; order; issuance; basis; enforcement.

Sec. 212.

(1) If in the opinion of the commissioner a director, officer, or employee of a domestic credit union, or any other person who participates in the conduct of the affairs of the domestic credit union, has committed any violation of

law or rule or of a cease and desist order or other order of the commissioner that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the domestic credit union, or has committed or engaged in any act, omission, or practice that constitutes a breach of fiduciary duty of that person, and the commissioner determines that the domestic credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its members and depositors could be seriously prejudiced by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon the person a written notice of intention to remove that person from office.

(2) If in the opinion of the commissioner a director, officer, or employee of a domestic credit union, or another person who participates or has participated in the conduct of the affairs of the domestic credit union, has engaged in conduct or practice with respect to the domestic credit union or another business organization that resulted in substantial financial loss or other damage, or is otherwise unfit to participate in the conduct of the affairs of the domestic credit union, the commissioner may serve upon that person a written notice of intention to remove the person from office or to prohibit the person's further participation in any manner in the conduct of the affairs of any domestic credit union.

(3) If the commissioner considers it necessary for the protection of a domestic credit union or the interests of its shareholders or depositors that a person served with a notice of intention under subsection (1) or (2) is suspended from office or prohibited from further participation in any manner in the conduct of the affairs of the domestic credit union, the commissioner may serve upon that person a written notice suspending him or her from office or prohibiting him or her from further participation in any manner in the conduct of affairs of the domestic credit union. A suspension or prohibition is effective upon service of the notice and unless stayed by a court in a proceeding under section 213 remains in effect until the administrative proceedings against the person are completed and the commissioner dismisses the charges specified in the notice, or until the effective date of the order if an order of suspension or prohibition is issued. The commissioner shall also serve a copy of the notice on the domestic credit union.

(4) A notice of intention to remove a person from office or to prohibit participation in the conduct of the affairs of a domestic credit union shall contain a statement of the facts constituting grounds for the removal, and fix a time and place for a hearing. Except as otherwise approved by the commissioner, the hearing shall be held not earlier than 30 days nor later than 60 days after the date of service of the notice. The failure of a person to appear at the hearing in person or by a duly authorized representative is consent to the issuance of an order of removal or prohibition. If the person consents, or if after the hearing the commissioner finds that any grounds specified in the notice have been established, the commissioner may issue an order of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the domestic credit union, as appropriate. An order based on the finding of the commissioner is effective on the thirty-first day after service on the domestic credit union and the person concerned. An order by consent is effective at the time specified in the order. An order is effective and enforceable unless it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

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History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.213 Stay of suspension or prohibition.

Sec. 213.

Within 10 days after the date a person has been suspended from office or prohibited from participation in the conduct of the affairs of any domestic credit union under section 212(3), the person may apply to the circuit court for Ingham county or the circuit court for the county where the principal office of the domestic credit union is located for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to the notice served on the person under section 212(1) or (2).

History: 2003, Act 215, Eff. June 1, 2004

490.214 Individual charged with crime involving dishonesty or breach of trust; suspension from office or prohibition from participation in conduct of affairs; finding of not guilty or other disposition.

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).

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

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490.215 Administrative hearing.

Sec. 215.

(1) The commissioner shall conduct an administrative hearing under section 210 or 212 under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The commissioner shall close the hearing to the public unless the commissioner, after fully considering the views of the party who is the subject of the hearing, determines that a public hearing is necessary to protect the public interest. After the hearing and within 90 days after notifying the parties that he or she has received the case for final decision, the commissioner shall render a decision that includes findings of fact upon which the decision is predicated and issue and serve upon each party to the proceeding an order consistent with this section.

(2) A party to a proceeding or other person required by an order issued under section 210, 211, 212, or 214 to cease and desist from any of the violations or practices stated in the order, or who is suspended, removed, or prohibited from participation in the conduct of the affairs of the domestic credit union by the order, may request a review by a court of competent jurisdiction of an order issued under subsection (1). The party or person must make his or her request by filing a petition for review pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. This subsection does not apply to an order issued by consent.

(3) If a petition for review is not filed within the time period contained in subsection (2), the commissioner may modify, terminate, or set aside the order at any time with appropriate notice. If a petition for review is filed within the time period contained in subsection (2), the commissioner may modify, terminate, or set aside the order with the permission of the court.

(4) Unless otherwise specifically ordered by the court, a proceeding for review under this section does not stay an order issued by the commissioner.

History: 2003, Act 215, Eff. June 1, 2004

490.216 Enforcement of notice or order; court jurisdiction.

Sec. 216.

(1) The commissioner may apply to the circuit court of the county in which the principal office of a domestic credit union is located, or to the circuit court for Ingham county, for the enforcement of any effective and

outstanding notice or order issued under section 210, 211, 212, 214, or 215, including any temporary cease and desist order issued under section 211(1).

(2) Only a court described in subsection (1) has jurisdiction to review, modify, enjoin, or stay the issuance or enforcement of any notice or order issued under section 210, 211, 212, 214, or 215 or to review, modify, suspend, terminate, or set aside the notice or order.

History: 2003, Act 215, Eff. June 1, 2004

490.217 Person subject to notice or order for violation of law; prohibited conduct; violation as misdemeanor; penalty.

Sec. 217.

(1) A person who is the subject of an outstanding and effective notice or final order for a violation of section 212(1), (2), or (3), section 214, or for a violation of any other law of this state that contains a grant of enforcement powers to the commissioner or the office of financial and insurance services, shall not do any of the following:

(a) Participate in any manner in the conduct of the affairs of the domestic credit union involved other than voting as an individual member of the domestic credit union.

(b) Serve or act as an official or employee of any domestic credit union.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(3) A person who willfully or intentionally violates any provision of this act for which specific punishment is not provided under this act is guilty of a misdemeanor and shall be imprisoned for not more than 6 months or shall be fined not less than $500.00 or more than $5,000.00, or both.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

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490.218 Report from domestic credit union; requirements; notice; failure of domestic credit union to report by deadline; fine.

Sec. 218.

(1) The commissioner may require any report from a domestic credit union that in the commissioner's judgment is necessary to fully inform the commissioner about the condition of the domestic credit union. The commissioner shall give the domestic credit union notice in writing that a report is required, describing the report and the deadline for submission. The commissioner shall deliver the notice to the domestic credit union at least 30 days before the deadline for submission, unless the commissioner determines that a shorter period of time is necessary to protect the public interest.

(2) If the domestic credit union fails to deliver to the commissioner a report required under subsection (1) by the deadline for submission, the commissioner may assess an administrative fine against the domestic credit union that does not exceed $1,000.00 for each day the report is delinquent.

History: 2003, Act 215, Eff. June 1, 2004

490.219 Delivery of order or written notice; methods.

Sec. 219.

If the commissioner is required to serve an order or the commissioner or any person is required to provide a written notice under this act, the commissioner or person may use any delivery method reasonably calculated to

give actual notice, including, but not limited to, any of the following:

(a) Physical delivery, in person or by first-class mail or other express delivery service.

(b) If the recipient of the notice agrees to delivery by that method, electronic delivery, by facsimile, electronic transmission, or other means approved by the commissioner.

History: 2003, Act 215, Eff. June 1, 2004

490.220 Civil fine; assessment; limitation; commencement of action by attorney general; determination of amount of fine; conduct of administrative hearing.

Sec. 220.

(1) Subject to subsection (2), if the commissioner finds that a credit union has violated this act or a rule promulgated under this act, the commissioner may assess a civil fine against the credit union or an official of the credit union of not more than $1,000.00 for each violation, plus the costs of investigation. Each injury to an individual or other person by a violation of this act or a rule is a separate violation.

(2) The commissioner may not assess civil fines under subsection (1) against a credit union or an official of the credit union that in the aggregate are more than $10,000.00, plus the costs of investigation, for multiple violations of this act or rules promulgated under this act that arise from the same transaction.

(3) The attorney general may commence an action to recover a civil fine assessed under subsection (1) or (2) by and in the name of the commissioner. The attorney general shall collect and enforce a civil fine and may utilize summary proceedings.

(4) In determining the amount of a fine under subsection (1) or (2), the commissioner shall consider the extent to which the violation was a knowing and willful violation and the extent of the injury suffered because of the violation. If the violation was committed by a credit union, the commissioner shall also consider any corrective action taken by the credit union to ensure that the violation will not be repeated and the record of the credit union in complying with this act.

(5) The commissioner shall conduct a proceeding under this section in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2003, Act 215, Eff. June 1, 2004

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490.221 Closure of principal place of business or branch; existence of emergency or legal holiday.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

Part 2
RECEIVERS

490.231 Liquidation; appointment of federal agency as receiver.

Sec. 231.

(1) Except as provided in subsection (2), a domestic credit union shall only be liquidated as provided in this part. A receiver or other liquidating agent shall only be appointed for a domestic credit union or its assets and property under this part.

(2) If a federal agency is appointed as receiver of a domestic credit union, the receivership procedures of the federal agency shall govern the receivership.

History: 2003, Act 215, Eff. June 1, 2004

CAUTION! This document is from an archive and may contain outdated information.

490.232 Appointment of receiver; conditions; proceeding; bond; reporting schedule; subrogation of federal agency to rights of deposit owners.

Sec. 232.

(1) If a domestic credit union refuses to pay its shares, deposits, or obligations in accordance with the terms under which the shares were received or the deposits or obligations were incurred, becomes insolvent, or refuses to submit its books, papers, and records for inspection by the commissioner, or if it appears to the commissioner that the domestic credit union is in an unsafe or unsound condition, the commissioner may either appoint a conservator under section 241 or apply to the circuit court for Ingham county or for the county in which the principal place of business of the domestic credit union is located for the appointment of a receiver for the domestic credit union.

(2) In a proceeding for the appointment of a receiver, the court may act upon the application immediately and without notice to any person. If at any time it appears to the court that the claimed reasons for receivership do not exist, the court shall dissolve the receivership and terminate the proceedings.

(3) An insuring federal agency may act as receiver without bond. All other receivers, with the exception of an employee of the office of financial and insurance services appointed as receiver in his or her official capacity, shall post a bond in an amount determined by the court.

(4) A receiver shall report to the commissioner regarding all matters involving the receivership on a schedule established by the commissioner.

(5) If a domestic credit union is closed and placed in receivership, and the insuring federal agency pays or makes available for payment the insured shares and deposit liabilities of the closed domestic credit union, the agency, whether or not it has become receiver of the domestic credit union, is subrogated to all of the rights of the owners of the deposits against the closed domestic credit union in the same manner and to the same extent as subrogation of the agency is provided for under federal law.

History: 2003, Act 215, Eff. June 1, 2004

490.233 Receiver; duties; powers.

Sec. 233.

(1) Subject to court approval, a receiver appointed under this part shall do all of the following:

(a) Take possession of the books, records, and assets of the domestic credit union and collect all debts, dues, and claims belonging to the domestic credit union.

(b) Sue and defend, compromise, and settle all claims involving the domestic credit union.

(c) Sell all real and personal property of the domestic credit union.

(d) Exercise all fiduciary functions of the domestic credit union as of the date of the commencement of the receivership.

(e) Pay all administrative expenses of the receivership. The administrative expenses are a first charge on the assets of the domestic credit union and the receiver shall pay those expenses before any final distribution or payment of dividends to creditors or members.

(f) Except as provided in this subdivision, pay ratably the debts of the domestic credit union. The receiver may pay any debt that does not exceed $500.00 in full, but the holder of that debt is not entitled to payment of interest on the debt.

(g) After paying or providing for payment of all the administrative expenses and debts under subdivisions (e) and (f), pay ratably to the members of the domestic credit union the balance of the net assets of the domestic credit union, in proportion to the number of shares held and owned by each.

(h) Have all the powers of the directors, officers, and members of the domestic credit union necessary to support an action taken on behalf of the domestic credit union.

(i) Hold title to the domestic credit union's property, contracts, and rights of action, beginning on the date the domestic credit union is ordered in receivership.

(2) Subject to court approval, a receiver may do any of the following:

(a) Borrow money as necessary or expedient to aid in the liquidation of the domestic credit union and secure the borrowing by the pledge of or lien, security interest, or mortgage on the assets of the domestic credit union.

(b) Employ agents, legal counsel, accountants, appraisers, consultants, and other personnel the receiver considers necessary to assist in the performance of the receiver's duties. With the prior written approval of the commissioner, the receiver may employ personnel of the office of financial and insurance services if the receiver considers the employment to be advantageous or desirable. The expense of employing personnel of the office of financial and insurance services is an administrative expense of the liquidation that is payable to the office of financial and insurance services.

(c) Exercise other powers and duties ordered by a circuit court under the laws of this state applicable to the appointment of receivers by the circuit court.

History: 2003, Act 215, Eff. June 1, 2004

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490.234 Voidable transfer or lien; person knowingly implementing voidable transfer or lien; personal liability; prohibitions to voiding otherwise voidable transfer; "preference" defined.

Sec. 234.

(1) Except as provided in subsection (3), a transfer of or lien on the property or assets of a domestic credit union is voidable by a receiver appointed under this part if the transfer or lien is 1 or more of the following:

(a) Made or created within 1 year before the date the domestic credit union is ordered into receivership if the receiving transferee or lien holder was at the time an official or employee of the domestic credit union or an affiliate of the domestic credit union.

(b) Made or created on or within 90 days before the date the domestic credit union is ordered in receivership with the intent of giving to a creditor or depositor, or enabling a creditor or depositor to obtain, a greater percentage of the claimant's debt than is given or obtained by another claimant of the same class.

(c) Accepted after the domestic credit union is ordered in receivership by a creditor or depositor having reasonable cause to believe that a preference will occur.

(d) Voidable by the domestic credit union and the domestic credit union may recover the property transferred or its value from the person to whom it was transferred or from a person who has received it, unless the transferee or recipient was a bona fide holder for value before the date the domestic credit union was ordered in receivership.

(2) A person acting on behalf of the domestic credit union, who knowingly has participated in implementing a voidable transfer or lien, and each person receiving property or the benefit of property of the domestic credit union as a result of the voidable transfer or lien, is personally liable to the receiver for the property or benefit received.

(3) A receiver appointed under this part shall not void an otherwise voidable transfer under this section if any of the following apply:

(a) The transfer or lien does not exceed the value of $1,000.00.

(b) The transfer or lien was received in good faith by a person who gave value and who is not a person described in subsection (1)(a).

(c) The transfer of lien was intended by the domestic credit union and the transferee or lien holder as, and in fact substantially was, a contemporaneous exchange for new value given to the domestic credit union.

(4) As used in this section, "preference" means a transfer or grant of an interest in the property or assets of the domestic credit union that is either of the following:

(a) Made or incurred with the intent to hinder, delay, or defraud an entity to which, on or after the date that the transfer or grant of interest was made, the domestic credit union was or became indebted.

(b) Made or incurred for less than a reasonably equivalent value in exchange for the transfer or grant of interest if the domestic credit union was insolvent on the date that the transfer or grant of interest was made or became insolvent as a result of the transfer or grant of interest.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.235 Disposal of obsolete and unnecessary records; maintenance methods; reservation, deposit, and use of assets.

Sec. 235.

(1) If approved by the court, a receiver appointed under this part may dispose of records of a domestic credit union in receivership that are obsolete and unnecessary to the continued administration of the receivership proceeding and retain the remaining records of the domestic credit union and the receivership for a period of time as ordered by the court.

(2) A receiver appointed under this part may devise a method for the effective, efficient, and economical maintenance of the records of the domestic credit union and of the receiver's office, including maintaining those records on any medium approved by the court.

(3) A receiver appointed under this part may reserve assets of a liquidated domestic credit union, deposit them in an account, and use them to maintain the records of a liquidated domestic credit union after the closing of the receivership proceeding.

History: 2003, Act 215, Eff. June 1, 2004

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Part 3
CONSERVATORSHIPS

490.241 Appointment of conservator; grounds; bond and security; qualifications; payment of administrative expenses.

Sec. 241.

(1) If any of the grounds under section 232 authorizing the appointment of a receiver exist or if the commissioner considers it necessary in order to conserve the assets of a domestic credit union for the benefit of the members and depositors and other creditors of the domestic credit union, the commissioner may appoint a conservator for the domestic credit union and require of the conservator a bond and security as determined by the commissioner.

(2) The commissioner may appoint as conservator an employee of the office of financial and insurance services or any other competent and disinterested person. The conservator shall reimburse the office of financial and insurance services out of the assets of the conservatorship for all sums expended by it in connection with the conservatorship as administrative expenses. The conservator shall pay all administrative expenses of the conservatorship out of the assets of the domestic credit union, upon the approval of the commissioner. The administrative expenses are a first charge on the assets of the domestic credit union and the conservator shall pay the administrative expenses in full before any final distribution or payment of dividends to creditors or members.

History: 2003, Act 215, Eff. June 1, 2004

490.242 Possession of books, records, and assets; rights of parties; discharge of real estate mortgage.

Sec. 242.

(1) Under the direction of the commissioner, a conservator appointed under this part shall take possession of the books, records, and assets of the domestic credit union and take any action necessary to conserve the assets of the domestic credit union pending liquidation under part 2 of this article or further disposition of its business as provided by law. The conservator has all the rights, powers, and privileges of a receiver appointed under part 2 of this article, except the power to liquidate a domestic credit union, and is subject to those obligations and penalties to which a receiver is subject that are not inconsistent with this part with respect to conservators.

(2) While a conservator remains in possession of the domestic credit union under this part, the rights of all parties with respect to the domestic credit union, subject to the other provisions of this part with respect to conservators, are the same as if a receiver had been appointed under part 2 of this article.

(3) A conservator appointed under this part may execute the discharge of any real estate mortgage held as part of the assets of the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

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490.243 Withdrawal by members and depositors and payment to other creditors; availability of amounts; receipt of shares and deposits; actions; return of control to credit union board; notice.

Sec. 243.

(1) While a domestic credit union is in conservatorship under this part, the commissioner may require the conservator to set aside and make available for withdrawal by members and depositors and payment to other creditors, on a ratable basis, amounts that in the opinion of the commissioner may be used safely for this purpose.

(2) The commissioner may permit a conservator appointed under this part to receive shares and deposits.

(3) Shares and deposits received while a domestic credit union is in conservatorship under this part are not subject to any limitation as to payment or withdrawal. The conservator shall segregate those shares and deposits and any new assets acquired on account of the shares and deposits and shall not use those shares, deposits, and assets to liquidate any indebtedness of the domestic credit union existing at the time that the conservator was appointed or for any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of the domestic credit union existing at the time the conservator was appointed.

(4) Any action taken by a conservator under subsection (3) may not remain in effect for more than 15 days after the date that the conservator returns control of the domestic credit union to the credit union board.

(5) A conservator appointed under this part shall keep any shares and deposits received while the domestic credit union is in conservatorship in cash, invested in the direct obligations of the United States, or deposited in depository institutions designated by the commissioner.

(6) Before returning control of a domestic credit union to the credit union board, a conservator appointed under this part shall publish a notice, in form approved by the commissioner, stating the date on which the affairs of the domestic credit union will be returned to the credit union board and that the provisions of subsection (3) will not apply after 15 days from that date. The conservator shall send a copy of the notice to every person who purchased shares or deposited money in the domestic credit union after the appointment of the conservator and before the time when control of the domestic credit union is returned to the credit union board.

History: 2003, Act 215, Eff. June 1, 2004

490.244 Authority of commissioner to borrow money; conditions; secured loans.

Sec. 244.

With the prior approval of the commissioner, a conservator appointed under this part may borrow money necessary or expedient to aid in the operation or reorganization of the domestic credit union and may secure the loans by the pledge of or lien, security interest, or mortgage on the assets of the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

490.245 Termination of conservatorship; determination by commissioner; resumption of business transactions by domestic credit union; appointment of receiver; liquidation.

Sec. 245.

(1) If satisfied that it may be done safely and that it is in the public interest, the commissioner may terminate a conservatorship under this part and permit the domestic credit union to resume the transaction of its business subject to terms, conditions, restrictions, and limitations that he or she prescribes.

(2) Subject to subsection (3), if the commissioner determines that it is in the public interest, the commissioner may terminate a conservatorship under this part and apply for the appointment of a receiver for the domestic credit union as provided in part 2 of this article.

(3) If the commissioner determines that liquidation of a domestic credit union is in the public interest, the commissioner shall terminate a conservatorship under this part and apply for the appointment of a receiver for the domestic credit union as provided in part 2 of this article.

History: 2003, Act 215, Eff. June 1, 2004

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Part 4
INVOLUNTARY MERGERS OR SALES

490.251 Merger or sale; determination by commissioner; order; "distressed credit union" defined.

Sec. 251.

(1) The commissioner may order the merger or sale of a domestic credit union under this section if the commissioner determines that all of the following are met:

(a) The domestic credit union is in danger of insolvency, in an unsafe or unsound condition, or in danger of becoming in an unsafe or unsound condition.

(b) That expeditious action is required by the commissioner to deal with a condition described in subdivision (a).

(c) That other actions available to the commissioner under this act are not reasonably available to the commissioner with respect to the credit union described in subdivision (a).

(2) The commissioner may initiate and order an involuntary merger of a distressed credit union with another credit union if both of the following are met:

(a) The other credit union agrees to a merger.

(b) If the other credit union is a foreign credit union, it is authorized to complete the merger under any state or federal law applicable to it.

(3) The commissioner may initiate and order an involuntary merger of a distressed credit union with a financial institution other than a credit union if all of the following are met:

(a) The commissioner is unable to complete an involuntary merger under subsection (2).

(b) The other financial institution agrees to a merger.

(c) The other financial institution is authorized to complete the merger under any state or federal law applicable to it.

(4) As used in this section, "distressed credit union" means a domestic credit union that the commissioner determines is insolvent, in danger of insolvency, in an unsafe or unsound condition, or in danger of becoming in an unsafe or unsound condition under subsection (1).

History: 2003, Act 215, Eff. June 1, 2004

Article 3
DOMESTIC CREDIT UNION ORGANIZATION AND STRUCTURE
Part 1
FORMATION AND OPERATION

490.301 Domestic credit union; membership; organization; approval by commissioner; notice; disapproval; request to reconsider; hearing; appeal; retention by commissioner of original certificate of organization and bylaws; delivery; form.

Sec. 301.

(1) Seven individuals, a majority of whom are residents of this state and all of whom are within the proposed field of membership of the domestic credit union, may file an application to organize a domestic credit union under this act. This subsection does not apply to the organization of a corporate credit union under this act.

(2) A domestic credit union is organized in the following manner:

(a) The applicants shall file an application in the form prescribed by the commissioner. The application shall contain all of the following information:

(i) The name and all proposed assumed names of the domestic credit union.

(ii) The location of the principal place of business and any initial branches of the domestic credit union.

(iii) The names and addresses of the applicants and the number of shares subscribed by each.

(iv) The par value of the shares of the domestic credit union. The par value of a share shall not exceed $100.00.

(v) The proposed field of membership.

(vi) Any other information required by the commissioner.

(b) The applicants shall deliver the application to the commissioner, with an application fee in an amount established by the commissioner.

(c) Within 60 days after receipt of an application or the last amendment or supplement to the application, the commissioner shall do all of the following:

(i) Examine the information contained in the application and conduct any investigation the commissioner considers necessary pertaining to the organization of the new domestic credit union.

(ii) Determine whether the organization of the proposed domestic credit union will benefit its members.

(iii) Determine whether a federal agency authorized to insure share and deposit accounts has issued a firm commitment to provide that insurance for the domestic credit union.

(iv) Determine whether organization of the domestic credit union is consistent with the purposes of this act.

(v) Approve or disapprove the proposed field of membership only on the basis of safety and soundness.

(d) The commissioner approves or disapproves of the organization of the domestic credit union.

(e) If the commissioner approves, he or she issues a certificate of approval.

(3) The decision to approve or disapprove of the organization of a domestic credit union under subsection (2) is discretionary with the commissioner. The commissioner shall notify the applicants of his or her decision. If the commissioner approves, he or she shall issue a certificate of organization and approved bylaws of the domestic credit union. If all of the organizers sign the certificate of organization and adopt the bylaws and return the certificate of organization and bylaws to the commissioner, the commissioner shall issue the certificate of approval authorizing the commencement of business. If the commissioner disapproves, he or she shall state the reasons for the decision and the applicant may request a hearing to reconsider the decision before the commissioner within 30 days after the mailing of a copy of the decision to the applicants. Within 10 days after receipt of a request for a hearing to reconsider, the commissioner shall set a date for the hearing that is within 60 days after the date the request was received. If the commissioner does not approve the organization of the domestic credit union after the hearing to reconsider, the applicants may file an appeal of the commissioner's decision in the circuit court for the county stated in the application as the location of the principal office of the domestic credit union or in the circuit court for Ingham county within 30 days after the date of mailing by certified mail of a copy of the decision to the applicants. If the applicants appeal to the circuit court, the commissioner shall retain the exhibits introduced at the hearing and shall forward them to the circuit court. The applicants shall pay the cost of preparation of the stenographer's record of the hearing to reconsider.

(4) If a certificate of approval authorizing a domestic credit union to commence business is issued under subsection (2), the domestic credit union is organized for purposes of this act.

(5) The commissioner shall retain the original certificate of organization and the original bylaws. The commissioner shall deliver the certificate of approval and a copy of the approved bylaws to the domestic credit union.

(6) The commissioner shall prescribe the form of the certificate of organization and the bylaws and shall furnish them upon request to a domestic credit union or a person who is considering organization of a domestic credit

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union.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.302 Organization of credit union by 2 or more credit unions.

Sec. 302.

Two or more credit unions may file an application to organize a corporate credit union under this act.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

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490.303 Amendment to certificate of organization or bylaws.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

490.304 Principal place of business; notice of change in location; establishment and maintenance of branches; service centers; assumed names.

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".

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

490.305 Books and records; availability; court order.

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.

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

490.306 Conducting business by mail or electronic communication.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

490.307 Repealed. 2005, Act 194, Imd. Eff. Nov. 7, 2005.

Compiler's Notes: The repealed section pertained to filing of a supicious activity report by a domestic credit union with a federal agency.

Part 2
DISSOLUTION

490.331 Voluntary or involuntary dissolution.

Sec. 331.

(1) A domestic credit union may voluntarily dissolve under subsection (2) or be involuntarily dissolved under subsection (3).

(2) A domestic credit union may voluntarily dissolve if all of the following are met:

(a) At least 30 days before the vote described in subdivision (b), the credit union board mails a notice to each member of the domestic credit union that it is considering dissolution. The credit union board shall not include the notice with any other mailing sent to the member. The notice shall include all of the following:

(i) A brief explanation of why the board is considering dissolution.

(ii) A brief summary of the major positive and negative effects of the proposed dissolution.

(iii) A request for written comments on the proposed dissolution.

(b) By an affirmative vote of 2/3 of all of the directors entitled to vote, the credit union board approves of a plan of dissolution and submits the plan and any member comments to the commissioner for preliminary review.

(c) Before the vote of the members under subdivision (g), the commissioner reviews the dissolution plan and any member comments on the dissolution plan and grants preliminary approval. The commissioner shall grant preliminary approval of the dissolution plan only if the commissioner is satisfied of all of the following:

(i) The dissolution plan adequately discloses to the members information concerning the advantages and disadvantages of the proposed dissolution.

(ii) The dissolution does not circumvent a pending supervisory action that is initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the domestic credit union.

(iii) The dissolution plan does not provide any official or employee of the domestic credit union with any remuneration or other economic benefit in connection with the dissolution of the domestic credit union.

(d) If the commissioner grants preliminary approval under subdivision (c), the credit union board shall call a special meeting of the members to vote on the dissolution plan and mail to each member notice of the meeting and proposed dissolution 90 days and 60 days before the date of the special meeting. Each notice shall include all of the following:

(i) A summary of the positive and negative effects of the proposed dissolution.

(ii) A statement that the officials and employees will not receive any remuneration or other economic benefit in connection with the dissolution of the domestic credit union.

(iii) A statement that any interested person may obtain more detailed information about the dissolution from the domestic credit union at its principal place of business or by any method approved in advance by the commissioner.

(iv) A statement that the credit union board may substantively amend the proposed plan of dissolution before the special meeting based on comments from regulatory authorities or any other reason and that the credit union board may terminate the proposed plan of dissolution.

(v) Instructions for obtaining a copy of the dissolution plan.

(vi) The date of the special meeting and a statement that the vote on the dissolution will close on that date.

(vii) Any other information required by the commissioner.

(e) Thirty days before the special meeting of the members, the credit union board mails a notice of the meeting and proposed dissolution. The notice shall include all of the information described in subdivision (d) for the 90-day and 60-day notices and shall include the date, time, and place of the special member meeting, a ballot and postage-paid return envelope, and a summary of the methods permitted for casting votes.

(f) If the plan of dissolution is substantively amended by the credit union board, at least 30 days before the vote of the members on the plan the credit union board shall mail a notice to each member. The notice shall contain the information concerning the amended plan of dissolution that is described in subdivision (d) for a notice under that subdivision.

(g) At a special meeting of members, the members approve of the dissolution and the plan of dissolution by a 2/3 vote of members voting. A member may vote in person or by mail. With the prior approval of the commissioner, a domestic credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(h) The domestic credit union files with the commissioner all of the following:

(i) Certified copies of records of all proceedings held by the credit union board and members of the domestic credit union.

(ii) Copies of member comments submitted to the domestic credit union under subdivision (a)(iii).

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(iii) If that consent or approval is required, a certified copy of the consent or approval of a federal regulatory authority.

(i) If subdivisions (a) through (h) are met and the commissioner determines that the notices to members were accurate, timely, and not misleading and that conduct of the vote on the dissolution plan was fair and lawful, the commissioner shall approve the dissolution and the credit union board may implement the dissolution plan.

(3) If the commissioner determines that a domestic credit union is insolvent or revokes the domestic credit union's certificate of organization under section 201(4), the commissioner may involuntarily dissolve the domestic credit union and either appoint a receiver under part 2 of article 2 or appoint a conservator under part 3 of article 2.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

Part 3
OFFICER, OFFICIALS, AND DIRECTORS

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490.341 Organizational meeting; annual meeting; membership; committees; qualifications; notice of meeting; removal; vacancy.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 153, Eff. Sept. 7, 2016

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490.342 Credit union board; election of officers; general management; duties; delegation to general manager or chief executive officer of domestic credit union; compensation; removal of board member or committee member with delinquent loan; meetings; associate board members; quorum; action taken without meeting; consent; oath.

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

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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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

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490.343 Suspension or removal of members; majority of remaining members as quorum; appointment of temporary members.

Sec. 343.

If 1 or more directors of a domestic credit union board are suspended or removed under this act, a majority of the remaining members of the board, including any replacement directors, constitute a quorum of the credit union board. If all of the directors of a domestic credit union are suspended or removed under this act, the commissioner shall appoint individuals to serve temporarily as directors until the suspensions or removals are terminated or until their successors are elected and take office.

History: 2003, Act 215, Eff. June 1, 2004

490.344 Audits.

Sec. 344.

(1) A domestic credit union with assets of $5,000,000.00 or more as of the end of the last calendar year shall obtain at least an annual audit, conducted by a certified public accountant or other professionally qualified individual, who may be self-employed or employed by another person. A domestic credit union with assets of less than $5,000,000.00 as of the end of the last calendar year shall do 1 of the following:

(a) If the credit union board does not proceed under subdivision (b), obtain at least an annual audit, conducted by a certified public accountant or other professionally qualified individual, who may be self-employed or employed by another person.

(b) If the domestic credit union has a supervisory committee, the credit union board may authorize the supervisory committee to conduct an annual audit of the domestic credit union.

(2) If a domestic credit union has a supervisory committee, the supervisory committee shall conduct or direct those supplementary audits, examinations, and verifications of members' accounts that it considers necessary or that the commissioner or the credit union board requires and submit reports of any supplementary audits to the credit union board.

(3) The supervisory committee or other auditor shall submit a written report of each annual audit to the credit union board. The domestic credit union shall provide a copy of the written report or a written summary of that report to any member who makes a written request, within 30 days after receipt of the request.

(4) An individual who is independent of a domestic credit union shall perform an audit of the domestic credit union under this section. An individual is not independent if any of the following apply at any time during the period covered by the audit or the period of the professional engagement or at the time the written audit report is presented:

(a) Unless the individual is a member of the supervisory committee and that committee is performing the audit under subsection (1), the individual performing the audit is an official or employee of the domestic credit union.

(b) The individual performing the comprehensive audit has a material direct or indirect financial interest in any closely held business investment with an official or employee of the domestic credit union.

(c) A situation, condition, or relationship exists that, in the opinion of the commissioner, prevents the individual performing the audit from performing the audit in an objective and independent manner.

(5) A supervisory committee or individual performing an audit under this section shall prepare and retain documentation sufficient to demonstrate that the audit was performed in accordance with the requirements of this section. The audit working papers shall include at least all of the following:

(a) The planning of the audit.

(b) The nature, timing, and extent of the auditing procedures performed.

(c) The conclusions and recommendations reached by the auditor from the information obtained by him or her.

(6) As used in this section:

(a) "Audit" means a comprehensive review of the internal policies, procedures, and controls of the domestic credit union and its compliance with them that is sufficient for the auditor to reach a reasonable conclusion that the financial statements of the domestic credit union fairly and accurately represent the condition of the domestic credit union.

(b) "Professionally qualified individual" means an individual who is self-employed, employed by another person, or employed by an organization, whose usual and customary occupation includes performing audits of businesses or other organizations and reporting audit findings to the board of the organization and authorized third parties and whose education and experience levels are similar to other individuals engaged in auditing as a usual and customary occupation.

History: 2003, Act 215, Eff. June 1, 2004

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490.345 Supervisory committee; duties; vacancies.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

Part 4
MEMBERS

490.351 Annual meeting; special meeting; voting; removal of member.

Sec. 351.

(1) A domestic credit union shall hold an annual meeting of the members each calendar year in the manner indicated in the bylaws. The members shall elect the credit union board at the annual meeting.

(2) A domestic credit union may hold a special meeting of the members in the manner indicated in the bylaws.

(3) At any meeting of the members, a member with 1 or more shares has 1 vote on any matter submitted to the members. A member may not vote by proxy. A member who is not a natural person may vote through an agent with authority to vote on that member's behalf.

(4) The members of a domestic credit union may remove a member of the credit union board or a credit or supervisory committee member elected by the members of the domestic credit union from office but only at a special meeting of the members called for that purpose.

History: 2003, Act 215, Eff. June 1, 2004

CAUTION! This document is from an archive and may contain outdated information.

490.352 Domestic credit union; membership; composition; field of membership; application; approval by commissioner; revision; extension.

Sec. 352.

(1) The membership of a domestic credit union is comprised of each person that organized the domestic credit union, and each person that meets all of the following:

(a) The person belongs to a group of persons that is within the domestic credit union's field of membership.

(b) The person is accepted by the domestic credit union as a member.

(c) The person pays any entrance or membership fee required by the domestic credit union.

(d) The person pays for 1 or more shares, including a membership share if the domestic credit union requires ownership of a membership share.

(e) The person complies with any other requirement for membership contained in the domestic credit union's bylaws.

(2) The credit union board of a domestic credit union shall establish the field of membership for a domestic credit union. The field of membership shall consist of 1 or more of the following:

(a) One or more groups of any size that have a common bond of occupation, association, or religious affiliation.

(b) One or more groups composed of persons whose common bond is residence, employment, or place of religious worship within a geographic area composed of 1 or more school districts, counties, cities, villages, or townships.

(c) One or more groups whose common bond is common interests, activities, or objectives.

(3) One or more credit unions may serve 1 or more groups described in subsection (2).

(4) A credit union board that establishes or revises the field of membership of the domestic credit union shall submit the proposed or revised field of membership to the commissioner for approval on an application form provided by the commissioner. The commissioner shall promptly notify an applicant when he or she determines that an application is complete and the date of that determination. If the application seeks to revise a field of membership to include 1 or more groups described in subsection (2)(b), the commissioner may require that the applicant provide additional information regarding the common bond of persons within the proposed geographical area or areas. The commissioner shall establish standards for obtaining this additional information.

(5) The commissioner has 60 days after the date of determination described in subsection (4) to approve or disapprove of an application under subsection (4). In reviewing an application under subsection (4), the commissioner must first determine whether the proposed field of membership meets the common bond requirements of subsection (2). If the commissioner determines that the proposed field of membership does meet the common bond requirements of subsection (2), then the commissioner may only disapprove of the application on the basis of safety and soundness of the domestic credit union. If the commissioner does not approve or disapprove of the application, or extend the 60-day period under subsection (6), within that 60-day period, the application is

considered approved as of the day after the 60-day period.

(6) The commissioner may extend the 60-day period described in subsection (5) for 1 or more additional 60-day periods for administrative reasons or to allow for public comment if the commissioner delivers notice of each 60-day extension in writing to the domestic credit union before the 60-day period and any prior 60-day extensions expire. An extension notice shall explain the reason for the extension. If the commissioner does not approve or disapprove of the application, or grant an additional 60-day extension, within a 60-day extension period, the application is considered approved as of the day after the 60-day extension period. The commissioner may grant any number of 60-day extensions, but the domestic credit union may treat any extension after the third 60-day extension as a disapproval of the application and may pursue any administrative or legal remedies available for a disapproval.

(7) If authorized in the bylaws of the domestic credit union, a member that is no longer in the field of membership of the domestic credit union because the field of membership is revised under this section, or the member leaves the field of membership, may continue as a member, on the same basis as any other member, or on a different basis if the bylaws establish a different basis for that continued membership.

(8) A domestic credit union shall respond to an application for membership within 30 calendar days after receiving it. If the domestic credit union determines that there is a sound business reason for the action, a domestic credit union may deny membership to any applicant for membership.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

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490.353 Membership; conditions.

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.

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

490.354 Acceptance of trust as member; conditions.

Sec. 354.

(1) A domestic credit union may accept a trust as a member if any of the settlors living at the time of application are eligible for membership, or if none of the settlors are living at the time of application and 1 or more beneficiaries are eligible for membership.

(2) An account owned by 1 or more individuals may be titled or retitled in the name of a trust and not in the name of the individuals if all of the following are met:

(a) The trust is eligible for membership in the domestic credit union under subsection (1).

(b) Each owner consents in writing to titling or retitling the account in the name of the trust.

(c) Any beneficiaries listed on the account are removed as beneficiaries by the owners.

(d) The account is not an account that provides tax deferrals or any other tax benefit under state or federal law.

(3) If an account is retitled in the name of a trust under subsection (2), the membership of any individual or

individuals who had owned all or an interest in the account is terminated unless he or she is a member based on ownership of another account, or he or she qualifies for, applies for, and is accepted into membership.

History: 2003, Act 215, Eff. June 1, 2004

490.355 Designation as inactive account.

Sec. 355.

A domestic credit union may allow a member to designate an account on which the member's 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 the member's 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 the time frame prescribed in the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265, the domestic credit union shall deliver all money or other property in the account to the department of treasury as provided under the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265, and terminate any membership based on the account.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016 ;-- Am. 2024, Act 100, Imd. Eff. July 23, 2024

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490.356 Minor; deposit, investment, or withdrawal.

Sec. 356.

A domestic credit union may issue shares to and receive deposits from a minor. The minor may withdraw the deposits or shares and any dividends or interest on the deposits or shares. A deposit, investment in a share, or withdrawal under this section by a minor is valid and enforceable and the minor is considered an adult with respect to that deposit, investment, or withdrawal.

History: 2003, Act 215, Eff. June 1, 2004

490.357 Suspension of services or termination or withdrawal of membership.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

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Part 5
CAPITAL

490.361 Capital; share payments; entrance fee; secondary capital; liability of member for acts, debts, or obligations of domestic credit union; placement of lien on member account.

Sec. 361.

(1) The capital of a domestic credit union consists of the payments that have been made to it by the members for shares. If authorized by the bylaws, a domestic credit union may charge an entrance fee.

(2) If at any time after the effective date of this act a federal credit union is authorized by the federal regulatory authority with jurisdiction and by federal law to utilize 1 or more forms of secondary capital other than capital stock, the commissioner may by rule, order, or declaratory ruling allow a domestic credit union to utilize 1 or more forms of secondary capital other than capital stock. The rule, order, or declaratory ruling must include disclosure requirements concerning the conditions for return of the secondary capital and its liquidation priority.

(3) Unless otherwise provided by law or by agreement between the member and the domestic credit union, a member of a domestic credit union is not liable for the acts, debts, or obligations of the domestic credit union.

(4) Except as provided in this subsection or where prohibited by applicable state or federal law or otherwise agreed by contract, a domestic credit union has a lien on any share of a member, or any deposit account from which a member may withdraw for his or her own benefit without the consent of another person, for any obligation owed to the domestic credit union by that member or for any loan cosigned or guaranteed by that member. A domestic credit union does not have a lien on any individual retirement account or other account permitting tax deferrals or providing other tax benefits under state or federal law. A domestic credit union may refuse to allow a withdrawal from any account on which it has a lien if the member is delinquent in any outstanding obligation to the domestic credit union at the time of the withdrawal.

History: 2003, Act 215, Eff. June 1, 2004

490.362 Dividend; declaration; payment; rate; amount.

Sec. 362.

A credit union board may declare and pay a dividend on shares from current or accumulated net earnings, or both, but only after providing for required reserves, accrued and unpaid expenses, and established loan and lease losses. A domestic credit union may pay a dividend on partial or full shares and may pay the dividend at differing levels and at differing intervals based on the type of share accounts owned by a member, the liquidation priority of the share accounts, and the balances of the member's share accounts. A domestic credit union may determine the rate and amount of a dividend before the end of the dividend period involved. A domestic credit union shall not pay a dividend if payment would result in the insolvency of the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

490.363 Payment to general administrator or executor of deceased out-of-state resident.

Sec. 363.

(1) If a deceased individual who resided in another state or country owns a share or deposit account in a domestic credit union, the credit union may pay all or part of the balance of the account to the special or general administrator or executor appointed in the state or country where the account holder resided at the time of death if the administrator or executor provides both of the following to the credit union:

(a) Authenticated copies of the letter or order of appointment authorizing him or her to collect, receive, and remove assets of the estate of the decedent.

(b) An affidavit by the administrator or executor that he or she is the representative of the estate of the decedent, that no proceeding is pending in any state with respect to the question of domicile of the decedent, and that to his or her knowledge and belief no letters or orders of appointment are outstanding in this state, no proceeding is pending in this state for the appointment of a fiduciary for the estate in this state, and there are no creditors of the estate in this state.

(2) A credit union that makes a payment to an administrator or executor under this section after receiving the affidavit and authenticated copies described in subsection (1) is released and discharged from liability to the same extent as if the credit union made the payment to a legally qualified resident executor or administrator.

History: 2003, Act 215, Eff. June 1, 2004

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Part 6
MERGER, CONSOLIDATION, CONVERSION

490.371 Credit unions; merger.

Sec. 371.

(1) Two or more domestic credit unions may merge into 1 of the credit unions, or into a newly formed domestic credit union, if all of the following are met:

(a) The credit union board of each constituent credit union by majority vote adopts a plan of merger that includes all of the following:

(i) The name of each constituent credit union and the name of the surviving credit union.

(ii) The terms and conditions of the proposed merger, including the manner and basis of converting the member shares in each constituent credit union into member shares in the surviving credit union, or into cash or other property, or into a combination of shares, cash, or other property.

(iii) A statement of any amendment to the certificate of organization of the surviving credit union affected by the merger or a statement that no changes are to be made in the certificate of organization of the surviving credit union.

(iv) Any other provisions concerning the proposed merger that the constituent credit unions consider necessary or desirable.

(b) If the credit union board of each constituent credit union adopts the plan of merger, the constituent credit unions submit the plan of merger to the director. Each constituent credit union shall submit the time and place of the meeting of the credit union board at which it approved the plan, the vote of the board members on approving the plan, and a copy of the resolution of the credit union board approving the plan to the director with the plan of merger.

(c) Subject to subsection (6), the members of each constituent credit union except the surviving credit union approve the plan of merger, at a special membership meeting called for that purpose or by mail ballot. If the vote is held at a special membership meeting, the credit union board shall provide each member with written notice of the meeting that states the purpose of the meeting, at least 7 days and not more than 30 days before the meeting. The plan of merger is approved if a majority of the members of the constituent credit union that vote on the merger vote in favor of the merger.

(d) If the membership of a constituent credit union approves of a plan of merger under subdivision (c), the credit union shall notify the director that the plan of merger is approved, the vote by which the members approved the

plan, and a copy of the meeting notice if the plan was approved at a special membership meeting or the ballot and mailing date and closing date if the plan was approved by mail ballot of the members.

(e) The director grants final approval of the plan of merger. The director shall grant final approval of the plan if all of the requirements of subdivisions (a) to (d) are met.

(2) One or more domestic credit unions may merge with 1 or more foreign credit unions if both of the following are satisfied:

(a) The merger is permitted by the law of the jurisdiction under whose law each foreign constituent credit union is organized and each foreign constituent credit union complies with that law in effecting the merger.

(b) Each domestic constituent credit union complies with subsection (1).

(3) If a plan of merger under subsection (1) or (2) is approved, each constituent credit union shall execute and file a certificate of merger with the director that contains all of the following:

(a) The statements required in subsection (1)(a)(i) and (iii).

(b) A statement that the plan of merger has been approved by the members of the constituent credit unions required to vote under subsection (1)(c).

(c) A statement of any assumed names the surviving credit union will use in this state if the director approves. The statement shall specify each new assumed name of the surviving credit union, each current assumed name the surviving entity retains, and each assumed name transferred to the surviving entity from another constituent credit union.

(d) The proposed effective date of the merger.

(4) When a merger takes effect, all of the following apply:

(a) Every other constituent credit union merges into the surviving credit union and the separate existence of every constituent credit union except the surviving credit union ceases.

(b) All property, debts, causes of action, and other interests of, belonging to, or due to each constituent credit union are vested in the surviving credit union without further act or deed and without reversion or impairment.

(c) The surviving credit union has all of the liabilities of each constituent credit union.

(d) A proceeding pending against any constituent credit union may be continued as if the merger had not occurred or the surviving credit union may be substituted in the proceeding for the constituent credit union if the existence of the constituent credit union ceased.

(e) The certificate of organization of the surviving credit union is amended to the extent provided in the certificate of merger.

(f) The membership shares in each constituent credit union are converted into membership shares in the surviving credit union, cash, or other property as provided in the plan of merger. If a person is a member of more than 1 of the constituent credit unions, the person is entitled to only 1 membership in the surviving credit union.

(g) The surviving credit union is liable for, and is subject to service of process in a proceeding in this state for the enforcement of, any obligation of a domestic constituent credit union.

(5) If the surviving credit union in a merger under subsection (2) is a foreign credit union, and the surviving credit union transacts business in this state, it shall comply with the provisions of this act concerning foreign credit unions.

(6) The director may waive the membership vote described in subsection (1)(c) for a constituent credit union if he or she determines that it is in the best interests of the membership of the constituent credit union or that the constituent credit union is insolvent or in imminent danger of becoming insolvent.

(7) Credit unions with different fields of membership may merge under this section.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 156, Eff. Sept. 7, 2016

490.372 Conversion of domestic credit union into foreign credit union.

Sec. 372.

(1) A domestic credit union may convert into a foreign credit union under this section if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

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(iii) A request for members' written comments on the proposed conversion.

(b) The credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. An affirmative vote of 2/3 of the entire credit union board is required to approve a plan of conversion. The plan of conversion shall meet all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion and contains a statement indicating any material differences in powers of the converted credit union.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The converted credit union is likely to be economically viable.

(c) The members of the credit union approve of the plan of conversion by a 2/3 vote of the members voting on the plan. Subject to subsection (2), a member may vote at a special meeting called to vote on the plan of conversion or by mail ballot. Before the vote, the credit union board shall call a special meeting of the members to provide information on the plan. At least 14 days before the meeting, the credit union board shall mail to each member a notice of the meeting and a ballot with a postage paid return envelope. The notice shall state the date, at least 15 days following the meeting, by which the member must return the ballot and the methods permitted for casting a vote, describe briefly the reasons for and the major positive and negative effects of the conversion, and state how members may obtain copies of the conversion plan. The credit union board shall count the votes cast by members upon the expiration of the time given to the members to return their ballots.

(d) The credit union files with the commissioner copies of member comments submitted to the credit union under subdivision (a)(iii) and certified copies of records of all proceedings held by the credit union board and members of the credit union.

(e) If required by the laws of the applicable jurisdiction, the credit union files with the commissioner a certified copy of the consent or approval of the appropriate regulatory authority with jurisdiction over foreign credit unions chartered by that authority.

(2) If the commissioner approves of the method before the vote, the credit union board may establish an alternative method for accepting votes from members of a converting domestic credit union on the plan of conversion under subsection (1)(c) if the alternative method is reasonably calculated to ensure each member has an opportunity to vote.

(3) If all of the conditions required by this section are met and the commissioner determines that any notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

History: 2003, Act 215, Eff. June 1, 2004

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490.373 Conversion of domestic credit union into mutual savings bank or mutual savings association.

Sec. 373.

(1) A domestic credit union may convert into a mutual savings bank or mutual savings association if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

(iii) A request for members' written comments on the proposed conversion.

(b) The credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. An affirmative vote of 2/3 of the entire credit union board is required to approve a plan of conversion. The plan of conversion shall meet all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion and contains a statement indicating any material differences in powers between a credit union and a mutual savings bank or mutual savings association.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The conversion plan does not provide any official of the converting credit union with any remuneration or

other economic benefit in connection with the conversion.

(iv) After conversion, the mutual savings bank or mutual savings association is likely to be economically viable.

(c) The credit union board shall call a special meeting of the members to vote on the conversion plan and mail to each member notice of the meeting and proposed conversion 90 days before the date of the special meeting. The notice shall include all of the following:

(i) A summary of the positive and negative effects of the proposed conversion.

(ii) A statement that the officials will not receive any remuneration or other economic benefit in connection with the conversion of the domestic credit union.

(iii) A statement that any interested person may obtain more detailed information about the conversion from the domestic credit union at its principal place of business, or by any method approved in advance by the commissioner.

(iv) A statement that the credit union board may substantively amend the proposed plan of conversion before the special meeting based on comments from regulatory authorities or any other reason and that the credit union board may terminate the proposed plan of conversion.

(v) Instructions for obtaining a copy of the conversion plan.

(vi) The date of the special meeting and a statement that the vote on the conversion will close on that date.

(vii) Any other information required by the commissioner.

(d) At least 60 days before the special meeting described in subdivision (c), the credit union board posts a copy of the notice required in subdivision (c) in each branch, service center, or other location in this state where members may transact business with the credit union, in at least 12-point type, displayed prominently in an area visible to members before they transact business.

(e) At least 60 days before the special meeting described in subdivision (c), if the credit union conducts any member transactions through the use of an internet website, the credit union board displays the information included in the notice required in subdivision (c) in a conspicuous location on that website.

(f) Thirty days before the special meeting of the members, the credit union board mails a notice of the meeting and proposed conversion. The notice shall include all of the information described in subdivision (c) for the 90-day notice and shall include the date, time, and place of the special member meeting, a ballot and postage-paid return envelope, and a summary of the methods permitted for casting votes.

(g) If the plan of conversion is substantively amended by the credit union board, at least 30 days before the vote of the members on the plan the credit union board shall mail a notice to each member. The notice shall contain the information concerning the amended plan of conversion described in subdivision (c) for a notice under that subdivision.

(h) At a special meeting of members, the members, by a 2/3 vote of members voting, approve of the conversion and the plan of conversion. A member may vote in person or by mail. With the prior approval of the commissioner, a domestic credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(i) The domestic credit union files with the commissioner all of the following:

(i) Certified copies of records of all proceedings held by the credit union board and members of the domestic credit union.

(ii) Copies of member comments submitted to the domestic credit union under subdivision (a)(iii).

(iii) If that consent or approval is required, a certified copy of the consent or approval of any state or federal regulatory authority with jurisdiction over the mutual savings bank or mutual savings association after the conversion and, if a holding company is to be formed in connection with the conversion, the regulations of the federal reserve board of governors or of the office of thrift supervision applicable to holding companies.

(iv) Verification that deposits in the converted mutual savings bank or mutual savings association qualify for federal insurance.

(2) If the requirements of this section are met and the commissioner determines that the notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

(3) Except as otherwise required by the commissioner, this section does not apply to a domestic credit union that submitted to the commissioner a plan of conversion into a mutual savings bank or mutual savings association before the effective date of this act.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.374 Conversion of domestic credit union into bank, stock savings bank, or stock savings and loan association.

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Sec. 374.

(1) A domestic credit union may convert into a bank, stock savings bank, or stock savings and loan association if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

(iii) A complete and accurate description of the differences between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate.

(iv) A request for members' written comments on the proposed conversion.

(b) By an affirmative vote of 2/3 of the entire credit union board, the credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. The conversion plan shall include all of the following:

(i) The member eligibility record date and the subscription offering priority established in connection with any proposed stock offering.

(ii) A business plan, including a detailed discussion of how the capital acquired in the conversion will be used, expected earnings for at least a 3-year period following the conversion, and a justification for any proposed stock repurchases.

(iii) A full appraisal report, prepared by an independent appraiser, of the value of the credit union and the pricing of the stock to be sold in the conversion transaction.

(iv) A legal opinion that any proposed stock offering complies with state and federal law.

(v) Copies of notices to be provided to members under subdivisions (d) and (e).

(c) The commissioner grants preliminary approval of the plan of conversion approved by the credit union board. The commissioner shall review the contents of the plan and member comments on the plan and grant preliminary approval of the plan if the commissioner is satisfied of all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion, contains a complete and accurate description of the differences between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate, and contains a statement indicating any material differences in powers between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The conversion plan does not provide any official of the converting credit union with any remuneration or other economic benefit in connection with the conversion.

(iv) The conversion plan does not permit the converting credit union to loan funds or otherwise extend credit to any person to purchase the capital stock of the bank, stock savings bank, or stock savings and loan association.

(v) After conversion, the bank, stock savings bank, or stock savings and loan association is likely to be economically viable.

(d) If the commissioner grants preliminary approval under subdivision (c), the credit union board shall call a special meeting of the members to vote on the conversion plan and mail to each member notice of the meeting and proposed conversion 90 days before the date of the special meeting. The notice shall include all of the following:

(i) A summary of the positive and negative effects of the proposed conversion.

(ii) A statement that the officials will not receive any remuneration or other economic benefit in connection with the conversion of the domestic credit union.

(iii) A statement that any interested person may obtain more detailed information about the conversion from the domestic credit union at its principal place of business, or by any method approved in advance by the commissioner.

(iv) If the conversion plan includes a distribution of a portion of the credit union's net worth to members, a statement describing the amount of the distribution, the form of the distribution, and eligibility requirements to receive a distribution.

(v) The par value and approximate number of shares of capital stock to be issued and sold under the proposed plan of conversion.

(vi) A statement that savings and share account holders will continue to hold accounts in the converted bank, stock savings bank, or stock savings and loan association identical as to dollar amount and general terms, and that their accounts will continue to be insured.

(vii) A statement that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed before conversion.

(viii) A statement that the credit union board may substantively amend the proposed plan of conversion before the special meeting based on comments from regulatory authorities or any other reason and that the credit union

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board may terminate the proposed plan of conversion.

(ix) Instructions for obtaining a copy of the conversion plan.

(x) The date of the special meeting and a statement that the vote on the conversion will close on that date.

(xi) Any other information required by the commissioner.

(e) At least 60 days before the special meeting described in subdivision (d), the credit union board posts a copy of the notice required in subdivision (d) in each branch, service center, or other location in this state where members may transact business with the credit union, in at least 12-point type, displayed prominently in an area visible to members before they transact business.

(f) At least 60 days before the special meeting described in subdivision (d), if the credit union conducts any member transactions through the use of an internet website, the credit union board displays the information included in the notice required in subdivision (d) in a conspicuous location on that website.

(g) Thirty days before the special meeting of the members, the credit union board mails a notice of the meeting and proposed conversion to the members. The notice shall include all of the information described in subdivision (d) for the 90-day notice and shall include the date, time, and place of the special member meeting, a ballot and postage-paid return envelope, and a summary of the methods permitted for casting votes.

(h) If the plan of conversion is substantively amended by the credit union board, at least 30 days before the vote of the members on the plan the credit union board shall mail a notice to each member. The notice shall contain the information concerning the amended plan of conversion described in subdivision (d) for a notice under that subdivision.

(i) At a special meeting of members, the members, by a 2/3 vote of members voting, approve of the conversion and the plan of conversion. A member may vote in person or by mail. With the prior approval of the commissioner, a domestic credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(j) The domestic credit union files with the commissioner all of the following:

(i) Certified copies of records of all proceedings held by the credit union board and members of the domestic credit union.

(ii) Copies of member comments submitted to the domestic credit union under subdivision (a)(iii).

(iii) If that consent or approval is required, a certified copy of the consent or approval of any state or federal regulatory authority with jurisdiction over the bank, stock savings bank, or stock savings and loan association after the conversion and, if a holding company is to be formed in connection with the conversion, the regulations of the federal reserve board of governors or of the office of thrift supervision applicable to holding companies.

(iv) Verification that deposits in the converted bank, stock savings bank, or stock savings and loan association qualify for federal insurance.

(2) If the requirements of this section and the regulations of the federal agency providing federal deposit insurance regarding mutual-to-stock conversions are met, and the commissioner determines that the notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

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History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.375 Rights, obligations, relationships, and trusts of converting credit union.

Sec. 375.

(1) Except as provided in subsection (2), if a conversion becomes effective under section 372, 373, or 374, the converted entity is a continuation of the converting credit union and all the property and interests in property and every cause of action, right, privilege, interest, and asset of the converting credit union is immediately and without any conveyance, transfer, or other action vested in the converted organization. Every right, obligation, and relationship of the converting credit union to or in respect to any person, estate, creditor, member, depositor, trust, trustee, collective bargaining agreement, or beneficiary of any trust or fiduciary function continue unimpaired. The converted organization shall continue to hold all the rights, obligations, relationships, and trusts, and the duties and liabilities connected with them, and shall execute and perform each and every trust and relationship in the same manner as if the credit union had not converted. The conversion does not release the converted organization from its obligations to pay and discharge all the liabilities created by law or incurred by the converting credit union before the conversion, or any tax imposed by the laws of this state up to the day of the conversion in proportion to the time that has elapsed since the last preceding tax payment, or any assessment, penalty, or forfeiture imposed or incurred under the laws of this state before the date of the conversion.

(2) Within 1 year after the conversion, the commissioner may for good cause require a converting credit union to divest itself of an asset that does not conform to the legal requirements relative to assets acquired and held by the converted organization.

(3) If a converting credit union was appointed in a fiduciary capacity by a court or governmental tribunal, agency, or officer, the converted organization shall file an affidavit with the appointing authority setting forth the fact of conversion, the name and address of the converted organization, and the amount of its capital and surplus. A converted organization acting as a fiduciary by appointment of a court is subject to removal by a court of competent jurisdiction.

History: 2003, Act 215, Eff. June 1, 2004

490.376 Conversion of foreign credit union into domestic credit union.

Sec. 376.

(1) A foreign credit union may convert to a domestic credit union if all of the following are met:

(a) The foreign credit union complies with the applicable law under which it is chartered for a conversion under that law.

(b) The credit union board files a certificate of organization with the commissioner, approved and executed in triplicate by a majority of the credit union board.

(c) After executing the certificate of organization, a majority of the directors adopt bylaws for the governance of the credit union consistent with this act and execute any other agreements or documents and take any other action required to complete the conversion.

(d) After an examination of the credit union and the proceedings of the directors and members concerning the conversion, the commissioner approves of the certificate of organization filed under subdivision (b).

(e) If the commissioner approves the certificate of organization, the commissioner shall notify the applicants of the commissioner's decision and shall immediately issue a certificate of approval attached to the duplicate certificate of organization and return it to the credit union. The certificate shall indicate that the conversion complies with the laws of this state and that after conversion the credit union and all its members, officers, and employees have the same rights, powers, and privileges and are subject to the same duties, liabilities, and obligations that apply to domestic credit unions under this act.

(2) The credit union shall pay the expenses of the examination described in subsection (1)(d), in an amount established by the commissioner. The amount paid for the examination is not refundable.

(3) If the commissioner approves a conversion, the credit union shall pay an operating fee determined under section 201, on a prorated basis for the operating fee period in which the conversion becomes effective. The date that the conversion becomes effective is the basis for calculating the proration.

(4) If a conversion becomes effective under this section, the converted domestic credit union is a continuation of the converting foreign credit union and all the property and interests in property and every cause of action, right, privilege, interest, and asset of the converting foreign credit union is immediately and without any conveyance, transfer, or other action vested in the converted domestic credit union. Every right, obligation, and relationship of the converting foreign credit union to or in respect to any person, estate, creditor, member, depositor, trust, trustee, collective bargaining agreement, or beneficiary of any trust or fiduciary function continue unimpaired. The converted domestic credit union shall continue to hold all the rights, obligations, relationships, and trusts, and the duties and liabilities connected with them, and shall execute and perform each and every trust and relationship in the same manner as if it had after the conversion assumed the trust or relationship and obligations and liabilities connected with the trust or relationship.

(5) Any directors of the foreign credit union converting to a domestic credit union under this section that meet the criteria described in section 341(8) may continue as directors of the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

Part 7
ADMINISTRATION

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490.381 Disclosure of confidential information.

Sec. 381.

Except as otherwise required by law, a director, officer, member of a committee, or employee of a domestic credit union shall not disclose any confidential information related to the conduct of the business of the domestic credit union that he or she has a duty not to disclose, including, but not limited to, personnel matters, matters involving actual or potential litigation or real estate transactions, or other matters related to strategic business endeavors of the domestic credit union, and shall not disclose any information concerning transactions between the domestic credit union and either its members or other persons. This subsection does not apply to any disclosure necessary to the conduct of the business of the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

490.382 Fiscal year; accounting principles.

Sec. 382.

(1) A domestic credit union shall use the calendar year as its fiscal year.

(2) A domestic credit union shall follow generally accepted accounting principles in its accounting, unless a different accounting standard is required by state or federal statute, rule, or regulation.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

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490.383 Discharge of duties by officers; standards; indemnification.

Sec. 383.

(1) An official of a domestic credit union shall discharge the duties of his or her position in good faith and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, an official may rely upon the opinion of legal counsel for the domestic credit union, upon the report of an independent appraiser selected with reasonable care by the board or by an officer of the domestic credit union, or upon financial statements of the domestic credit union represented to him or her to be correct by the general manager or the officer of the domestic credit union having charge of its records, or as stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the domestic credit union.

(2) A domestic credit union may indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, other than an action by or on behalf of the domestic credit union, because he or she is or was an official, employee, or agent of the domestic credit union or is or was serving at the request of the domestic credit union as an official, employee, or agent of 1 or more domestic credit unions or other profit or nonprofit enterprises, for attorney fees, judgments, penalties, fines, amounts paid in settlement, and other expenses actually and reasonably incurred by him or her in connection with the action, suit, or proceeding. A domestic credit union may only indemnify a person under this subsection if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members, and with respect to a criminal action or proceeding, if the person had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or a plea of nolo contendere or its equivalent, does not of itself create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members and with respect to a criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(3) A domestic credit union may indemnify a person who was or is a party to or is threatened to be made a party to a threatened, pending, or completed action or suit, by or on behalf of the domestic credit union to procure a judgment in its favor by reason of the fact that he or she is or was an official, employee, or agent of the domestic

credit union or is or was serving at the request of the domestic credit union as an official, employee, or agent of 1 or more domestic credit unions or other profit or nonprofit enterprises, for actual and reasonable attorney fees, amounts paid in settlement incurred by the person in connection with the action or suit, and other expenses. A domestic credit union may only indemnify a person under this subsection if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members and a domestic credit union shall not indemnify a person for a claim, issue, or matter in which the person has been found liable to the domestic credit union unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses that the court considers proper.

(4) To the extent that an official, employee, or agent of a domestic credit union is successful on the merits or otherwise in defense of an action, suit, or proceeding described in subsection (8), or in defense of any claim, issue, or matter in the action, suit, or proceeding, the domestic credit union shall indemnify the person for actual and reasonable attorney fees and other expenses incurred by him or her in connection with the action, suit, or proceeding and any action, suit, or proceeding brought to enforce the mandatory indemnification provided in this subsection.

(5) Unless ordered by a court, a domestic credit union shall indemnify a person under subsection (2) or (3) only for the action, suit, or proceeding specified by the domestic credit union in the determination described in this subsection and only if the domestic credit union obtains from 1 of the following a determination that indemnification of the person is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (2) or (3):

(a) The credit union board, by a majority vote of a quorum of the board consisting of directors who are or were not parties to the action, suit, or proceeding.

(b) If a quorum described in subdivision (a) is not obtainable, a committee of directors that consists of 2 or more directors who are or were not parties to the action, by majority vote.

(c) Independent legal counsel in a written opinion.

(d) The members.

(6) If a person is entitled to indemnification under subsection (2) or (3) for a portion of attorney fees, judgments, penalties, fines, amounts paid in settlement, and other expenses, but not for the total amount of the expenses, the domestic credit union may indemnify the person for the portion of the attorney fees, judgments, penalties, fines, amounts paid in settlement, or other expenses for which the person is entitled to indemnification.

(7) A domestic credit union may pay expenses incurred by a person in defending a civil or criminal action, suit, or proceeding described in subsection (2) or (3) before the final disposition of the action, suit, or proceeding if the domestic credit union receives an unlimited, general, secured, or unsecured guarantee by or on behalf of the person to repay the expenses if it is ultimately determined that the person is not entitled indemnification from the domestic credit union.

(8) An indemnification or advance of expenses provided under subsections (2) to (7) is not exclusive of other rights to which a person seeking indemnification or advancement of expenses is entitled under the bylaws or an agreement. The total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking the indemnification or advance of expenses. An indemnification provided under subsections (2) to (7) continues after the person ceases to be an official, employee, or agent and inures to the benefit of the heirs, executors, and administrators of the person.

(9) As used in subsections (2) to (8), "domestic credit union" includes all other credit unions that become related to a domestic credit union by a consolidation or merger and the resulting or continuing credit union. A person who is or was an official, employee, or agent of a domestic credit union that is consolidated or merged into the domestic credit union or is or was serving at the request of a credit union that is consolidated or merged into the domestic credit union as an official, partner, trustee, employee, or agent of 1 or more other credit unions, or other profit or nonprofit enterprises is in the same position under this section with respect to the resulting or continuing credit union as he or she would if he or she had served the resulting or continuing credit union in the same capacity.

History: 2003, Act 215, Eff. June 1, 2004

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490.384 Participation in deliberation or board action.

Sec. 384.

(1) Unless the matter involves setting dividends, loan rates, or fees for services or other general policy applicable

to all members of the domestic credit union, a director, committee member, officer, or employee of a domestic credit union shall not in any manner, directly or indirectly, participate in the deliberation or board action on any matter that affects his or her pecuniary interest or the pecuniary interest of an entity other than the domestic credit union in which he or she is interested.

(2) If 1 or more directors are disqualified from participating in a matter before the credit union board pursuant to subsection (1), the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified directors, may by majority vote exercise all the powers of the board with respect to the matter under consideration. If all of the directors are disqualified, the members of the domestic credit union shall act on the matter.

(3) If 1 or more committee members are disqualified from participating in a matter before the committee pursuant to subsection (1), the remaining qualified committee members, if constituting a quorum with the disqualified committee members, may by majority vote exercise all the powers of the committee with respect to the matter under consideration. If all of the committee members are disqualified, the credit union board shall act on the matter.

(4) As used in this section, an individual is "interested" in an entity if he or she meets any of the following:

(a) Serves as a director, officer, or employee of the entity.

(b) Has a business or deposit relationship with the entity.

(c) Has an ownership interest in the entity that is more than a 10% equity interest.

(d) Has a business, financial, or familial relationship with an individual who he or she knows has a pecuniary interest in the entity.

History: 2003, Act 215, Eff. June 1, 2004

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490.385 Payment to person claiming interest in account; restrictions.

Sec. 385.

(1) A domestic credit union may refuse to make a payment from an account to a person claiming an interest in the account if the domestic credit union is uncertain under the agreement governing the account of who is entitled to receive that payment or if the domestic credit union has actual knowledge of a dispute between any account owners, beneficiaries with present vested rights in the account, or other persons concerning their respective ownership to the money in the account, the proposed withdrawal, or any previous withdrawals from the account.

(2) If a domestic credit union refuses to make a payment under subsection (1), the domestic credit union may notify the account owners, beneficiaries with present vested rights in the account, and other persons claiming an interest in the account in writing of the basis for its refusal and may refuse to make the payment until all interested parties consent in writing to the requested payment or a court with jurisdiction orders the domestic credit union to make the payment. The domestic credit union is not liable for any damages resulting from an action taken under this subsection.

History: 2003, Act 215, Eff. June 1, 2004

490.386 Establishment and maintenance of reserves.

Sec. 386.

(1) A domestic credit union shall establish and maintain reserves in an amount that qualifies the domestic credit union for insurance of its accounts under federal law and meets any requirement of the commissioner.

(2) A domestic credit union shall establish allowances for loan and lease losses account based on its reasonably foreseeable loan and lease losses and shall maintain the account in accordance with generally accepted accounting principles. A domestic credit union shall charge a loan or lease or any portion of a loan or lease to the allowance for loan and lease losses account if any of the following occur:

(a) The credit union board considers the loan or lease or any portion of a loan or lease uncollectible.

(b) The loan or lease is 12 or more contractual payments delinquent, the borrower has not made a contractual payment in the past 90 days, and the domestic credit union has not instituted judicial proceedings to collect the loan

or lease.

(c) The commissioner orders the domestic credit union to charge the loan or lease or any portion of a loan or lease to the allowance for loan and lease losses account.

(3) A domestic credit union shall establish special reserves to protect the interests of members if required by rule of the commissioner or if the credit union board or the commissioner decide that a special reserve is necessary to protect the interests of the members concerning a specific event.

(4) This section applies to a corporate credit union organized under this act only to the extent the commissioner determines is necessary to protect the interests of the members and other share and deposit account holders of the corporate credit union.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.387 Insurance of member share and deposit accounts.

Sec. 387.

(1) A domestic credit union that is not a corporate credit union shall apply for and maintain insurance of member share accounts and member deposit accounts from an agency of the federal government that provides that insurance.

(2) A credit union that is denied a commitment for insurance of its share and deposit accounts by the insuring federal agency or that is given notice by the insuring federal agency of the agency's intent to terminate insurance of the credit union's shares and deposits shall either dissolve, merge with another credit union that is insured by an agency of the federal government, or apply in writing to the commissioner within 30 days after the denial or notice for additional time to obtain an insurance commitment.

(3) The commissioner shall grant a credit union described in subsection (2) 1 or more additional periods of time to obtain or reinstate an insurance commitment if the commissioner receives satisfactory evidence that the credit union has made or is making a substantial effort to meet the conditions required by the insuring federal agency for issuance of an insurance commitment.

(4) A credit union may contract with an insurance carrier licensed to do business in this state for insurance of the balances of its accounts that exceed the amount insured by the insuring federal agency.

History: 2003, Act 215, Eff. June 1, 2004

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Article 4
DOMESTIC CREDIT UNION POWERS
Part 1
GENERAL PROVISIONS

490.401 Domestic credit union; powers.

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.

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(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

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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).

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

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490.402 Corporate credit union; additional powers.

Sec. 402.

(1) A corporate credit union organized under this act has all of the following powers in addition to the powers granted by this act to all domestic credit unions:

(a) To accept funds, either as shares or deposits, from a domestic, foreign, or alien credit union, whether or not that credit union is a member of the corporate credit union.

(b) To make loans to or investments or deposits in a credit union, whether or not that credit union is a member of the corporate credit union.

(c) To make loans to or place deposits in a bank, savings bank, trust company, or savings and loan association chartered by this state, by another state or territory of the United States, or by the United States.

(d) To place deposits in a bank chartered under the laws of Canada or a member state of the European Union.

(e) To borrow from any source.

(f) To act as a fiscal agent for the United States, a state, or an agency or political subdivision of the United States or a state.

(g) To participate with any other credit union in making loans to its members or to members of the other participating credit union, on the terms and conditions to which the participating credit unions agree.

(h) To purchase, sell, and hold investment securities that are marketable obligations in the form of bonds, notes, or debentures and that are salable under ordinary circumstances. A corporate credit union board shall adopt a written investment policy and the corporate credit union shall make all investments and related contracts and agreements under this subdivision in accordance with that policy.

(i) To contract for penalties for loans paid before their scheduled maturity.

(j) To act as an intermediary of member and credit union funds.

(k) To act as an agent to pay, receive, and transfer assets and liabilities.

(l) To receive and hold securities and other assets.

(m) To provide payment systems services in conjunction with financial institutions or other vendors, or other

correspondent services.

(n) To provide services to members involving investments and liquidity management.

(o) To engage in repurchase agreement transactions with broker-dealers.

(p) To purchase, sell, and hold financial derivatives.

(q) To exercise any other power approved by the commissioner by rule, order, or declaratory ruling.

(2) This act does not permit a corporate credit union organized under this act to make or participate in a loan to a natural person that has terms and conditions that would not otherwise be authorized for a loan to a natural person made by another domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004

490.403 Domestic credit union; incidental powers.

Sec. 403.

A domestic credit union may exercise any incidental powers that are necessary or required to enable it to effectively carry out the business for which it is organized.

History: 2003, Act 215, Eff. June 1, 2004

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490.404 Business outside of state.

Sec. 404.

A domestic credit union may do business outside of this state if permitted by the laws of that jurisdiction.

History: 2003, Act 215, Eff. June 1, 2004

490.405 Pledging domestic credit union assets as collateral security; limitations.

Sec. 405.

(1) A domestic credit union shall not give preference to any member or depositor by pledging the assets of the domestic credit union as collateral security for purposes of accepting the funds or money of any county, city, village, township, school district, or community college district. With written consent of the commissioner, a domestic credit union may pledge assets of the domestic credit union in an amount not in excess of 10% of its total shares and deposits for the purpose of securing any of the following:

(a) Shares or deposits belonging to the United States or belonging to or administered by an officer, instrumentality, or agent of the United States, shares or deposits of estates being administered by a federal court under federal bankruptcy laws, and any other shares or deposits if required or permitted to do so under the laws of the United States or an order of a federal court.

(b) Shares or deposits acquired or made with surplus funds of this state held by the state treasurer.

(c) Shares or deposits belonging to the Mackinac bridge authority, a political subdivision of this state under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.304.

(d) Shares or deposits of the international bridge authority, a political subdivision of this state under 1954 PA 99, MCL 254.221 to 254.240.

(e) Shares owned or funds on deposit under 1941 PA 205, MCL 252.51 to 252.64.

(f) Shares or deposits belonging to the Michigan employment security commission.

(g) Shares or deposits acquired or made by the Michigan state housing development authority with funds constituting proceeds of the sale of the authority's notes and bonds and repayments of the notes and bonds under

the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(2) The requirements, restrictions, and limitations imposed by subsection (1) do not apply to the pledging of obligations of the United States, direct or fully guaranteed, or both, for the purpose of securing shares or deposits owned by the United States when such shares or deposits are established coincidentally with the purchase of obligations of the United States by or through any domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004

490.406 Domestic credit union; powers authorized by credit union board; acquisition of interest in real property; definitions.

Sec. 406.

(1) If authorized by the credit union board, a domestic credit union may do any of the following:

(a) Assist in providing cooperative housing and related facilities for its members. A domestic credit union shall not invest more than 5% of its unimpaired share capital in programs described in this subdivision. This section does not authorize a domestic credit union to invest in the stock of a housing cooperative.

(b) Assist in creating a housing cooperative for its members.

(c) Assist a housing cooperative composed of its members in selecting a housing site.

(2) If authorized by the credit union board, a domestic credit union may acquire any interest in real property if all of the following are met:

(a) The property is suitable for a housing cooperative and related facilities for its members.

(b) The domestic credit union will dispose of its interest in the property to a housing cooperative within 3 years.

(c) The purchase price of the property does not exceed the appraised value of the property as determined by a competent disinterested appraiser retained by the domestic credit union.

(d) Before the domestic credit union acquires its interest, if state or federal assistance is contemplated, the domestic credit union where possible obtains the approval of the state or federal agency that will assist the housing cooperative in determining the acceptability to that agency of the property for use as a cooperative housing site.

(3) If within a reasonable time after the domestic credit union acquires its interest in a housing cooperative it determines that the property is not suitable for cooperative housing for its members, the domestic credit union shall dispose of its interest in the manner most advantageous to the domestic credit union.

(4) A domestic credit union may employ consultants, appraisers, or other persons or organizations qualified by experience and training to provide advice and assistance in the acquisition of cooperative housing sites, the creation of housing cooperatives, the processing of applications for state or federal assistance, or the development of plans for the housing and financing, and may take any other action related to its authority under this section.

(5) As used in this section:

(a) "Domestic credit union" may include more than 1 domestic credit union acting in combination.

(b) "Housing cooperative" means a nonprofit housing cooperative corporation.

History: 2003, Act 215, Eff. June 1, 2004

490.407 Credit union service organizations; organizing, investing, or loaning money; limitations; requirements; definitions.

Sec. 407.

(1) Subject to subsection (3), a domestic credit union may organize, invest in, or loan money to 1 or more credit union service organizations that engage primarily in providing 1 or more of the following products or services to credit unions:

(a) Automated information processing services.

(b) Share draft and other item processing.

(c) Credit and debit card services.

(d) Microfilm and microfiche services.

(e) Printing and supply services.

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(f) Service center functions.
(g) Selling or leasing real estate.
(h) Automated teller machine and electronic funds transfer services.
(i) Collection activities.
(j) Personnel services.
(k) Appraisal, closing, or other services in connection with real estate loan activities.
(l) Investment management, investment research, and other full service broker-dealer services, but not underwriting of investment securities.
(m) Property leasing to credit unions.
(n) Accounting and auditing services.
(o) Records retention and preservation.
(p) Security for data processing equipment and other credit union property.
(q) Architectural services, including, but not limited to, providing original designs, remodeling, and redesigning.
(r) Administration and other services related to commercial loans and participation loans.
(s) Providing management and operating services.
(t) Marketing services.
(u) Management, development, sale, or lease of fixed assets.
(v) Sale, lease, or servicing of computer hardware and software.
(w) Sale of repossessed property or other personal property of credit unions.
(x) Locator services.
(y) Credit analysis.
(z) Loan origination, processing, servicing, and sale.
(aa) Research services.
(bb) Developing and administering individual retirement accounts or Keogh (HR-10), deferred compensation, or other personnel benefit plans.
(cc) Property maintenance services.
(dd) Courier services.
(ee) Investment administration and other services related to small business equity interests or venture capital fund investments if all of the following are met:
(i) The target small business for a specific equity investment is a member of at least 1 of the credit unions that have an ownership or investment interest in the credit union service organization; has its principal office in this state; and either more than 50% of its assets are in this state or more than 50% of its employees are employed in this state.
(ii) Any venture capital fund established or funded by the credit union service organization provides an amount equal to at least 51% of its available funds to member small businesses that have their principal offices in this state or more than 50% of their employees employed in this state.
(iii) A domestic credit union's aggregate investment in the credit union service organization that is offering small business equity and venture capital investment services does not exceed 10% of the credit union's net worth.
(iv) None of the officers or directors of a domestic credit union that has an ownership interest or an investment in a credit union service organization hold an equity position in any small business financed by that credit union service organization.
(v) Aggregate domestic credit union risk exposure through all funding sources, loans, or investments, to any entity or group of related entities, does not exceed 25% of net worth.
(vi) A domestic credit union that is an owner or investor in the credit union service organization ensures that the credit union service organization has enacted and complies with policy guidelines for outstanding obligations and that the guidelines include at least all of the following:
(A) A limit on the credit union service organization's exposure to not more than 50% of its total capital and surplus in an obligor or group of interrelated obligors.
(B) A description of the acceptable types of entities into which equity investment may be funded.
(C) A description of the acceptable business activities of entities into which investments may be funded.
(D) A description of the acceptable geographic area in which an entity's principal place of business must be located.
(E) A description of the acceptable concentration risk guidelines, relative to net worth, for equity investments, organized by industry, geographic regions, collateral, and any other material exposure factors.
(F) A description of the qualifications and experience required for personnel involved in making and administering equity investments.
(G) A requirement for origination and ongoing periodic underwriting analysis, including specific due diligence standards relating to periodic financial statements, credit reports, tax data, environmental impact assessments, industry average comparisons, and other data that may be necessary to analyze an entity's history or experience.
(H) A requirement for periodic market value analyses of all equity positions held.
(ff) If approved by the director, any other product or service.

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(2) Subject to subsection (3), a domestic credit union may organize, invest in, or loan money to 1 or more credit union service organizations that engage primarily in providing 1 or more of the following products or services to credit unions or their members:

(a) Equipment leasing and financing.

(b) Payroll services.

(c) Real estate brokerage services.

(d) Prepaid legal services.

(e) Motor vehicle purchasing services.

(f) Group travel services.

(g) Insurance, to the extent not prohibited by state law.

(h) Financial planning, investment counseling, or other financial services.

(i) Consumer purchasing referral services.

(j) Income tax services.

(k) Retirement counseling.

(l) Securities brokerage counseling.

(m) Estate planning.

(n) Personal property leasing.

(o) Service contracts or extended warranty contracts for motor vehicles, motorcycles, recreational vehicles, manufactured homes, boats, computers, or other personal property items.

(p) Investment management, investment research, or other full-service securities broker-dealer services, but not underwriting of investment securities.

(q) Trust services, if any of the following are met:

(i) The credit union service organization is a state bank or state foreign bank branch that has trust powers under part 4 of chapter 4 of the banking code of 1999, 1999 PA 276, MCL 487.14401 to 487.14405, is a savings bank that has trust powers under sections 421 to 428 of the savings bank act, 1996 PA 354, MCL 487.3421 to 487.3428, or is authorized to act as a fiduciary in this state under subsection (2)(c) or (d) of section 1105 of the banking code of 1999, 1999 PA 276, MCL 487.11105.

(ii) The credit union service organization is providing the trust services as a host bank under an agreement described in section 4402 of the banking code of 1999, 1999 PA 276, MCL 487.14402.

(r) If approved by the director, any other product or service.

(3) A domestic credit union may organize, invest in, or loan money to a credit union service organization described in subsection (1) or (2) only if all of the following are met:

(a) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if it is to be formed or is newly formed.

(b) The credit union service organization is structured and operated as a separate legal entity from the domestic credit union.

(c) The domestic credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the domestic credit union's potential liability for the debts and liabilities of the credit union service organization to not more than the loss of money invested in or loaned to the credit union service organization by the domestic credit union.

(d) The credit union service organization agrees in writing to prepare financial statements and provide them to the domestic credit union at least quarterly.

(e) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the domestic credit union. This subdivision does not apply to a credit union service organization that is consolidated for financial reporting purposes if the consolidated audit program is sufficient to provide reasonable and appropriate coverage to sufficiently test the credit union service organization's financial records.

(f) The credit union service organization operates in compliance with applicable federal and state laws.

(4) The credit union board of a domestic credit union that organizes, invests in, or lends money to a credit union service organization shall establish, in writing, the maximum percentage amount of assets that the domestic credit union may invest in or loan to the credit union service organization.

(5) The senior management employees of a domestic credit union shall not receive any salary, commission, investment income, or other income or compensation from a credit union service organization that is an affiliate of the domestic credit union.

(6) In determining compliance with the percentage limitations in section 401(2)(gg), all loans cosigned, endorsed, or otherwise guaranteed by a domestic credit union to credit union service organizations are included in determining the aggregate amount of loans by the domestic credit union.

(7) A domestic credit union shall follow generally accepted accounting principles in its accounting of its financial involvement in a credit union service organization.

(8) As used in subsection (1)(ee):

(a) "Equity interests" means limited partnership interests and other equity investments in which liability is limited

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to the amount of the investment, but does not include general partnership interests or other interests that involve general liability. Equity interests may include subordinated or convertible debt.

(b) "Small business" means a corporation, partnership, limited liability company, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, that meets the appropriate United States Small Business Administration definition of small business under 13 CFR part 121 and that is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products that previously were not generally available in this state or in making other investments that provide an economic benefit to this state.

(c) "Venture capital fund" means a limited liability entity that is formed under the laws of the United States, or a state, district, or territory of the United States, and whose principal business is or will be making investments in and providing significant managerial assistance to businesses that meet the United States Small Business Administration definition of small business under 13 CFR part 121.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 154, Eff. Sept. 7, 2016

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490.408 Automated information processing services.

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.

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

490.409 Insurance programs to members.

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.

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

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490.410 Safe deposit department.

Sec. 410.

(1) If authorized by the credit union board, a domestic credit union may invest in the stock of not more than 1 safe and collateral deposit company or may operate a safe deposit department.

(2) If a domestic credit union operates a safe deposit department, the legal liability of the domestic credit union for any loss to a customer shall not exceed the sum of $10,000.00 for any 1 box or compartment. The domestic credit union may contract with the renter to have the renter assume the risks arising from the use of the box or compartment.

(3) A domestic credit union has a lien for unpaid rental charges on the contents of any safe deposit box or compartment. If rental charges are not paid within 1 year after the date of accrual, the domestic credit union may sell the property in the box or compartment at public auction, after providing any notice required by any law applicable to the sale. The domestic credit union may retain from the proceeds of sale the amount of all charges due and owing at the time of the sale and the reasonable expenses of the sale and shall pay the balance, if any, to the renter of the box or compartment or to any person who proves to the satisfaction of the domestic credit union that he or she is entitled to the proceeds. If it acts fairly and in good faith, the domestic credit union may purchase all or part of the property at the sale.

History: 2003, Act 215, Eff. June 1, 2004

490.411 Savings promotion raffle; loan promotion raffle; definitions.

Sec. 411.

(1) If authorized by the credit union board, a domestic credit union may conduct a savings promotion raffle. All

of the following apply to a savings promotion raffle conducted under this subsection:

(a) The domestic credit union shall conduct a savings promotion raffle so that each token or ticket representing an entry in the raffle has an equal chance of being drawn. A domestic credit union shall not conduct a savings promotion raffle in a manner that jeopardizes the domestic credit union's safety and soundness or misleads its members.

(b) Pursuant to his or her supervisory powers under article 2, the director may examine the conduct of a savings promotion raffle. The director may issue a cease and desist order for a violation of this subsection under article 2.

(c) A domestic credit union shall maintain records sufficient to facilitate an audit of a savings promotion raffle.

(2) If authorized by the credit union board, a domestic credit union may conduct a loan promotion raffle. All of the following apply to a loan promotion raffle conducted under this subsection:

(a) The domestic credit union shall conduct a loan promotion raffle so that each token or ticket representing an entry in the raffle has an equal chance of being drawn. A domestic credit union shall not conduct a loan promotion raffle in a manner that jeopardizes the domestic credit union's safety and soundness or misleads its members.

(b) Pursuant to his or her supervisory powers under article 2, the director may examine the conduct of a loan promotion raffle. The director may issue a cease and desist order for a violation of this subsection under article 2.

(c) A domestic credit union shall maintain records sufficient to facilitate an audit of a savings promotion raffle.

(3) As used in this section:

(a) "Loan promotion raffle" means a raffle conducted by a domestic credit union where the sole consideration required for a chance of winning designated prizes is the closing on a loan with the domestic credit union of at least a specified amount.

(b) "Savings promotion raffle" means a raffle conducted by a domestic credit union where the sole consideration required for a chance of winning designated prizes is the deposit of at least a specified amount of money in a savings account or other savings program offered by the domestic credit union.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2016, Act 157, Eff. Sept. 7, 2016

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490.412 Check cashing fees.

Sec. 412.

(1) Except as provided in subsection (2), a domestic credit union shall not contract for, receive, impose, assess, or collect a charge or fee for the cashing of a check that exceeds 1 of the following percentages of the face amount of the check, as applicable:

(a) Five percent for a payroll, pension, or government check.

(b) Seven percent for a check from an insurance company, including, but not limited to, a private health or disability insurance plan payment.

(c) Ten percent for a personal check, money order, or other check.

(2) A domestic credit union may contract for, receive, impose, assess, or collect a charge or fee that does not exceed $25.00 for the first check the credit union cashes for an individual.

History: 2003, Act 215, Eff. June 1, 2004

490.413 Automatic teller machine located on premises of casino, casino enterprise, liquor store, or adult entertainment establishment; preventing access to cash benefits from Michigan bridge card; definitions.

Sec. 413.

(1) A domestic credit union that owns, operates, or manages an automated teller machine located on the premises of a casino, casino enterprise, liquor store, or adult entertainment establishment shall work with the department of human services to ensure that the automated teller machine does not allow an individual access to cash benefits from a Michigan bridge card.

(2) As used in this section:

(a) "Adult entertainment establishment" means any of the following:

(i) An on-premises licensee that holds a topless activity permit described in section 916(3) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1916.

(ii) Any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) Subject to subsection (3), "casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(d) Subject to subsection (3), "casino enterprise" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(e) "Gaming" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(f) "Liquor store" means a retailer, as defined in section 111 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1111, that is exclusively or primarily engaged in the sale of alcoholic liquor. The term does not include a retailer that is a retail food store.

(g) "Michigan bridge card" means the card that is used to distribute cash benefits by the department of human services.

(h) "Retail food store" means that term as defined in 7 USC 2012.

(3) As used in this section, the terms casino and casino enterprise do not include any of the following:

(a) A grocery store that sells groceries, including staple foods, and is located in a casino or a casino enterprise.

(b) Any other business establishment that offers gaming that is incidental to the principal purpose of that establishment.

History: Add. 2013, Act 193, Eff. Feb. 1, 2014

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Part 2
LOANS

490.421 Credit committee; powers; meetings; loan officers; appeals of loan rejections; designation of secretary; maintenance of records of activities.

Sec. 421.

(1) If a domestic credit union has a credit committee, the credit committee has general supervision of all loans to members.

(2) A credit committee shall meet as often as the business of the domestic credit union requires. The credit committee shall consider applications for loans or review the credit decisions of the loan officers of the domestic credit union. A majority vote of the members of the committee who are present at a meeting is required to approve or disapprove of a loan to a member.

(3) A credit committee, or the credit union board if the domestic credit union does not have a credit committee, may appoint 1 or more loan officers and delegate to them the power to approve or reject loans or lines of credit or to make credit decisions concerning loans or lines of credit, subject to any limitations or conditions established by the credit committee.

(4) A member whose loan application is disapproved by a loan officer may appeal in writing to the credit committee, or to the credit union board if the domestic credit union does not have a credit committee.

(5) A domestic credit union may establish and use an automated loan approval and rejection process but may not use the automated process for appeals of loan rejections. If a domestic credit union uses an automated process, the domestic credit union shall establish a written procedure to ensure the proper functioning of the automated process.

(6) The credit committee shall designate a secretary of the credit committee. The secretary shall maintain records of the actions of the committee concerning its lending activities as required by the credit union board.

History: 2003, Act 215, Eff. June 1, 2004

490.422 Loan agreement with member or another domestic credit union.

Sec. 422.

(1) A loan made by a domestic credit union to another domestic credit union is not subject to any interest rate limitation contained in any law of this state.

(2) In addition to any other loan authorized by law, a domestic credit union may enter into a loan agreement under this subsection with a member. All of the following apply to a loan under this subsection:

(a) The loan may be for any amount up to $1,000.00.

(b) The term of the loan shall be 30 days.

(c) The domestic credit union may charge a fee in addition to any interest in connection with the loan. A fee is in addition to interest authorized by law and is not part of the interest collected or agreed to be paid on loans within the meaning of a law of this state that limits the rate of interest which may be exacted in a transaction.

(d) The total interest, fees, and other costs of the loan shall not exceed 10% of the principal amount.

(e) A member shall not have more than 1 loan under this subsection outstanding with the credit union.

History: 2003, Act 215, Eff. June 1, 2004

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490.423 Loan conditions; repayment; rates, terms, or conditions to officials or family member; open-end credit arrangements; joint loans; guaranteed federal or state loan program; reduced rate loans and extensions; restriction; additional security.

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.

History: 2003, Act 215, Eff. June 1, 2004 ;-- Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004 ;-- Am. 2016, Act 152, Eff. Sept. 7, 2016

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490.424 Property and casualty insurance as condition to mortgage loan.

Sec. 424.

(1) Except as provided in subsection (2), a domestic credit union that requires a mortgagor to maintain property and casualty insurance as a condition to receiving a mortgage loan shall not require an amount of property and casualty insurance that is greater than the replacement cost of the mortgaged building or buildings.

(2) A domestic credit union may require an amount of property and casualty insurance that is required of the domestic credit union as a condition of a sale, transfer, or assignment of all or part of the mortgage to a third party. This subsection does not require that the domestic credit union anticipate a sale, transfer, or assignment at the time the mortgage loan is made.

History: 2003, Act 215, Eff. June 1, 2004

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.

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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.

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

Article 5
FOREIGN CREDIT UNIONS

490.501 Conduct of business by foreign credit union.

Sec. 501.

(1) A foreign credit union, other than a federal credit union, may conduct business as a credit union in this state only with the written approval of the commissioner. The commissioner shall not grant approval unless the commissioner finds that the foreign credit union meets all of the following requirements:

(a) The credit union is organized under a law similar to this act.

(b) The credit union is financially solvent.

(c) The credit union has insurance through an agency of the federal government of member share and deposit accounts.

(d) The credit union is examined and supervised by the supervisory authority of the state or territory in which it is organized.

(e) The credit union conducts business in this state to adequately serve its members in this state.

(2) The commissioner shall not grant approval under subsection (1) unless the foreign credit union agrees in writing as a condition of the approval to do all of the following:

(a) To charge a rate of interest that does not exceed any rate of interest permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for a loan in this state by a domestic credit union.

(b) Comply with the same consumer protection laws that a domestic credit union must comply with when making a loan or providing other services in this state. For purposes of this subdivision, a loan is made in this state if any person, other than a guarantor, while physically in this state, signed the loan agreement setting forth the terms and conditions of any obligation created or to be created under the agreement. For purposes of this subdivision, a service other than a loan is provided in this state if a person does not physically travel out of this state to obtain the service or if an agreement to provide the service is signed by a person in this state.

(c) Designate and maintain an agent for the service of process in this state.

(d) File any reports required by the commissioner.

(e) Allow the commissioner to conduct an examination, if necessary, to the same extent as the commissioner is authorized to conduct examinations of domestic credit unions under article 2.

(f) Meet any other requirements that the commissioner requires of domestic credit unions under this act.

(3) The commissioner shall not grant approval under subsection (1) if the state or territory in which the credit union is organized does not permit credit unions organized in this state to do business in that state or territory.

(4) This section does not exempt a foreign credit union from complying with the laws of this state to the extent compliance is otherwise required.

History: 2003, Act 215, Eff. June 1, 2004

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490.502 Violations by foreign credit union.

Sec. 502.

(1) If in the opinion of the commissioner a foreign credit union is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of a credit union at a branch located in this state, or is violating, has violated, or is about to violate a state or federal law or a state or federal rule or regulation, the commissioner may notify any state or federal regulatory authority with jurisdiction over the foreign credit union of the practice or violation, or may issue and serve upon the foreign credit union a notice of intent to revoke the foreign credit union's authority to engage in business in this state. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or violation and inform the foreign credit union of its right to request a hearing within 10 days.

(2) If a foreign credit union described in subsection (1) requests a hearing within the 10-day time period, the commissioner shall hold a hearing in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) Within 60 days after the date of a hearing under subsection (2), the commissioner shall file a written decision containing his or her findings and serve a copy on the foreign credit union.

History: 2003, Act 215, Eff. June 1, 2004

Article 6
REPEAL OF PREDECESSOR ACT

490.601 Repeal of MCL 490.1 to 490.31.

Sec. 601.

1925 PA 285, MCL 490.1 to 490.31, is repealed.

History: 2003, Act 215, Eff. June 1, 2004