

CREDIT UNION ACT (EXCERPT)
Act 215 of 2003

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.

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

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

(ff) To receive payments on shares or deposits from a state, a territory of the United States, or from an agency, political subdivision, or instrumentality of a state or territory of the United States. A domestic credit union may act as fiscal agent for, maintain tax and loan accounts of, and make loans to, an entity that the domestic credit union has authority to receive payments from under this subdivision.

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

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

(i) Pro forma projections over the next 3 years are reasonably estimated to provide positive earnings and

document the ability of the credit union to meet its short- and long-term liquidity obligations.

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

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

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

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

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

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

(ll) To engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

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

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

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

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

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

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

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

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

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

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

(i) Cash advances.

(ii) Funds transfers.

(iii) Cashing travelers checks.

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

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

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

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

(iii) Wire transfers.

(iv) Financial counseling services.

(xx) To provide educational scholarships.

(yy) To invest in interest rate derivatives for the purpose of mitigating portfolio risk. A domestic credit

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

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.

490.402 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.

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.
- (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.

(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 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.

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.

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.

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.

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.

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.

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.

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

490.432 Purchase, sale, or pledge of member obligation.

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

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

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

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

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

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

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

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

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

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

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

(a) A provision that requires the seller to repurchase the obligation because of a breach of warranty or misrepresentation.

(b) A provision that allows the domestic credit union to repurchase the obligation at its discretion.

(c) A provision that allows substitution of 1 loan for another loan.

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

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

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

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

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

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

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

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