

CREDIT UNION ACT (EXCERPT)
Act 215 of 2003
Part 3
OFFICER, OFFICIALS, AND DIRECTORS

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

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 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

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

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