

CREDIT UNION ACT (EXCERPT)
Act 215 of 2003

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.

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