



SENATE BILL No. 435

March 28, 1995, Introduced by Senators ROGERS and SHUGARS
and referred to the Committee on Financial Services.

A bill to amend sections 1a, 4, 4h, and 14 of Act No. 285 of
the Public Acts of 1925, entitled as amended

"An act to provide for the organization, operation, and supervision of credit unions; to provide for the conversion of a state credit union into a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States and for the conversion of a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States into a state credit union; and to provide for the merger of credit unions organized and supervised under the laws of this state, credit unions organized and supervised under the laws of any other state or territory of the United States, and federal credit unions,"

section 1a as amended and section 4h as added by Act No. 278 of the Public Acts of 1986, section 4 as amended by Act No. 406 of the Public Acts of 1994, and section 14 as amended by Act No. 261 of the Public Acts of 1993, being sections 490.1a, 490.4, 490.4h, and 490.14 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1a, 4, 4h, and 14 of Act No. 285 of the
2 Public Acts of 1925, section 1a as amended and section 4h as
3 added by Act No. 278 of the Public Acts of 1986, section 4 as
4 amended by Act No. 406 of the Public Acts of 1994, and section 14
5 as amended by Act No. 261 of the Public Acts of 1993, being sec-
6 tions 490.1a, 490.4, 490.4h, and 490.14 of the Michigan Compiled
7 Laws, are amended to read as follows:

8 Sec. 1a. As used in this act:

9 (a) "Commissioner" means the commissioner of the financial
10 institutions bureau in the department of commerce.

11 (b) "Credit union" means a cooperative, nonprofit associa-
12 tion, incorporated under this act for the purposes of encouraging
13 thrift among its members, creating a source of credit at
14 ~~legitimate~~ rates of interest NOT GREATER THAN THE RATES OF
15 INTEREST PERMITTED BY THE CREDIT REFORM ACT, and providing an
16 opportunity for its members to use and control their own money on
17 a democratic basis in order to improve their economic and social
18 condition. In provisions of this act governing the relationship
19 of a credit union to 1 or more other credit unions, the term
20 "credit union" includes a credit union incorporated under this
21 act, under the laws of another state or territory of the United
22 States, or under the laws of the United States.

23 (c) "League" means a trade association of credit unions.

24 (d) "Home office" means a place of business where all the
25 business of a credit union may be transacted.

1 (e) "Service center" means a place of business other than
2 the home office of a credit union where business of the credit
3 union authorized by the board of directors may be transacted,
4 except the keeping of the principal books and records required
5 for examination purposes.

6 (f) "Debt management" means the planning and management of
7 the financial affairs of a debtor and the receiving of money or
8 evidences of money from the debtor for distribution to the
9 debtor's creditors and debt prorating organizations in payment or
10 partial payment of the debtor's obligations.

11 (g) "Corporate central credit union" means a credit union
12 whose field of membership consists primarily of other credit
13 unions including credit unions chartered by this state, by
14 another state or territory of the United States, or by the United
15 States.

16 (h) "Officer" means the chairperson of the board,
17 vice-chairperson of the board, secretary, treasurer, general man-
18 ager, any individual given the title of "president" or "vice
19 president", an assistant treasurer, an assistant secretary, or
20 any other person specifically designated as an officer by the
21 board of directors.

22 (i) "Official" means a member of the board of directors, an
23 officer, a member of the credit committee, if any, or a member of
24 the supervisory committee, if any.

25 Sec. 4. (1) A credit union has the powers specified or
26 implied by this act or any other act of this state. ~~addressing~~
27 ~~the activities of credit unions.~~

1 (2) A credit union may do all of the following:

2 (a) Enter into contracts.

3 (b) Sue and be sued.

4 (c) Adopt and alter a seal.

5 (d) Individually or jointly with other credit unions, pur-
6 chase, lease, or otherwise acquire and hold tangible personal
7 property necessary or incidental to its operations. A credit
8 union shall depreciate or appreciate personal property in the
9 manner and at the rates the commissioner ~~may prescribe~~
10 PRESCRIBES by rule or order. ~~from time to time.~~

11 (e) Sell, lease, assign, pledge, hypothecate, or otherwise
12 dispose of, in whole or in part, its tangible personal property,
13 including property obtained as a result of defaults under obliga-
14 tions owing to ~~it~~ THE CREDIT UNION. A credit union may finance
15 ~~any~~ THE sale of its personal property to ~~any~~ A person at ~~any~~
16 ~~interest rate permitted under this act or other applicable law~~ A
17 RATE OF INTEREST NOT GREATER THAN THE RATE OF INTEREST PERMITTED
18 BY THE CREDIT REFORM ACT for loans to its members for the pur-
19 chase of equivalent property.

20 (f) Incur and pay necessary and incidental operating
21 expenses.

22 (g) Receive the funds of its members either as payment on
23 shares or as deposits. A credit union may have 1 or more classes
24 of share or deposit accounts in the classifications and in the
25 form and under the terms and conditions as authorized by its
26 board of directors, subject to the limitations on payment of
27 dividends on shares provided in section 18. A credit union shall

1 provide for the transfer and withdrawal of funds from accounts by
2 the means and through the payment systems that the board of
3 directors determines best serve the convenience and needs of ITS
4 members.

5 (h) Impose fines on delinquent loan installments as ~~may be~~
6 provided in its bylaws.

7 (i) Make SECURED OR UNSECURED loans to its members. ~~for any~~
8 ~~purpose and upon any security, real or personal, or on an unse-~~
9 ~~cured basis.~~

10 (j) Borrow FUNDS from any source. Funds borrowed pursuant
11 to this subdivision ~~shall not be~~ ARE NOT considered to be
12 deposits and may be secured by a pledge of some or all of the
13 credit union's assets. Except for a corporate central credit
14 union, a credit union's borrowed funds may not, in the aggregate,
15 exceed 50% of its shares, deposits, undivided earnings, and
16 reserves without the approval of the commissioner.

17 (k) Make loans to a trade association of which it is a
18 member. ~~These loans~~ LOANS MADE UNDER THIS SUBDIVISION shall
19 not exceed, in the aggregate, 1% of the credit union's shares,
20 deposits, undivided earnings, and reserves.

21 (l) Provide debt counseling and other financial counseling
22 services to its members. If the counseling includes debt manage-
23 ment as defined in section 1a(f) with respect to a given member
24 and the member has any delinquent indebtedness outstanding with
25 the credit union at the time, the credit union shall not charge
26 that member, directly or indirectly, a fee for providing the
27 services involved.

1 (m) Disburse loan proceeds as the borrower directs.

2 (n) Act as trustee or custodian of retirement accounts or
3 other accounts permitting tax deferrals under federal or state
4 law, whether established on an individual basis or as part of an
5 employer group program.

6 (o) Act as agent for its members and depositors in the pur-
7 chase, sale, or other disposition of securities, interests in
8 mutual funds, and interests or participations in any other type
9 of investment, if the purchase, sale, or other disposition is
10 done solely for the accounts of its members and depositors and is
11 done on a nonrecourse basis.

12 (p) Discount, sell, assign, pledge, hypothecate, or other-
13 wise dispose of, in whole or in part, its intangible personal
14 property. The approval of the commissioner is required before a
15 credit union may discount, sell, assign, pledge, hypothecate, or
16 otherwise dispose of 20% or more of its intangible personal prop-
17 erty within a 1-month period unless the credit union is in
18 liquidation.

19 (q) ~~Purchase any of~~ WITH THE APPROVAL OF THE COMMISSIONER,
20 PURCHASE the assets of another credit union or assume ~~any of~~
21 the liabilities of another credit union. ~~, with the approval of~~
22 ~~the commissioner.~~ A credit union may also purchase ~~any of~~ the
23 assets of a credit union that is in liquidation or receivership.

24 (r) Make deposits in or loans to banks, savings banks, sav-
25 ings and loan associations, trust companies, and other credit
26 unions, and purchase shares of mutual savings and loan
27 associations and other credit unions if ~~the bank, savings bank,~~

1 ~~savings and loan association, trust company, or other credit~~
2 ~~union is~~ insured by an agency of the United States. ~~make~~ A
3 CREDIT UNION MAY ALSO MAKE deposits in, loans to, or purchase
4 shares of a corporate central credit union ~~and~~ and invest funds
5 as otherwise provided in section 16a.

6 (s) Join, make deposits in or loans to, or purchase shares
7 of ~~any~~ A federal reserve bank, federal home loan bank, ~~and~~
8 ~~any~~ OR A central liquidity facility established under federal or
9 state law.

10 (t) Hold membership in associations and organizations con-
11 trolled by or fostering the interests of credit unions ~~and~~ and
12 ~~hold membership~~ in a central liquidity facility organized under
13 federal or state law.

14 (u) Engage in activities and programs of the federal govern-
15 ment, a state, a territory of the United States, or an agency or
16 political subdivision of the federal government or a state or
17 territory of the United States, if approved by the board of
18 directors and not inconsistent with this act.

19 (v) Receive funds ~~either~~ as shares or deposits from other
20 credit unions.

21 (w) Receive funds ~~either~~ as shares or deposits from a
22 retirement plan that serves all or a portion of the credit
23 union's members and potential members.

24 (x) Receive funds ~~either~~ as shares or deposits from a
25 public employee retirement system or plan.

1 (y) Lease tangible personal property to its members, if the
2 credit union does not acquire an interest in the property before
3 selection of the property by the member.

4 (z) ~~Purchase~~ IN ACCORDANCE WITH RULES PROMULGATED BY THE
5 COMMISSIONER, PURCHASE, sell, pledge, discount, or otherwise
6 acquire and dispose of, in whole or in part, obligations of its
7 members. ~~, in accordance with rules promulgated by the~~
8 ~~commissioner.~~ This subdivision ~~shall~~ DOES not apply to partic-
9 ipation loans originated pursuant to section 16(6).

10 (aa) At the ~~expense of the credit union~~ CREDIT UNION'S
11 EXPENSE, purchase insurance for its members in connection with
12 ~~its members'~~ share, deposit, loan, and other accounts.

13 (bb) Establish, operate, participate in, and hold membership
14 in systems OR OTHER PAYMENT OR LIQUIDITY PROGRAMS that allow the
15 transfer of credit union funds and funds of its members or other
16 account holders by electronic or other means. ~~, including, but~~
17 ~~not limited to, clearinghouse associations, data processing and~~
18 ~~other electronic networks, the federal reserve system, or any~~
19 ~~other payment or liquidity program.~~

20 (cc) Service loans, IN WHOLE OR IN PART, sold by the credit
21 union ~~, in whole or in part,~~ to a third party.

22 (dd) Receive payments on shares or deposits from or make
23 loans to the United States or an agency or instrumentality of the
24 United States.

25 (ee) Act as a fiscal agent ~~of,~~ and maintain treasury tax
26 and loan accounts of ~~the~~ the United States.

1 (ff) Receive payments on shares or deposits from a state, a
2 territory of the United States, or from an agency, political
3 subdivision, or instrumentality of a state or territory of the
4 United States. A credit union may act as fiscal agent for, main-
5 tain tax and loan accounts of, and make loans to an entity that
6 the credit union has authority to receive payments from under
7 this subdivision.

8 (gg) ~~In addition to loan and investment powers otherwise~~
9 ~~authorized by this act, organize~~ ORGANIZE, invest in, and make
10 loans to corporations or other organizations that engage in
11 activities incidental to the conduct of a credit union or in
12 activities ~~which~~ THAT further or facilitate the purposes of a
13 credit union ~~,~~ or ~~which~~ THAT furnish services to credit
14 unions. The commissioner shall determine by rule or order the
15 activities and services that fall within the meaning of this
16 subdivision. A credit union shall notify the commissioner of
17 ~~any~~ AN investment or loan that would cause the aggregate of the
18 investments and loans ~~described in~~ MADE UNDER this subdivision
19 to exceed 2% of the credit union's shares, deposits, undivided
20 earnings, and reserves. Investments and loans described in this
21 subdivision shall not, in the aggregate, exceed 5% of the shares,
22 deposits, undivided earnings, and reserves of the credit union.
23 A credit union may not invest in or make loans to a corporation
24 or other organization pursuant to this ~~subsection~~ SUBDIVISION
25 unless the corporation or ~~other~~ organization agrees in writing
26 to allow the commissioner to conduct an examination of the
27 corporation or ~~other~~ organization to the same extent that the

1 commissioner is authorized to examine credit unions and agrees in
2 writing to make reports to the commissioner as the commissioner
3 may require.

4 (hh) Individually or jointly with other credit unions or
5 other financial organizations, purchase, lease, construct, or
6 otherwise acquire and hold land and buildings for the purpose of
7 providing adequate facilities for the transaction of present and
8 potential ~~future~~ business. A credit union may use land and
9 buildings for home office functions, service centers, and ~~any~~
10 other activity in which it engages. Excess space may be rented
11 as a source of income. A credit union shall depreciate or appre-
12 ciate buildings owned by it in the manner and at the rates the
13 commissioner may prescribe by rule or order. ~~from time to time.~~
14 A credit union's investment and contractual obligations, direct,
15 indirect, or contingent, in land and buildings under this subdivi-
16 sion may not exceed 5% of its shares, deposits, undivided earn-
17 ings, and reserves without the prior approval of the
18 commissioner. This subdivision ~~shall~~ DOES not affect the
19 legality of investments in land and buildings made prior to
20 December 19, 1986. An agreement to acquire and hold buildings or
21 land jointly with other credit unions or other financial organi-
22 zations is subject to the prior approval of the commissioner.
23 The commissioner shall act on a completed application within 30
24 days after the application is filed.

25 (ii) Own stock in a corporation that owns land or buildings
26 used to provide the facilities described in subdivision (hh), but
27 the investment in stock shall be treated as an investment in the

1 land and buildings for all purposes under subdivision (hh). If a
2 credit union owns less than 100% of the stock in such a corpora-
3 tion, the investment shall be treated as a joint agreement and
4 subject to the commissioner's approval as required by subdivision
5 (hh).

6 (jj) Sell, lease, assign, mortgage, pledge, hypothecate, or
7 otherwise dispose of, in whole or in part, its land and build-
8 ings, including land and buildings obtained as a result of
9 defaults under obligations owing to it, and stock in a corpora-
10 tion described in subdivision (ii). A credit union may finance
11 the sale of its land and buildings to any person at ~~any interest~~
12 ~~rate permitted under this act or other applicable law for loans~~
13 ~~to its members for the purchase of land and buildings~~ A RATE OF
14 INTEREST NOT GREATER THAN THE RATE OF INTEREST PERMITTED BY THE
15 CREDIT REFORM ACT.

16 (kk) Perform services for members of other credit unions
17 organized under this act, the laws of another state or territory
18 of the United States, or the laws of the United States pursuant
19 to a written contractual arrangement. A credit union may allow
20 other credit unions organized under this act, the laws of another
21 state or territory of the United States, or the laws of the
22 United States to perform services for its members pursuant to a
23 written contractual arrangement. All services provided pursuant
24 to this subdivision shall be performed in accordance with the
25 laws of this state.

26 (ll) Perform services for persons who are not its members if
27 the services are performed pursuant to a contractual arrangement

1 whereby other financial organizations perform the same services
 2 for the credit union's members. For purposes of this subdivi-
 3 sion, "services" means 1 or more of the following:

4 (i) Cash advances.

5 (ii) Funds transfers.

6 (iii) Cashing travelers checks.

7 (iv) ~~Any other~~ OTHER services specified by the commis-
 8 sioner by rule or order.

9 (mm) Guarantee the signature of a member in connection with
 10 ~~any~~ A transaction involving tangible or intangible property in
 11 which the member has or seeks to acquire an interest.

12 (nn) Engage in any aspect of the insurance and surety busi-
 13 ness as an agent, broker, solicitor, or insurance counselor as
 14 provided under the insurance code of 1956, Act No. 218 of the
 15 Public Acts of 1956, being sections 500.100 to 500.8302 of the
 16 Michigan Compiled Laws.

17 (oo) Own an insurance agency in whole or in part as provided
 18 under Act No. 218 of the Public Acts of 1956.

19 (3) The commissioner may promulgate rules authorizing credit
 20 unions to exercise additional powers considered necessary to
 21 effectuate the purposes of credit unions and to permit credit
 22 unions to meet their members' financial needs, if these addi-
 23 tional powers are not inconsistent with this act or other appli-
 24 cable Michigan law.

25 Sec. 4h. (1) A credit union organized under the laws of
 26 another state or territory of the United States may conduct its
 27 business as a credit union in this state only with the written

1 approval of the commissioner. The commissioner shall not grant
 2 approval unless the commissioner finds that the out-of-state
 3 credit union meets all of the following requirements:

4 (a) The credit union was organized under laws similar to
 5 this act.

6 (b) The credit union is financially solvent.

7 (c) The credit union has insurance of member share and
 8 deposit accounts under the provisions of title II of the federal
 9 credit union act, 12 U.S.C. 1781 to 1790.

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

13 (e) The credit union needs to conduct business in this state
 14 to adequately serve its members in this state.

15 (2) The commissioner shall not grant approval under subsec-
 16 tion (1) unless the out-of-state credit union agrees in writing
 17 ~~—~~ as a condition of the approval ~~—~~ to all of the following:

18 (a) ~~Comply with the laws of this state governing the maxi-~~
 19 ~~mum rate of interest that may be charged by credit unions orga-~~
 20 ~~nized under this act when making loans in Michigan~~ NOT TO CHARGE
 21 A RATE OF INTEREST GREATER THAN THE RATE OF INTEREST PERMITTED BY
 22 THE CREDIT REFORM ACT WHEN MAKING A LOAN IN MICHIGAN.

23 (b) Comply with the same consumer protection laws, as may be
 24 enacted from time to time, that credit unions organized under
 25 this act must comply with when making loans or providing other
 26 services in Michigan. For purposes of this subdivision, a loan
 27 is considered to be made or granted in Michigan if any person,

1 other than a guarantor, while physically in Michigan, signed the
2 loan agreement setting forth the terms and conditions of any
3 obligation created or to be created under the agreement. For
4 purposes of this subdivision, a service other than a loan is con-
5 sidered to be provided in this state if a person does not physi-
6 cally travel out of Michigan to obtain the service or if an
7 agreement to provide the service is signed by a person in this
8 state. ~~Nothing in this section shall~~ THIS SECTION DOES NOT
9 exempt an out-of-state credit union from complying with Michigan
10 law to the extent such compliance is otherwise required.

11 (c) Designate and maintain an agent for the service of pro-
12 cess in this state.

13 (d) File ~~such~~ reports as the commissioner may require.

14 (e) Allow the commissioner to conduct an examination, if
15 necessary, to the same extent as the commissioner is authorized
16 to conduct examinations of credit unions pursuant to section 6.

17 (f) Meet ~~such~~ other requirements as are specified in this
18 act for credit unions incorporated under this act as the commis-
19 sioner may require from time to time.

20 (3) The commissioner shall not grant approval under subsec-
21 tion (1) if the state or territory in which the credit union is
22 organized does not permit credit unions organized in this state
23 to do business in that state or territory.

24 Sec. 14. Interest rates on loans made by a credit union
25 shall not exceed ~~15% per annum on unpaid balances, except that a~~
26 ~~rate of 16.5% or less per annum on unpaid balances may be charged~~
27 ~~on a loan for the purchase of a motor vehicle that is made on or~~

1 ~~before December 31, 1997. Loans made for the purchase of a motor~~
2 ~~vehicle~~ THE RATES OF INTEREST PERMITTED BY THE CREDIT REFORM
3 ACT, regardless of whether the loan specifies a term to maturity
4 or is made pursuant to a line of credit, credit card, or other
5 similar ~~agreements, are subject to the applicable interest rate~~
6 ~~ceiling of this section~~ AGREEMENT. ~~Loans~~ A LOAN made by a
7 credit union to another credit union ~~as permitted under this act~~
8 ~~are~~ IS not subject to the interest rate limitations of this
9 section. ~~or any other provisions of the laws of this state.~~

10 Section 2. This amendatory act shall not take effect unless
11 Senate Bill No. 438
12 of the 88th Legislature is enacted into law.