

SUBSTITUTE FOR
HOUSE BILL NO. 5018

A bill to amend 2003 PA 215, entitled
"Credit union act,"
by amending sections 201, 210, 221, 303, 306, and 341 (MCL 490.201,
490.210, 490.221, 490.303, 490.306, and 490.341), sections 201 and
341 as amended by 2004 PA 471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 201. (1) The ~~commissioner~~**DIRECTOR** shall administer the
2 laws of this state relating to credit unions **THAT ARE** transacting
3 business in this state and shall supervise domestic credit unions ⁷
4 and foreign credit unions other than federal credit unions **THAT ARE**
5 transacting business in this state. Each domestic credit union
6 shall report its financial condition as required by the
7 ~~commissioner~~**DIRECTOR**.

8 (2) The ~~commissioner~~**DIRECTOR** shall charge an annual operating
9 fee to each domestic credit union. All of the following apply to

1 the annual operating fee:

2 (a) Subject to subdivision (d), the ~~commissioner~~**DIRECTOR**
3 shall establish a fee amount that is sufficient to defray the
4 estimated expenses of the ~~credit union division of the office of~~
5 ~~financial and insurance services~~**DEPARTMENT** in performing all
6 credit union examinations and the supervision of domestic credit
7 unions.

8 (b) The ~~commissioner~~**DIRECTOR** shall invoice each domestic
9 credit union for the fee before July 1 of each year and each
10 domestic credit union shall pay the operating fee before July 16 of
11 that year.

12 (c) The ~~commissioner~~**DIRECTOR** shall compute the fee based on
13 the total assets of the domestic credit union on December 31 of the
14 previous year as shown on the report of the domestic credit union
15 filed with the ~~commissioner~~**DIRECTOR** under subsection (1).

16 (d) The amount of the fee is the greater of \$500.00 or the sum
17 of all of the following:

18 (i) A base fee established by the ~~commissioner~~**DIRECTOR** of not
19 less than \$1.00 or more than \$3.50 per \$1,000.00 of assets up to
20 \$500,000.00.

21 (ii) A fee of 40% of the base fee per \$1,000.00 of assets
22 greater than \$500,000.00 up to \$1,000,000.00.

23 (iii) A fee of 30% of the base fee per \$1,000.00 of assets
24 greater than \$1,000,000.00 up to \$5,000,000.00.

25 (iv) A fee of 20% of the base fee per \$1,000.00 of assets
26 greater than \$5,000,000.00 up to \$10,000,000.00.

27 (v) A fee of 10% of the base fee per \$1,000.00 for all assets

1 greater than \$10,000,000.00.

2 (e) The ~~commissioner~~**DIRECTOR** shall not require a domestic
3 credit union to pay an operating fee more often than annually.

4 (3) A corporate credit union organized under this act shall
5 pay an operating fee in the same manner as other domestic credit
6 unions, but the fee shall not exceed \$50,000.00 annually.

7 (4) Each domestic credit union shall report its financial
8 condition as required by the ~~commissioner~~**DIRECTOR**. A domestic
9 credit union that fails to file a report with the ~~commissioner~~
10 **DIRECTOR** when it is due shall pay a fee of \$100.00 for each day the
11 report is delinquent. The ~~commissioner~~**DIRECTOR** may waive the fee
12 for cause. If a delinquency continues for 15 days, the ~~commissioner~~
13 **DIRECTOR** may revoke the domestic credit union's certificate of
14 approval and take possession of the business and property of the
15 domestic credit union and maintain possession until the
16 ~~commissioner~~**DIRECTOR** permits it to continue business or
17 involuntarily dissolves the credit union under section 331(3).

18 (5) A domestic credit union that amends its bylaws or
19 certificate of organization ~~shall~~**MUST** file the amendment with the
20 ~~commissioner~~**DIRECTOR**. The ~~commissioner~~**DIRECTOR** shall not charge
21 a fee for reviewing and approving or disapproving of an amendment
22 ~~under~~**FOR PURPOSES OF** section 303.

23 (6) A domestic credit union shall make all of its accounts,
24 books, and records, in whatever form maintained, available for
25 examination by the ~~commissioner~~**DIRECTOR** or the ~~commissioner's~~
26 **DIRECTOR'S** appointed agent during the normal business hours of the
27 ~~commissioner~~**DIRECTOR**. A domestic credit union shall do all of the

1 following:

2 (a) Provide the ~~commissioner~~**DIRECTOR** with a current schedule
3 of the hours during which the domestic credit union is open.

4 (b) Designate an individual to provide access to the credit
5 union records and a substitute for that individual.

6 (c) Provide the ~~commissioner~~**DIRECTOR** with the current name,
7 address, and telephone number of the individual designated in
8 subdivision (b) ~~and~~ of his or her substitute if the individual is
9 absent.

10 (d) If the credit union processes any of its records at any
11 location other than its principal place of business, provide the
12 ~~commissioner~~**DIRECTOR** with the current name and address of the
13 person that processes the records.

14 (7) As used in subsection (6), "records" includes audit
15 reports and audit working papers described in section 344 unless
16 privileged by law.

17 Sec. 210. (1) If in the opinion of the ~~commissioner~~**DIRECTOR** a
18 domestic credit union is engaging, has engaged, or is about to
19 engage in an unsafe or unsound practice in conducting the business
20 of the domestic credit union or is violating, has violated, or is
21 about to violate a law or rule, the ~~commissioner~~**DIRECTOR** may issue
22 and serve upon the domestic credit union a notice of charges. The
23 notice shall contain a statement of the facts constituting the
24 alleged unsafe or unsound practice or violation and shall fix a
25 time and place for a hearing to determine whether the ~~commissioner~~
26 **DIRECTOR** should issue an order to cease and desist. The hearing
27 shall be ~~not earlier than 30 days nor later than~~ **HELD AT LEAST 30**

1 **AND NOT MORE THAN** 60 days after service of the notice unless an
2 earlier or later date is set by the ~~commissioner~~**DIRECTOR** at the
3 request of the domestic credit union. If the domestic credit union
4 does not appear at the hearing by a duly authorized representative,
5 it has consented to the issuance of a cease and desist order.

6 (2) If a domestic credit union consents to a cease and desist
7 order under subsection (1), or if ~~upon~~**ON** the record made at the
8 hearing under subsection (1) the ~~commissioner~~**DIRECTOR** finds that
9 an unsafe or unsound practice or violation specified in the notice
10 of charges has occurred, the ~~commissioner~~**DIRECTOR** may issue and
11 serve ~~upon~~**ON** the domestic credit union an order to cease and
12 desist from the practice or violation. The order may require the
13 domestic credit union and its directors, officers, employees, and
14 agents to cease and desist from the practice or violation and to
15 take affirmative action to correct the conditions resulting from
16 the practice or violation.

17 (3) A cease and desist order issued after a hearing under
18 subsection (2) is effective 30 days after the service of the order
19 ~~upon~~**ON** the domestic credit union. A cease and desist order issued
20 with the consent of the domestic credit union under subsection (2)
21 is effective at the time specified in the order. A cease and desist
22 order is effective and enforceable as provided in the order, except
23 to the extent it is stayed, modified, terminated, or set aside by
24 action of the ~~commissioner~~**DIRECTOR** or a reviewing court.

25 (4) If the ~~commissioner~~**DIRECTOR** determines that a foreign
26 credit union ~~branch located~~**THAT IS CONDUCTING BUSINESS** in this
27 state is acting in violation of the laws of this state or that the

1 activities of the ~~branch~~**FOREIGN CREDIT UNION** are being conducted
2 in an unsafe and unsound manner, the ~~commissioner~~**DIRECTOR** may take
3 any enforcement action that would be permitted under this act if
4 the ~~branch~~**FOREIGN CREDIT UNION** were a domestic credit union.

5 (5) If the ~~commissioner~~**DIRECTOR** determines that a federal
6 credit union is acting in violation of the laws of this state, the
7 ~~commissioner~~**DIRECTOR** shall notify the ~~national credit union~~
8 ~~administration~~**NATIONAL CREDIT UNION ADMINISTRATION** and the
9 attorney general.

10 Sec. 221. (1) The ~~commissioner~~**DIRECTOR** may by order require a
11 domestic credit union to close its principal place of business or 1
12 or more branches if it appears to the ~~commissioner~~**DIRECTOR** that
13 the action is required because an emergency exists. The facilities
14 closed shall remain closed until the ~~commissioner~~**DIRECTOR** by order
15 finds that the emergency is ended. The ~~commissioner~~**DIRECTOR** shall
16 promptly notify the governor of the issuance of an order under this
17 section.

18 (2) The ~~commissioner~~**DIRECTOR** may authorize a domestic credit
19 union to close on a day designated by the president of the United
20 States or the governor of this state as a day of national mourning,
21 rejoicing, or other special observance.

22 (3) If the ~~commissioner~~**DIRECTOR** has not issued and does not
23 issue an order of emergency under subsection (1) and the general
24 manager or other designated officer of a domestic credit union
25 determines that an emergency exists, the officer may close the
26 principal place of business or 1 or more branches of the domestic
27 credit union until he or she finds that the emergency is ended.

1 (4) A domestic credit union closing its principal place of
2 business or 1 or more branches under this section shall give notice
3 to the ~~commissioner~~, **DIRECTOR**, and to any other appropriate
4 governmental entity if required by law.

5 (5) The period during which the principal place of business of
6 a domestic credit union is closed under this section is considered
7 an emergency condition or a legal holiday, and not a banking day,
8 if the status of the closing as a legal holiday, banking day, or a
9 response to an emergency is relevant to any legal obligation of the
10 domestic credit union.

11 (6) This section does not alter any obligations of a domestic
12 credit union to its employees or to the employees of another
13 employer under state or federal law.

14 Sec. 303. **(1)** If approved by a majority of the members present
15 at a duly constituted annual or special meeting of the members, the
16 membership may amend the certificate of organization or bylaws of a
17 domestic credit union or delegate authority to the credit union
18 board, or rescind the authority of the credit union board, to amend
19 the certificate of organization or bylaws.

20 **(2)** Any proposed action to amend the certificate of
21 organization or the bylaws or to delegate authority to amend the
22 certificate of organization or bylaws to the credit union board
23 **UNDER SUBSECTION (1)** shall be stated in a notice of the meeting.

24 **(3)** An amendment to the certificate of organization or bylaws
25 **OF A DOMESTIC CREDIT UNION** is not effective unless it is submitted
26 to the ~~commissioner~~ **DIRECTOR** for review and approved by the
27 ~~commissioner~~ **DIRECTOR**.

1 Sec. 306. ~~With the prior approval of the commissioner,~~ **WITH**
2 **PRIOR WRITTEN NOTICE TO THE DIRECTOR,** a domestic credit union may
3 conduct its business solely by mail or through electronic
4 communication without having a physical location where members may
5 transact business with the credit union. A domestic credit union
6 conducting business under this section shall maintain a principal
7 place of business in this state.

8 Sec. 341. (1) The organizers shall hold an organizational
9 meeting of a domestic credit union organized under this act. The
10 organizational meeting of the domestic credit union is the first
11 annual meeting of the members required under section 351.

12 (2) Each ~~member of the credit union board~~ **MEMBER** of a domestic
13 credit union shall be a member of the domestic credit union. The
14 bylaws shall establish the number of ~~directors,~~ **BOARD MEMBERS,** but
15 a credit union board must consist of 5 or more individuals. A
16 ~~director~~ **BOARD MEMBER** shall hold office for the term established in
17 the bylaws and until a successor takes office.

18 (3) If the bylaws of a domestic credit union provide for a
19 credit committee or a supervisory committee, that committee shall
20 consist of 3 or more individuals and may have alternate committee
21 members, as established in the bylaws, each of whom is a member of
22 the domestic credit union. The bylaws shall provide whether the
23 credit union board may appoint or the members may elect committee
24 members and their terms of office and the duties of the committee.
25 Except as provided in section 345, a current ~~director,~~ **BOARD**
26 **MEMBER,** officer, loan officer, credit committee member, or other
27 employee of the domestic credit union shall not serve on the

1 supervisory committee.

2 (4) If the bylaws of a domestic credit union do not provide
3 for a credit committee or a supervisory committee, the credit union
4 board shall perform the duties of the credit committee or the
5 supervisory committee or delegate those duties as it considers
6 advisable.

7 (5) A corporate credit union organized under this act shall
8 have at least 1 member of the credit union board, the supervisory
9 committee, if any, and the credit committee, if any, who is a
10 resident of this state.

11 (6) A domestic credit union shall provide the ~~commissioner~~
12 **DIRECTOR** with a record of the names and addresses of the members of
13 the credit union board and the members of the credit and
14 supervisory committees, if any, within 30 days after their
15 election.

16 (7) If the ~~commissioner~~**DIRECTOR** considers it appropriate, the
17 ~~commissioner~~**DIRECTOR** may call a meeting of the credit union board,
18 for any purpose, by giving a notice of the time, place, and purpose
19 of the meeting at least 3 days ~~prior to~~**BEFORE** the meeting to the
20 ~~directors.~~**BOARD MEMBERS.** The ~~commissioner~~**DIRECTOR** shall deliver
21 the notice to ~~their~~**THE BOARD MEMBERS'** last known addresses as
22 shown by the books of the domestic credit union.

23 (8) Each individual elected or appointed to serve as a
24 ~~director,~~**BOARD MEMBER**, supervisory committee member, or credit
25 committee member of a domestic credit union, or as a member of any
26 other committee that performs significant ongoing functions
27 relating to the ongoing operations of the domestic credit union,

1 shall meet all of the following criteria:

2 (a) He or she is a member of the domestic credit union, in
3 good standing according to reasonable criteria established by the
4 credit union board.

5 (b) He or she is acceptable as a bonding risk by a bonding
6 company licensed to do business in this state.

7 (c) He or she has not been removed as a ~~director~~, **BOARD**
8 **MEMBER**, officer, committee member, or employee of a financial
9 institution by a federal regulator, a state regulator other than
10 the ~~commissioner~~, **DIRECTOR**, or a court of competent jurisdiction.

11 (d) The ~~commissioner~~ **DIRECTOR** has not removed him or her as a
12 ~~director~~, **BOARD MEMBER**, officer, committee member, or employee of a
13 credit union, financial institution, or other legal entity pursuant
14 to the ~~commissioner's~~ **DIRECTOR'S** enforcement powers under any law
15 of this state.

16 (e) He or she has not been convicted within the preceding 20
17 years of a crime involving dishonesty or breach of trust.

18 (f) He or she is not habitually negligent in paying his or her
19 financial obligations as determined by criteria reasonably
20 established by the credit union board.

21 (g) He or she has not been convicted by a court of competent
22 jurisdiction of a violation, or found in violation by a court of
23 competent jurisdiction or the ~~commissioner~~, **DIRECTOR**, of any law of
24 this state enforced or administered by the ~~commissioner~~ **DIRECTOR**.

25 (9) If an individual no longer meets 1 or more of the
26 requirements of subsection (8) while serving as a ~~director~~, **BOARD**
27 **MEMBER**, supervisory committee member, or credit committee member of

1 a domestic credit union, or as a member of any other committee that
2 performs significant ongoing functions relating to the ongoing
3 operations of the domestic credit union, he or she is immediately
4 removed from that office without further action of the members or
5 credit union board and the domestic credit union shall appoint or
6 elect a replacement to fill the vacancy in the manner described in
7 the bylaws.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 98th Legislature are
12 enacted into law:

13 (a) Senate Bill No.____ (request no. 02768'15) or House Bill
14 No. 5017.

15 (b) Senate Bill No.____ (request no. 02771'15) or House Bill
16 No. 5020.

17 (c) Senate Bill No.____ (request no. 02772'15) or House Bill
18 No. 5021.

19 (d) Senate Bill No.____ (request no. 02773'15) or House Bill
20 No. 5022.