

HOUSE BILL No. 5019

October 27, 2015, Introduced by Reps. Clemente, Kosowski, Smiley, Singh, Phelps, Derek Miller, Plawecki, Cochran, Banks, Byrd, Pagan, Love, Goike, Kivela, Guerra, Lucido, Greig and Victory and referred to the Committee on Financial Services.

A bill to amend 2003 PA 215, entitled
"Credit union act,"
by amending section 407 (MCL 490.407), as amended by 2004 PA 471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 407. (1) Subject to subsection (3), a domestic credit
2 union may organize, invest in, or loan money to 1 or more credit
3 union service organizations that engage primarily in providing 1 or
4 more of the following products or services to credit unions:
5 (a) Automated information processing services.
6 (b) Share draft and other item processing.
7 (c) Credit and debit card services.
8 (d) Microfilm and microfiche services.

1 (e) Printing and supply services.

2 (f) Service center functions.

3 (g) Selling or leasing real estate.

4 (h) Automated teller machine and electronic funds transfer
5 services.

6 (i) Collection activities.

7 (j) Personnel services.

8 (k) Appraisal, closing, or other services in connection with
9 real estate loan activities.

10 (l) Investment management, investment research, and other full
11 service broker-dealer services, but not underwriting of investment
12 securities.

13 (m) Property leasing to credit unions.

14 (n) Accounting and auditing services.

15 (o) Records retention and preservation.

16 (p) Security for data processing equipment and other credit
17 union property.

18 (q) Architectural services, including, but not limited to,
19 providing original designs, remodeling, and redesigning.

20 (r) Administration and other services related to commercial
21 loans and participation loans.

22 (s) Providing management and operating services.

23 (t) Marketing services.

24 (u) Management, development, sale, or lease of fixed assets.

25 (v) Sale, lease, or servicing of computer hardware and
26 software.

27 (w) Sale of repossessed property or other personal property of

1 credit unions.

2 (x) Locator services.

3 (y) Credit analysis.

4 (z) Loan origination, processing, servicing, and sale.

5 (aa) Research services.

6 (bb) Developing and administering individual retirement
7 accounts or Keogh (HR-10), deferred compensation, or other
8 personnel benefit plans.

9 (cc) Property maintenance services.

10 (dd) Courier services.

11 (EE) INVESTMENT ADMINISTRATION AND OTHER SERVICES RELATED TO
12 SMALL BUSINESS EQUITY OR VENTURE CAPITAL FUND INVESTMENTS IF ALL OF
13 THE FOLLOWING ARE MET:

14 (i) THE INVESTMENTS ARE MADE IN EQUITY OF BUSINESSES OR IN
15 FUNDS THAT ARE ELIGIBLE FOR MEMBERSHIP IN AT LEAST 1 OF THE CREDIT
16 UNIONS THAT HAS AN OWNERSHIP OR INVESTMENT IN THE CREDIT UNION
17 SERVICE ORGANIZATION AND THAT HAS ITS PRINCIPAL OFFICE IN THIS
18 STATE.

19 (ii) A CREDIT UNION'S AGGREGATE INVESTMENT IN EQUITY OR FUNDS
20 UNDER THIS SUBDIVISION DOES NOT EXCEED 10% OF THE CREDIT UNION'S
21 NET WORTH.

22 (iii) A CREDIT UNION'S AGGREGATE RISK EXPOSURE, THROUGH ALL
23 FUNDING SOURCES, LOANS, OR INVESTMENTS TO ANY ENTITY OR GROUP OF
24 RELATED ENTITIES TO WHICH THE CREDIT UNION HAS MADE AN INVESTMENT
25 UNDER THIS SUBDIVISION DOES NOT EXCEED 25% OF NET WORTH.

26 (FF) ~~(ee)~~ If approved by the ~~commissioner~~, DIRECTOR, any other
27 product or service.

1 (2) Subject to subsection (3), a domestic credit union may
2 organize, invest in, or loan money to 1 or more credit union
3 service organizations that engage primarily in providing 1 or more
4 of the following products or services to credit unions or their
5 members:

- 6 (a) Equipment leasing and financing.
- 7 (b) Payroll services.
- 8 (c) Real estate brokerage services.
- 9 (d) Prepaid legal services.
- 10 (e) Motor vehicle purchasing services.
- 11 (f) Group travel services.
- 12 (g) Insurance, to the extent not prohibited by state law.
- 13 (h) Financial planning, investment counseling, or other
14 financial services.
- 15 (i) Consumer purchasing referral services.
- 16 (j) Income tax services.
- 17 (k) Retirement counseling.
- 18 (l) Securities brokerage counseling.
- 19 (m) Estate planning.
- 20 (n) Personal property leasing.
- 21 (o) Service contracts or extended warranty contracts for motor
22 vehicles, motorcycles, recreational vehicles, manufactured homes,
23 boats, computers, or other personal property items.
- 24 (p) Investment management, investment research, or other full-
25 service securities broker-dealer services, but not underwriting of
26 investment securities.

27 **(Q) TRUST SERVICES.**

1 (R) ~~(a)~~ If approved by the ~~commissioner~~, **DIRECTOR**, any other
2 product or service.

3 (3) A domestic credit union may organize, invest in, or loan
4 money to a credit union service organization described in
5 subsection (1) or (2) only if all of the following are met:

6 (a) The credit union service organization is adequately
7 capitalized or has a reasonable plan for adequate capitalization if
8 it is to be formed or is newly formed.

9 (b) The credit union service organization is structured and
10 operated as a separate legal entity from the domestic credit union.

11 (c) The domestic credit union obtains a written legal opinion
12 that the credit union service organization is structured and
13 operated in a manner that limits the domestic credit union's
14 potential liability for the debts and liabilities of the credit
15 union service organization to not more than the loss of money
16 invested in or loaned to the credit union service organization by
17 the domestic credit union.

18 (d) The credit union service organization agrees in writing to
19 prepare financial statements and provide them to the domestic
20 credit union at least quarterly.

21 (e) The credit union service organization agrees in writing to
22 obtain an audit of the credit union service organization from a
23 certified public accountant at least annually and provide a copy of
24 each audit report to the domestic credit union. **HOWEVER, THIS**
25 **SUBDIVISION DOES NOT APPLY TO A CREDIT UNION SERVICE ORGANIZATION**
26 **THAT IS WHOLLY OWNED BY A SINGLE DOMESTIC CREDIT UNION IF THE AUDIT**
27 **OF THAT CREDIT UNION SERVICE ORGANIZATION IS PERFORMED AS PART OF A**

1 CONSOLIDATED ANNUAL AUDIT OF THE CREDIT UNION PURSUANT TO A
2 REASONABLE AND APPROPRIATE AUDIT PLAN.

3 (f) The credit union service organization operates in
4 compliance with applicable federal and state laws.

5 (4) The credit union board of a domestic credit union that
6 organizes, invests in, or lends money to a credit union service
7 organization shall establish, in writing, the maximum percentage
8 amount of assets that the domestic credit union may invest in or
9 loan to the credit union service organization.

10 (5) The senior management employees of a domestic credit union
11 shall not receive any salary, commission, investment income, or
12 other income or compensation from a credit union service
13 organization that is an affiliate of the domestic credit union.

14 (6) In determining compliance with the percentage limitations
15 in section 401(2)(gg), all loans cosigned, endorsed, or otherwise
16 guaranteed by a domestic credit union to credit union service
17 organizations are included in determining the aggregate amount of
18 loans by the domestic credit union.

19 (7) A domestic credit union shall follow generally accepted
20 accounting principles in its accounting of its financial
21 involvement in a credit union service organization.

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