

533.6 Reports examinations revocation receivership notice to show cause.

1. Credit unions organized under this chapter shall report annually on or before the first day of February to the superintendent on blanks supplied by the superintendent for that purpose. Additional reports may be required. If any report remains in arrears for more than five days, a fine of five dollars for each day such report remains in arrears may be levied against the offending credit union in addition to the fine for failure to pay the annual fee. If such report is not returned within thirty days of the due date, the superintendent may, after written notice to the president of the credit union, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution.
2. The superintendent may make or cause to be made an examination of each credit union whenever the superintendent believes such examination is necessary or advisable, but in no event less frequently than once during each twenty-four-month period. A credit union designated as serving predominantly low-income members shall be reviewed during each examination to ensure that such credit union is continuing to meet the standards established by rule of the superintendent. Each credit union and all of its officers and agents shall give to the representatives of the superintendent free access to all books, papers, securities, records, and other sources of information under their control. A report of such examination shall be forwarded to the chairperson of each credit union within thirty days after the completion of the examination. Within thirty days of the receipt of this report, a meeting of the directors shall be called to consider matters contained in the report and the action taken shall be set forth in the minutes of the board. The superintendent may accept, in lieu of the examination of a credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent. The cost of the audit shall be paid by the credit union.
3. The superintendent may require any credit union whose records are inadequate or whose books have not been balanced as of the end of the month not less than thirty days previously or whose affairs are in an unfavorable condition, to submit to an additional examination each year.
4. If after notice and opportunity for hearing the superintendent determines that a credit union has violated any of the provisions of this chapter, the superintendent shall, except when the credit union is insolvent, order the credit union to correct the condition. The superintendent may grant the credit union not more than sixty days within which to comply with the order. Failure to comply gives the superintendent grounds to revoke the certificate of approval and the superintendent may apply to the district court of the county in which this credit union is located for the appointment of a receiver for the credit union. Notwithstanding any other provision of this chapter, upon a determination by the superintendent that a credit union's assets, if made immediately available, would not be sufficient to discharge the credit union's liabilities, the superintendent shall take control of the credit union. Upon taking over management of the property and business of a credit union, the superintendent may operate and direct the affairs of the credit union in its regular course of business. The superintendent may also collect amounts due to the credit union and do other acts as are necessary or expedient to conduct the affairs of the credit union and conserve or protect its assets, property, and business. If upon taking over the management of the business and property of the credit union, the superintendent concludes that the credit union is insolvent or should be dissolved for any other reason enumerated in this section, the superintendent may immediately, or at any time within three years from taking over management of the credit union, order that the credit union cease to carry on its business. The superintendent shall revoke the certificate of approval and shall apply to the district court in the county in which the main office of the credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the superintendent of the credit union division as receiver unless the superintendent of the credit union division has tendered the appointment to the administrator of the plan by which the accounts of the credit union are insured. Either the superintendent or the administrator as receiver possesses the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither the superintendent nor the administrator shall be required to furnish bond as receiver of a state credit union.

The superintendent may appoint one or more special deputies as agent or agents with powers specified in the

certificate of appointment to assist the superintendent in the duty of management, conservation, or dissolution and distribution of the business and property of a credit union whose management is taken over under this section.

During the period of the superintendent's management of the business of the credit union and prior to the time that the superintendent applies to the district court for appointment as receiver, the superintendent may require reimbursement by the credit union to the extent of the expenses incurred by the division in connection with the management.

The superintendent may adopt rules which define insolvency or which establish factors to be considered in determining insolvency. The superintendent may adopt separate solvency standards for credit unions which are within their first year of operation.

5. If the superintendent has reason to believe that an officer, director, employee, or committee member of a credit union has violated any law, rule, or cease and desist order relating to a credit union or has engaged in an unsafe or unsound practice in conducting the business of a credit union, the superintendent may cause notice to be served upon the officer, director, employee, or committee member to appear before the superintendent to show cause why the person should not be removed from office or employment. A copy of such notice shall be sent by certified or restricted certified mail to each director of the credit union affected. If, after granting the accused reasonable opportunity to be heard, the superintendent finds that the accused has violated a law, rule, or cease and desist order relating to a credit union or has engaged in an unsafe or unsound practice in conducting the business of a credit union, the superintendent in the superintendent's discretion may order that the accused be removed from office and from any position of employment with the credit union. A copy of the order shall be served upon the accused and upon the credit union affected, at which time the accused shall cease to be an officer, director, employee, or committee member of the credit union.

[C27, 31, 35, § 9305-a6; C39, § **9305.06**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.6]

84 Acts, ch 1067, § 43; 86 Acts, ch 1053, § 1; 92 Acts, ch 1039, § 1; 96 Acts, ch 1012, § 2; 2004 Acts, ch 1141, §39