

Senate Study Bill 1077

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/CREDIT UNION
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to matters under the purview of the credit union
2 division of the department of commerce.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1226XD 83
5 rn/nh/14

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1 1 Section 1. Section 533.102, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. "Credit union service organization" means a corporation
1 4 or limited partnership organized under state law with
1 5 ownership primarily restricted to credit unions, to
1 6 organizations of credit unions, or to credit union members,
1 7 and which is designed to provide financial and
1 8 financial-related services for primarily to one or more credit
1 9 unions, each of which ~~owns~~ may own part of the capital stock
1 10 of the credit union service organization, as authorized under
1 11 section 533.301, subsection 5, paragraph "f", and which
1 12 corporation or limited partnership is subject to examination
1 13 by the credit union division of the Iowa department of
1 14 commerce or a federal supervisory agency to organizations of
1 15 credit unions, or to credit union members.

1 16 Sec. 2. Section 533.106, subsections 2 and 3, Code 2009,
1 17 are amended to read as follows:

1 18 2. a. A state credit union, or its officers, directors,
1 19 or employees, shall not directly or indirectly make a loan of
1 20 money or property to the superintendent or deputy
1 21 superintendent.

1 22 b. The superintendent or deputy superintendent shall not
1 23 directly or indirectly accept a loan of money or property from
1 24 a state credit union, or its officers, directors, or
1 25 employees.

1 26 3. a. An employee of the credit union division, other
1 27 than the superintendent or deputy superintendent, may borrow
1 28 money from a state credit union only on comparable terms and
1 29 conditions to those ordinarily extended to all members of the
1 30 credit union. The employee shall notify the superintendent of
1 31 the acceptance of a loan from a state credit union.

1 32 b. The superintendent may restrict borrowing by employees
1 33 from state credit unions if the superintendent determines such
1 34 borrowing will interfere with the functions of the credit
1 35 union division.

2 1 c. An employee shall not participate in the examination of
2 2 a credit union where the employee has a loan.

2 3 Sec. 3. Section 533.108, subsection 1, paragraph b, Code
2 4 2009, is amended to read as follows:

2 5 b. Papers, documents, writings, reports, reports of
2 6 examinations, and other information relating specifically to
2 7 the supervision and regulation of a specific state credit
2 8 union or of other persons by the superintendent pursuant to
2 9 the laws of this state are not public records and shall not be
2 10 open for examination or copying by the public or for
2 11 examination or publication by the news media. The
2 12 superintendent or an employee of the credit union division
2 13 shall not disclose such information in any manner to any
2 14 person other than the person examined, except as otherwise
2 15 authorized by this section. A state credit union or other
2 16 person subject to an examination, as authorized under section
2 17 533.113, and all directors, officers, employees, agents, and
2 18 other persons furnished a copy of a report of examination, as

~~2 19 authorized under section 533.113, or who are in possession of
2 20 other information that, pursuant to the laws of this state,
2 21 are not public records as provided in this section, shall not
2 22 publish or make public the information and such information
2 23 shall not be subject to subpoena from any such person.~~

2 24 Sec. 4. Section 533.203, subsection 2, Code 2009, is
2 25 amended by adding the following new paragraph:
2 26 NEW PARAGRAPH. d. A minor under sixteen years of age
2 27 shall not vote in the meetings of members either personally or
2 28 through the minor's parent or guardian.

2 29 Sec. 5. Section 533.204, subsection 5, Code 2009, is
2 30 amended to read as follows:

2 31 5. a. A state credit union wishing to maintain a board of
2 32 directors of less than nine members ~~may~~ shall apply to the
2 33 superintendent for permission to reduce the required number of
2 34 directors. An application to reduce the required number of
2 35 directors under this subsection must demonstrate both of the

3 1 following:
3 2 ~~a.~~ (1) The application is necessitated by a hardship or
3 3 other special circumstance.

3 4 ~~b.~~ (2) A lesser number of directors is in the best
3 5 interest of the state credit union and its members.
3 6 ~~b.~~ In no event may the The superintendent shall not allow
3 7 fewer than seven directors on a state credit union board.

3 8 Sec. 6. Section 533.204, Code 2009, is amended by adding
3 9 the following new subsections:

3 10 6. An employee of a state credit union shall not be a
3 11 member of the board of directors. For purposes of this
3 12 section, "employee of a state credit union" means an
3 13 individual employed by the state credit union other than the
3 14 chief executive officer.

3 15 7. A person shall not be elected to the board of directors
3 16 unless the person is at least eighteen years old by the date
3 17 on which the annual meeting is held.

3 18 Sec. 7. Section 533.205, subsection 6, paragraph b, Code
3 19 2009, is amended by striking the paragraph.

3 20 Sec. 8. Section 533.208, subsection 3, Code 2009, is
3 21 amended to read as follows:

3 22 3. Suspend by unanimous vote any officer, director, or
3 23 member of the auditing committee and call the members together
3 24 to act on the suspension, if the auditing committee deems the
3 25 action to be necessary to the proper conduct of the state
3 26 credit union. A member of the auditing committee shall not
3 27 participate in a vote to suspend if that member is the subject
3 28 of the vote and shall not be included in the number
3 29 determining a unanimous vote of the committee. The members at
3 30 the meeting may sustain the suspension and remove the officer,
3 31 director, or member permanently or may reinstate the officer,
3 32 director, or member.

3 33 Sec. 9. Section 533.301, subsection 5, paragraph f, Code
3 34 2009, is amended to read as follows:

3 35 f. Shares, stocks, loans, and other obligations or a
4 1 combination of shares, stocks, loans, and other obligations of
4 2 a credit union service organization, ~~corporation, or~~
~~4 3 association, provided the membership or ownership, as the case~~
~~4 4 may be, of the credit union service organization, corporation,~~
~~4 5 or association is primarily confined or restricted to credit~~
~~4 6 unions or organizations of credit unions, and provided that~~
~~4 7 the purpose of the credit union service organization,~~
~~4 8 corporation, or association is primarily designed to provide~~
~~4 9 services to credit unions, organizations of credit unions, or~~
~~4 10 credit union members. However, the aggregate amount invested~~
~~4 11 pursuant to this paragraph shall not exceed five percent of~~
~~4 12 the assets of the credit union.~~

4 13 Sec. 10. Section 533.309, subsection 3, Code 2009, is
4 14 amended to read as follows:

4 15 3. ACCOUNT FOR MINORS. Shares may be issued and deposits
4 16 accepted in the name of a minor. Such shares and deposits may
4 17 be withdrawn by the minor and payments made on such
4 18 withdrawals shall be valid. ~~A minor under sixteen years of~~
~~4 19 age shall not be entitled to vote in the meetings of the~~
~~4 20 members either personally or through the minor's parent or~~
~~4 21 guardian, and a minor shall not become a director until the~~
~~4 22 minor reaches the minor's eighteenth birthday.~~

4 23 Sec. 11. Section 533.501, subsection 1, Code 2009, is
4 24 amended to read as follows:

4 25 1. VIOLATION OF LAW, RULE, OR CEASE AND DESIST ORDER OR
4 26 ENGAGING IN UNSAFE OR UNSOUND PRACTICE.

4 27 a. (1) If the superintendent has reason to believe that
4 28 an officer, director, employee, or committee member of a state
4 29 credit union has violated any law, rule, or cease and desist

4 30 order relating to a state credit union, or has engaged in an
4 31 unsafe or unsound practice in conducting the business of a
4 32 state credit union, the superintendent may cause notice to be
4 33 served upon the officer, director, employee, or committee
4 34 member to appear before the superintendent to show cause why
4 35 the person should not be removed from office or employment. A
5 1 copy of such notice shall be sent by certified mail or
5 2 restricted certified mail to each director of the state credit
5 3 union affected.

5 4 (2) If the superintendent finds that the accused has
5 5 violated a law, rule, or cease and desist order relating to a
5 6 state credit union, or has engaged in an unsafe or unsound
5 7 practice in conducting the business of a state credit union,
5 8 after granting the accused a hearing before an independent
5 9 administrative law judge, the superintendent in the
5 10 superintendent's discretion may order that the accused be
5 11 removed from office and from any position of employment with
5 12 the state credit union. The superintendent may further order
5 13 that the accused not accept employment in any state credit
5 14 union under the superintendent's jurisdiction without the
5 15 superintendent's prior approval.

5 16 (3) A copy of the order shall be served upon the accused
5 17 and upon the state credit union affected, at which time the
5 18 accused shall cease to be an officer, director, employee, or
5 19 committee member of the state credit union.

5 20 b. (1) If the superintendent determines that a state
5 21 credit union has violated any of the provisions of this
5 22 chapter or rules adopted pursuant to this chapter, after
5 23 notice and opportunity for hearing, the superintendent shall
5 24 order the state credit union to correct the violation, except
5 25 when the state credit union is insolvent.

5 26 (2) The superintendent may specify the manner in which the
5 27 violation is to be corrected and grant the state credit union
5 28 not more than sixty days within which to comply with the
5 29 order.

5 30 (3) The superintendent may revoke a state credit union's
5 31 certificate of approval for failure to comply with the order.

5 32 (4) If the certificate of approval has been revoked, the
5 33 superintendent may apply to the district court of the county
5 34 in which the state credit union is located for the appointment
5 35 of a receiver for the state credit union.

6 1 EXPLANATION

6 2 This bill makes changes to several provisions of Code
6 3 chapter 533, dealing with state administration and regulation
6 4 of credit unions.

6 5 The bill modifies the definition of "credit union service
6 6 organization" to mean a corporation or limited partnership
6 7 with ownership primarily consisting of, and providing services
6 8 primarily to, credit unions, organizations of credit unions,
6 9 or credit union members, and deletes similar language
6 10 currently contained elsewhere in Code chapter 533. The bill
6 11 makes provisions regarding the making of or acceptance of a
6 12 loan and the borrowing of money by or from a credit union
6 13 which currently apply to the superintendent of credit unions
6 14 also applicable to the deputy superintendent of credit unions.

6 15 The bill provides that a state credit union or other person
6 16 subject to an authorized examination and all directors,
6 17 officers, employees, agents, and other persons furnished a
6 18 copy of a report of examination, or who are in possession of
6 19 other information not identified as a public record, shall not
6 20 publish or make public that information and that such
6 21 information shall not be subject to subpoena.

6 22 The bill relocates a provision restricting the ability to
6 23 vote in credit union membership meetings to persons over the
6 24 age of 16 to Code section 533.203, dealing with membership
6 25 meetings, and deletes the same provision elsewhere in Code
6 26 chapter 533. The bill makes mandatory a currently optional
6 27 provision directing a state credit union to apply to the
6 28 superintendent for permission to reduce board membership to a
6 29 level below nine members. The bill relocates a provision
6 30 prohibiting an employee of a state credit union from being a
6 31 member of the board of directors of the credit union,
6 32 clarifies that "employee" in this instance does not include
6 33 the chief executive officer of the credit union, and provides
6 34 that a person must be at least 18 years of age by the date of
6 35 the credit union's annual meeting to be elected to the board
7 1 of directors.

7 2 The bill provides that a member of a credit union auditing
7 3 committee shall not participate in a vote to suspend an
7 4 officer, director, or member of the committee if that member
7 5 is the subject of the vote. Additionally, the bill makes

7 6 changes of a primarily technical nature regarding specified
7 7 subsection headnotes.
7 8 LSB 1226XD 83
7 9 rn/nh/14