

Senate File 409 - Introduced

SENATE FILE 409
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1098)

A BILL FOR

1 An Act relating to state credit union examinations and board
2 meetings called by the superintendent of credit unions, and
3 providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 533.113, Code 2017, is amended to read
2 as follows:

3 **533.113 Examinations.**

4 1. The superintendent may do any or all of the following:

5 a. Make or cause to be made an examination of a credit
6 union whenever the superintendent believes such examination is
7 necessary or advisable, but in no event less frequently than
8 once during each twenty-four-month period.

9 b. Make or cause to be made such limited examinations at
10 such times and with such frequency as the superintendent deems
11 necessary and advisable to determine the condition of any state
12 credit union and whether any person has violated the provisions
13 of [this chapter](#).

14 c. Make or cause to be made an examination of any
15 corporation or credit union service organization in which a
16 state credit union owns shares or has made an investment.

17 d. Make or cause to be made an examination of any person
18 having business transactions or a relationship with any
19 state credit union when such examination is deemed necessary
20 and advisable in order to determine whether the capital of
21 the state credit union is impaired or whether the safety of
22 its deposits, its financial information or accounts, or its
23 computer systems or computer networks, is imperiled.

24 e. Accept, in lieu of the examination of a state credit
25 union, or any corporation or credit union service organization
26 in which a state credit union owns shares or has made an
27 investment, or of any person having business transactions or a
28 relationship with any state credit union, an examination report
29 prepared by a federal regulatory authority.

30 f. Accept, in lieu of the examination of a state credit
31 union, an audit report conducted by a certified public
32 accounting firm selected from a list of firms previously
33 approved by the superintendent. The cost of the audit shall be
34 paid by the state credit union.

35 g. Accept, in lieu of the examination of an out-of-state

1 credit union which also conducts business in this state, an
2 examination report prepared by a state or federal regulatory
3 authority.

4 *h.* Retain, at the examinee's expense, accountants,
5 investigators, and other experts as reasonably necessary to
6 assist in the conduct of the examination. Any person so
7 retained shall serve in a purely advisory capacity at the
8 direction of the superintendent.

9 2. A state credit union and all of its officers and agents
10 shall give to the representatives of the superintendent free
11 and unimpeded access to all books, papers, securities, records,
12 and other sources of information under their control.

13 3. *a.* A report of examination shall be forwarded to the
14 chairperson of a state credit union within thirty days after
15 the completion of the examination. Within thirty days of the
16 receipt of this report, a meeting of the directors shall be
17 called by the state credit union to consider matters contained
18 in the report and the action taken shall be set forth in the
19 minutes of the board.

20 *b.* The report of examination of any affiliate or of any
21 person examined as provided in [this subsection](#) shall not be
22 transmitted by the superintendent to any such affiliate or
23 person or to the board of directors of any state credit union
24 unless authorized or requested by such affiliate or person.

25 *c.* All reports of examinations, including any copies of
26 such reports in the possession of any person other than the
27 superintendent or employee of the credit union division,
28 including any state credit union, agency, or institution
29 to which any report of such examination may be furnished
30 under this section, or section 533.108 or 533.325, shall be
31 confidential communications, shall not be subject to subpoena
32 from any person except as provided in section 533.108,
33 subsection 2, paragraph "b", and shall not be published, shared,
34 or made public in any way by any person without the written
35 authorization of the credit union division and the execution of

1 a confidentiality agreement between all of the parties pursuant
2 to section 533.108, subsection 1, paragraph "d".

3 d. All reports of examinations, including any copies of
4 such reports in the possession of any person other than the
5 superintendent or employee of the credit union division, shall
6 remain the exclusive property of the credit union division.

7 ~~4. a. Whenever the superintendent deems it necessary~~
8 ~~and advisable, the superintendent may notify the board of~~
9 ~~directors of a state credit union that a meeting will be held~~
10 ~~at a place and time and manner as the superintendent directs.~~
11 ~~The superintendent's notice may disclose the purpose of the~~
12 ~~meeting.~~

13 ~~b. The superintendent may present to the board at the~~
14 ~~meeting any item the superintendent desires to bring to the~~
15 ~~attention of the board, including but not limited to any report~~
16 ~~of an examination required or allowed by this chapter, any~~
17 ~~conclusions or projections drawn by the superintendent, any~~
18 ~~recommendations made relative to a report of an examination,~~
19 ~~and any other matters concerning the operation and condition of~~
20 ~~the state credit union.~~

21 ~~c. The state credit union shall cause the matters presented~~
22 ~~at the meeting to be recorded in the minutes of the meeting.~~

23 ~~d. Each member of the board of directors shall furnish~~
24 ~~the superintendent a statement on forms supplied by the~~
25 ~~superintendent that the member is familiar with the matters~~
26 ~~presented by the superintendent.~~

27 ~~5. 4.~~ The superintendent may require any of the following
28 state credit unions to submit to an additional examination
29 or to an independent audit performed by a certified public
30 accounting firm as provided in subsection 1, paragraph "f", at
31 the expense of the state credit union:

32 a. A state credit union where the records are inadequate.

33 b. A state credit union in which the books have not been
34 balanced as of the end of the month not less than thirty days
35 previously.

1 c. A state credit union whose affairs are in an unfavorable
2 condition.

3 ~~6-~~ 5. The superintendent may furnish a copy of the
4 examination report and materials relating to any or all
5 examinations made of any state credit union and any affiliate
6 of a state credit union to any or all of the following,
7 including any official or supervising examiner of any office
8 or regulatory authority:

9 a. The national credit union administration.

10 b. The federal deposit insurance corporation.

11 c. The federal reserve system.

12 d. The office of the comptroller of the currency.

13 e. The federal home loan bank.

14 f. Financial institution regulatory authorities of other
15 states.

16 g. The financial crimes enforcement network of the United
17 States department of the treasury.

18 ~~7. If the superintendent concludes that a state
19 credit union's affairs are in an unfavorable condition,
20 the superintendent may direct the state credit union to
21 consider consolidation, dissolution, or any other form of
22 reorganization.~~

23 6. The superintendent may impose a penalty, after notice
24 in writing and opportunity for a hearing, for a violation of
25 this section. If a state credit union fails to satisfactorily
26 resolve the matter within sixty days from receipt of such
27 notice, the superintendent may impose a penalty against the
28 state credit union in an amount not to exceed one hundred
29 dollars per day per violation for each day that the violation
30 remains unresolved.

31 **Sec. 2. NEW SECTION. 533.113A Meetings of the board called**
32 **by superintendent.**

33 1. Whenever the superintendent deems it necessary and
34 advisable, the superintendent may notify the board of directors
35 of a state credit union that a meeting will be held at a

1 place and time and manner as the superintendent directs.
2 The superintendent's notice may disclose the purpose of the
3 meeting.

4 2. The superintendent may present to the board at the
5 meeting any item the superintendent desires to bring to the
6 attention of the board, including but not limited to any report
7 of an examination required or allowed by this chapter, any
8 conclusions or projections drawn by the superintendent, any
9 recommendations made relative to a report of an examination,
10 and any other matters concerning the operation and condition of
11 the state credit union.

12 3. Each member of a board of directors required to hold a
13 meeting with the superintendent pursuant to this section shall
14 furnish a statement to the superintendent, on forms supplied by
15 the superintendent, that the member acknowledges the matters
16 presented by the superintendent.

17 4. A state credit union required to hold a meeting with the
18 superintendent pursuant to this section shall cause the matters
19 presented at such meeting to be recorded in the minutes of the
20 meeting.

21 5. If the superintendent concludes that a state
22 credit union's affairs are in an unfavorable condition,
23 the superintendent may direct the state credit union to
24 consider consolidation, dissolution, or any other form of
25 reorganization.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to state credit union examinations and
30 board meetings called by the superintendent.

31 The bill modifies Code section 533.113, relating to the
32 examinations of state credit unions, by providing that the
33 reports of examinations, including any copies furnished to any
34 person outside of the credit union division, are confidential
35 communications, are not subject to subpoena, are not to be

1 published or made public by any person without the credit
2 union division's written authorization and the execution of a
3 confidentiality agreement between all of the parties, and are
4 the exclusive possession of the credit union division. The
5 bill authorizes penalties for any violation of Code section
6 533.113. The superintendent may impose a penalty of not more
7 than \$100 per day per violation for each day that the violation
8 is unresolved, after notice and an opportunity for a hearing
9 and a 60-day period for resolving the violation.

10 The bill deletes Code section 533.113(4), allowing the
11 superintendent to call a meeting of the board of directors of
12 a state credit union, and Code section 533.113(7), allowing
13 the superintendent to direct a state credit union to consider
14 consolidation, dissolution, or any other form of reorganization
15 if the superintendent concludes that its affairs are in an
16 unfavorable condition. However, the language from these
17 sections is incorporated into new Code section 533.113A.
18 In addition, the bill requires each member of a board of
19 directors required to hold a meeting with the superintendent
20 under new Code section 533.113A to furnish a statement to
21 the superintendent that the member acknowledges the matters
22 presented at the meeting. The matters presented at such
23 meeting must also be recorded in the meeting minutes.