

CHAPTER 1039**REGULATION OF CREDIT UNIONS***S.F. 2180*

AN ACT relating to the regulation of credit unions by granting the superintendent certain additional enforcement authority, establishing certain bonding and insurance requirements, and defining certain member rights.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 533.6, subsections 2 and 5, Code 1991, are amended to read as follows:

2. The superintendent shall ~~annually examine, may make or cause to be examined, 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 eighteen month period.~~ 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 annual 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.

5. ~~When If the superintendent has reason to believe that an officer, director, or 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 continued engaged in an unsafe or unsound practice in conducting the business of a credit union after having been warned by the superintendent to discontinue or correct such violation or unsafe or unsound practice, the superintendent may cause notice to be served upon the officer, director, or 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 restricted delivery 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 continued engaged in an unsafe or unsound practice in conducting the business of a credit union after having been warned by the superintendent, 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, or employee, or committee member of the credit union.~~

Sec. 2. NEW SECTION. 533.6A INTERIM CEASE AND DESIST ORDER – FINAL ORDER – SUSPENSION.

1. If it appears to the superintendent that a credit union, or any director, officer, employee, or committee member of a credit union is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the credit union that is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its members prior to the completion of the proceedings conducted pursuant to section 533.6, the superintendent may issue an interim order requiring the credit union, director, officer, employee, or committee member to cease and desist from any such practice or act, and to take affirmative action, including suspension of the director, officer, employee, or committee member to prevent such insolvency, dissipation, condition, or prejudice pending completion of the proceedings. The interim order becomes effective upon personal service upon

the credit union, or upon the director, officer, employee, or committee member of the credit union and, unless set aside, limited, or suspended by a court as provided in this chapter, remains effective and enforceable pending the completion of the administrative proceedings pursuant to the interim order and until such time as the superintendent dismisses the charges specified in the interim order, or, if a final cease and desist order is issued against the credit union or the director, officer, employee, or committee member until the effective date of the final order.

2. Within ten days after a credit union or any director, officer, employee, or committee member is served with an interim order, the credit union or director, officer, employee, or committee member may apply to the district court in the county in which the credit union has its principal place of business, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the interim order pending the completion of the administrative proceedings. If serious prejudice to the interests of the superintendent, the credit union, the officer, director, employee, or committee member would result from a court hearing, the court may order the judicial proceeding to be conducted in camera.

3. The interim order shall contain a concise statement of the facts constituting the alleged unsafe or unsound practice or alleged dishonest act, and shall fix a time and place at which a hearing will be held to determine whether a final order to cease and desist should issue against the credit union or any director, officer, employee, or committee member. The hearing shall be fixed for a date not later than thirty days after service of the interim order unless a later date is set at the request of the party so served. If the credit union, or the director, officer, employee, or committee member fails to appear at the hearing, the credit union, or the director, officer, employee, or committee member is deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the interim order has been established, the superintendent may issue and serve upon the credit union, or the director, officer, employee, or committee member a final order to cease and desist from any such practice or act. The order may require the credit union, or the director, officer, employee, or committee member to cease and desist from any such practice or act and, further, to take affirmative action, including suspension of the director, officer, employee, or committee member.

4. A hearing provided for in this section shall be presided over by an administrative law judge appointed in accordance with section 17A.11. The hearing shall be private, unless the superintendent determines after full consideration of the views of the party afforded the hearing, that a public hearing is necessary to protect the public interest. After the hearing, and within thirty days after the case has been submitted for decision, the superintendent shall review the proposed order of the administrative law judge and render a final decision, including findings of fact upon which the decision is predicated, and issue and serve upon each party to the proceeding an order consistent with this section.

5. Any final order issued by the superintendent pursuant to subsection 3 becomes effective upon service of the final order on the credit union, director, officer, employee, or committee member and shall remain effective except to the extent that it is stayed, modified, terminated, or set aside by action of the superintendent or of the district court of the county in which the credit union has its principal place of business in accordance with the terms of chapter 17A.

6. In the case of violation or threatened violation of, or failure to obey, an interim order issued pursuant to subsection 1 or a final order issued pursuant to subsection 3, the superintendent may apply to the district court of the county in which the credit union has its principal place of business for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the interim order or final order.

Sec. 3. Section 533.7, Code 1991, is amended to read as follows:

533.7 FISCAL YEAR – MEETINGS.

The fiscal year of all credit unions shall end December 31. Annual meetings shall be held, and special meetings may be held, in the manner indicated in the bylaws.

At all meetings ~~no~~ a member shall not have more than one vote regardless of the shares held by the member. There shall be no voting by proxy. A member other than a natural person may cast a single vote through a delegated agent which agent shall be a member of the organization for which the agent acts. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the bylaws or of this chapter. In order to be binding upon the board of directors, any action so taken by the membership to modify, amend, or reverse an act of the board or to instruct the board to take action requires an affirmative vote of a majority of all eligible members after submitting the modification, amendment, or reversal, by mail ballot pursuant to rules on mailed ballots adopted by the superintendent.

Sec. 4. Section 533.62, subsections 1 and 2, Code 1991, are amended to read as follows:

1. Each credit union shall pay to the superintendent an annual filing fee which shall be submitted with the annual report as established by the superintendent and adopted by the credit union review board. The fee shall be based upon the actual operating costs of the credit union division, exclusive of examination expenses, and shall be established and promulgated as a rule by the superintendent. The superintendent shall assess against a credit union the actual and necessary expenses of the agency incidental to any examination of that credit union made pursuant to the provisions of this chapter or to an order of the superintendent.

2. Failure of a credit union to pay an annual filing fee or examination a fee pursuant to subsection 1 within fifteen days after the fee is due shall result in the fee being considered delinquent and a penalty of five dollars per day, or for any part of a day, during which the credit union is equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent, and. The delinquency may be the grounds for revocation of the charter of the credit union which failed to make payment.

Sec. 5. Section 533.64, Code Supplement 1991, is amended to read as follows:

533.64 ACCOUNT INSURANCE.

Except as provided in section 533.12, subsection 2, a credit union organized under this chapter, as a condition of maintaining its privilege of organization after ~~December 31, 1980~~, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the superintendent, provided that each credit union shall acquire deposit insurance from the appropriate agency of the federal government.

A credit union shall maintain a fidelity bond for credit union employees and officials in a sufficient amount to indemnify the credit union against losses which may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by the employee or official directly or through connivance with others, and general insurance coverage for losses caused by persons not associated with the credit union. The fidelity bond and general insurance coverage shall be obtained from a company authorized to do business in this state. The superintendent may require additional coverage for any credit union if, in the opinion of the superintendent, current coverage is insufficient. The board of directors of the credit union shall obtain the additional coverage within thirty days after written notice from the superintendent.

The superintendent may furnish to any official of an insurance plan by which the accounts of a credit union are insured or by which its employees and officials are bonded, any information relating to examinations, investigations, and reports of the status of that credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance to that or bond of the credit union or resolution of a claim.

Approved April 9, 1992