

CHAPTER 1012
REGULATION OF CREDIT UNIONS
S.F. 376

AN ACT relating to the regulation of credit unions by authorizing additional powers and defining certain business relationships and establishing a penalty.

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

Section 1. Section 533.4, subsections 1, 4, 5, and 19, Code 1995, are amended to read as follows:

1. ~~Receive the savings of from its members either, nonmembers as prescribed by rule where the credit union is serving predominantly low-income members, other credit unions, and federal, state, county, and city governments, as payment payments on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within the membership. Rules adopted allowing nonmember deposits in credit unions serving predominantly low-income members shall be designed solely to meet the needs of the low-income members.~~

4. ~~Deposit~~ Make deposits in state and national banks, state and federal savings banks or savings and loan associations, and state and federal credit unions, the accounts of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

5. Make investments in:

a. Time deposits in ~~state and national banks and in state banks,~~ state and federal savings banks or savings and loan associations, and state and federal credit unions, the deposits of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

b. Obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same.

c. General obligations of the state of Iowa and any subdivision ~~thereof of the state.~~

~~d. Paid-up deposits of savings and loan associations, the deposits of which are insured by the federal savings and loan insurance corporation.~~

e. d. Purchase of notes of liquidating credit unions with the approval of the superintendent.

~~f. e.~~ Shares and deposits in other credit unions.

~~g. f.~~ Shares, stocks, loans, and other obligations or a combination thereof of an organization, corporation, or association, provided the membership or ownership, as the case may be, of the organization, corporation, or association is primarily confined or restricted to credit unions or organizations of credit unions and provided that the purpose of the organization, corporation, or association is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members. However, the aggregate amount invested pursuant to this subsection shall not exceed five percent of the assets of the credit union.

~~h. g.~~ Obligations issued by federal land banks, federal intermediate credit banks, banks for cooperatives, or any or all of the federal farm credit banks.

~~i. h.~~ Commercial paper issued by United States corporations as defined by rule.

~~j. i.~~ Corporate bonds as defined by and subject to terms and conditions imposed by the administrator, provided that the administrator shall not approve investment in corporate bonds unless the bonds are rated in the two highest grades of corporate bonds by a nationally accepted rating agency, including but not limited to a rating of AAA or AA from Standard and Poors.

19. Establish one or more offices other than its main office, subject to the approval and regulation of the superintendent, if such offices ~~shall be~~ are reasonably necessary to furnish

service to its membership. A credit union office may furnish all credit union services ordinarily furnished to the membership at the principal place of business of the credit union which operates the office. All transactions of a credit union office shall be transmitted daily to the principal place of business of the credit union which operates the office, and ~~no~~ current recordkeeping functions shall not be maintained at a credit union office except to the extent the credit union which operates the office deems it desirable to keep at the office duplicates of the records kept at the principal place of business of the credit union. The central executive and official business functions of a credit union shall be exercised only at the principal place of business.

A credit union office shall not be opened without the prior written approval of the superintendent. Upon application by a credit union in the form prescribed by the superintendent, the superintendent shall determine, after notice and hearing, if the establishment of the credit union office is reasonably necessary for service to, and is in the best interests of, the members of the credit union.

Notwithstanding the provisions of this section, data processing services and loan documentation recordkeeping functions may be performed or located at an authorized credit union office or at some other location, subject to the approval of the superintendent.

Sec. 2. Section 533.6, subsection 2, Code 1995, is amended to read as follows:

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 eighteen-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.

Sec. 3. Section 533.16, subsection 3, Code 1995, is amended to read as follows:

3. A director of a credit union may borrow from that credit union under the provisions of this chapter, but the rates, terms, and conditions of a loan or line of credit either made to or endorsed or guaranteed by the director shall not be made on terms more favorable than those extended the rates, terms, or conditions of comparable loans or lines of credit provided to other members. ~~A director of a credit union may borrow from that credit union to the extent and in the amount of such director's holdings in the credit union in shares and deposits. A director desiring to borrow from the credit union an amount in excess of the director's holdings in shares and deposits shall first submit application for approval by the board of directors at a regular or special meeting. The director making application for the loan shall not be in attendance at the time the board of directors considers the application and shall not take part in the consideration. Prior to consideration of such loan, the director must have submitted to the board a detailed current financial statement.~~ The aggregate amount of all director loans and lines of credit shall not exceed ~~twenty~~ twenty-five percent of the assets of the credit union.

Sec. 4. Section 533.16, subsection 4, paragraph c, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A credit union which obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title to real property,

the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances on real property, shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

Sec. 5. Section 533.17, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Immediately before the payment of a dividend~~ At the end of each dividend period, but no less than quarterly, the gross income of the credit union shall determine its gross earnings be determined. A legal reserve ~~for contingencies against losses on loans and against such other losses as may be specified by rule~~ shall be set aside from the gross earnings income in accordance with the following schedule:

Sec. 6. Section 533.17, subsection 2, Code 1995, is amended to read as follows:

2. For the purpose of establishing legal reserves, the following shall not be considered risk assets:

- a. Cash on hand.
- b. Deposits and shares in ~~federal or state~~ federally insured banks, savings and loan associations, and credit unions.
- c. Assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States government, its agencies, and instrumentalities.
- d. Loans to other credit unions.
- e. Student loans insured under the provisions of Title XX, United States Code, section 1071 to section 1087 or similar state programs.
- f. Loans insured by the federal housing administration under Title XII, United States Code, section 1703.
- g. Loans fully insured or guaranteed by the federal government, a state government, or any agency of either.
- ~~g.~~ h. Common trust investments which deal in investments authorized in section 533.4.
- ~~h.~~ i. Prepaid expenses.
- ~~i.~~ j. Accrued interest on nonrisk investments.
- ~~j.~~ k. Furniture and equipment.
- ~~k.~~ l. Land and buildings.
- m. Loans fully secured by a pledge of shares within the credit union.
- n. Deposits in the national credit union share insurance fund.
- o. Real estate loans in transit to the secondary market as specified by rule.

Sec. 7. Section 533.18, Code 1995, is amended to read as follows:

533.18 DIVIDENDS.

~~1.~~ At such intervals and for such periods as the board of directors may authorize, and after ~~transfers to the provision for~~ required reserves pursuant to section 533.17, the board of directors may declare dividends at such rates and upon such classes of shares as are determined by the board. Such dividends shall be paid on all paid-up shares outstanding at the close of the period for which the dividend is declared.

~~2. Shares which become fully paid up during such dividend period and are outstanding at the close of period shall be entitled to a proportional share of such dividend.~~

~~3. Dividend credit for a month may be accrued on shares which are or become fully paid up during the first fifteen days of that month.~~

Sec. 8. NEW SECTION. 533.49 AUTHORITY TO LEASE SAFE DEPOSIT BOXES.

1. A credit union may lease safe deposit boxes for the storage of property on terms and conditions prescribed by it. Such terms and conditions shall not bind any person to whom the credit union does not give notice of the terms and conditions by delivery of a lease and agreement in writing containing the terms and conditions. A credit union may limit its liability provided such limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the contract.

2. The lease and agreement of a safe deposit box may provide that evidence tending to prove that property was left in a safe deposit box upon the last entry by the member or the member's authorized agent, and that the property or any part of the property was found missing upon subsequent entry, is not sufficient to raise a presumption that the property was lost by any negligence or wrongdoing for which the credit union is responsible, or put upon the credit union the burden of proof that the alleged loss was not the fault of the credit union.

3. A credit union may lease a safe deposit box to a minor. A credit union may deal with a minor with respect to a safe deposit lease and agreement without the consent of a parent, guardian, or conservator and with the same effect as though the minor were an adult. Any action of the minor with respect to such safe deposit lease and agreement is binding on the minor with the same effect as though the minor were an adult.

4. A credit union which has on file a power of attorney of a member covering a safe deposit lease and agreement, which has not been revoked by the member, shall incur no liability as a result of continuing to honor the provisions of the power of attorney in the event of the death or incompetence of the donor of the power of attorney until the credit union receives written notice of the death, or written notice of adjudication by a court of the incompetence of the member and the appointment of a guardian or conservator.

Sec. 9. NEW SECTION. 533.49A SEARCH PROCEDURE ON DEATH.

A credit union shall permit the person named in a court order or, if no order has been served upon the credit union, the spouse, a parent, an adult descendant, or a person named as executor in a copy of a purported will produced by the person, to open and examine the contents of a safe deposit box leased by a decedent, or to examine any property delivered by a decedent for safekeeping, in the presence of an officer of the credit union. The credit union, if requested by such person, and upon the credit union's receipt of the request, shall deliver:

1. Any writing purported to be a will of the decedent to the court having jurisdiction of the decedent's estate.

2. Any writing purported to be a deed to a burial plot, or to give burial instructions, to the person making the request for a search.

3. Any document purported to be an insurance policy on the life of the decedent to the beneficiary named in the policy. A credit union shall prepare and keep a list of any contents delivered pursuant to this section describing the nature of the property and the individual to whom delivered, and place a copy of the list in the safe deposit box from which the contents were removed.

Sec. 10. NEW SECTION. 533.49B ADVERSE CLAIMS TO PROPERTY IN SAFE DEPOSIT AND SAFEKEEPING.

1. A credit union shall not be required, in the absence of a court order or indemnity required by this section, to recognize any claim to, or claim of authority to exercise control over, property held in safe deposit or property held for safekeeping pursuant to section 533.49D made by a person or persons other than the following:

a. The member in whose name the property is held by the credit union.

b. An individual or group of individuals who are authorized to have access to the safe deposit box, or to the property held for safekeeping, pursuant to a certified corporate resolution or other written arrangement with the member, currently on file with the credit union, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other member, of which the credit union has received notice and which is not the subject of a dispute known to the credit union as to its original validity. The safe deposit and safekeeping account records of a credit union shall be presumptive evidence as to the identity of the member on whose behalf the property is held.

2. To require a credit union to recognize an adverse claim to, or adverse claim of authority to control, property held in safe deposit or for safekeeping, whoever makes the claim must do either of the following:

a. Obtain and serve on the credit union an appropriate court order or judicial process directed to the credit union, restraining any action with respect to the property until further order of the court or instructing the credit union to deliver the property, in whole or in part, as indicated in the order or process.

b. Deliver to the credit union a bond, in form and amount with sureties satisfactory to the credit union, indemnifying the credit union against any liability, loss, or expense which the credit union might incur because of its refusal to deliver the property to any person described in subsection 1, paragraph "a" or "b".

Sec. 11. NEW SECTION. 533.49C REMEDIES AND PROCEEDINGS FOR NON-PAYMENT OF RENT ON SAFE DEPOSIT BOX.

1. A credit union has a lien upon the contents of a safe deposit box for past due rentals and any expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and of a sale made pursuant to this section. If the rental of a safe deposit box is not paid within six months from the day the rental is due, at any time after the six months and while the rental remains unpaid, the credit union shall mail a notice by restricted certified mail to the member at the member's last known address as shown upon the records of the credit union, stating that if the amount due for the rental is not paid on or before a specified day, which shall be at least thirty days after the date of mailing such notice, the credit union will remove the contents of the safe deposit box and hold the contents for the account of the member.

2. If the rental for the safe deposit box has not been paid after the expiration of the period specified in a notice mailed pursuant to subsection 1, the credit union, in the presence of two of its officers, may cause the box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the credit union for the account of the member.

3. If the contents are not claimed within two years after their removal from the safe deposit box, the credit union may proceed to sell so much of the contents as is necessary to pay the past due rentals and expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and the sale of the contents. The sale shall be held at the time and place specified in a notice published prior to the sale once each week for two successive weeks in a newspaper of general circulation published in the city or unincorporated area in which the credit union has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the credit union has its principal place of business. A copy of the published notice shall be mailed to the member at the member's last known address as shown upon the records of the credit union. The notice shall contain the name of the member and need only describe the contents of the safe deposit box in general terms. The contents of any number of safe deposit boxes may be sold under one notice of sale and the cost of the sale apportioned ratably among the several safe deposit box members involved. At the time and place designated in the notice the contents taken from each respective safe deposit box shall be sold separately to the highest bidder for cash and the proceeds of each sale applied to the rentals and expenses due to the credit union and the residue from any such sale shall be held by the credit union for the account of the member or members. An amount held as proceeds from such sale shall be credited with interest at the customary annual rate for savings accounts at the credit union, or in lieu thereof, at the customary rate of interest in the community where such proceeds are held. The crediting of interest does not activate the account to avoid an abandonment as unclaimed property under chapter 556.

4. Notwithstanding the provisions of this section, shares, bonds, or other securities which, at the time of a sale pursuant to subsection 3, are listed on an established stock exchange in the United States, shall not be sold at public sale but may be sold through an established stock exchange. Upon making a sale of any such securities, an officer of the credit union shall execute and attach to the securities so sold an affidavit reciting facts

showing that the securities were sold pursuant to this section and that the credit union has complied with the provisions of this section. The affidavit constitutes sufficient authority to any corporation whose shares are sold or to any registrar or transfer agent of such corporation to cancel the certificates representing the shares to the purchaser of the shares, and to any registrar, trustee, or transfer agent of registered bonds or other securities, to register any such bonds or other securities in the name of the purchaser of the bonds or other securities.

5. The proceeds of any sale made pursuant to this section, after the payment of any amounts with respect to which the credit union has a lien, any property which was not offered for sale and property which, although offered for sale, was not sold, shall be retained by the credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 12. NEW SECTION. 533.49D AUTHORITY TO RECEIVE PROPERTY FOR SAFEKEEPING.

1. A credit union may accept property for safekeeping if, except in the case of night depositories, the credit union issues a receipt for the property. A credit union accepting property for safekeeping shall purchase and maintain reasonable insurance coverage to ensure against loss incurred in connection with the acceptance of property for safekeeping. Property held for safekeeping shall not be commingled with the property of the credit union or the property of others.

2. A credit union has a lien upon any property held for safekeeping and for expenses incurred in any sale made pursuant to this subsection. If the charge for safekeeping of property is not paid within six months from the day the charge is due, at any time after the six months and while the charge remains unpaid, the credit union may mail a notice to the member at the member's last known address as shown upon the records of the credit union, stating that if the amount due is not paid on or before a specified day, which shall be at least thirty days after the date of mailing the notice, the credit union will remove the property from safekeeping and hold the property for the account of the member. After the expiration of the period specified in the notice, if the charge for safekeeping has not been paid, the credit union may remove the property from safekeeping, cause the property to be inventoried, and hold the property for the account of the member. If the property is not claimed within two years after its removal from safekeeping the credit union may proceed to sell so much of the property as is necessary to pay the charge which remains unpaid and the expense incurred in making the sale in the manner provided for in section 533.49C, subsections 3 and 4. The proceeds of any sale made pursuant to this section, after payment of any amounts with respect to which the credit union has a lien, any property which was not offered for sale, and property which, although offered for sale, was not sold, shall be retained by the credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 13. Section 533.61, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A list of credit unions which have been designated as serving predominantly low-income members pursuant to section 533.4, subsection 1.

Sec. 14. Section 533.62, subsection 4, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. A loan of money or property shall not be made directly or indirectly by a state-chartered credit union, or by its officers, directors, or employees, to the superintendent, deputy, or employee of the credit union division. The superintendent, deputy, or employee of the credit union division shall not accept from a state-chartered credit union, or its officers, directors, or employees, a loan of money or property, either directly or indirectly.

b. The superintendent, deputy, or employee of the credit union division shall not perform any services for or be an officer, director, or employee of a state-chartered credit union.

c. A person who willfully undertakes to establish a business dealing contrary to this section commits a serious misdemeanor, and shall be permanently disqualified from acting as an officer, director, or employee of a state-chartered credit union and permanently disqualified from acting as superintendent, deputy, or employee of the credit union division.

d. The superintendent, deputy, or employee of the credit union division who is convicted of theft, burglary, robbery, larceny, or embezzlement as a result of a violation of the laws of any state or of the United States while holding such position shall be immediately disqualified from employment and shall be forever disqualified from holding any position in the credit union division.

Approved March 25, 1996

CHAPTER 1013

INVESTMENTS BY LIFE INSURANCE COMPANIES

H.F. 2211

AN ACT relating to the percentage of the legal reserve of a life insurance company which may be invested in certain corporate obligations.

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

Section 1. Section 511.8, subsection 8, paragraph b, subparagraph (2), Code 1995, is amended to read as follows:

(2) ~~Fifty~~ Seventy-five percent of the legal reserve in the securities described in subsection 5 issued by other than public utility corporations. Fifty percent of the legal reserve in the securities described in subsection 5 issued by public utility corporations.

Approved March 25, 1996

CHAPTER 1014

MUTUAL INSURANCE HOLDING COMPANIES

H.F. 2363

AN ACT authorizing a foreign mutual insurance company or a foreign health service corporation to reorganize by forming an insurance holding company, and providing that a mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of a reorganized domestic or foreign insurance company.

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

Section 1. Section 521A.14, subsection 2, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under chapter 514, may reorganize upon the approval of the commissioner and in compliance with the requirements of any law or regulation which is applicable to the foreign mutual insurance