

## CHAPTER 1020

### REGULATION OF CREDIT UNIONS AND INDIVIDUAL DEVELOPMENT ACCOUNT STATE MATCH FUNDS

S.F. 2279

**AN ACT** relating to credit unions, including methods of voting by credit union members and the board of directors, electronic communications to certain credit union members, the composition of the board of directors, assessment of fees for examination and supervision, limited negotiated disclosures of certain confidential information, treatment of ownership shares, superintendent management authority, individual development accounts held at credit unions and other financial institutions, and making penalties applicable.

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

Section 1. Section 533.108, subsection 1, Code 2011, is amended to read as follows:

1. *a.* Records of the credit union division are public records subject to the provisions of chapter 22, except as otherwise provided in this chapter.

*b.* Papers, documents, writings, reports, reports of examinations and other information relating specifically to the supervision and regulation of a specific state credit union or of other persons by the superintendent pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

*c.* The superintendent or an employee of the credit union division shall not disclose such information relating specifically to the supervision and regulation of a specific state credit union or of other persons in any manner to any person other than the person examined, except as otherwise authorized by this section or section 533.113 or 533.308.

*d.* Notwithstanding the prohibition on disclosure pursuant to paragraph "c", the superintendent or an employee of the credit union division may disclose information relating specifically to the supervision and regulation of a specific state credit union or of other persons if the credit union or other person consents in writing to the disclosure and the persons to whom the disclosures are made are subject to, or agree to comply with, standards of confidentiality comparable to those contained in this chapter.

Sec. 2. Section 533.112, Code 2011, is amended to read as follows:

#### **533.112 Annual and individual fees — examination fees — delinquencies.**

1. Each state credit union shall pay an annual fee for examination and supervision as determined by the superintendent based on the actual cost of operating the credit union division.

*a.* The cost of operating the credit union division shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of the duties imposed on the superintendent under this chapter.

*b.* (1) The cost of operating the credit union division shall also include but not be limited to the costs incurred due to additional time and other division resources required for any of the following:

(a) Performing services for the credit union that are customarily performed by the credit union.

(b) Performing services related to a particular examination that exceed estimates for an individual credit union's examination based on factors including but not limited to the asset size of the credit union, the complexity of transactions to be examined, and the examination history of the credit union.

(2) An individual fee assessment for such costs incurred under this paragraph "b" may be made in addition to a credit union's annual fee.

*c.* The In establishing the structure of the fee schedule, the superintendent shall consider recommendations from the review board and from state credit unions in determining the amount of the annual fee.

d. The annual fee may be paid in one or more installments, as provided by rule by the superintendent.

2. Each state credit union, corporation, credit union service organization, or other person subject to an examination pursuant to section 533.113 shall pay an examination fee as determined by the superintendent, which shall reflect but not be limited to the time required for the examination and the costs of the examination. The superintendent shall establish by rule an examination fee schedule.

a. The costs of the examination shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of duties imposed upon the superintendent under this chapter.

b. The examination fee shall be due within thirty days of presentation of the fee statement to the corporation, credit union service organization, or other person examined by the division.

3. In addition to the annual fee and examination fee assessed pursuant to this section, the division may also assess a credit union, credit union service organization, corporation, or other person subject to an examination pursuant to section 533.133 for the expense of accountants, investigators, and other experts reasonably necessary to assist in the conduct of the examination, pursuant to section 533.113, subsection 1.

4. a. Failure of a state credit union, corporation, credit union service organization, or other person to pay a fee pursuant to subsection 1, or 2, or 3 shall result in the fee being considered delinquent and a penalty equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent.

b. A fee delinquency under this subsection by a corporation, credit union service organization, or other person may result in the superintendent collecting the delinquent fee and penalty from the state credit union owning shares or investments or having business transactions or a relationship with such corporation, credit union service organization, or other person.

c. A fee delinquency under this subsection may also constitute grounds for revocation of the certificate of approval of the credit union to operate in this state.

Sec. 3. Section 533.113, subsection 6, paragraph e, Code 2011, is amended by striking the paragraph.

Sec. 4. Section 533.201, subsections 7 and 8, Code 2011, are amended to read as follows:

7. Articles of incorporation may be amended by a favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.

8. Bylaws Articles of incorporation or bylaws may be amended by any of the following methods, upon a favorable vote of a majority of the board of directors selecting the method of voting:

a. The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.

b. The favorable vote of a majority of the members of the board.

c. By a majority vote of members voting by mailed or electronic ballot, ensuring the confidentiality of voters votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once, according to procedures specified by rule of the superintendent, requiring at least twenty days' notice to all members or as specified in the bylaws. An announcement shall be made to members of the results of the vote. Ballots shall be preserved for a reasonable period of time following the vote.

d. A combination of procedures as specified in paragraphs "a" and "c", whereby members are allowed to vote either in person at a meeting or by mailed or electronic ballot, according to procedures specified by rule of the superintendent or as specified in the bylaws.

8. If the proposed amendment receives a favorable majority of the total votes cast in person and by mailed or electronic ballot under the method of voting selected under subsection 7, the articles of incorporation or bylaws shall be amended as proposed. Notice shall be

given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to members, and until any challenge is resolved.

Sec. 5. Section 533.203, Code 2011, is amended to read as follows:

**533.203 Fiscal year — membership meetings — voting by membership — notice.**

1. The fiscal year of all state credit unions shall end December 31.
2. Annual meetings shall be held, and special meetings may be held, in the manner indicated in the bylaws.
  - a. ~~At all meetings, a~~ A member shall have one vote regardless of the number of or class of shares held by the member.
  - b. There shall be no voting by proxy.
  - c. A member other than a natural person may cast a single vote through a delegated agent.
3. ~~a. 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 articles, bylaws, or this chapter.~~
  - a. 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 articles, bylaws, or this chapter.
  - b. In order to be binding upon the board of directors, any action 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 obtained by submitting the modification, amendment, or reversal to the members by mail or electronic ballot, pursuant to rules adopted by the superintendent. When a vote of the membership is required under the provisions of this chapter, the board of directors, by a favorable vote of the majority of the board, shall select one of the following methods for conducting that vote, unless a procedure for that vote is otherwise specified:
    - (1) The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed vote was contained in the notice of the meeting.
    - (2) By a majority vote of members voting by mailed or electronic ballot according to procedures specified by rule of the superintendent or as specified in the bylaws.
    - (3) A combination of procedures as specified in subparagraphs (1) and (2), according to procedures specified by rule of the superintendent or as specified in the bylaws.
  - b. Notice shall be given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to members, and until any challenge is resolved.
4. Votes of the membership conducted in accordance with this chapter shall ensure that votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once.
5. When notice to members is required under the provisions of this chapter, the board of directors may satisfy the notice requirement by sending the notice electronically to those members who have exercised an option to receive notices electronically.
6. Credit unions may send account statements and other communications electronically to those members who have exercised an option to receive communications electronically.

Sec. 6. NEW SECTION. 533.203A Vote to modify, amend, or reverse act of board of directors — instruction to take action.

1. 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 articles, bylaws, or this chapter.
2. In order to be binding upon the board of directors, any action 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 obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote, pursuant to the provisions of section 533.203.

Sec. 7. Section 533.204, Code Supplement 2011, is amended to read as follows:

**533.204 Election of board.**

1. ~~At the organizational meeting, and at each annual meeting after initial organization, a board of directors of not less than nine members shall be elected to hold office for such.~~ The

board shall consist of at least seven members, but in every instance shall be composed of an odd number of directors. The directors shall serve staggered terms of three years, as the bylaws provide and, so that an approximately equal number of terms expire at each annual meeting. A director shall serve until successors are a successor is elected and qualified.

2. At each annual meeting, one member shall be elected to fill each position vacated by reason of an expiring term or other cause.

3. Pursuant to rules adopted by the superintendent, state credit unions may ~~The board of directors shall~~ allow members to vote on the election of directors via electronic means including but not limited to the internet or telephone according to the provisions of section 533.203.

4. A record of the names and addresses of the directors, officers, and committee persons shall be filed with the superintendent within ten days following each election or any other change in the directors, officers, or committee persons.

5. ~~a. A state credit union wishing to maintain a board of directors of less than nine members may apply to the superintendent for permission to reduce the required number of directors. An application to reduce the required number of directors under this subsection must demonstrate both of the following:~~

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

~~(2) A lesser number of directors is in the best interest of the state credit union and its members.~~

~~b. In no event shall the superintendent allow a state credit union to maintain fewer than seven directors on a state credit union board.~~

Sec. 8. Section 533.205, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The board may also appoint alternate members of the credit committee or the auditing committee.

Sec. 9. Section 533.208, subsection 3, Code 2011, is amended to read as follows:

3. Suspend by unanimous majority vote any officer, director, or member of the auditing committee and call the members together to act on the suspension, if the auditing committee deems the action to be necessary to the proper conduct of the state credit union. The suspension shall be put to a vote of the membership, according to the provisions of section 533.203. The members at the meeting may vote to sustain the suspension and remove the officer, director, or member permanently or may vote to reinstate the officer, director, or member.

Sec. 10. Section 533.210, subsections 3, 4, and 6, Code 2011, are amended to read as follows:

3. Any member may withdraw from the state credit union at any time, but advance notice of withdrawal of shares or deposits may be required as provided in this section.

4. After deducting all amounts due from the member to the state credit union and the amount necessary to honor outstanding share drafts drawn against accounts of the member, all amounts paid on shares or as deposits of an expelled or withdrawing withdrawn member, along with accrued dividends and interest to the date of expulsion or withdrawal, shall be paid to that member.

6. ~~Withdrawing or expelled~~ Expelled or withdrawn members shall have no further rights in the state credit union. However, ~~withdrawing or expelled~~ or withdrawn members shall not be released from any remaining liability to the state credit union because of the expulsion or withdrawal.

Sec. 11. Section 533.213, subsection 3, paragraph f, Code 2011, is amended to read as follows:

f. Sell all or part of its assets to another corporate central credit union and assume the liabilities of a selling corporate central credit union if the action is pursuant to a plan agreed upon by a majority of the board of directors and, in the case of the sale of all of its assets, the affirmative vote of a majority of its members either by mail or in person at a meeting called for that purpose according to the provisions of section 533.203.

Sec. 12. Section 533.302, Code 2011, is amended to read as follows:

**533.302 Capital.**

1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. A credit union may charge an entrance fee as may be provided by the bylaws.

2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred ~~except upon termination of expulsion or withdrawal from membership in the credit union,~~ as provided in section 533.210.

3. At the option of the credit union, the equity share may earn a dividend and may be insured.

Sec. 13. Section 533.307, Code 2011, is amended to read as follows:

**533.307 Account insurance.**

Except as provided in section 533.302, subsection 2 3, a credit union organized under this chapter, as a condition of maintaining its privilege of organization, 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.

Sec. 14. Section 533.308, subsection 2, Code 2011, is amended to read as follows:

2. The superintendent may furnish to any official of an insurance plan by which the accounts of a state 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 state credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or resolution of a claim. The superintendent and the insurance company shall, whenever possible, execute a confidentiality agreement regarding the information provided by the superintendent that imposes standards of confidentiality comparable to those required by this chapter.

Sec. 15. Section 533.308, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. A state credit union may furnish to any official of an insurance plan by which the accounts of the state credit union are insured or by which its employees and officials are bonded, any information regarding transactions of the state credit union, examinations, investigations, or reports of the status of the state credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or resolution of a claim. The state credit union and the insurance company shall, whenever possible, execute a confidentiality agreement regarding the information provided by the state credit union that imposes standards of confidentiality comparable to those required by this chapter.

Sec. 16. Section 533.309, subsection 1, Code 2011, is amended to read as follows:

1. *Ownership share account.* The ownership share account shall consist of an account balance held by the state credit union in accordance with the state credit union's bylaws. Each member may acquire only one ownership share. In the case of a joint account, the joint account owners may acquire only one ownership share unless each joint account owner applies for and is accepted as an individual member. ~~The state credit union shall not set off fees against a member's ownership share.~~

Sec. 17. Section 533.325, subsection 1, Code 2011, is amended to read as follows:

1. The directors, officers, committee members, and employees of a state credit union shall hold in confidence all information regarding transactions of the state credit union, including information regarding transactions with its members and their personal affairs, except to the extent necessary in connection with making any of the following:

a. Making, extending, or collecting a loan or line of credit, guaranteeing.

b. Guaranteeing of member share drafts by third parties, or complying.

c. Communicating with an insurance company for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or the resolution of a claim, pursuant to section 533.308, subsection 3.

d. Pursuant to a confidentiality agreement that is executed pursuant to section 533.108, subsection 1.

e. Complying with the examination of credit union records by regulatory authorities or compliance.

f. Compliance with an order from a court having jurisdiction over the state credit union.

Sec. 18. Section 533.401, subsection 1, Code 2011, is amended to read as follows:

1. With the approval of the superintendent, a state credit union may merge with another credit union under the existing certificate of approval of the other credit union if the merger is pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger and the merger is approved by the affirmative vote of a majority of the members of the merging credit union ~~either by mail or in person at a meeting called for the purpose of voting on the merger according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.~~

Sec. 19. Section 533.401, subsection 3, paragraph c, Code 2011, is amended to read as follows:

~~c. At the meeting called to consider the merger, a~~ A majority of the votes received, by ~~regular mail or in person, upon the question according to the method of voting selected by the board of directors pursuant to section 533.203,~~ were in favor of the merger.

Sec. 20. Section 533.403, subsection 1, Code 2011, is amended to read as follows:

1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members who vote on the proposal, according to the provisions of section 533.203. ~~This vote, if taken, shall be at a meeting called for that purpose and shall be in the manner prescribed by the bylaws.~~

Sec. 21. Section 533.405, subsections 1, 2, and 6, Code 2011, are amended to read as follows:

1. ~~At a special meeting called for that purpose, a~~ A state credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

a. Notice of the meeting's purpose shall be contained in the meeting's notice.

~~b. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in a form approved by the superintendent. This vote shall have the same force and effect as if cast at the meeting.~~

2. a. The state credit union shall cease to do business except for the purposes of liquidation immediately upon giving sending notice of the ~~special meeting called for the members' vote~~ on dissolution.

b. The board of directors shall immediately notify the superintendent of the intention of the state credit union to dissolve within three business days of a vote by a majority of the board of directors in favor of dissolution, and prior to sending notice of the members' vote.

c. The state credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members have revoked prior affirmative action to dissolve as provided for in subsection 6.

6. a. At any time prior to any distribution of its assets, a state credit union may revoke the voluntary dissolution proceedings by the affirmative vote of a majority of its members eligible to vote, according to the provisions of section 533.203. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

b. ~~The~~ Upon the conclusion of the vote, the board of directors shall immediately notify the superintendent of any such action to revoke voluntary dissolution proceedings.

Sec. 22. Section 533.502, subsection 2, Code 2011, is amended to read as follows:

2. a. The superintendent shall ~~thereafter~~ manage the property and business of the state credit union until such time as the superintendent may relinquish to the state credit union the management, upon such conditions as the superintendent may prescribe, or until the affairs of the state credit union are finally dissolved as provided in this chapter. The superintendent may operate and direct the affairs of the state credit union in its regular course of business. The superintendent may also collect amounts due the state credit union and do such other acts as are necessary or expedient to conduct the affairs of the state credit union and conserve or protect its assets, property, and business.

b. The superintendent may appoint one or more persons, 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 state credit union.

c. During the period of the superintendent's management of the property and business of the state credit union, and prior to the time that the superintendent may apply to the district court for appointment as receiver, the superintendent may assess the state credit union for costs and expenses incurred by the division in the management of the state credit union. Costs and expenses shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the management of the state credit union.

Sec. 23. 2009 Iowa Acts, chapter 169, section 4, subsection 2, as amended by 2011 Acts,<sup>1</sup> chapter 127, section 53, is amended to read as follows:

2. From the moneys appropriated in this section, there is transferred to the department of human rights two hundred fifty thousand dollars for deposit in the individual development account state match fund created in section 541A.7. Notwithstanding other provisions to the contrary in section 541A.3, subsection 1, moneys appropriated to the individual development account state match fund under this subsection ~~shall~~ may be used to provide the state match to account holders affected by a natural disaster for which the president of the United States declared a disaster area, and who have a household income that is equal to or less than three hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Approved March 22, 2012

<sup>1</sup> According to enrolled Act; the phrase "2011 Iowa Acts" probably intended