

FILED MAR 01 2006

SENATE FILE 2299
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3213)

Passed Senate, Date 3-7-06 Passed House, Date 3-30-06
Vote: Ayes 50 Nays 0 Vote: Ayes 97 Nays 0
Approved April 11, 2006

A BILL FOR

1 An Act relating to credit unions and other financial
2 organizations by providing for public funds requirements,
3 membership qualifications, and preservation of records.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2299

1 Section 1. Section 12C.16, subsection 1, paragraph b,
2 subparagraph (4), Code 2005, is amended to read as follows:

3 (4) To the extent of the guarantee, loans, obligations, or
4 nontransferable letters of credit upon which the payment of
5 principal and interest is fully secured or guaranteed by the
6 United States of America or an agency or instrumentality of
7 the United States of America or the U.S. central credit union,
8 a corporate central credit union organized under section
9 533.38, or a corporate credit union organized under 12 C.F.R.
10 § 704, and the rating of ~~the U.S. central~~ any one of such
11 credit union unions remains within the two highest
12 classifications of prime established by at least one of the
13 standard rating services approved by the superintendent of
14 banking by rule pursuant to chapter 17A. The treasurer of
15 state shall adopt rules pursuant to chapter 17A to implement
16 this section.

17 Sec. 2. Section 12C.17, subsection 1, paragraph c, Code
18 2005, is amended to read as follows:

19 c. The securities shall be deposited with the federal
20 reserve bank, the federal home loan bank of Des Moines, Iowa,
21 or the U.S. central credit union, a corporate central credit
22 union organized under section 533.38, or a corporate credit
23 union organized under 12 C.F.R. § 704 pursuant to a bailment
24 agreement or a pledge custody agreement.

25 Sec. 3. Section 12C.17, subsection 4, Code 2005, is
26 amended to read as follows:

27 4. Upon written request from the appropriate public
28 officer but not less than monthly, the federal home loan bank
29 of Des Moines, Iowa, ~~or~~ the U.S. central credit union, a
30 corporate central credit union organized under section 533.38,
31 or a corporate credit union organized under 12 C.F.R. § 704
32 shall report a description, the par value and the market value
33 of any pledged collateral by a credit union.

34 Sec. 4. Section 533.5, Code 2005, is amended to read as
35 follows:

1 533.5 MEMBERSHIP.

2 The membership of a credit union consists of those persons
3 in the common bond, duly admitted, who have paid any required
4 one-time or periodic membership fee, or both, have subscribed
5 to one or more shares, and have complied with the other
6 requirements specified by the articles of incorporation and
7 bylaws. ~~To continue membership, a member must comply with any~~
8 ~~changes in the par value of the share.~~ Credit union
9 organization shall be available to groups of individuals who
10 have a common bond of association such as, but not limited to,
11 occupation, common employer, or residence within specified
12 geographic boundaries. Changes in the common bond may be made
13 by the board of directors. If adopted as a policy by the
14 board of directors of a credit union, members who cease to
15 meet qualifications of membership may retain their credit
16 union membership and all membership privileges.

17 Organizations, incorporated or otherwise, may be members.

18 Sec. 5. Section 533.26, Code 2005, is amended to read as
19 follows:

20 533.26 PRESERVATION OF RECORDS.

21 1. The superintendent shall prescribe by rule the period
22 of preservation of records or files for credit unions. A
23 state credit union is not required to preserve its records for
24 a period longer than eleven years after the first day of
25 January of the year following the time of the making or filing
26 of such records. However, account records showing unpaid
27 balances due to depositors shall not be destroyed.

28 2. A copy of an original may be kept in lieu of any
29 original records.

30 a. For purposes of this section, a copy includes any
31 duplicate, rerecording or reproduction of an original record
32 from any photograph, photostat, microfilm, microcard,
33 miniature or microphotograph, computer printout,
34 electronically stored data or image, or other process which
35 accurately reproduces or forms a durable medium for accurately

1 and legibly reproducing an unaltered image or reproduction of
2 the original record.

3 b. A copy is deemed to be an original and shall be treated
4 as an original record in a judicial or administrative
5 proceeding for purposes of admissibility in evidence. A
6 facsimile, exemplification, or certified copy of any such copy
7 reproduced from a film record is deemed to be a facsimile,
8 exemplification, or certified copy of the original.

9 Sec. 6. Section 533.27, unnumbered paragraph 1, Code 2005,
10 is amended to read as follows:

11 ~~No~~ With the exception of certain account records which
12 shall not be destroyed pursuant to section 533.26, liability
13 shall not accrue against any credit union destroying any such
14 records after the expiration of the time provided in ~~sections~~
15 section 533.26 to, this section, and section 533.29 and-in.
16 In any cause or proceedings in which any such records or files
17 may be called ~~in~~ into question or be demanded of the credit
18 union or of any officer or employee thereof of the credit
19 union, a showing that such records or files have been
20 destroyed in accordance with the terms of ~~said~~ such sections
21 shall be a sufficient excuse for the failure to produce them.
22 Nothing herein shall require credit unions to retain any class
23 of records or files for the period of limitations of actions
24 provided herein; but any records, files, or class of records
25 not deemed necessary for the conduct of the current business
26 of credit unions, or future examinations thereof, or for
27 defense in the event of litigation, may be destroyed within
28 such period.

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EXPLANATION

30 This bill addresses, among other matters, the deposit of
31 public funds in a credit union. Before a public officer can
32 deposit public funds with a credit union in excess of the
33 amount federally insured, the public officer is required to
34 obtain security for the deposit. The credit union may deposit
35 securities for the benefit of the public officer including

1 those secured or guaranteed by a corporate central credit
2 union or a corporate credit union. Further, a credit union
3 which receives public funds is required to pledge securities
4 owned by the credit union. The bill provides that these
5 securities may be pledged by deposit with a corporate central
6 credit union or a corporate credit union pursuant to a
7 bailment agreement or a pledge custody agreement. A corporate
8 central credit union or a corporate credit union then must
9 comply with reporting requirements. A corporate central
10 credit union and a corporate credit union are organized
11 primarily to provide financial services to the federal and
12 state credit unions which are members of the corporate central
13 credit union or the corporate credit union.

14 The bill eliminates a requirement that to continue
15 membership in the credit union, a member must comply with
16 changes in the par value of the share.

17 The bill specifies that a credit union is not required to
18 preserve its records for a period longer than 11 years after
19 the first day of January of the year following the time of the
20 making or filing of the record. Further, the bill provides
21 that account records showing unpaid balances due to depositors
22 cannot be destroyed. The bill provides a conforming amendment
23 to Code section 533.27 relating to liability for destruction
24 of records.

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Beall Co-Chair
Zawn Co-Chair
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Succeeded By
SF/HF 2299

SSB# 3213
Commerce

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CO-CHAIRPERSON WARNSTADT)

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

A BILL FOR

1 An Act relating to credit unions and other financial
2 organizations by providing for public funds requirements,
3 approval of bylaws, membership qualifications, preservation of
4 records, and the operation of delayed deposit services
5 businesses.

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

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1 Section 1. Section 12C.16, subsection 1, paragraph b,
2 subparagraph (4), Code 2005, is amended to read as follows:

3 (4) To the extent of the guarantee, loans, obligations, or
4 nontransferable letters of credit upon which the payment of
5 principal and interest is fully secured or guaranteed by the
6 United States of America or an agency or instrumentality of
7 the United States of America or the U.S. central credit union,
8 a corporate central credit union organized under section
9 533.38, or a corporate credit union organized under 12 C.F.R.
10 § 704, and the rating of ~~the U.S. central~~ any one of such
11 credit union unions remains within the two highest
12 classifications of prime established by at least one of the
13 standard rating services approved by the superintendent of
14 banking by rule pursuant to chapter 17A. The treasurer of
15 state shall adopt rules pursuant to chapter 17A to implement
16 this section.

17 Sec. 2. Section 12C.17, subsection 1, paragraph c, Code
18 2005, is amended to read as follows:

19 c. The securities shall be deposited with the federal
20 reserve bank, the federal home loan bank of Des Moines, Iowa,
21 or the U.S. central credit union, a corporate central credit
22 union organized under section 533.38, or a corporate credit
23 union organized under 12 C.F.R. § 704 pursuant to a bailment
24 agreement or a pledge custody agreement.

25 Sec. 3. Section 12C.17, subsection 4, Code 2005, is
26 amended to read as follows:

27 4. Upon written request from the appropriate public
28 officer but not less than monthly, the federal home loan bank
29 of Des Moines, Iowa, ~~or~~ the U.S. central credit union, a
30 corporate central credit union organized under section 533.38,
31 or a corporate credit union organized under 12 C.F.R. § 704
32 shall report a description, the par value and the market value
33 of any pledged collateral by a credit union.

34 Sec. 4. Section 533.2, subsection 2, paragraph c, Code
35 2005, is amended to read as follows:

1 c. By a majority vote of members voting by mailed or
2 electronic ballot, ensuring the confidentiality of voters,
3 according to procedures specified by rule of the
4 superintendent, requiring at least twenty days' notice to all
5 members. All amendments must be approved by the
6 superintendent before they become effective. An announcement
7 shall be made to members of the results of the vote. Ballots
8 shall be preserved for a reasonable period of time following
9 the vote.

10 Sec. 5. Section 533.5, Code 2005, is amended to read as
11 follows:

12 533.5 MEMBERSHIP.

13 The membership of a credit union consists of those persons
14 in the common bond, duly admitted, who have paid any required
15 one-time or periodic membership fee, or both, have subscribed
16 to one or more shares, and have complied with the other
17 requirements specified by the articles of incorporation and
18 bylaws. ~~To continue membership, a member must comply with any~~
19 ~~changes in the par value of the share.~~ Credit union
20 organization shall be available to groups of individuals who
21 have a common bond of association such as, but not limited to,
22 occupation, common employer, or residence within specified
23 geographic boundaries. Changes in the common bond may be made
24 by the board of directors. If adopted as a policy by the
25 board of directors of a credit union, members who cease to
26 meet qualifications of membership may retain their credit
27 union membership and all membership privileges.

28 Organizations, incorporated or otherwise, may be members.

29 Sec. 6. Section 533.26, Code 2005, is amended to read as
30 follows:

31 533.26 PRESERVATION OF RECORDS.

32 1. The superintendent shall prescribe by rule the period
33 of preservation of records or files for credit unions. A
34 state credit union is not required to preserve its records for
35 a period longer than eleven years after the first day of

1 January of the year following the time of the making or filing
2 of such records. However, account records showing unpaid
3 balances due to depositors shall not be destroyed.

4 2. A copy of an original may be kept in lieu of any
5 original records.

6 a. For purposes of this section, a copy includes any
7 duplicate, rerecording or reproduction of an original record
8 from any photograph, photostat, microfilm, microcard,
9 miniature or microphotograph, computer printout,
10 electronically stored data or image, or other process which
11 accurately reproduces or forms a durable medium for accurately
12 and legibly reproducing an unaltered image or reproduction of
13 the original record.

14 b. A copy is deemed to be an original and shall be treated
15 as an original record in a judicial or administrative
16 proceeding for purposes of admissibility in evidence. A
17 facsimile, exemplification, or certified copy of any such copy
18 reproduced from a film record is deemed to be a facsimile,
19 exemplification, or certified copy of the original.

20 Sec. 7. Section 533.27, unnumbered paragraph 1, Code 2005,
21 is amended to read as follows:

22 No With the exception of certain account records which
23 shall not be destroyed pursuant to section 533.26, liability
24 shall not accrue against any credit union destroying any such
25 records after the expiration of the time provided in sections
26 section 533.26 to, this section, and section 533.29 and-in.
27 In any cause or proceedings in which any such records or files
28 may be called in into question or be demanded of the credit
29 union or of any officer or employee thereof of the credit
30 union, a showing that such records or files have been
31 destroyed in accordance with the terms of said such sections
32 shall be a sufficient excuse for the failure to produce them.
33 Nothing herein shall require credit unions to retain any class
34 of records or files for the period of limitations of actions
35 provided herein; but any records, files, or class of records

1 not deemed necessary for the conduct of the current business
2 of credit unions, or future examinations thereof, or for
3 defense in the event of litigation, may be destroyed within
4 such period.

5 Sec. 8. Section 533D.2, Code 2005, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 1A. "Credit union service organization"
8 means an organization, corporation, or association whose
9 membership or ownership is primarily confined or restricted to
10 credit unions or organizations of credit unions and whose
11 purpose is primarily designed to provide services to credit
12 unions, organizations of credit unions, or credit union
13 members.

14 Sec. 9. Section 533D.2, subsection 5, Code 2005, is
15 amended to read as follows:

16 5. "Superintendent" means ~~the~~ any of the following:

17 a. The superintendent of credit unions for licensees which
18 are credit union service organizations.

19 b. The superintendent of credit unions for credit unions
20 acting as delayed deposit services businesses.

21 c. The superintendent of banking for all other licensees
22 under this chapter.

23 Sec. 10. Section 533D.16, Code 2005, is amended to read as
24 follows:

25 533D.16 APPLICABILITY.

26 This chapter does not apply to a bank incorporated under
27 the provisions of any state or federal law, a savings and loan
28 association incorporated under the provisions of any state or
29 federal law, a credit union organized under the provisions of
30 any state or federal law, a corporation licensed as an
31 industrial loan company under chapter 536A, or an affiliate of
32 a bank, savings and loan association, credit union, or
33 industrial loan company. A credit union may operate a delayed
34 deposit services business and shall not be required to be
35 licensed or regulated under this chapter if all fees of the

1 delayed deposit services business do not exceed the
2 limitations described in section 533D.9.

3 Sec. 11. NEW SECTION. 533D.17 RULES FOR CREDIT UNIONS.

4 Notwithstanding section 533D.16, the superintendent may
5 adopt rules to administer chapter 533D as it applies to credit
6 unions. The superintendent shall adopt rules to implement and
7 make applicable the fee restrictions, required disclosures,
8 and prohibited acts contained in sections 533D.9 and 533D.10
9 to a credit union acting as a delayed deposit services
10 business in this state.

11 The superintendent may adopt rules for licensees that are
12 credit union service organizations.

13 EXPLANATION

14 This bill addresses, among other matters, the deposit of
15 public funds in a credit union. Before a public officer can
16 deposit public funds with a credit union in excess of the
17 amount federally insured, the public officer is required to
18 obtain security for the deposit. The credit union may deposit
19 securities for the benefit of the public officer including
20 those secured or guaranteed by a corporate central credit
21 union or a corporate credit union. Further, a credit union
22 which receives public funds is required to pledge securities
23 owned by the credit union. The bill provides that these
24 securities may be pledged by deposit with a corporate central
25 credit union or a corporate credit union pursuant to a
26 bailment agreement or a pledge custody agreement. A corporate
27 central credit union or a corporate credit union then must
28 comply with reporting requirements. A corporate central
29 credit union and a corporate credit union are organized
30 primarily to provide financial services to the federal and
31 state credit unions which are members of the corporate central
32 credit union or the corporate credit union.

33 The bill restores language, previously deleted in 2004
34 legislation, that requires the superintendent to approve all
35 amendments to the credit union bylaws before they become

1 effective.

2 The bill eliminates a requirement that to continue
3 membership in the credit union, a member must comply with
4 changes in the par value of the share.

5 The bill specifies that a credit union is not required to
6 preserve its records for a period longer than 11 years after
7 the first day of January of the year following the time of the
8 making or filing of the record. Further, the bill provides
9 that account records showing unpaid balances due to depositors
10 cannot be destroyed. The bill provides a conforming amendment
11 to Code section 533.27 relating to liability for destruction
12 of records.

13 The bill also modifies Code chapter 533D concerning delayed
14 deposit services businesses. A credit union may operate a
15 delayed deposit services business and is not required to be
16 licensed or regulated provided that all of the fees charged as
17 a delayed deposit services business do not exceed the
18 limitations imposed on licensees under Code chapter 533D.
19 Nevertheless, the superintendent, as defined in the bill, is
20 required to adopt rules applicable to credit unions regarding
21 fee restrictions, disclosures, and prohibited acts in the
22 conduct of a delayed deposit services business. The
23 superintendent may adopt rules for credit union service
24 organizations.

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SENATE FILE 2299

AN ACT

RELATING TO CREDIT UNIONS AND OTHER FINANCIAL ORGANIZATIONS BY PROVIDING FOR PUBLIC FUNDS REQUIREMENTS, MEMBERSHIP QUALIFICATIONS, AND PRESERVATION OF RECORDS.

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

Section 1. Section 12C.16, subsection 1, paragraph b, subparagraph (4), Code 2005, is amended to read as follows:

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704, and the rating of ~~the U.S. central~~ any one of such credit union unions remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 2. Section 12C.17, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704 pursuant to a bailment agreement or a pledge custody agreement.

Sec. 3. Section 12C.17, subsection 4, Code 2005, is amended to read as follows:

4. Upon written request from the appropriate public officer but not less than monthly, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704 shall report a description, the par value and the market value of any pledged collateral by a credit union.

Sec. 4. Section 533.5, Code 2005, is amended to read as follows:

533.5 MEMBERSHIP.

The membership of a credit union consists of those persons in the common bond, duly admitted, who have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares, and have complied with the other requirements specified by the articles of incorporation and bylaws. ~~To continue membership, a member must comply with any changes in the par value of the share.~~ Credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries. Changes in the common bond may be made by the board of directors. If adopted as a policy by the board of directors of a credit union, members who cease to meet qualifications of membership may retain their credit union membership and all membership privileges. Organizations, incorporated or otherwise, may be members.

Sec. 5. Section 533.26, Code 2005, is amended to read as follows:

533.26 PRESERVATION OF RECORDS.

1. The superintendent shall prescribe by rule the period of preservation of records or files for credit unions. A state credit union is not required to preserve its records for a period longer than eleven years after the first day of

January of the year following the time of the making or filing of such records. However, account records showing unpaid balances due to depositors shall not be destroyed.

2. A copy of an original may be kept in lieu of any original records.

a. For purposes of this section, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record.

b. A copy is deemed to be an original and shall be treated as an original record in a judicial or administrative proceeding for purposes of admissibility in evidence. A facsimile, exemplification, or certified copy of any such copy reproduced from a film record is deemed to be a facsimile, exemplification, or certified copy of the original.

Sec. 6. Section 533.27, unnumbered paragraph 1, Code 2005, is amended to read as follows:

No With the exception of certain account records which shall not be destroyed pursuant to section 533.26, liability shall not accrue against any credit union destroying any such records after the expiration of the time provided in sections section 533.26 to, this section, and section 533.29 and-in. In any cause or proceedings in which any such records or files may be called in into question or be demanded of the credit union or of any officer or employee thereof of the credit union, a showing that such records or files have been destroyed in accordance with the terms of said such sections shall be a sufficient excuse for the failure to produce them. Nothing herein shall require credit unions to retain any class of records or files for the period of limitations of actions provided herein; but any records, files, or class of records

not deemed necessary for the conduct of the current business of credit unions, or future examinations thereof, or for defense in the event of litigation, may be destroyed within such period.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2299, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor