

CREDIT UNIONS

533.1 Purpose administration organization.

Definition and purpose. A credit union is hereby defined as a co-operative, nonprofit association, incorporated in accordance with the provisions of this chapter for the purpose of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members and of providing the opportunity for people to use and control their savings for their mutual benefit.

Administration. The superintendent shall have the supervisory and regulatory authority of all state chartered credit unions and shall be charged with the administration and execution of the laws of this state relating to credit unions. Subject to the approval of the credit union review board, the superintendent shall have power to adopt such rules as in the superintendent's opinion are necessary to properly and effectively safeguard the interests of depositors and shareholders of credit unions, and otherwise to carry out and enforce the provisions of this chapter.

Organization. Any seven residents of the state of Iowa may apply to the superintendent for permission to organize a credit union.

A credit union is organized in the following manner:

1. The applicants shall execute in duplicate articles of incorporation by the terms of which they agree to be bound. The articles shall state:
 - a. The name and location of the proposed credit union.
 - b. The names and addresses of the subscribers to the articles and the number of shares subscribed by each.
 - c. The par value of the shares of the credit union shall be established by the board of directors. A credit union may have more than one class of shares.
2. Said applicants shall prepare and adopt bylaws for the general government of the credit union consistent with the provisions of this chapter, and execute the same in duplicate.
3. The articles and the bylaws, both executed in duplicate, shall be forwarded with a fee of ten dollars to the superintendent.
4. The superintendent shall, within thirty days of the receipt of said articles and bylaws, determine whether they conform with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit its members and be consistent with the purposes of this chapter.
5. The superintendent shall thereupon notify the applicants of the decision. If the decision is favorable the superintendent shall issue a certificate of approval which shall be attached to the duplicate articles of incorporation and the superintendent shall return the same, together with the duplicate bylaws to the applicants.
6. The applicants shall thereupon file this duplicate of the articles of incorporation and the attached certificate of approval with the county recorder of the county within which the credit union is to have its principal place of business. The county recorder shall record and index the same and return it, with the recorder's certificate of record attached, to the superintendent for permanent record.
7. The applicants shall thereupon become and be a credit union, incorporated in accordance with the provisions of this chapter.

8. The original articles or amended articles may contain a provision eliminating or limiting the personal liability of a director, officer, or employee of the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, officer, or employee, provided that the provision does not eliminate or limit the liability of a director, officer, or employee for any breach of the director's, officer's, or employee's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or for any transaction from which the director, officer, or employee derives an improper personal benefit. A provision shall not eliminate or limit the liability of a director, officer, or employee for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

In order to simplify the organization of credit unions, the superintendent shall cause to be prepared an approved form of articles of incorporation and a form of bylaws, consistent with this chapter which may be used by credit union incorporators for their guidance, and on written application of any seven residents of the state, shall supply them without charge with blank articles of incorporation and a copy of this form of suggested bylaws.

[C27, 31, 35, § 9305-a1; C39, § **9305.01**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.1]

84 Acts, ch 1197, § 1; 87 Acts, ch 212, §13; 88 Acts, ch 1170, §11

533.2 Amendments.

1. 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.

2. Bylaws may be amended by any of the following methods:

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, according to procedures specified by rule of the superintendent, requiring at least twenty days' notice to all members. 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. If the proposed amendment receives a favorable majority of the total votes cast in person and by mailed ballot, the bylaws shall be amended.

[C27, 31, 35, § 9305-a2; C39, § **9305.02**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.2; 82 Acts, ch 1171, § 1]

2004 Acts, ch 1141, §36

533.3 Restriction.

1. A person other than one referred to in subsection 2 shall not use a name or title containing the words "credit union" or any derivation thereof, and shall not represent in advertising or otherwise that the person is

conducting business as a credit union.

2. The prohibitions contained in subsection 1 do not apply to a credit union organized under this chapter or under the Federal Credit Union Act, 12 U.S.C. § 1751 et seq., or to the Iowa credit union league, or a chapter, affiliate, or subsidiary of the Iowa credit union league, or to a political action committee formed under Pub. L. No. 94-283 or chapter 68A by the Iowa credit union league or by credit unions organized under this chapter or federal law.

3. Violation of subsection 1 is a serious misdemeanor, and the violator may be enjoined from the use of words, advertising, or other representation prohibited by subsection 1.

[C27, 31, 35, § 9305-a3; C39, § **9305.03**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.3]

2006 Acts, ch 1010, §150

533.4 Powers.

A credit union shall have the following powers to:

1. Receive from its members, 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, payments on shares or as deposits. 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.
2. Make loans to members for provident or productive purposes.
3. Make loans to a cooperative society or other organization having membership in the credit union.
4. 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, 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 of the state.
 - d. Purchase of notes of liquidating credit unions with the approval of the superintendent.
 - e. Shares and deposits in other credit unions.
 - 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.

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

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

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.

j. Any permissible investment for federal credit unions, provided that this paragraph shall not permit a credit union to invest in a credit union service organization except as provided in paragraph "*f*".

6. Borrow money as hereinafter indicated.

7. Assess fines as may be provided by the bylaws.

8. Sue and be sued.

9. Make contracts.

10. Purchase, hold and dispose of property necessary and incidental to its operation provided, however, that any property acquired through foreclosure shall be disposed of within a period not to exceed ten years.

11. Exercise such incidental powers as may be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

12. Apply for share account and deposit account insurance which meets the requirements of this chapter and take all actions necessary to maintain an insured status.

13. Upon the approval of the superintendent, serve an employee group having an insufficient number of members to form or conduct the affairs of a separate credit union. There shall be no requirement for the existence of a common bond relationship between the said small employee group and the credit union effecting such service.

14. Deposit with a credit union which has been in existence for not more than a year an amount not to exceed twenty-five percent of the assets of the new credit union, but only one credit union may at any time make the deposit.

15. Acquire the conditional sales contracts, promissory notes or other similar instruments executed by its members, but the rate of interest existing on the instrument shall not exceed the highest rate charged by the acquiring credit union on its outstanding loans.

16. Sell, participate in, or discount the obligations of its members with or without recourse. Purchase the obligations of credit union members, provided the obligations meet the requirements of this chapter.

17. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged in providing and operating facilities through which a credit union and its members may engage, by means of either the direct transmission of electronic impulses to and from the credit union or the recording of

electronic impulses or other indicia of a transaction for delayed transmission to the credit union, in transactions in which such credit union is otherwise permitted to engage pursuant to applicable law.

18. Engage in any transaction otherwise permitted by this chapter and applicable law, by means of either the direct transmission of electronic impulses to or from the credit union or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the credit union. Subject to the provisions of chapter 527, a credit union may utilize, establish or operate, alone or with one or more other credit unions, banks incorporated under the provisions of chapter 524 or federal law, savings and loan associations incorporated under the provisions of chapter 534 or federal law, corporations licensed under chapter 536A, or third parties, the satellite terminals permitted under chapter 527, by means of which the credit union may transmit to or receive from any member electronic impulses constituting transactions pursuant to this subsection. However, such utilization, establishment, or operation shall be lawful only when in compliance with chapter 527. Nothing in this subsection shall be construed as authority for any person to engage in transactions not otherwise permitted by applicable law, nor shall anything in this subsection be deemed to repeal, replace or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by any credit union.

19. Establish one or more offices other than its main office, subject to the approval and regulation of the superintendent, if such offices 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 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.

20. Purchase insurance or make the purchase of insurance available for members.

21. A credit union may take a second mortgage on real property to secure a loan made by the credit union, pursuant to rules adopted by the superintendent.

22. Charge fees and penalties and apply them to income.

23. *a.* Act as agent of the federal government when requested by the secretary of the United States department of treasury; perform such services as may be required in connection with the collection of taxes and other obligations due the United States and the lending, borrowing and repayment of money by the United States; and be a depository of public money when designated for that purpose.

b. Act as agent of the state when requested by the treasurer of state; perform such services as may be required in connection with the collection of taxes and other obligations due the state and the lending, borrowing and repayment of money by the state; and be a depository of public money when designated for that purpose.

24. Receive public funds pursuant to chapter 12C.

25. Engage in any activity authorized by the superintendent which would be permitted if the credit union were federally chartered and which is consistent with state law.

26. Pledge its assets to secure the deposit of public funds.

27. To provide indemnity for the director, officer, or employee in the same fashion that a corporation organized under chapter 490 could under sections 490.850 through 490.859; however, where those sections provide for action by shareholders the provision is applicable to action by members of the credit union and where the sections have reference to the corporation organized under chapter 490, the provision is applicable to the association organized under this chapter.

28. Set off a member's accounts against any of the member's debts or liabilities owed the state credit union pursuant to an agreement entered into between the member and the credit union. The credit union shall also have a lien on the shares and deposits of a member for any sum due the credit union from the member or for any loan endorsed by the member.

[C27, 31, 35, § 9305-a4; C39, § **9305.04**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.4; 82 Acts, ch 1253, § 4]

84 Acts, ch 1197, § 2, 3, 4; 84 Acts, ch 1230, § 26; 85 Acts, ch 242, §1, 2; 87 Acts, ch 171, §20, 21; 87 Acts, ch 212, §14; 88 Acts, ch 1103, §1; 89 Acts, ch 94, §1; 90 Acts, ch 1205, § 51; 96 Acts, ch 1012, § 1; 96 Acts, ch 1219, § 28; 2002 Acts, ch 1154, §119, 125; 2004 Acts, ch 1141, §37, 38

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. 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.

[C27, 31, 35, § 9305-a5; C39, § **9305.05**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.5]

84 Acts, ch 1197, § 5; 87 Acts, ch 171, §22; 2006 Acts, ch 1040, §4

533.6 Reports examinations revocation receivership notice to show cause.

1. Credit unions organized under this chapter shall report annually on or before the first day of February to the superintendent on blanks supplied by the superintendent for that purpose. Additional reports may be required. If any report remains in arrears for more than five days, a fine of five dollars for each day such report remains in arrears may be levied against the offending credit union in addition to the fine for failure to pay the annual fee. If such report is not returned within thirty days of the due date, the superintendent may, after written notice to the president of the credit union, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution.

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 twenty-four-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.

3. The superintendent may require any credit union whose records are inadequate or whose books have not been balanced as of the end of the month not less than thirty days previously or whose affairs are in an unfavorable condition, to submit to an additional examination each year.

4. If after notice and opportunity for hearing the superintendent determines that a credit union has violated any of the provisions of this chapter, the superintendent shall, except when the credit union is insolvent, order the credit union to correct the condition. The superintendent may grant the credit union not more than sixty days within which to comply with the order. Failure to comply gives the superintendent grounds to revoke the certificate of approval and the superintendent may apply to the district court of the county in which this credit union is located for the appointment of a receiver for the credit union. Notwithstanding any other provision of this chapter, upon a determination by the superintendent that a credit union's assets, if made immediately available, would not be sufficient to discharge the credit union's liabilities, the superintendent shall take control of the credit union. Upon taking over management of the property and business of a credit union, the superintendent may operate and direct the affairs of the credit union in its regular course of business. The superintendent may also collect amounts due to the credit union and do other acts as are necessary or expedient to conduct the affairs of the credit union and conserve or protect its assets, property, and business. If upon taking over the management of the business and property of the credit union, the superintendent concludes that the credit union is insolvent or should be dissolved for any other reason enumerated in this section, the superintendent may immediately, or at any time within three years from taking over management of the credit union, order that the credit union cease to carry on its business. The superintendent shall revoke the certificate of approval and shall apply to the district court in the county in which the main office of the credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the superintendent of the credit union division as receiver unless the superintendent of the credit union division has tendered the appointment to the administrator of the plan by which the accounts of the credit union are insured. Either the superintendent or the administrator as receiver possesses the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither the superintendent nor the administrator shall be required to furnish bond as receiver of a state credit union.

The superintendent may appoint one or more special deputies as agent or agents 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 credit union whose management is taken over under this section.

During the period of the superintendent's management of the business of the credit union and prior to the time that the superintendent applies to the district court for appointment as receiver, the superintendent may require reimbursement by the credit union to the extent of the expenses incurred by the division in connection with the management.

The superintendent may adopt rules which define insolvency or which establish factors to be considered in determining insolvency. The superintendent may adopt separate solvency standards for credit unions which are within their first year of operation.

5. If the superintendent has reason to believe that an officer, director, 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 engaged in

an unsafe or unsound practice in conducting the business of a credit union, the superintendent may cause notice to be served upon the officer, director, 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 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 engaged in an unsafe or unsound practice in conducting the business of a credit union, 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, employee, or committee member of the credit union.

[C27, 31, 35, § 9305-a6; C39, § **9305.06**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.6]

84 Acts, ch 1067, § 43; 86 Acts, ch 1053, § 1; 92 Acts, ch 1039, § 1; 96 Acts, ch 1012, § 2; 2004 Acts, ch 1141, §39

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.

92 Acts, ch 1039, § 2

533.7 Fiscal year meetings mail ballot.

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 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 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.

[C27, 31, 35, § 9305-a7; C39, § **9305.07**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.7]

92 Acts, ch 1039, § 3

533.8 Elections.

1. At the organization meeting there shall be elected a board of directors of not less than nine members to hold office for such terms as the bylaws provide and until successors are elected and qualify.

2. At each annual meeting there shall be elected one member to fill each position vacated by reason of expiring terms or other causes.

3. Pursuant to rules adopted by the superintendent, state credit unions may allow members to vote on the election of directors via electronic means including, but not limited to, the internet or telephone.
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.
5. 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 to no fewer than seven members. An application to reduce the required number of directors under this subsection must demonstrate both of the following:
 - a. The application is necessitated by a hardship or other special circumstance.
 - b. The lesser number of directors is in the best interest of the credit union and its members.

[C27, 31, 35, § 9305-a8; C39, § **9305.08**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.8]

2004 Acts, ch 1141, §40

533.9 Directors and officers.

1. Within five days following the organization meeting and each annual meeting, the directors shall elect from their own number a chairperson of the board, a vice chairperson, a secretary, and a chief financial officer whose title shall be designated by the board of directors.
2. The board shall appoint a credit committee of not less than three members, and an auditing committee of not less than three members, and may also appoint alternate members of the credit committee.
3. Only a member of the board of directors or a member of the credit union may be appointed to the credit committee or to the auditing committee.
4. The board may appoint an executive committee to act on its behalf when designated for that purpose.
5. The duties and responsibilities of a director and of the board of directors shall include, but are not limited to, all of the following:
 - a. General management of the affairs of the state credit union.
 - b. Setting the amount of the surety bond that shall be required of all officers and employees handling money.
 - c. Periodic review of the original records of the state credit union, or comprehensive summaries prepared by the officers of the credit union, pertaining to loans, security interests, and investments.
 - d. Review of the adequacy of the state credit union's internal controls.
 - e. Periodic review of utilization of security measures.
 - f. Establishing education and training programs to ensure that the directors possess adequate knowledge to manage the affairs of the state credit union.
6. *a.* Directors of a state credit union shall discharge the duties of their position in good faith and with that diligence, care, and skill which ordinarily prudent persons would exercise under similar circumstances in like positions.

b. The directors have a continuing responsibility to assure themselves that the state credit union is being managed according to law and that the practices and policies adopted by the board are being implemented.

7. Unless the bylaws provide otherwise, the board of directors may permit any and all directors to participate in all except one meeting per year of the board of directors through the use of any means of communication by which all directors participating in the meeting may simultaneously hear each other and communicate during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

8. a. A director, committee member, officer, or employee of a state credit union shall not directly or indirectly participate in either the deliberation upon or the determination of any matter in which the director, committee member, officer, or employee has a direct or indirect interest.

b. For the purposes of this subsection, an "interest" may include, but is not limited to, a pecuniary or familial interest.

[C27, 31, 35, § 9305-a9; C39, § **9305.09**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.9]

87 Acts, ch 171, §23, 24; 88 Acts, ch 1103, §2; 2004 Acts, ch 1141, §41

533.10 Credit committee.

The credit committee shall have the general supervision of all loans to members. Applications for loans shall be on a form, prepared by the credit committee, and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section an assignment of shares or deposits or the endorsement of a note may be deemed security. At least a majority of the members of the credit committee shall pass on all loans and may grant approval thereof, provided, however, that the credit committee of a credit union, with the approval of the board of directors, may appoint one or more loan officers, who may be the president or vice president, and delegate to the loan officers, subject to conditions and regulations of the credit committee, power to approve or reject loans. The credit committee shall meet as often as may be necessary after due notice to each member.

[C27, 31, 35, § 9305-a10; C39, § **9305.10**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.10]

533.11 Auditing committee.

The auditing committee shall:

1. Make or cause to be made an examination of the affairs of the credit union at least semiannually, including an audit of its books and, if the committee feels such action to be necessary, it shall call the members together after the audit and submit to them its report.
2. Make or cause to be made an annual report and submit it at the annual meeting of the members.
3. By unanimous vote, if it deem such action to be necessary to the proper conduct of the credit union, suspend any officer, director, or member of committee and call the members together to act on such suspension. The members at said meeting may sustain such suspension and remove such officer permanently or may reinstate said officer.

By majority vote, the auditing committee may call a special meeting of the members to consider any matter submitted to it by said committee.

[C27, 31, 35, § 9305-a11; C39, § **9305.11**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.11]

87 Acts, ch 171, §25

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

[C27, 31, 35, § 9305-a12; C39, § **9305.12**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.12]

85 Acts, ch 242, §3; 2004 Acts, ch 1141, §42

533.13 Special shares and accounts.

1. *Joint accounts.* A member may designate any person or persons to hold shares, deposits, and thrift club accounts with the member in joint tenancy with the right of survivorship, but no joint tenant, unless a member in the person's own right, shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance fee. Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.
2. *Minors.* Shares may be issued and deposits accepted in the name of a minor and such shares and deposits may be withdrawn by such minor and payments made on such withdrawals shall be valid. No such minor under sixteen years of age shall be entitled to vote in the meetings of the members either personally or through the minor's parent or guardian, nor may the minor become a director until the minor shall have reached the minor's eighteenth birthday.
3. *Trust accounts.* If shares and deposits are held in trust, the name and residence of the beneficiary shall be disclosed and the account shall be kept in the name of the holder as trustee for such beneficiary. Such shares and deposits may be withdrawn, upon the death of the trustee, by the beneficiary's legal representative.

[C27, 31, 35, § 9305-a13; C39, § **9305.13**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.13]

533.14 Interest rates.

1. Interest rates on loans made by a credit union, other than loans secured by a mortgage or deed of trust which is a first lien upon real property, shall not exceed the finance charge permitted in sections 537.2401 and 537.2402 on consumer loans. Interest rates on business loans shall not exceed the finance charge permitted by section 535.2.
2. With respect to a loan secured by a mortgage or deed of trust which is a first lien upon real property, a credit union shall not charge a rate of interest which exceeds the maximum rate permitted by section 535.2.
3. The provisions of this section do not apply to a loan which is subject to section 636.46.

[C27, 31, 35, § 9305-a14; C39, § **9305.14**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.14]

85 Acts, ch 242, §4

533.15 Power to borrow.

A credit union may borrow from any source in total sum which shall not exceed fifty percent of the sum of its share and deposit account balances.

[C27, 31, 35, § 9305-a15; C39, § **9305.15**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.15]

533.16 Loans.

1. A credit union may loan to a member for a provident or productive purpose. Loans are subject to the conditions contained in this section and in the bylaws. A loan may be repaid by the borrower, in whole or in part, any day the office of the credit union is open for business. A loan shall be pursuant to an application with supportive credit information. The superintendent may adopt rules requiring periodic updating of credit or financial information for all loans or for classes of loans designated in the rules.
2. A credit union shall not lend in the aggregate to a member more than one hundred dollars or ten percent of its member savings, whichever is greater.
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 more favorable than the rates, terms, or conditions of comparable loans or lines of credit provided to other members. The aggregate amount of all director loans and lines of credit shall not exceed twenty-five percent of the assets of the credit union.
4. *a.* A credit union may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the superintendent under chapter 17A. These rules shall contain provisions as necessary to ensure the safety and soundness of these loans, and to ensure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.
- b.* A credit union may include in the loan documents signed by the borrower a provision requiring the borrower to pay the credit union each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the credit union in order to better secure the loan. The credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds. A credit union receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982 in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the credit union pays to its members on ordinary savings deposits. A credit union which maintains an escrow account in connection with any loan authorized by this subsection, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.
- 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.
5. A credit union may act as an escrow agent with respect to real property that is mortgaged to the credit

union, and may receive funds and make disbursements from escrowed funds in that capacity. The credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds. A credit union which maintains such an escrow account, whether or not the mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgagee may, by mutual agreement, select a fiscal year reporting period other than the calendar year.

The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:

a. The name and address of the mortgagee.

b. The name and address of the mortgagor.

c. A summary of escrow account activity during the year as follows:

(1) The balance of the escrow account at the beginning of the year.

(2) The aggregate amount of deposits to the escrow account during the year.

(3) The aggregate amount of withdrawals from the escrow account for each of the following categories:

(a) Payments against loan principal.

(b) Payments against interest.

(c) Payments against real estate taxes.

(d) Payments for real property insurance premiums.

(e) All other withdrawals.

(4) The balance of the escrow account at the end of the year.

d. A summary of loan principal for the year as follows:

(1) The amount of principal outstanding at the beginning of the year.

(2) The aggregate amount of payments against principal during the year.

(3) The amount of principal outstanding at the end of the year.

6. Loans which are not secured by real property shall be subject to the following conditions:

a. Loans to any one member which in the aggregate exceed the unsecured loan limit established by the board of directors of a credit union shall be secured by one or more cosigners or guarantors, or, by a first lien on collateral having a value which is approximately equal to the amount in excess of such unsecured loan limit. Every cosigner or guarantor shall furnish the credit union with evidence of financial responsibility.

b. Nothing contained in this subsection shall be deemed to preclude a credit committee or loan officer from requiring security for any loan.

c. A credit union may make loans insured under the provisions of Title XX, United States Code, section 1071

to section 1087 or similar state programs, loans insured by the federal housing administration under Title XII, United States Code, section 1703, and loans to families of low or moderate income as a part of programs authorized in sections 16.1 to 16.36.

d. The restrictions and limitations contained in this subsection shall not apply to loans made to a member credit union by a corporate central credit union.

7. Nothing contained in this section shall prevent the renewal or extension of loans.

8. The superintendent may impose a penalty on a credit union for each loan made in violation of this section. If a credit union, after notice in writing, and opportunity for hearing, fails to satisfactorily resolve the matter within sixty days from receipt of such notice, the superintendent may impose a fine against such credit union in an amount not to exceed one hundred dollars per day per violation for each day the violation remains unresolved.

9. *a.* The provisions of the Iowa consumer credit code, chapter 537, shall apply to consumer loans made by a credit union, and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan.

b. Notwithstanding paragraph "*a*", a credit union may offer voluntary debt cancellation coverage, whether insurance or debt waiver, to members. The amount charged for the coverage shall be included in the amount financed, as defined in section 537.1301. However, the charge for such coverage may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

10. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the credit union shall be governed by section 535.9.

11. Real estate loans on one-family to four-family dwellings may be repaid in part or in full at any time, excepting that a credit union may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans. Nothing contained in this subsection, however, authorizes a credit union to charge any advance interest or prepayment penalty where prohibited by section 535.9.

[C27, 31, 35, § 9305-a16; C39, § **9305.16**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, S79, § 533.16; C81, § 533.16, 535B.1535B.14; 81 Acts, ch 174, § 2, 7; 82 Acts, ch 1171, § 2, ch 1253, § 5, 43]

83 Acts, ch 124, § 17; 85 Acts, ch 242, §5; 96 Acts, ch 1012, § 3, 4; 2003 Acts, ch 44, §114; 2006 Acts, ch 1039, §2

533.17 Reserves.

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

a. A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside the following amounts in the following order:

(1) Ten percent of the gross income until the legal reserve equals four percent of the total outstanding loans and risk assets.

(2) Five percent of the gross income until the legal reserve equals six percent of the total outstanding loans and risk assets.

b. A credit union in operation for less than four years or having assets of less than five hundred thousand dollars shall set aside the following amounts in the order set forth:

(1) Ten percent of the gross income until the legal reserve equals seven and one-half percent of the total outstanding loans and risk assets.

(2) Five percent of the gross income until the legal reserve equals ten percent of the total outstanding loans and risk assets.

If the legal reserve falls below the percent of the total outstanding loans and risk assets required for a credit union by this subsection, the credit union shall replenish the legal reserve by regular contributions in the amounts needed to reach the required reserve. However, the superintendent may waive the reserve requirement when in the superintendent's opinion the waiver is necessary or desirable. The legal reserve shall belong to the credit union and shall be used to meet losses. The reserve shall not be distributed to members as interest or dividends except on liquidation of the credit union or in accordance with a plan approved by the superintendent.

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 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.

h. Common trust investments which deal in investments authorized in section 533.4.

i. Prepaid expenses.

j. Accrued interest on nonrisk investments.

k. Furniture and equipment.

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.

3. The superintendent may require a credit union to set aside additional amounts as a special reserve if an examination of its assets should disclose that its legal reserve is inadequate.

[C27, 31, 35, § 9305-a17; C39, § **9305.17**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.17]

84 Acts, ch 1197, § 6; 85 Acts, ch 242, §6; 96 Acts, ch 1012, § 5, 6

533.18 Dividends.

At such intervals and for such periods as the board of directors may authorize, and after 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.

[C27, 31, 35, § 9305-a18; C39, § **9305.18**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.18]

96 Acts, ch 1012, § 7

533.19 Expulsion withdrawal.

1. The board of directors may expel any member who has failed to do either of the following:
 - a. Carry out the member's obligations to the state credit union.
 - b. Comply with the state credit union's bylaws or policies.
2. A member may be expelled by a majority vote of the board of directors at a regular or special meeting of the board.
 - a. An expelled member may request a hearing before the membership of the credit union. A meeting of the membership shall be held within sixty days of the member's request.
 - b. The membership may, by majority vote at the membership meeting, reinstate the expelled member upon terms and conditions prescribed by it.
3. Any member may withdraw from the credit union at any time, but notice of withdrawal may be required as provided in this section.
4. All amounts paid on shares or as deposits of an expelled or withdrawing member, with any dividends or interest accredited thereto, to the date thereof, shall, after deducting all amounts due from the member to the credit union and an amount as necessary to honor outstanding share drafts drawn against accounts of the member, be paid to the member.
5. Upon expulsion or withdrawal of a member from a credit union, or at any other time, the credit union may require sixty days' notice of intention to withdraw shares and thirty days' notice of intention to withdraw deposits, except that a credit union shall not at any time require notice of withdrawal with respect to funds which are subject to withdrawal by share drafts.
6. Withdrawing or expelled members shall have no further rights in the credit union but are not, by such expulsion or withdrawal, released from any remaining liability to the credit union.

[C27, 31, 35, § 9305-a19; C39, § **9305.19**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.19]

2004 Acts, ch 1141, §43

533.19A Suspension or restriction of services.

1. A state credit union may suspend or deny certain services to members who have performed any of the following actions:

- a. Caused a loss to the state credit union.
- b. Violated the membership agreement or any policy adopted by the board.
- c. Been physically or verbally abusive to state credit union members or staff.

2. Members with suspended services may maintain a share account and continue to vote at annual and special meetings.

2004 Acts, ch 1141, §44

533.20 Voluntary dissolution.

The process of voluntary dissolution shall be as follows:

1. At a special meeting called for that purpose, a credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting. Notice of the meeting's purpose shall be contained in the meeting's notice. 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 the form approved by the superintendent. This vote shall have the same force and effect as if cast at the meeting.

2. The credit union shall cease to do business except for the purposes of liquidation immediately upon giving notice of the special meeting called for the members vote on dissolution. The board of directors shall immediately notify the superintendent of the intention of the credit union to dissolve. The 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 4 of this section.

3. The board of directors shall have power to terminate and settle the affairs of a credit union in voluntary dissolution. The credit union shall continue in existence for the purpose of discharging its liabilities, collecting and distributing its assets, and doing all acts required in order to terminate its affairs. The credit union may sue and be sued for the purpose of enforcing such liabilities and for the purpose of collecting its assets until its affairs are fully settled. During the course of dissolution proceedings, the credit union shall make such reports and shall be subject to such examinations as the superintendent may require. If at any time after the affirmative vote of a majority of the members of a credit union to dissolve the credit union, the superintendent finds that the credit union is not making reasonable progress toward terminating its affairs or finds that the credit union is insolvent, the superintendent may apply to the district court for appointment of a receiver to terminate the affairs of the credit union.

4. At any time prior to any distribution of its assets, a credit union may revoke the voluntary dissolution proceedings by the affirmative vote of a majority of its members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws. The board of directors shall immediately notify the superintendent of any such action to revoke voluntary dissolution proceedings.

5. Upon such proof as is satisfactory to the superintendent that all assets have been liquidated from which

there is a reasonable expectance of realization, that the liabilities of the credit union have been discharged and distribution made to its members, and that the liquidation has been completed, the superintendent shall issue a certificate of dissolution, which certificate shall be filed and recorded in the county in which the credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded. Upon the issuance of a certificate of dissolution, the existence of the credit union shall cease.

6. The board of directors may appoint by resolution any responsible person as defined in section 4.1, whose appointment has been approved by the superintendent, to exercise its powers to terminate and settle the affairs of the credit union pursuant to this section. The superintendent is authorized to promulgate rules pursuant to chapter 17A establishing the qualifications which must be met by such appointees, including but not limited to filing a surety bond with the superintendent.

[C27, 31, 35, § 9305-a20; C39, § **9305.20**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 533.20]

533.21 Involuntary dissolution.

1. In all situations in which the superintendent has been appointed as receiver as provided in this chapter, the superintendent shall make a diligent effort to collect and realize on the assets of the credit union, and shall make distribution of the proceeds from time to time to those entitled thereto in the order provided for by law. The superintendent may execute as receiver, or after the receivership has terminated, assignments, releases, and satisfactions to effectuate sales and transfers. Upon the order of the court in which the receivership is pending, the superintendent may sell or compound all bad or doubtful debts. Upon the order of the court in which the receivership is pending, the superintendent may sell all the real and personal property of the credit union, on such terms as the court shall direct.

2. All expenses of the receivership and dissolution shall be determined by the superintendent, subject to the approval of the district court, and shall be paid out of the assets of the credit union.

3. At the termination of the receivership, the superintendent shall file a final report which shall contain the details of the superintendent's actions and such additional facts as the court may require.

4. Upon the submission and approval of the final report, the court shall enter a decree dissolving the credit union, at which time the existence of the credit union shall cease. It shall be the duty of the clerk of court to cause certified copies of the decree to be filed with and recorded by the county recorder of the county in which the credit union has its principal place of business and by the county recorder of the county in which its original articles of incorporation were filed and recorded. No fee shall be charged by the county recorder for the filing or recording of the decree.

[C73, 75, 77, 79, 81, § 533.21]

533.22 Dissolution generally.

The following shall apply to dissolution of a credit union under this chapter, whether voluntary or involuntary:

1. Distribution of the assets of the credit union shall be made in the following order:

a. The payment of costs and expense of the administrator of dissolution.

b. The payment of claims for public funds deposited pursuant to chapter 12C and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined by the statutes or, in the absence of conflicting provisions, on a pro rata

basis.

c. The payment of deposits, including accrued interest, up to the date of the special meeting of the members at which voluntary dissolution was authorized or in the case of involuntary dissolution, the date of appointment of a receiver.

d. The pro rata apportionment of the balance among the members of record on the date of the special meeting of the members at which voluntary dissolution was authorized or in the case of involuntary dissolution, the members of record on the date of appointment of a receiver.

2. All amounts due to members who are unknown, or who are under a disability and there is no person legally competent to receive the amounts, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state who shall hold the amounts in the manner prescribed by chapter 556. All amounts due to creditors as described in section 490.1440 shall be transmitted to the treasurer of state in accordance with that section and shall be retained by the treasurer of state and subject to claim as provided for in that section.

3. The superintendent shall assume custody of the records of a credit union dissolved pursuant to this chapter and shall retain these records in accordance with the provisions of section 533.26. The superintendent may cause film, photographic, photostatic, or other copies of these records to be made and the superintendent shall retain these copies in lieu of the original records.

4. The dissolution of a credit union shall not remove or impair any remedy available to or against such credit union, its directors, officers, or members for any right or claim existing or any liability incurred prior to such dissolution if an action or other proceeding to enforce the right or claim is commenced within two years after the date of filing of a certificate or decree of dissolution with the county recorder in the county in which the credit union has its principal place of business. Any such action or proceeding by or against the credit union may be prosecuted or defended by the credit union in its corporate name. The members, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim.

[C73, 75, 77, 79, 81, § 533.22]

85 Acts, ch 194, §10; 90 Acts, ch 1205, § 52

533.23 Change in place of business.

A credit union may change its place of business on written notice to the superintendent.

[C27, 31, 35, § 9305-a21; C39, § **9305.21**; C46, 50, 54, 58, 62, 66, 71, § 533.21; C73, 75, 77, 79, 81, § 533.23]

533.24 Taxation.

1. A credit union shall be deemed an institution for savings and is subject to taxation only as to its real estate and moneys and credits. The shares shall not be taxed.

2. The moneys and credits tax on credit unions is imposed at a rate of five mills on each dollar of the legal and special reserves which are required to be maintained by the credit union under section 533.17, and shall be levied by the board of supervisors, and placed upon the tax list and collected by the county treasurer, except that an exemption shall be given to each credit union in the amount of forty thousand dollars. The amount collected in each taxing district within a city shall be apportioned twenty percent to the county, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in

each taxing district outside of cities shall be apportioned fifty percent to the county and fifty percent to the general fund of the state. The moneys and credits tax shall be collected at the location of the credit union as shown in its articles of incorporation.

3. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

4. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.51.

5. The moneys and credits tax imposed under this section shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

6. The moneys and credits tax imposed under this section shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

7. The moneys and credits tax imposed under this section shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

8. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15.333.

9. The moneys and credits tax imposed under this section shall be reduced by a tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

10. The moneys and credits tax imposed under this section shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

[C27, 31, 35, § 9305-a22; C39, § **9305.22**; C46, 50, 54, 58, 62, 66, 71, § 533.22; C73, 75, 77, 79, 81, § 533.24]

83 Acts, ch 123, § 189, 209; 89 Acts, ch 296, §74; 2002 Acts, ch 1006, §11, 13; 2002 Acts, ch 1156, §6, 8; 2003 Acts, 1st Ex, ch 2, §88, 89; 2005 Acts, ch 150, §17, 66, 69; 2006 Acts, ch 1158, §65

Subsection 5 takes effect June 19, 2003, and applies retroactively to tax years beginning on or after January 1, 2003; 2003 Acts, 1st Ex, ch 2, §89

For future repeal of subsection 5 effective June 30, 2010, and the strike of that repeal effective July 1, 2007, see 2003 Acts, 1st Ex, ch 2, §93; 2006 Acts, ch 1151, §7, 8

Subsection 7 takes effect June 9, 2005, and applies to qualified new jobs created and to tax years ending on or after July 1, 2005; 2005 Acts, ch 150, §69

533.25 Small loans legislation.

Nothing contained in this chapter shall apply to any person engaged in the business of loaning money under chapter 536.

[C27, 31, 35, § 9305-a23; C39, § **9305.23**; C46, 50, 54, 58, 62, 66, 71, § 533.23; C73, 75, 77, 79, 81, § 533.25]

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.

[C62, 66, 71, § 533.24; C73, 75, 77, 79, 81, § 533.26]

88 Acts, ch 1103, §3; 91 Acts, ch 95, §2; 99 Acts, ch 34, §2; 2006 Acts, ch 1040, §5

533.27 Liability for destruction.

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 section 533.26, this section, and section 533.29. In any cause or proceedings in which any such records or files may be called into question or be demanded of the credit union or of any officer or employee of the credit union, a showing that such records or files have been destroyed in accordance with the terms of 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.

For the purpose of assisting credit unions in the retention of only necessary records and files, or for the destruction of those which are obsolete or unnecessary, credit unions are authorized to destroy such records and files or classes thereof within the period of limitation of actions upon the joint recommendation of the superintendent and the credit union review board.

[C62, 66, 71, § 533.25; C73, 75, 77, 79, 81, § 533.27]

2006 Acts, ch 1040, §6

533.28 Photographic records.

1. Any writing or record, or a photostatic or photographic reproduction of such writing or record, of a credit union whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible in evidence in proof of the act, transaction, occurrence, or event, if made in the regular course of business.

2. A printout or other tangible output readable by sight shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, which contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original

of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

[C62, 66, 71, § 533.26; C73, 75, 77, 79, 81, § 533.28]

99 Acts, ch 34, §3

533.29 Limitation of actions.

All causes of action against a credit union based upon a claim or claims inconsistent with an entry or entries in any credit union record or ledger, made in the regular course of business, shall be deemed to have accrued, and shall accrue, one year after the date of such entry or entries; and no action founded upon such a cause may be brought after the expiration of ten years from the date of such accrual. Any such existing cause of action may be commenced in any court of competent jurisdiction within one year after July 4, 1959.

[C62, 66, 71, § 533.27; C73, 75, 77, 79, 81, § 533.29]

533.30 Merger.

1. With the approval of the superintendent, a credit union may merge with another credit union under the existing charter 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 present at a meeting of its members called for the purpose of voting on the merger.

The superintendent may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union if the superintendent receives a written and verified application filed by the board of directors of each credit union and finds all of the following:

- a. Notice of the meeting called to consider the merger was mailed to each member of the merging credit union entitled to vote upon the question.
- b. The notice disclosed the purpose of the meeting and properly informed the membership that approval of the merger would be sought pursuant to this subsection.
- c. A majority of the votes upon the question were in favor of the merger.

The superintendent may waive the membership merger vote if the superintendent finds that an emergency exists which justifies the waiver.

2. The superintendent may adopt rules establishing merger procedures.
3. The certificate and a copy of the agreed plan of merger shall be forwarded to the superintendent, certified by the superintendent, and returned to both credit unions within thirty days of the date of receipt by the superintendent.
4. Upon return of the certificates from the superintendent, all property, property rights, and members' interest of the merged credit union vest in the surviving credit union without the legal need for deeds, endorsements or other instruments of transfer, and all debts, obligations and liabilities of the merged credit union are assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges

of the members of the merged credit union remain intact according to the plan. Credit union membership in the surviving credit union shall be available to persons within the field of membership of the merged credit union.

5. This section shall be construed to permit a credit union organized under any other statute to merge with one organized under this chapter, or to permit one organized under this chapter to merge with one organized under any other statute.

[C62, 66, 71, § 533.28; C73, 75, 77, 79, 81, § 533.30; 82 Acts, ch 1171, § 35]

85 Acts, ch 242, §7

533.31 Penalty for falsification.

Any director, officer, agent, employee, or clerk of any credit union who shall knowingly subscribe or make any false statements or false entries in the books thereof, or knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine its condition, or shall knowingly subscribe and make false reports, or shall knowingly divert the funds of the credit union to other objects than those authorized by law, shall be guilty of a fraudulent practice and be forever after barred from holding any office created by this chapter.

[C66, 71, § 533.29; C73, 75, 77, 79, 81, § 533.31]

533.32 Governmental employees payments withheld.

When a credit union has been organized by the employees of the state or of any political or municipal subdivision of the state, the officer who writes warrants for the state or other governmental body by which any public employee credit union member is employed, may withhold from the salary or wages of such employee, and pay over to such credit union, such sums as may be designated by written authorization signed by such employee. The provisions of section 539.4 shall have no application hereto.

[C71, § 533.30; C73, 75, 77, 79, 81, § 533.32]

533.33 Administrator of account insurance plan as receiver.

1. The superintendent may tender to the administrator of an account insurance plan approved under this chapter the appointment as receiver for an insured credit union. If the insurance plan administrator accepts the appointment as receiver, the rights of the members and other creditors of the insured credit union shall be determined in accordance with the laws of this state.

2. The administrator of an account insurance plan as receiver shall possess the powers, rights, and privileges given to the superintendent as provided by law.

3. If the administrator of an account insurance plan pays or makes available for payment the insured liabilities of a state credit union, the administrator shall be subrogated by operation of law to all rights of the members against the insured credit union in the same manner and to the same extent as subrogation is provided for in applicable laws in the case of a closed federal credit union or closed state credit union.

[C73, 75, 77, 79, 81, § 533.33]

533.34 Conversion of state credit union into federal credit union.

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. This vote, if taken, shall be at a meeting called for that purpose and shall be in the manner prescribed by the bylaws.

2. The board of directors of the state credit union shall notify the superintendent of any proposed conversion and of any abandonment or disapproval of the conversion by the members or by the administrator of the national credit union administration. The board of directors of the state credit union shall file with the superintendent appropriate evidence of approval of the conversion by the administrator of the national credit union administration and shall notify the superintendent of the date on which the conversion is to be effective.

3. Upon receipt of satisfactory proof that the state credit union has complied with all applicable laws of this state and of the United States, the superintendent shall issue a certificate of conversion which shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.

[C73, 75, 77, 79, 81, § 533.34]

87 Acts, ch 171, §26

533.35 Conversion of federal credit union into state credit union.

1. A federal credit union may convert into a state credit union by compliance with the laws of the United States and upon the approval of the superintendent. Application for approval of the conversion to a state credit union shall be submitted to the superintendent in the form prescribed by the superintendent, together with the articles of incorporation and bylaws as required by section 533.1. The superintendent may cause an examination to be made of any converting federal credit union. The credit union shall pay to the superintendent the same examination fee as paid for examinations of state credit unions.

2. If the superintendent should approve the application of a federal credit union for conversion to a state credit union, the superintendent shall cause the articles of incorporation of the resulting state credit union to be filed and recorded in the county in which the credit union has its principal place of business and the superintendent shall issue a certificate of authority to do business under the laws of this state to the resulting state credit union. The credit union shall then become a state credit union subject to the laws of this state. The superintendent shall furnish a copy of the certificate to the administrator of the national credit union administration.

3. The existence of the federal credit union shall continue and the resulting state credit union shall have all of the property, rights, powers and duties of the federal credit union except that the resulting state credit union shall have only the authority to engage in such business and exercise such powers and shall be subject to the same prohibitions and limitations to which it would be subject upon original organization under this chapter.

4. No liability of the federal credit union or of its members, directors or officers shall be affected, nor shall any lien on any property of the federal credit union be impaired by the conversion. Any claim existing or action pending by or against the federal credit union may be prosecuted to judgment as if the conversion had not taken place, or the resulting state credit union may be substituted in its place.

[C73, 75, 77, 79, 81, § 533.35]

533.36 Repealed by 78 Acts, ch 1169, § 40.

533.37 Enforcement of Iowa consumer credit code.

1. The superintendent shall enforce the Iowa consumer credit code, chapter 537, with respect to credit unions, as provided in sections 537.2303, 537.2305, and 537.6105.
2. The superintendent shall cooperate with the administrator of the Iowa consumer credit code, chapter 537, as designated in section 537.6103, and shall assist that administrator whenever necessary to provide for the discharge of the duties of that administrator.
3. Notwithstanding other provisions of this chapter to the contrary, the superintendent shall authorize to be furnished to the administrator of the Iowa consumer credit code, chapter 537, access to or copies of records in the custody of the division which relate to a credit union, when necessary to enable the administrator of the Iowa consumer credit code to enforce chapter 537.

[C75, 77, 79, 81, § 533.37]

2003 Acts, ch 44, §114

533.38 Corporate central credit union.

A corporate central credit union may be established. Credit unions organized under this chapter, the Federal Credit Union Act, or any other credit union act and credit union organizations may be members. In addition, regulated financial institutions, nonprofit organizations, and cooperative organizations may be members to the extent and manner provided for in the bylaws of the corporate central credit union. The corporate central credit union shall have all the powers, restrictions, and obligations imposed upon, or granted to a credit union under this chapter, except that the corporate central credit union may exercise any of the following additional powers subject to the adoption of rules by the superintendent pursuant to chapter 17A and with the prior written approval of the superintendent:

1. Make loans and extend lines of credit to its members.
2. Impose fees or penalties upon its members and apply them to income.
3. Make available share draft accounts and permit the owners of the accounts to make withdrawals by negotiable or other transferable instruments or other orders for the purpose of making transfers to third parties.
4. Borrow any amount from any source.
5. Invest in or purchase obligations or securities or other designated investments to the same extent authorized for other supervised financial institutions.
6. Invest in or acquire shares, stocks, or other obligations of an organization providing services which are associated with the operations of credit unions. However, the aggregate amount invested pursuant to this subsection shall not exceed fifty percent of the total of all reserves and undivided earnings of the corporate credit union.
7. Buy or sell investment securities and corporate bonds which are evidences of indebtedness. However, the purchase or sale is limited to marketable obligations of a corporation or state or federal agency issued without recourse.
8. Sell all or part of its assets to another central or corporate credit union and assume the liabilities of a selling central or corporate credit union if the action is approved by the majority vote of the board of directors at a meeting called for that purpose.

9. Invest in the shares or deposits of another similarly organized corporate credit union, central credit union, or central liquidity facility.

10. Make other investments approved by the superintendent.

11. Establish one or more capital accounts in the same manner as if it were a federal credit union.

12. The corporate central credit union shall not be required to transfer to its legal reserve more than five percent of its net income for the year.

[C77, 79, 81, § 533.38]

85 Acts, ch 242, §8; 87 Acts, ch 171, §27; 2004 Acts, ch 1141, §45

533.39 Reciprocity.

Subject to rules of the superintendent, a credit union chartered in another state may do business in Iowa subject to the applicable provisions of this chapter if credit unions chartered in Iowa may do business in the state in which the out-of-state credit union is chartered.

84 Acts, ch 1230, § 27

533.40 and 533.41 Reserved.

533.42 Share drafts.

1. A credit union may provide its members with share draft accounts. "*Share draft*" means a negotiable draft which is payable upon demand and is used to withdraw funds from a share draft account. A share draft is an item for purposes of chapter 554, article 4. The term does not include a draft issued by a credit union for the transfer of funds between the issuing credit union and another credit union, a bank, a savings and loan association, or another depository financial institution.

2. A "*share draft account*" is an account that is a demand account from which a credit union has agreed that funds may be withdrawn by means of a share draft. A share draft account may bear interest or dividends as determined by the board of directors, provided that a credit union shall not pay interest or dividends on a share draft account at a rate which exceeds the maximum interest rate which a regulated financial institution is able to pay on comparable instruments as allowed by the depository institutions deregulatory committee.

3. A credit union may guarantee payment for a share draft if both the following conditions are met:

a. A specific guarantee authorization is obtained for the share draft from the credit union.

b. The guarantee authorization is immediately noted on the share draft account to prevent the withdrawal of funds needed to pay the guaranteed share draft.

4. A credit union may charge fees and penalties on share drafts and apply fees and penalties to the credit union's income in relation to share draft services.

5. The superintendent may adopt rules relating to share draft programs as necessary to administer this chapter.

[C79, § 533.39; C81, § 533.42]

533.43 Payment of share drafts during dissolution.

Other provisions of section 533.22 notwithstanding, when a credit union is dissolved, first priority of payment shall be given to unpaid share drafts. However, a share draft shall not be paid if any of the following conditions exist:

1. The share draft was issued on or after the date of appointment of a receiver in the event of an involuntary dissolution, or on or after the date the credit union is required by section 533.20, subsection 2 to cease doing business in the event of a voluntary dissolution.
2. The share draft is written against an account which does not contain sufficient funds with which to pay the share draft.
3. The share draft is payable to a member of the credit union, or to a member of the family of the issuer of the share draft, or to a business in which the issuer of the share draft has an interest. However, the exception contained in this subsection does not apply to any person referred to in this subsection if the person is a holder in due course, as provided in chapter 554, article 3.

[C81, § 533.43]

94 Acts, ch 1167, §2, 122

533.44 Share-draft violations revocation of authority. Repealed by 83 Acts, ch 98, § 2, 3.

533.45 Share-draft liquidity reserve violations penalty. Repealed by 83 Acts, ch 98, § 2, 3.

533.46 Acceptance of deposits and investments while insolvent.

A credit union shall not accept any deposits or investments in its shares, or renew or extend the term of any time deposits or time investments, when the credit union is insolvent.

[C81, § 533.46]

533.47 Investment in certain shares or equity interests.

1. A credit union may invest in either of the following to the extent that the total investments under this section shall not be more than five percent of the credit union's assets:

- a.* Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the credit union's investment in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state.
- b.* Shares or equity interests in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A credit union shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph.

2. For purposes of this section:

- a.* "Venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the

laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business.

b. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

c. "Small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, which meets the appropriate small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state or other investments which provide an economic benefit to the state.

85 Acts, ch 136, §4

533.48 Investment in banks or savings and loan associations.

1. *Investments in banks.* A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a bank.

2. *Investment in savings and loans.* A credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a state savings and loan association.

3. *Findings required.* The superintendent shall not grant an approval under subsection 1 or 2, except after making one of the following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have an anticompetitive effect as described in paragraph "a", but other factors, specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

4. *Competition preserved.* The subsequent liquidation of a bank or state savings and loan association whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank or savings and loan association in the same community, and the superintendent of banking shall not find the liquidation of such a bank to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, and the superintendent of savings and loan associations shall not find the liquidation of such a savings and loan association to be grounds for disapproving the incorporation of another savings and loan association in the same community under chapter 534.

87 Acts, ch 171, §28

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.

96 Acts, ch 1012, §8

533.49A Search procedure on death. Repealed by 97 Acts, ch 60, § 1, 2.

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*".

96 Acts, ch 1012, §10

533.49C Remedies and proceedings for nonpayment 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.

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.

96 Acts, ch 1012, §12

533.49E Safe deposit box access.

1. A credit union shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the credit union. If a court order has not been delivered to the credit union, the following persons may access and remove any or all contents of a safe deposit box located at a state credit union which box is described in an ownership or rental agreement or lease between the state credit union and a deceased owner or lessee:

a. A co-owner or co-lessee of the safe deposit box.

b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.

c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state credit union of a certified copy of letters of appointment.

d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.

e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state credit union of either of the following:

(1) A certification of trust pursuant to section 633A.4604 which certifies that the trust property is reasonably believed to include property in the safe deposit box.

(2) A copy of the trust with an affidavit by the trustee which certifies that a copy of the trust delivered to the

state credit union with the affidavit is an accurate and complete copy of the trust, that the trustee is the duly authorized and acting trustee under the trust, that the trust property is reasonably believed to include property in the safe deposit box, and that, to the knowledge of the trustee, the trust has not been revoked.

2. A person removing any contents of a safe deposit box pursuant to subsection 1 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.

3. *a.* If a person authorized to have access under subsection 1 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state credit union has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state credit union. If no key is produced, the state credit union may cause the safe deposit box to be opened and the state credit union shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.

b. If a safe deposit box is opened pursuant to paragraph "*a*", the credit union employees present at such opening shall do all of the following:

(1) Remove any purported will of the deceased owner or lessee.

(2) Unseal, copy, and retain in the records of the state credit union a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the credit union employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.

(3) The original of a purported will shall be sent by registered or certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by registered or certified mail or personally delivered to the district court in the county where the safe deposit box is located.

4. The state credit union may rely upon published information or other reasonable proof of death of an owner or lessee. A state credit union has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box. A state credit union has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee. Upon compliance with the requirements of subsection 1 or 2, the state credit union is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

99 Acts, ch 148, §2; 2004 Acts, ch 1102, §3, 4; 2005 Acts, ch 38, §55

533.50 Reserved.

533.51 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Credit union*" means a cooperative, nonprofit association, incorporated in accordance with the provisions of this chapter. A credit union is also a supervised financial organization as defined and used in the Iowa consumer credit code, chapter 537.

2. "*Board*" means the credit union review board, created in section 533.53.

3. "*Superintendent*" means the superintendent of credit unions appointed by the governor to direct and regulate credit unions pursuant to this chapter.

4. "*Account insurance plan*" means a plan providing account and share insurance which is of a type authorized under section 533.64.

[C75, 77, § 533.36(2); C79, 81, § 533.51]

86 Acts, ch 1245, § 750; 2003 Acts, ch 44, § 114

533.52 Credit union division created.

A credit union division of the department of commerce is created to administer this chapter.

[C79, 81, § 533.52]

86 Acts, ch 1245, § 751

533.53 Credit union review board.

1. A credit union review board is created. The board shall consist of seven members, five of whom shall have been members in good standing for at least the previous five years of either an Iowa state chartered credit union, or a credit union chartered under the federal Credit Union Act and having its principal place of business in Iowa. Two of the members may be public members; however, at no time shall more than five of the members be directors or employees of a credit union. The members shall serve for three-year staggered terms beginning and ending as provided by section 69.19.

2. The members of the board shall be appointed by the governor subject to confirmation by the senate. The governor may appoint the members of the board from a list of nominees submitted to the governor by the credit unions located in the state of Iowa.

3. The board shall meet at least four times each year and shall hold special meetings at the call of the chairperson. Four members constitute a quorum.

4. Each member of the board shall receive actual and necessary expenses incurred in the discharge of official duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

5. A member of the credit union review board shall not take part in any action or participate in any decision when the matter under consideration specifically relates to a credit union of which the board member is a member.

[C79, 81, § 533.53]

86 Acts, ch 1245, § 752

Footnotes

Confirmation, see § 2.32

533.54 Powers and duties.

The board may adopt, amend, and repeal rules pursuant to chapter 17A or take other action as it deems necessary or suitable, to effect the provisions of this chapter.

[C79, 81, § 533.54]

533.55 Superintendent.

1. The superintendent shall be appointed by the governor, subject to confirmation by the senate, and shall possess a minimum of five years' credit union experience.
2. The superintendent may appoint assistants, examiners, and other employees as the superintendent deems necessary to the proper discharge of duties imposed upon the superintendent by the laws of this state. Pay plans shall be established for employees, other than clerical employees, who examine the accounts and affairs of credit unions and who examine the accounts and affairs of other persons, subject to supervision and regulation by the superintendent, that are substantially equivalent to those paid by the national credit union administration and other federal supervisory agencies in this area of the United States.
3. The superintendent may adopt rules as necessary or appropriate to implement this chapter, subject to the prior approval of the rules by the board.

[C79, 81, § 533.55]

86 Acts, ch 1245, § 753; 2001 Acts, ch 76, §1

Footnotes

Confirmation, see §2.32

533.56 Deputy superintendent.

1. The superintendent shall appoint a deputy superintendent who shall assist the superintendent in the performance of the superintendent's duties and who shall perform the duties of the superintendent as directed by the superintendent during the absence or inability of the superintendent.
2. The deputy superintendent shall serve at the pleasure of the superintendent. If the office of the superintendent becomes vacant, the deputy superintendent has all powers and duties of the superintendent until a new superintendent is appointed by the governor in accordance with this chapter.
3. The deputy superintendent shall receive a salary to be fixed by the board.

[C79, 81, § 533.56]

86 Acts, ch 1245, § 754

533.57 Expenses.

The superintendent, deputy superintendent, assistants, examiners, and other employees of the credit union division are entitled to receive reimbursement for expenses incurred in the performance of their duties subject to approval by the board. The superintendent, and when specifically authorized by the superintendent, the deputy superintendent, assistants, examiners, and other employees of the division, are entitled to receive reimbursement for expenses incurred while attending conventions, meetings, conferences, schools, or seminars relating to the performance of their duties.

[C79, 81, § 533.57]

533.58 Insurance and surety bond.

The superintendent shall acquire good and sufficient bond in a company authorized to do business in this state to insure the faithful performance of the deputy superintendent, assistants, examiners and all other employees of the credit union division and to insure against any liability which may accrue in case of the loss of property of a credit union, or of a member of a credit union or of any other person, in the course of an examination, investigation, or other function required or allowed by the laws of this state. The superintendent shall be bonded in accordance with the provisions of chapter 64, provided that such bond shall be in the amount of one hundred thousand dollars.

[C79, 81, § 533.58]

533.59 Subpoena contempt.

1. The superintendent, the deputy superintendent, and upon the approval of the superintendent, any assistant or examiner shall have the power to subpoena witnesses, to compel their attendance, to administer oaths, to examine any person under oath and to require the production of relevant books or papers. The examination may be conducted on any subject relating to the duties imposed upon, or powers vested in, the superintendent under the provisions of this chapter.
2. When a person subpoenaed pursuant to subsection 1 of this section neglects or refuses to obey the terms of the subpoena, or to produce books or papers or to give testimony, as required, the superintendent may apply to the district court of Polk county for the enforcement of the subpoena or for the issuance of an order compelling compliance as the court directs.
3. The refusal without reasonable cause of a person to obey an order of the district court, issued pursuant to subsection 2, shall be considered contempt of court.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, § 533.6(2); C79, 81, § 533.59]

533.60 Records of credit union division.

1. Records of the credit union division are public records subject to the provisions of chapter 22, except that papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of a specific 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.
2. The credit union review board or the superintendent may notify the Iowa credit union league of the name of any credit union which the board or superintendent has reasonable cause to believe may have violated any of the provisions of this chapter or may be in danger of becoming insolvent or which has been the subject of a report of examination which the board or superintendent deems unsatisfactory in any respect, and thereafter the superintendent may, with the written consent of the credit union, give information secured from or about that credit union to the Iowa credit union league.
3. The superintendent, deputy superintendent, assistants or examiners shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating to the supervision and regulation of a specific credit union or persons by the superintendent pursuant to the laws of this state, nor shall the records of the credit union division which relate to the supervision and regulation of a specific credit union or persons be offered in evidence in a court or subject to subpoena by a party except where relevant:

- a.* In actions or proceedings brought by the superintendent.
- b.* In matters in which an interested and proper party seeks review of a decision of the superintendent.
- c.* In actions or proceedings which arise out of the criminal provisions of the laws of this state or of the United States.
- d.* In actions brought as shareholder derivative suits against a credit union.
- e.* In actions brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation or misuse of credit union funds.

[C79, 81, § 533.60]

533.61 Annual report of superintendent.

1. The superintendent shall make a report in writing annually to the governor in the manner and within the time required by chapter 7A. A copy of the report shall be furnished by the superintendent to each credit union and to the Iowa credit union league and its affiliates.
2. In addition to the matters required by chapter 7A, the annual report of the superintendent shall contain:
 - a.* A summary of applications approved or denied by the superintendent pursuant to this chapter since the last previous report.
 - b.* A summary of the assets, liabilities and capital structures of all credit unions, and a summary of the volume of consumer installment credit outstanding per credit union, as of December 31 of the year for which the report is made.
 - c.* A statement of the receipts and disbursements of funds of the superintendent during the calendar year ending on the preceding December 31 and of the funds on hand on that December 31, including an estimate of the disbursements of credit union division funds for consumer credit protection during the year for which the report is made.
 - d.* Other information the superintendent deems appropriate and advisable to fairly disclose the discharge of the duties imposed upon the superintendent by this chapter.
 - e.* Information which the administrator of the Iowa consumer credit code, chapter 537, may require to be included.
 - f.* A list of credit unions which have been designated as serving predominantly low-income members pursuant to section 533.4, subsection 1.

[C75, 77, § 533.37(4); C79, 81, § 533.61]

96 Acts, ch 1012, § 13; 2003 Acts, ch 44, §114

533.62 Examination and supervision fees penalties.

1. Each credit union shall pay to the superintendent an annual fee 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.

2. Failure of a credit union to pay 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 equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent. The delinquency may be grounds for revocation of the charter of the credit union.

3. All expenses required in the discharge of the duties and responsibilities imposed upon the superintendent and the board by the laws of this state shall be paid from funds appropriated from the general fund of the state. The superintendent shall pay all fees and other money received by the superintendent to the treasurer of state within the same time required by section 12.10. The treasurer of state shall deposit such funds in the general fund of the state. Funds appropriated to the credit union division shall be subject at all times to the warrant of the director of the department of administrative services, drawn upon written requisition of the superintendent or a designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the credit union division.

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.

[C79, 81, § 533.62]

92 Acts, ch 1039, § 4; 96 Acts, ch 1012, § 14; 2003 Acts, ch 145, §286

533.63 False statements penalties.

1. A director, officer or employee of a credit union shall not intentionally publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning rates, terms or conditions on which loans are made, or deposits or share installments are received, or concerning any charge which the credit union is authorized to impose pursuant to this chapter, or concerning the financial condition of the credit union. Any director, officer, or employee of a credit union who violates the provisions of this section commits fraudulent practice.

2. Any person who maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any credit union which imputes or tends to impute insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of deposits from such credit union, or which may otherwise injure or tend to injure the business or goodwill of such credit union, shall be guilty of a simple misdemeanor.

[C79, 81, § 533.63]

533.64 Account insurance fidelity bond.

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, 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 or bond of the credit union or resolution of a claim.

[C79, 81, § 533.64]

85 Acts, ch 242, § 9; 91 Acts, ch 16, § 2; 92 Acts, ch 1039, § 5

533.65 False statement for credit.

Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person or any other person in which such person is interested or for whom such person is acting with the intent that such statement shall be relied upon by a credit union for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

[C79, 81, § 533.65]

533.66 Central credit unions.

Credit unions known as "central credit unions" may exist for the purpose of serving members of dissolved credit unions, directors, officers and employees of credit unions, employee groups as defined in section 533.4, subsection 13, and such other persons as the superintendent shall approve.

[C79, 81, § 533.66]

533.67 Expenses of the credit union division fees.

1. All expenses required in the discharge of the duties and responsibilities imposed upon the credit union division, the superintendent, and the credit union review board by the laws of this state shall be paid from

fees provided by the laws of this state and appropriated by the general assembly from the general fund of the state. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other moneys received by the superintendent to the treasurer of state within the time required by section 12.10 and the fees and other moneys shall be deposited into the general fund of the state. The superintendent may keep on hand with the treasurer of state funds in excess of the current needs of the division to the extent approved by the credit union review board.

2. The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

3. The credit union division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for credit union examinations and directly result from examinations of credit unions. The amounts necessary to fund the excess examination expenses shall be collected from credit unions being regulated, and the collections shall be treated as repayment receipts as defined in section 8.2. The division shall notify in writing the legislative services agency and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.

4. All fees and other moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes. Moneys deposited into the general fund of the state pursuant to this section shall be subject to the requirements of section 8.60.

5. The division may accept reimbursement of expenses related to the examination of a credit union from the national credit union administration or any other share guarantor or insurance plan authorized by this chapter. These reimbursements shall be deposited into the general fund of the state.

86 Acts, ch 1246, § 618; 87 Acts, ch 234, §436; 90 Acts, ch 1247, § 15; 91 Acts, ch 260, §1244; 93 Acts, ch 131, §23; 94 Acts, ch 1107, §86; 2003 Acts, ch 35, §45, 49