

CHAPTER 52

CREDIT UNIONS

52.01	Organization.	52.09	Directors; powers and duties.
52.04	Powers.	52.136	Individual housing accounts.
52.06	Supervision; reports; audits; fees.	52.17	Reserve fund.
		52.19	Expulsion or withdrawal of members.

52.01 ORGANIZATION.

Any seven residents of the state may apply to the commissioner of banks for permission to organize a credit union.

A credit union is a cooperative society, incorporated for the two-fold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes.

A credit union is organized in the following manner:

(1) The applicants execute, in duplicate, a certificate of organization by the terms of which they agree to be bound, which shall state:

(a) The name and location of the proposed credit union;

(b) The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;

(c) The par value of the shares of the credit union, which shall not exceed \$10 each;

(2) They next prepare and adopt bylaws for the general governance of the credit union consistent with the provisions of this chapter, and execute the same in duplicate;

(3) The certificate and the bylaws, both executed in duplicate, are forwarded to the commissioner of banks; and there shall be paid to the commissioner an application fee of \$100;

(4) The commissioner of banks shall, within 60 days of the receipt of the certificate, the bylaws, and a commitment for insurance of accounts as required by section 52.24, subdivision 2, determine whether they comply with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit the members of it and be consistent with the purposes of this chapter;

(5) Thereupon the commissioner of banks shall notify the applicants of his decision; if it is favorable, the commissioner shall issue a certificate of approval, attached to the duplicate certificate of organization, and return the same, together with the duplicate bylaws, to the applicants; if it is unfavorable, the applicants may, within 60 days after said decision, have the right to appeal for a review in a court of competent jurisdiction;

(6) The applicants shall thereupon file the duplicate of the certificate of organization, with the certificate of approval attached thereto, with the county recorder of the county within which the credit union is to do business, who shall make a record of the certificate and return it, with a certificate of record attached thereto, to the commissioner of banks, for permanent records; and

(7) Thereupon the applicants shall become and be a credit union, incorporated in accordance with the provisions of this chapter.

In order to simplify the organization of credit unions, the commissioner of banks shall cause to be prepared an approved form of certificate of organization 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 seven residents of the state, shall supply them, without charge, with a blank certificate of organization and a copy of the form of suggested bylaws.

History: 1981 c 220 s 14

52.04 POWERS.

Subdivision 1. A credit union shall have the following powers:

(1) To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within its membership;

(2) To make loans to members for provident or productive purposes as provided in section 52.16;

(3) To make loans to a cooperative society or other organization having membership in the credit union;

(4) To deposit in state and national banks and trust companies authorized to receive deposits;

(5) To invest in any investment legal for savings banks or for trust funds in the state and, notwithstanding clause (2), to invest in and make loans of unsecured days funds (federal funds or similar unsecured loans) to financial institutions insured by an agency of the federal government and a member of the Federal Reserve System or required to maintain reserves at the Federal Reserve;

(6) To borrow money as hereinafter indicated;

(7) To adopt and use a common seal and alter the same at pleasure;

(8) To make payments on shares of and deposit with any other credit union chartered by this or any other state or operating under the provisions of the federal credit union act, in amounts not exceeding in the aggregate 25 percent of its unimpaired assets providing that payments on shares of and deposit with credit unions chartered by other states shall be restricted to credit unions insured by the National Credit Union Administration. The restrictions imposed by this clause shall not apply to share accounts and deposit accounts of Minnesota central credit union in U.S. central credit union;

(9) To contract with any licensed insurance company or society to insure the lives of members to the extent of their share accounts, in whole or in part, and to pay all or a portion of the premium therefor;

(10) To indemnify each director, officer, or committee member, or former director, officer, or committee member against all expenses, including attorney's fees but excluding amounts paid pursuant to a judgment or settlement agreement, reasonably incurred by him in connection with or arising out of any action, suit, or proceeding to which he is a party by reason of being or having been a director, officer, or committee member of the credit union, except with respect to matters as to which he shall be finally adjudged in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of his duties. Such indemnification shall not be exclusive of any other rights to which he may be entitled under any bylaw, agreement, vote of members, or otherwise;

(11) Upon written authorization from a member, retained at the credit union, to make payments to third parties by withdrawals from the member's share or

deposit accounts or through proceeds of loans made to such member, or by permitting the credit union to make such payments from the member's funds prior to deposit; to permit draft withdrawals from member accounts; however, this clause does not permit a credit union to establish demand deposits (checking accounts) for its members, provided that any credit union proposing to permit draft withdrawals shall notify the commissioner of banks, in the form prescribed, of its intent not less than 90 days prior to authorizing draft withdrawals;

(12) To inform its members as to the availability of various group purchasing plans which are related to the promotion of thrift or the borrowing of money for provident and productive purposes by means of informational materials placed in the credit union's office, through its publications, or by direct mailings to members by the credit union;

(13) To facilitate its members' voluntary purchase of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes including, but not limited to the following types of group or individual insurance: Fire, theft, automobile, life and temporary disability; to be the policy holder of a group insurance plan or a sub-group under a master policy plan and to disseminate information to its members concerning the insurance provided thereunder; to remit premiums to an insurer or the holder of a master policy on behalf of a credit union member, provided that the credit union shall obtain written authorization from the member for remittance by share or deposit withdrawals or through proceeds of loans made by the members, or by permitting the credit union to make the payments from the member's funds prior to deposit; and to accept from the insurer reimbursement for expenses incurred or in the case of credit life and accident and health insurance within the meaning of chapter 62B commissions for the handling of the insurance. The amount reimbursed or the commissions received may constitute the general income of the credit union. The directors, officers, committee members and employees of a credit union shall not profit on any insurance sale facilitated through the credit unions;

(14) To contract with another credit union to furnish services which either could otherwise perform. Contracted services under this clause are subject to regulation and examination by the commissioner of banks like other services;

(15) In furtherance of the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes, and not in limitation of the specific powers hereinbefore conferred, to have all the powers enumerated, authorized, and permitted by this chapter, and such other rights, privileges and powers as may be incidental to, or necessary for, the accomplishment of the objectives and purposes of the credit union;

(16) To rent safe deposit boxes to its members provided the credit union obtains adequate insurance or bonding coverage for losses which might result from the rental of safe deposit boxes;

(17) Notwithstanding the provisions of section 52.05, to accept deposits of public funds in an amount secured by insurance or other means pursuant to chapter 118;

(18) To accept and maintain treasury tax and loan accounts of the United States and to pledge collateral to secure the treasury tax or loan accounts, in accordance with the regulations of the Department of Treasury of the United States;

(19) To accept deposits pursuant to section 149.12, notwithstanding the provisions of section 52.05, if the deposits represent funding of prepaid funeral plans of members;

- (20) To sell, in whole or in part, real estate secured loans provided that:
- (a) The loan is secured by a first lien;
 - (b) The board of directors approves the sale;
 - (c) If the sale is partial, the agreement to sell a partial interest shall, at a minimum:
 - (i) Identify the loan or loans covered by the agreement;
 - (ii) Provide for the collection, processing, remittance of payments of principal and interest, taxes and insurance premiums and other charges or escrows, if any;
 - (iii) Define the responsibilities of each party in the event the loan becomes subject to collection, loss or foreclosure;
 - (iv) Provide that in the event of loss, each owner shall share in the loss in proportion to its interest in the loan or loans;
 - (v) Provide for the distribution of payments of principal to each owner proportionate to its interest in the loan or loans;
 - (vi) Provide for loan status reports;
 - (vii) State the terms and conditions under which the agreement may be terminated or modified; and
 - (d) The sale is without recourse or repurchase unless the agreement:
 - (i) Requires repurchase of a loan because of any breach of warranty or misrepresentation;
 - (ii) Allows the seller to repurchase at its discretion; or
 - (iii) Allows substitution of one loan for another;
- (21) In addition to the sale of loans secured by a first lien on real estate, to sell, pledge, discount, or otherwise dispose of, in whole or in part, to any source, a loan or group of loans, other than a self-replenishing line of credit; provided, that within a calendar year beginning January 1 the total dollar value of loans sold, other than loans secured by real estate or insured by a state or federal agency, shall not exceed 25 percent of the dollar amount of all loans and participating interests in loans held by the credit union at the beginning of the calendar year, unless otherwise authorized in writing by the commissioner.

Subd. 2. **State chartered credit unions.** The commissioner of banks may by rule authorize a state chartered credit union to engage in any activity in which the credit union could engage were it operating as a federally chartered credit union provided that the activity is not expressly prohibited by the laws of this state.

History: 1981 c 99 s 1; 1981 c 316 s 1

52.06 SUPERVISION; REPORTS; AUDITS; FEES.

Subdivision 1. Credit unions shall be under the supervision of the commissioner of banks. Each credit union shall annually, on or before January 25, file a report with the commissioner of banks on forms supplied by him for that purpose giving such relevant information as he may require concerning the operations during the preceding calendar year. Additional reports may be required. Credit unions shall be examined, at least annually, by the commissioner of banks, except that if a credit union requests, the commissioner may accept the audit of a certified public accountant in place of this examination. Such certified public accountant must be approved by the commissioner. The qualitative type of audit examination to be performed by the certified public accountant shall be defined by banking division regulation and approved by the commission. Further, in lieu

of this examination the commissioner may accept any examination made by the National Credit Union Administration, provided a copy of the examination is furnished to the commissioner. A report of the examination by the commissioner of banks shall be forwarded to the president, or the chairman of the board if the position is so designated pursuant to section 52.09, subdivision 4, of the examined credit union within 60 days after completion of the examination. Within 60 days of the receipt of such report, a general meeting of the directors and committees shall be called to consider matters contained in the report. For failure to file reports when due, unless excused for cause, the credit union shall pay to the state treasurer \$5 for each day of its delinquency.

[For text of subd 2, see M.S.1980]

History: 1981 c 73 s 1

52.09 DIRECTORS; POWERS AND DUTIES.

[For text of subds 1 to 3, see M.S.1980]

Subd. 4. **Officers' titles.** Notwithstanding the other provisions of this chapter, the bylaws may provide that the position of president and vice-president of the directors as set forth in this chapter be designated chairman of the board and vice-chairman, and if so designated, the position of manager or general manager as set forth in this chapter may be designated president, and one or more vice-presidents may be appointed. If the position of manager or general manager is designated president pursuant to this section, the treasurer may be the president. A change of titles pursuant to this section does not change the powers and duties of the position.

History: 1981 c 73 s 2

52.136 INDIVIDUAL HOUSING ACCOUNTS.

Upon application to and approval by the commissioner of banks, a credit union shall have the power to act as trustee of individual housing accounts established pursuant to the provisions of section 290.08, subdivision 25.

History: 1Sp1981 c 1 art 9 s 4

52.17 RESERVE FUND.

Subdivision 1. **Provision for losses.** Every credit union shall maintain a reserve fund, which shall be used as a reserve against bad loans and other losses, and shall not be used to pay expenses of the credit union or otherwise distributed, except in case of liquidation. At the end of each monthly accounting period the gross income shall be determined. From this amount, there shall be set aside, as a statutory reserve against losses on loans and against other losses as may be specified in rules prescribed by the commissioner of banks, sums in accordance with the following schedule:

(a) A credit union in operation for more than four years and having assets of \$500,000 or more shall set aside (1) ten percent of gross income until the statutory reserve shall equal four percent of the total of outstanding loans and risk assets, then (2) five percent of gross income until the statutory reserve shall equal six percent of the total of outstanding loans and risk assets;

(b) A credit union in operation less than four years or having assets of less than \$500,000 shall set aside (1) ten percent of gross income until the statutory reserve shall equal seven percent of the total of outstanding loans and risk assets, then (2) five percent of gross income until the statutory reserve shall equal ten percent of the total outstanding loans and risk assets.

Whenever the statutory reserve falls below the percent of the total of outstanding loans and risk assets required by clause (a) or (b), it shall be replenished in the manner provided by clause (a) or (b) by regular contributions to maintain the stated reserve goals. The commissioner may waive the requirements in paragraph (a), clause (2), and paragraph (b), clause (2), based on applications by credit unions demonstrating need and considering levels of total reserves and other factors bearing on the credit union's safety and soundness. The commissioner may also require special reserves to protect the interests of members either by rule or by an individual credit union in any special case.

The following shall not be included in computing outstanding loans and risk assets pursuant to clauses (a) and (b): loans to other credit unions; loans fully secured by a pledge of savings in the lending credit union equal to and maintained to at least the amount of the loan outstanding; loans which are purchased or acquired from liquidating or merging credit unions and guaranteed by an insurance corporation pursuant to section 52.24; loans insured or guaranteed by the United States or the state of Minnesota, any agency or instrumentality of the United States or the state of Minnesota, to the amount of the insurance or guarantee.

Subd. 2. Required liquidity. Every credit union shall maintain a reserve in the form of liquid assets at a level reasonably necessary to meet anticipated withdrawals, commitments, and loan demand. Reserves shall be in cash and balances due from solvent banks or which may be, in whole or in part, in short term obligations guaranteed as to principal and interest by the U.S. government or in certificates of deposit of a federally insured bank or in a passbook or other account in a federally insured savings and loan association or in balances due from Minnesota central credit union or ICU services corporation or U.S. central credit union. The commissioner of banks may prescribe the required amount of reserves for any individual credit union from time to time based upon examination findings or other reports relating to the credit union that are available to the commissioner. The determination by the commissioner of a required amount of reserves for a credit union shall not be considered a rule as defined by section 15.0411, subdivision 3. Reserves for an individual credit union as prescribed by the commissioner pursuant to this section shall be enforced in accordance with sections 46.24 and 46.30 to 46.33.

History: 1981 c 182 s 5

52.19 EXPULSION OR WITHDRAWAL OF MEMBERS.

A member may be expelled by a two-thirds vote of the members present at a special meeting called to consider the matter, but only after a hearing. Any member may withdraw from the credit union at any time, but notice of withdrawal may be required. 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, as funds become available and after deducting all amounts due from the member to the credit union and an amount as necessary to honor outstanding share drafts drawn against the accounts of the member, be paid to him. The credit union may require 60 days' notice of intention to withdraw shares and 30 days' notice of intention to withdraw deposits, except that a credit union shall not at any time require notice of withdrawal of funds subject to withdrawal by share drafts. Withdrawing or expelled members shall have no further right in the credit union, but are not, by the expulsion or withdrawal, released from any remaining liability to the credit union.

History: 1981 c 316 s 2