

HOUSE BILL REPORT

SB 5300

As Passed House:
April 9, 2015

Title: An act relating to updating the department of financial institutions' regulatory enforcement powers regarding credit unions and organizations providing services to credit unions.

Brief Description: Updating the department of financial institutions' regulatory enforcement powers regarding credit unions and organizations providing services to credit unions.

Sponsors: Senators Benton, Mullet, Fain, Darneille, Hobbs and Angel; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Business & Financial Services: 3/17/15, 3/18/15 [DP].

Floor Activity:

Passed House: 4/9/15, 77-19.

Brief Summary of Bill

- Amends provisions regarding the corporate governance of credit unions.
- Clarifies and broadens the Department of Financial Institutions' enforcement authority with respect to credit unions.
- Amends what practices credit unions may engage in.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 9 members: Representatives Kirby, Chair; Ryu, Vice Chair; Vick, Ranking Minority Member; Blake, Hurst, Kochmar, McCabe, Santos and Stanford.

Minority Report: Do not pass. Signed by 1 member: Representative G. Hunt.

Staff: David Rubenstein (786-7153).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Credit unions doing business in Washington may be chartered by the state or federal government. The National Credit Union Administration (NCUA) regulates federally chartered credit unions. The Department of Financial Institutions (Department) regulates state chartered credit unions.

Credit Union Corporate Governance.

State credit unions are governed by a board of directors (board). A supervisory committee monitors both the financial condition of the credit union and the decisions of the board. The credit union's bylaws must prescribe the manner in which the business of the credit union will be conducted, including the frequency of regular meetings and the manner in which members may call a special membership meeting. State law also provides the following with respect to credit union corporate governance:

- Special membership meetings: A special membership meeting must be held 30 days after a request for a meeting is received. Various other provisions call for meetings to be held 60 or 90 days after notice.
- Board of directors: Credit unions are managed by a board of directors consisting of between five and 15 members. Vacancies on the board are filled by election at annual membership meetings, or temporary appointment of interim board members.
- Mergers: When two credit unions merge, one credit union's corporate entity ceases to exist (the "merging credit union") while the other survives (the "continuing credit union"). Claims belonging to a merging credit union's creditors may be barred 30 days after public notice of the merger.
- State chartered vs. federally chartered credit unions: Any state chartered credit union has all powers and authorities that a federally chartered credit union had on July 22, 2001. Also, a state chartered credit union may merge or convert into a federally chartered credit union by a two-thirds majority vote at a membership meeting.

Credit Union Practices.

Various provisions of law govern how a credit union may operate, including:

- Investment authority: A credit union may invest in any of 12 specified categories of investments. Among these are key person insurance policies and debt or equity issued by an organization owned by the Washington Credit Union League.
- Low-income credit unions: A state chartered credit union may apply for designation as "low-income," provided at least 50 percent of its members earn no more than 80 percent of the state or national median income, whichever is higher. Low-income credit unions have certain powers that conventional credit unions do not, including issuing secondary capital accounts and accepting shares and deposits from nonmembers.
- Credit union service organizations: Credit unions may own or contract with entities performing services for the credit union.

Enforcement.

The Department enforces laws governing credit unions through various tools and actions, including: removing or suspending officers, directors, or supervisory committee members; issuing temporary cease and desist orders; assessing fines; inspecting records and business practices; and liquidating a credit union or taking it into receivership.

Summary of Bill:

Credit Union Governance.

Credit union corporate governance provisions are modified as follows:

- Special membership meeting: A special membership meeting may be called by unanimous vote of the supervisory committee for removal of a member of the board of directors. Additionally, members must be notified if the board of directors calls a special membership meeting for the removal of a member of the supervisory committee. Meetings previously requiring 30 days' notice are changed to require 90 days.
- Merger: When two credit unions merge, a plan of merger is required and the claims of the merging credit union's creditors are clarified to be barred 30 days after public notice. Additionally, the board members of the merging credit union may continue to serve on the continuing credit union's board until the end of his or her term on the original board, if approved and if there are enough seats on the continuing board.
- Supervisory committee: A provision allowing the supervisory committee to suspend members of other committees is removed.
- State chartered vs. federally chartered credit unions: Any state chartered credit union has the powers and authorities that a federally chartered credit union has on the effective date of this act. State chartered credit unions may merge or convert into a federally chartered credit union by a simple majority vote, unless otherwise provided in its bylaws.

Credit Union Practices.

Regulations regarding credit union practices are modified as follows:

- Investment: Credit unions may invest capital in debt or equity issued by an organization owned by the NCUA or its successor. Additionally, credit unions may invest in products relating to employee benefits.
- "Credit union": No person or entity may hold itself out as a credit union unless it is actually a state chartered or federally chartered credit union.
- Low-income credit unions: The qualification for low-income status is changed to compute members' family income compared to the average income in the area in which the members live.

Enforcement.

The Department's regulatory and enforcement powers are modified as follows:

- Scope of authority: The Department has the authority to take action against any person holding itself out as a credit union and may collect costs and attorney's fees. Additionally, the Department's authority to issue a temporary cease and desist order is

changed to: permit "substantial public injury" as a criterion; and expand who is subject to an order.

- Suspending directors, officers, and supervisory committee members: The Department must serve notice of charges leading to a suspension on any person it intends to suspend. The notice remains in effect until it is dismissed or an administrative proceeding adjudicates the matter. The Department can suspend an officer or director from participation in any depository or similar financial institution.
- Removing directors, officers, and supervisory committee members: The Department must issue a notice stating the facts constituting grounds for removal and setting a hearing date. Failure to appear is deemed consent to an Order of Removal. An Order of Removal becomes effective 10 days after service on the credit union and the person in question.
- Restricting withdrawals: Upon a written finding, the Department may temporarily suspend or restrict withdrawal of deposits.
- Credit union service organizations: The Department may examine the electronic data processing provider to a credit union service organization and may subject a credit union service organization to a temporary cease and desist order.
- Involuntary liquidation and receivership: A state chartered credit union seeking to enjoin the Department's order of involuntary liquidation must serve notice on the Department within 10 days after the order. The credit union has the burden to show cause why it should not be liquidated or brought into receivership. Failure to serve notice of a show-cause hearing bars the credit union from judicial review of the Department's order.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Credit unions have a choice of charters, state or federal, and it is important to continue to update the state credit union charter to maintain competitiveness. A healthy credit union charter depends on both the powers granted to credit unions but also to regulators. The bill was crafted in collaboration with credit unions and updates the federal parity date, which is 14 years old, updates the low-income designation to more precisely define which credit unions have access to other sources of capital, and facilitates mergers between failing and healthy credit unions to preserve deposits. The provision allowing the Department to restrict withdrawals allows the Department to act quickly to find a healthy credit union to take over the deposits of a failing credit union.

(Opposed) None.

Persons Testifying: Linda Jekel, Department of Financial Institutions; and Mark Minickiello, Northwest Credit Union Association.

Persons Signed In To Testify But Not Testifying: None.