

HOUSE BILL REPORT

EHB 1165

As Passed House:
January 26, 2022

Title: An act relating to the Washington credit union act.

Brief Description: Concerning the Washington credit union act.

Sponsors: Representatives Ryu, Vick, Santos, Hoff and Harris-Talley.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/20/21, 1/21/21 [DP], 1/10/22, 1/13/22 [DPA].

Floor Activity:

Passed House: 2/3/21, 93-2.

Passed House: 1/26/22, 84-13.

Brief Summary of Engrossed Bill

- Modifies certain powers and authorities of state-chartered credit unions.
- Authorizes credit unions to invest in the equity interest of corporations that are engaged in or planning activity that is incidental or complementary to the credit union's operations.
- Allows credit unions to acquire real property without occupying the property within a designated period of time.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass as amended. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Corey Patton (786-7388).

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

Background:

Credit Union Regulations.

Credit unions doing business in Washington may be chartered by the state or federal government. The National Credit Union Administration regulates federally chartered credit unions. The Department of Financial Institutions (DFI) regulates state-chartered credit unions. State law provides for the organization, regulation, and examination of state-chartered credit unions. The Director of the DFI (Director) may, by rule, provide relief from certain state laws and rules to small credit unions, which are defined as credit unions with up to \$10 million in total assets.

Credit Union Authority.

State-chartered credit unions have all of the powers and authorities held by federal credit unions on December 31, 1993, or a subsequent date not later than July 28, 2019. State credit unions may have all of the powers and authorities held by federal credit unions after that date, if the Director finds that the exercise of the power and authority serves the convenience and advantage of credit union members and maintains the fairness of competition and parity between state credit unions and federal credit unions. State credit unions also have all powers and authorities of out-of-state credit unions, except membership, so long as insurance and other requirements are met.

Credit Union Services and Charges.

Credit unions may provide a variety of financial services to members, including accepting deposits, making loans, and paying interest or dividends. Credit unions may impose reasonable charges for the services provided to members.

Investment of Credit Union Funds.

Credit unions may invest funds in a variety of investment types so long as the investments are deemed prudent by their boards of directors. Examples include: loans held by other credit unions; fixed income securities such as bonds; mutual funds with a portfolio of securities issued or guaranteed by the federal government; shares of stocks in organizations whose primary purpose is to strengthen, advance, or provide services in the credit union industry or for the credit union's membership; and insurance policies and investment products related to employee benefits.

Real Property Interests.

With some limitations, credit unions may invest in real property or leasehold interests if used in conducting its business or the business of a credit union services organization. Credit unions must partially occupy real property acquired for future expansion within three years of the investment if property improvements are made at the time of acquisition, or within six years if no improvements are made.

Summary of Engrossed Bill:

Credit Union Regulations.

The Director shall determine, by rule, the definition of small credit unions for the purpose of providing relief from certain credit union requirements in state law or rule.

Credit Union Authority.

State-chartered credit unions may have all of the powers and authorities held by federal credit unions as of December 31, 1993, or a subsequent date not later than the effective date of this act.

Credit Union Services and Charges.

The list of services credit unions may provide includes cashing checks, money orders, and other payment instruments for members and persons who are eligible for membership. Credit unions may impose reasonable charges for providing services to non-members.

Investment of Credit Union Funds.

Credit unions may invest in the equity interest of corporations and other limited liability entities. The principal business of the corporation or entity does not have to be related to the credit union's business, but the corporation or business must be engaged in or planning activity that will be performed for or provided to the credit union or its members. An equity interest is defined as a stock, membership in a limited liability corporation, or a limited partnership interest in which the credit union's liability is limited to the amount of the investment and the credit union does not take on general liability. Until January 1, 2025, the initial aggregate amount of funds a credit union may invest in equity interests in corporations or other limited liability entities shall not exceed the lesser of 2.5 percent of the credit union's net worth or, when combined with investments in credit union service organizations, 10 percent of the credit union's assets. Beginning January 1, 2025, the initial aggregate amount of funds a credit union may invest in equity interests in corporations or other limited liability entities shall not exceed the lesser of 5 percent of the credit union's net worth or, when combined with investments in credit union service organizations, 10 percent of the credit union's assets. Credit unions may not invest in a federal or state depository institution or a bank or savings bank holding company.

A credit union may engage in investment activity only with the prior authorization of the Director, and investment activity is subject to any requirements, restrictions, or other conditions adopted by the Director. In approving or denying a proposed investment, the Director must consider the financial and management strength of the credit union and the relationship of the activity to the credit union's operations.

Real Property Interests.

The requirement that credit unions partially occupy property acquired for future expansion within a designated amount of time from acquisition is removed.

Appropriation: None.

Fiscal Note: Not requested.

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) Washington State is home to over 80 non-profit, member-owned credit unions. There have been significant shifts in member expectations regarding access to personal financial services and tools, particularly digital virtual services. It is important to ensure that credit unions can provide in-demand products and services to their members, especially those from underserved communities.

State law allows credit unions to invest up to 10 percent of their assets into credit union service organizations (CUSO) that primarily serve credit unions. While this model is vital to the cooperative credit union system, changes in consumer preferences and expectations have led to rapid growth in the prevalence of vendors that are not CUSOs, especially in the area of financial technology. Although credit unions are already partnering with financial technology companies in a traditional customer-vendor relationship, there are times when limited capital investment is necessary.

This bill places a maximum threshold on non-CUSO investments, limiting such investments to 50 percent of the credit union's net worth, which equates to roughly half the current CUSO investment authority. The bill also provides the Department of Financial Institutions with a suite of tools to manage these investments on a case-by-case basis, in addition to a number of other safeguards and forms of oversight. However, during and following the 2021 legislative session, stakeholders agreed to a forthcoming amendment to reduce the maximum threshold for investments to 2.5 percent of a credit union's net worth, which will automatically increase to 5 percent in 2025. While this represents a significant change from the original bill, the amended bill will still empower credit unions to meet the financial needs of their members.

(Opposed) Banks have a very significant and comprehensive federal framework when dealing with equity investments. If a bank wants to invest in another corporation, the corporation's entire set of activities must fall within the scope of authorized banking activities. Moreover, the corporation must submit itself to oversight and regulation by the appropriate banking regulatory authority. For example, this means that even if a corporation provides web services that are central to the performance of a bank's duties, the bank cannot take a majority or minority position in that corporation if all of the corporation's activities do not fall within the scope of authorized banking activities.

The activity of being a depository institution comes along with risks that the government manages through federal deposit insurance, both for credit unions and banks. This bill changes this dynamic and provides credit unions the ability to make investments in

corporations that are only tangentially related to the activities of credit unions. Even with the proposed amendment, Washington's largest credit union could invest \$70 million in equity investments annually without any of the same consumer protections afforded to bank customers at the federal level. This bill would also allow profits on these equity investments to remain tax-free. At minimum, some of that money should go back to paying for education, healthcare, public safety, or serving the poor and vulnerable.

It is widely accepted that equity investments are risky in nature. Certain limitations are important for maintaining the safety and soundness of depository institutions. Even with robust regulatory oversight, financial institutions may still fail in times of economic stress. This can be avoided by creating a delineation between banking and credit union activity, and non-banking and non-credit union activity.

Persons Testifying: (In support) Representative Cindy Ryu, prime sponsor; Joe Adamack, Northwest Credit Union Association; and Jim Justin, BECU.

(Opposed) Brad Tower, Community Bankers of Washington; and Trent House, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying: None.