

# HOUSE BILL No. 5018

October 27, 2015, Introduced by Reps. Pettalia, Forlini, Iden, McCready, Love, Muxlow, Lucido, Barrett, Theis, Clemente and Victory and referred to the Committee on Financial Services.

A bill to amend 2003 PA 215, entitled "Credit union act," by amending sections 201, 210, 221, 303, 306, and 341 (MCL 490.201, 490.210, 490.221, 490.303, 490.306, and 490.341), sections 201 and 341 as amended by 2004 PA 471.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 201. (1) The ~~commissioner~~**DIRECTOR** shall administer the  
2 laws of this state relating to credit unions **THAT ARE** transacting  
3 business in this state and shall supervise domestic credit unions **7**  
4 and foreign credit unions other than federal credit unions **THAT ARE**  
5 transacting business in this state. Each domestic credit union  
6 shall report its financial condition as required by the

1 ~~commissioner~~**DIRECTOR**.

2 (2) The ~~commissioner~~**DIRECTOR** shall charge an annual operating  
3 fee to each domestic credit union. All of the following apply to  
4 the annual operating fee:

5 (a) Subject to subdivision (d), the ~~commissioner~~**DIRECTOR**  
6 shall establish a fee amount that is sufficient to defray the  
7 estimated expenses of the ~~credit union division of the office of~~  
8 ~~financial and insurance services~~**DEPARTMENT** in performing all  
9 credit union examinations and the supervision of domestic credit  
10 unions.

11 (b) The ~~commissioner~~**DIRECTOR** shall invoice each domestic  
12 credit union for the fee before July 1 of each year and each  
13 domestic credit union shall pay the operating fee before July 16 of  
14 that year.

15 (c) The ~~commissioner~~**DIRECTOR** shall compute the fee based on  
16 the total assets of the domestic credit union on December 31 of the  
17 previous year as shown on the report of the domestic credit union  
18 filed with the ~~commissioner~~**DIRECTOR** under subsection (1).

19 (d) The amount of the fee is the greater of \$500.00 or the sum  
20 of all of the following:

21 (i) A base fee established by the ~~commissioner~~**DIRECTOR** of not  
22 less than \$1.00 or more than \$3.50 per \$1,000.00 of assets up to  
23 \$500,000.00.

24 (ii) A fee of 40% of the base fee per \$1,000.00 of assets  
25 greater than \$500,000.00 up to \$1,000,000.00.

26 (iii) A fee of 30% of the base fee per \$1,000.00 of assets  
27 greater than \$1,000,000.00 up to \$5,000,000.00.

1 (iv) A fee of 20% of the base fee per \$1,000.00 of assets  
2 greater than \$5,000,000.00 up to \$10,000,000.00.

3 (v) A fee of 10% of the base fee per \$1,000.00 for all assets  
4 greater than \$10,000,000.00.

5 (e) The ~~commissioner~~**DIRECTOR** shall not require a domestic  
6 credit union to pay an operating fee more often than annually.

7 (3) A corporate credit union organized under this act shall  
8 pay an operating fee in the same manner as other domestic credit  
9 unions, but the fee shall not exceed \$50,000.00 annually.

10 (4) Each domestic credit union shall report its financial  
11 condition as required by the ~~commissioner~~**DIRECTOR**. A domestic  
12 credit union that fails to file a report with the ~~commissioner~~  
13 **DIRECTOR** when it is due shall pay a fee of \$100.00 for each day the  
14 report is delinquent. The ~~commissioner~~**DIRECTOR** may waive the fee  
15 for cause. If a delinquency continues for 15 days, the ~~commissioner~~  
16 **DIRECTOR** may revoke the domestic credit union's certificate of  
17 approval and take possession of the business and property of the  
18 domestic credit union and maintain possession until the  
19 ~~commissioner~~**DIRECTOR** permits it to continue business or  
20 involuntarily dissolves the credit union under section 331(3).

21 (5) A domestic credit union that amends its ~~bylaws or~~  
22 certificate of organization ~~shall~~**MUST** file the amendment with the  
23 ~~commissioner~~**DIRECTOR**. The ~~commissioner~~**DIRECTOR** shall not charge  
24 a fee for reviewing and approving or disapproving of an amendment  
25 ~~under~~**FOR PURPOSES OF** section 303.

26 (6) **ALL OF THE FOLLOWING APPLY IF A DOMESTIC CREDIT UNION**  
27 **AMENDS ITS BYLAWS, AS APPLICABLE:**

1 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), A DOMESTIC CREDIT  
2 UNION THAT AMENDS ITS BYLAWS MUST FILE THE AMENDMENT WITH THE  
3 DIRECTOR. THE DIRECTOR SHALL NOT CHARGE A FEE FOR REVIEWING AND  
4 APPROVING OR DISAPPROVING OF AN AMENDMENT FOR PURPOSES OF SECTION  
5 303.

6 (B) IF AUTHORIZED BY BOARD RESOLUTION, A DOMESTIC CREDIT UNION  
7 MAY NOTIFY THE DIRECTOR THAT THE CREDIT UNION WILL ASSUME  
8 RESPONSIBILITY FOR MAINTAINING AND UPDATING ITS BYLAWS. ALL OF THE  
9 FOLLOWING APPLY TO A DOMESTIC CREDIT UNION THAT MEETS THE  
10 REQUIREMENTS OF THIS SUBDIVISION:

11 (i) THE DOMESTIC CREDIT UNION IS NOT REQUIRED TO FILE AN  
12 AMENDMENT TO ITS BYLAWS UNDER SUBDIVISION (A) OR OBTAIN THE  
13 APPROVAL OF AN AMENDMENT FROM THE DIRECTOR FOR PURPOSES OF SECTION  
14 303.

15 (ii) THE DOMESTIC CREDIT UNION MUST MAKE ITS BYLAWS AVAILABLE  
16 FOR INSPECTION OR COPYING BY ANY MEMBER AT THE CREDIT UNION'S  
17 PRINCIPAL PLACE OF BUSINESS DURING NORMAL BUSINESS HOURS. THE  
18 DOMESTIC CREDIT UNION MAY CHARGE A NOMINAL FEE FOR COPYING THE  
19 BYLAWS, BUT THAT FEE SHALL NOT EXCEED THE REASONABLE COST FOR  
20 REPRODUCTION. HOWEVER, A DOMESTIC CREDIT UNION THAT MAKES ITS  
21 BYLAWS AVAILABLE TO ITS MEMBERS ELECTRONICALLY IS NOT REQUIRED TO  
22 MAKE ITS BYLAWS AVAILABLE FOR INSPECTION OR COPYING AT ITS  
23 PRINCIPAL PLACE OF BUSINESS UNDER THIS SUBPARAGRAPH.

24 (7) ~~(6)~~—A domestic credit union shall make all of its  
25 accounts, books, and records, in whatever form maintained,  
26 available for examination by the ~~commissioner~~DIRECTOR or the  
27 ~~commissioner's~~DIRECTOR'S appointed agent during the normal

1 business hours of the ~~commissioner~~-**DIRECTOR**. A domestic credit  
2 union shall do all of the following:

3 (a) Provide the ~~commissioner~~-**DIRECTOR** with a current schedule  
4 of the hours during which the domestic credit union is open.

5 (b) Designate an individual to provide access to the credit  
6 union records and a substitute for that individual.

7 (c) Provide the ~~commissioner~~-**DIRECTOR** with the current name,  
8 address, and telephone number of the individual designated in  
9 subdivision (b) ~~7~~—and of his or her substitute if the individual is  
10 absent.

11 (d) If the credit union processes any of its records at any  
12 location other than its principal place of business, provide the  
13 ~~commissioner~~-**DIRECTOR** with the current name and address of the  
14 person that processes the records.

15 (8) ~~(7)~~—As used in subsection ~~(6)~~, ~~(7)~~, "records" includes  
16 audit reports and audit working papers described in section 344  
17 unless privileged by law.

18 Sec. 210. (1) If in the opinion of the ~~commissioner~~-**DIRECTOR** a  
19 domestic credit union is engaging, has engaged, or is about to  
20 engage in an unsafe or unsound practice in conducting the business  
21 of the domestic credit union or is violating, has violated, or is  
22 about to violate a law or rule, the ~~commissioner~~-**DIRECTOR** may issue  
23 and serve upon the domestic credit union a notice of charges. The  
24 notice shall contain a statement of the facts constituting the  
25 alleged unsafe or unsound practice or violation and shall fix a  
26 time and place for a hearing to determine whether the ~~commissioner~~  
27 **DIRECTOR** should issue an order to cease and desist. The hearing

1 shall be ~~not earlier than 30 days nor later than~~ **HELD AT LEAST 30**  
2 **AND NOT MORE THAN** 60 days after service of the notice unless an  
3 earlier or later date is set by the ~~commissioner~~ **DIRECTOR** at the  
4 request of the domestic credit union. If the domestic credit union  
5 does not appear at the hearing by a duly authorized representative,  
6 it has consented to the issuance of a cease and desist order.

7 (2) If a domestic credit union consents to a cease and desist  
8 order under subsection (1), or if ~~upon~~ **ON** the record made at the  
9 hearing under subsection (1) the ~~commissioner~~ **DIRECTOR** finds that  
10 an unsafe or unsound practice or violation specified in the notice  
11 of charges has occurred, the ~~commissioner~~ **DIRECTOR** may issue and  
12 serve ~~upon~~ **ON** the domestic credit union an order to cease and  
13 desist from the practice or violation. The order may require the  
14 domestic credit union and its directors, officers, employees, and  
15 agents to cease and desist from the practice or violation and to  
16 take affirmative action to correct the conditions resulting from  
17 the practice or violation.

18 (3) A cease and desist order issued after a hearing under  
19 subsection (2) is effective 30 days after the service of the order  
20 ~~upon~~ **ON** the domestic credit union. A cease and desist order issued  
21 with the consent of the domestic credit union under subsection (2)  
22 is effective at the time specified in the order. A cease and desist  
23 order is effective and enforceable as provided in the order, except  
24 to the extent it is stayed, modified, terminated, or set aside by  
25 action of the ~~commissioner~~ **DIRECTOR** or a reviewing court.

26 (4) If the ~~commissioner~~ **DIRECTOR** determines that a foreign  
27 credit union ~~branch located~~ **THAT IS CONDUCTING BUSINESS** in this

1 state is acting in violation of the laws of this state or that the  
2 activities of the ~~branch~~**FOREIGN CREDIT UNION** are being conducted  
3 in an unsafe and unsound manner, the ~~commissioner~~**DIRECTOR** may take  
4 any enforcement action that would be permitted under this act if  
5 the ~~branch~~**FOREIGN CREDIT UNION** were a domestic credit union.

6 (5) If the ~~commissioner~~**DIRECTOR** determines that a federal  
7 credit union is acting in violation of the laws of this state, the  
8 ~~commissioner~~**DIRECTOR** shall notify the ~~national credit union~~  
9 ~~administration~~**NATIONAL CREDIT UNION ADMINISTRATION** and the  
10 attorney general.

11 Sec. 221. (1) The ~~commissioner~~**DIRECTOR** may by order require a  
12 domestic credit union to close its principal place of business or 1  
13 or more branches if it appears to the ~~commissioner~~**DIRECTOR** that  
14 the action is required because an emergency exists. The facilities  
15 closed shall remain closed until the ~~commissioner~~**DIRECTOR** by order  
16 finds that the emergency is ended. The ~~commissioner~~**DIRECTOR** shall  
17 promptly notify the governor of the issuance of an order under this  
18 section.

19 (2) The ~~commissioner~~**DIRECTOR** may authorize a domestic credit  
20 union to close on a day designated by the president of the United  
21 States or the governor of this state as a day of national mourning,  
22 rejoicing, or other special observance.

23 (3) If the ~~commissioner~~**DIRECTOR** has not issued and does not  
24 issue an order of emergency under subsection (1) and the general  
25 manager or other designated officer of a domestic credit union  
26 determines that an emergency exists, the officer may close the  
27 principal place of business or 1 or more branches of the domestic

1 credit union until he or she finds that the emergency is ended.

2 ~~—— (4) A domestic credit union closing its principal place of~~  
 3 ~~business or 1 or more branches under this section shall give notice~~  
 4 ~~to the commissioner, and to any other appropriate governmental~~  
 5 ~~entity if required by law.~~

6 (4) ~~(5)~~—The period during which the principal place of  
 7 business of a domestic credit union is closed under this section is  
 8 considered an emergency condition or a legal holiday, and not a  
 9 banking day, if the status of the closing as a legal holiday,  
 10 banking day, or a response to an emergency is relevant to any legal  
 11 obligation of the domestic credit union.

12 (5) ~~(6)~~—This section does not alter any obligations of a  
 13 domestic credit union to its employees or to the employees of  
 14 another employer under state or federal law.

15 Sec. 303. (1) If approved by a majority of the members present  
 16 at a duly constituted annual or special meeting of the members, the  
 17 membership may amend the certificate of organization or bylaws of a  
 18 domestic credit union or delegate authority to the credit union  
 19 board, or rescind the authority of the credit union board, to amend  
 20 the certificate of organization or bylaws.

21 (2) Any proposed action to amend the certificate of  
 22 organization or the bylaws or to delegate authority to amend the  
 23 certificate of organization or bylaws to the credit union board  
 24 **UNDER SUBSECTION (1)** shall be stated in a notice of the meeting.

25 (3) An amendment to the certificate of organization ~~or bylaws~~  
 26 **OF A DOMESTIC CREDIT UNION** is not effective unless it is submitted  
 27 to the ~~commissioner~~**DIRECTOR** for review and approved by the



1 ~~commissioner.~~DIRECTOR.

2 (4) AN AMENDMENT TO THE BYLAWS OF A DOMESTIC CREDIT UNION IS  
3 NOT EFFECTIVE UNLESS 1 OF THE FOLLOWING IS MET:

4 (A) THE AMENDMENT IS SUBMITTED TO THE DIRECTOR FOR REVIEW AND  
5 APPROVED BY THE DIRECTOR UNDER SECTION 201(6) (A) .

6 (B) THE DOMESTIC CREDIT UNION HAS NOTIFIED THE DIRECTOR UNDER  
7 SECTION 201(6) (B) THAT IT HAS ASSUMED RESPONSIBILITY FOR  
8 MAINTAINING ITS OWN BYLAWS.

9 Sec. 306. ~~With the prior approval of the commissioner, a~~ A  
10 domestic credit union may conduct its business solely by mail or  
11 through electronic communication without having a physical location  
12 where members may transact business with the credit union. A  
13 domestic credit union conducting business under this section shall  
14 maintain a principal place of business in this state.

15 Sec. 341. (1) The organizers shall hold an organizational  
16 meeting of a domestic credit union organized under this act. The  
17 organizational meeting of the domestic credit union is the first  
18 annual meeting of the members required under section 351.

19 (2) Each ~~member of the credit union board~~ **MEMBER** of a domestic  
20 credit union shall be a member of the domestic credit union. The  
21 bylaws shall establish the number of ~~directors,~~ **BOARD MEMBERS**, but  
22 a credit union board must consist of 5 or more individuals. A  
23 ~~director~~ **BOARD MEMBER** shall hold office for the term established in  
24 the bylaws and until a successor takes office.

25 (3) If the bylaws of a domestic credit union provide for a  
26 credit committee or a supervisory committee, that committee shall  
27 consist of 3 or more individuals and may have alternate committee

1 members, as established in the bylaws, each of whom is a member of  
2 the domestic credit union. The bylaws shall provide whether the  
3 credit union board may appoint or the members may elect committee  
4 members and their terms of office and the duties of the committee.  
5 Except as provided in section 345, a current ~~director~~, **BOARD**  
6 **MEMBER**, officer, loan officer, credit committee member, or other  
7 employee of the domestic credit union shall not serve on the  
8 supervisory committee.

9 (4) If the bylaws of a domestic credit union do not provide  
10 for a credit committee or a supervisory committee, the credit union  
11 board shall perform the duties of the credit committee or the  
12 supervisory committee or delegate those duties as it considers  
13 advisable.

14 (5) A corporate credit union organized under this act shall  
15 have at least 1 member of the credit union board, the supervisory  
16 committee, if any, and the credit committee, if any, who is a  
17 resident of this state.

18 (6) A domestic credit union shall provide the ~~commissioner~~  
19 **DIRECTOR** with a record of the names and addresses of the members of  
20 the credit union board and the members of the credit and  
21 supervisory committees, if any, within 30 days after their  
22 election.

23 (7) If the ~~commissioner~~ **DIRECTOR** considers it appropriate, the  
24 ~~commissioner~~ **DIRECTOR** may call a meeting of the credit union board,  
25 for any purpose **RELATED TO THE SAFETY AND SOUNDNESS OF THE DOMESTIC**  
26 **CREDIT UNION**, by giving a notice of the time, place, and purpose of  
27 the meeting at least 3 days ~~prior to~~ **BEFORE** the meeting to the

1 ~~directors.~~ **BOARD MEMBERS.** The ~~commissioner~~ **DIRECTOR** shall deliver  
2 the notice to their last known addresses as shown by the books of  
3 the domestic credit union.

4 (8) Each individual elected or appointed to serve as a  
5 ~~director,~~ **BOARD MEMBER**, supervisory committee member, or credit  
6 committee member of a domestic credit union, or as a member of any  
7 other committee that performs significant ongoing functions  
8 relating to the ongoing operations of the domestic credit union,  
9 shall meet all of the following criteria:

10 (a) He or she is a member of the domestic credit union, in  
11 good standing according to reasonable criteria established by the  
12 credit union board.

13 (b) He or she is acceptable as a bonding risk by a bonding  
14 company licensed to do business in this state.

15 (c) He or she has not been removed as a ~~director,~~ **BOARD**  
16 **MEMBER**, officer, committee member, or employee of a financial  
17 institution by a federal regulator, a state regulator other than  
18 the ~~commissioner,~~ **DIRECTOR**, or a court of competent jurisdiction.

19 (d) The ~~commissioner~~ **DIRECTOR** has not removed him or her as a  
20 ~~director,~~ **BOARD MEMBER**, officer, committee member, or employee of a  
21 credit union, financial institution, or other legal entity pursuant  
22 to the ~~commissioner's~~ **DIRECTOR'S** enforcement powers under any law  
23 of this state.

24 (e) He or she has not been convicted within the preceding 20  
25 years of a crime involving dishonesty or breach of trust.

26 (f) He or she is not habitually negligent in paying his or her  
27 financial obligations as determined by criteria reasonably

1 established by the credit union board.

2 (g) He or she has not been convicted by a court of competent  
3 jurisdiction of a violation, or found in violation by a court of  
4 competent jurisdiction or the ~~commissioner~~, **DIRECTOR**, of any law of  
5 this state enforced or administered by the ~~commissioner~~. **DIRECTOR**.

6 (9) If an individual no longer meets 1 or more of the  
7 requirements of subsection (8) while serving as a ~~director~~, **BOARD**  
8 **MEMBER**, supervisory committee member, or credit committee member of  
9 a domestic credit union, or as a member of any other committee that  
10 performs significant ongoing functions relating to the ongoing  
11 operations of the domestic credit union, he or she is immediately  
12 removed from that office without further action of the members or  
13 credit union board and the domestic credit union shall appoint or  
14 elect a replacement to fill the vacancy in the manner described in  
15 the bylaws.

16 Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.

18 Enacting section 2. This amendatory act does not take effect  
19 unless all of the following bills of the 98th Legislature are  
20 enacted into law:

21 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5017 (request no.  
22 02768'15).

23 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5020 (request no.  
24 02771'15).

25 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5021 (request no.  
26 02772'15).

27 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 5022 (request no.

1 02773'15).