

# Credit Unions Statute

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## Article 30 Credit Unions - General Provisions

**11-30-101. Definitions - organization - charter - investigation.**(1) (a) A credit union is a cooperative association, incorporated pursuant to this article for the twofold purpose of promoting thrift among its members and creating a source of credit for them at fair and reasonable rates of interest.

(b) As used in this article:

(I) "Board" means the financial services board, created in section 11-44-101.6.

(I.1) "Commissioner" means the state commissioner of financial services.

(II) "Division" means the division of financial services created in section 11-44-101.

(2) A credit union may be organized in the following manner:

(a) Any eight or more residents of the state of Colorado who meet the membership requirements of section 11-30-103 (2) may execute, in a number of copies to be specified by the commissioner, articles of incorporation setting forth therein the terms by which they agree to be bound. The articles shall state the name and address of the proposed credit union; the names and addresses of the incorporators; the number of shares subscribed by each incorporator; and the term of existence of the corporation, which may be perpetual.

(b) The incorporators shall prepare, in a number of copies to be specified by the commissioner, proposed bylaws for the governing of the credit union, consistent with the provisions of this article, on standard forms approved by the commissioner and shall define therein the proposed eligibility requirements for membership.

(c) The proposed bylaws shall further set forth: The classes of shares which the credit union is authorized to issue; if such shares are to consist of one class only, the par value of each of the shares or a statement that all of the shares are without par value, or, if the shares are to be divided into classes, a statement of the par value of the shares of each such class or that the shares are to be without par value. In addition, if the shares are to be divided into classes, the bylaws shall designate each class and a statement of its preferences, its limitations, and its relative rights with respect to the shares of each other class.

(3) (a) An application in such form as may be prescribed by the commissioner together with the articles of incorporation and the bylaws shall be filed with the commissioner, in a number of copies to be specified by the commissioner, upon the payment of a filing fee, as determined from time to time by the commissioner, to cover the reasonable and necessary expense to the division attributable to such application. Within thirty days after such filing and payment of such fee, the commissioner shall determine whether the same conform to the provisions of this article and whether such a credit union would benefit the members and proposed members thereof, consistent with the purposes of this article, the general character and fitness of the incorporators, and the economic advisability of establishing the proposed credit union. Except for a community charter application, which application shall be submitted

to the board for hearing pursuant to section 11-30-101.7, the commissioner may approve or deny an application without notice and hearing.

(b) The commissioner shall make or cause to be made an investigation to determine whether the incorporators and organizers are qualified and whether their qualifications and financial experience are consistent with their responsibilities and duties. An investigation shall also be conducted to determine if an incorporator or organizer has been convicted of any criminal activity. The commissioner may establish by rule the content of such investigations and what, if any, investigations by other agencies or authorities may be treated as substantially equivalent to and accepted in lieu of an investigation by the commissioner.

(4) Upon approval of an application and documents by the commissioner, or by the board with respect to a community charter application, the commissioner shall issue a certificate of approval, in a number of copies equal to the number of copies of the articles of incorporation required to be filed pursuant to subsection (2) (a) of this section as specified by the commissioner, and attach a copy thereof to each copy of the said articles of incorporation. The incorporators shall then file approved articles with the secretary of state, and a copy of the articles, certified by the secretary of state, shall be filed with the commissioner. The incorporators shall pay to the secretary of state a fee for filing the articles of incorporation and a fee for certifying the copy of articles of incorporation furnished by the incorporators for filing with the commissioner, both fees to be determined and collected pursuant to section 24-21-104 (3), C.R.S.

(5) After the said certified copy of articles of incorporation have been filed with the commissioner, he shall issue a charter for such credit union, at which time the credit union shall become a body corporate having the powers enumerated in section 7-103-102, C.R.S., except as otherwise provided or limited in this article.

(6) The bylaws approved by the commissioner shall then be adopted by the initial board of directors of the credit union.

### **11-30-101.7. Hearing procedures for community field of membership credit**

**unions.**(1) An application for a community field of membership shall be subject to approval by the board after the required notice and hearing requirements in this section are met.

(2) Upon submission by the commissioner, pursuant to section 11-30-101 (3), of a community field of membership application, the board shall hold a public hearing to consider the application. Such hearing shall be set by the board within six months after receipt of an application from a group that is subject to the requirements of this section; except that the board may postpone such hearing for valid reasons and good cause.

(3) The board shall give notice of a hearing on a community field of membership application at least thirty days before the hearing date, by registered or certified mail, to the principal office of each credit union, savings and loan association, bank, or industrial bank within the neighborhood, community, or rural district sought to be served by the proposed community credit union, and to such other persons or credit unions, savings and loan associations, banks, or industrial banks as the board may designate. Such notice shall be in the form prescribed by the board and shall include the names of the incorporators, the name and location of the

proposed community credit union, the date, time, and place of the hearing, and a statement that the application and proposed or amended articles of incorporation and proposed bylaws are available for inspection in the office of the board. The board shall also cause such notice to be published at least once, not less than twenty days prior to the hearing date, in a newspaper of general circulation within the neighborhood, community, or rural district in which the proposed credit union is to be located. Notwithstanding any other provisions in this section to the contrary, if the board has given the required notice of a hearing and as of the tenth day prior to the hearing has received no written protest against such application, the board may grant such community field of membership without a hearing if the applicants are known to the board.

(4) On hearing, the board may admit into evidence the application and any other relevant information in the files of the division. The applicant and all others who receive notice by registered or certified mail pursuant to subsection (3) of this section shall be entitled to be heard and to introduce testimony at such hearing. The board may entertain such evidence or testimony from others as the board determines, in its sole discretion, to be necessary.

(5) Within ninety days following the conclusion of a hearing, the board shall issue a written order granting a community field of membership if the board finds:

(a) That the application, articles of incorporation, and bylaws conform to the provisions of this article and any rules promulgated by the board;

(b) That the credit union would benefit its members or proposed members, consistent with the purposes of this article, that the general character and fitness of the incorporators is appropriate, and that it is advisable from an economic standpoint to establish the proposed credit union;

(c) That the neighborhood, community, or rural district is politically, geographically, socially, or economically well-defined; and

(d) That the members of other credit unions within the neighborhood, community, or rural district are specifically excluded from membership, except as otherwise provided by the board for good cause.

(6) A credit union seeking to establish a community field of membership as part of a conversion from a federal to a state charter is subject to the notice and hearing requirements of this section.

**11-30-102. Bylaws of credit unions.** The commissioner shall cause to be prepared a standard form of bylaws, consistent with this article, to be issued to all credit unions. All credit unions shall operate under the standard bylaws; except that each such credit union, subject to the approval of the commissioner, shall propose its own name, its field of membership, the number of members of its board of directors, its credit committee, its supervisory committee, provisions relative to times and places of meetings of the membership and of the board of directors, provisions relative to the conduct of elections and balloting of the credit union, and modifications of the standard bylaws deemed appropriate by the board of directors for the operation of the individual credit union. Any and all amendments to the bylaws shall be approved by the commissioner before they become operative.

**11-30-103. Membership.** (1) Credit union membership shall consist of the incorporators and any other persons and organizations which are elected to membership and which pay any entrance fee. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. A central credit union may be organized under this article and may have a membership made up principally of other credit unions organized pursuant to this article or any credit unions authorized to operate within the state of Colorado, and such membership may also include the officers and committee members of such credit unions, members or persons within the field of membership of credit unions within the state which have entered into or are about to enter into voluntary or involuntary liquidation proceedings, and small groups which the commissioner determines lack the potential membership to organize their own credit union if such groups have a common bond of employment or association.

(2) Credit union organization and membership, other than those of a central credit union, shall be limited to groups having a common bond of employment or association or groups which reside within a well-defined neighborhood, community, or rural district having a population of no more than twenty-five thousand or as otherwise authorized by the board. Small groups which the commissioner determines to lack the potential membership to organize their own credit union may be eligible for membership in an existing credit union if such small groups have a common bond of employment or association. A member of the immediate family of any person who, under the provisions of this article, is eligible for membership in a credit union may also be admitted to membership therein. "Immediate family" means persons related by blood, by marriage, or by adoption.

(3) A member who leaves the field of membership of the credit union may retain membership in the credit union as provided by the bylaws of the credit union.

(4) Except as to accounts, which are defined in and which shall be paid as provided for in article 15 of title 15, C.R.S., nothing in this article shall be construed to prohibit credit unions organized under this article from carrying membership accounts in the names of two or more persons in joint tenancy; and, if any credit union transacting business in this state issues shares and deposits in the names of two or more persons payable to them or to any of them, such shares and deposits, or any part thereof or any interest or dividend thereon, may be paid to any one of said persons whether the others are living or not, and the receipt or acquittance of the person so paid shall be a valid and sufficient discharge to the credit union from all of said persons and their heirs, executors, administrators, and assigns, and such shares and deposits shall be deemed to be owned by said persons in joint tenancy with the right of survivorship.

**11-30-103.5. Branches.** Any credit union with a common bond consisting of groups residing within a well-defined neighborhood, community, or rural district having a population of greater than one hundred thousand shall be limited to one additional branch office until January 1, 1997.

**11-30-104. Powers.** (1) A credit union has the following powers to:

- (a) 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 or plans within the membership;
- (b) Make loans to its members;
- (c) Make loans to other credit unions as provided in this article;
- (d) Deposit in state and national financial institutions insured by an agency of the federal government and to invest in the shares and deposits of the central credit union organized pursuant to this article;
- (e) Invest in any of the following: Obligations of the United States or securities guaranteed or insured by any agency of the United States; obligations of any state or territory of the United States, or of any political subdivision or instrumentality thereof, except revenue obligations issued to provide, enlarge, or improve electric power, gas, water, or sewer facilities, or any combination thereof, issued by any city or town, or other similar municipal corporation having a population of less than five thousand persons, as determined by the latest federal decennial census; and, to an extent which shall not exceed ten percent of its shares, deposits, and undivided earnings, in shares of mutual funds or investment companies, stocks, bonds, or other securities of any corporation or religious or educational organizations, as may be approved as prudent and sound by the commissioner;
- (f) Borrow money as provided in section 11-30-115;
- (g) Apply for and hold membership in a central credit union organized pursuant to this article, in any other central credit union authorized to transact business in this state, and in any organization or association of credit unions;
- (h) Acquire, through purchase or other lawful transactions, and to hold title to real and personal property necessary and incidental to the operation of the credit union, and to sell, mortgage, or otherwise dispose of the same;
- (i) Exercise such incidental powers as shall be necessary to enable it to carry on effectively the business for which it is incorporated;
- (j) Upon the written approval of the commissioner, engage in any activity in which such credit union could engage were it operating under a federal charter at the time, provided such activity is not prohibited by the laws of this state;
- (k) Sell all or any portion of its assets and purchase all or any portion of the assets of another credit union and assume the liabilities of the selling credit union and its field of membership, subject to the approval of the commissioner;
- (l) Allow shares and deposits to be paid for, transferred, and withdrawn for payment to the account holder or to third parties in such manner and with such procedures as may be established by the board of directors. This paragraph (l) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.

(m) Make loans to, or permit the assumption of loans by, officers or employees of the division who are members of the credit union;

(n) Participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members when the borrower is a member of either the credit union originating the loan or the credit union purchasing a participation interest in the loan;

(o) Act as trustee or custodian of individual retirement accounts for the credit union's members authorized by federal or state law or as trustee or custodian of any plan established pursuant to the federal "Self-employed Individuals Tax Retirement Act of 1962", as amended, or the federal "Employee Retirement Income Security Act of 1974", as amended, if a significant portion of the participants in any such plan are eligible for membership in the credit union and the funds held in the trustee or custodial capacity are invested in the credit union's shares or deposits;

(p) Act as fiscal agent for and receive payments on shares and deposits from nonmember units of the federal government or the state of Colorado or any agency or political subdivision thereof;

(q) Receive payment on deposits from nonmember financial institutions which are supervised under the laws of this state, the United States, or another state or territory of the United States.

(2) As authorized pursuant to section 10-2-601 (2), C.R.S., a credit union may, pursuant to federal law or under such rules as may be adopted by the financial services board or the commissioner of insurance pursuant to section 10-2-601, C.R.S., act as the agent, through the credit union or any credit union service organization, for any insurance company authorized to do business in this state by soliciting and selling insurance and collecting premiums on policies issued by such company. For such services, a credit union or credit union service organization may receive such fees or commissions as may be agreed between such entity and the insurance company.

**11-30-105. Exclusive right to use "credit union" in title.** A credit union organized in accordance with the provisions of this article, or in accordance with the laws of the United States or the laws of another state or territory of the United States, has the exclusive right to use the words "credit union" in its name or title; but an association composed of credit unions transacting business in this state may use the words "credit union" in its name or title. Any other person, association, corporation, or partnership using the words "credit union" in its name or title is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment.

**11-30-106. Examinations - reports - powers of commissioner.** (1) (a) Credit unions shall be under the supervision of the commissioner. Every credit union shall be examined by the commissioner at least once during any eighteen-month period. The commissioner shall assess each credit union an amount to cover the expenses of the division attributable to the supervision of state-chartered credit unions subject to the commissioner's jurisdiction. The amount assessed shall be determined according to a schedule or schedules or any other method established by the commissioner to be appropriate, but the assessment shall be at the same rate for all credit unions; except that the commissioner may establish a separate rate schedule for corporate and

central credit unions. The commissioner may waive the payment of all or a portion of the assessment with respect to the year in which a charter is issued or cancelled or in which a final distribution is made in liquidation.

(b) The commissioner shall establish the division's annual assessment to be collected at least semiannually in such amounts as are sufficient to generate the moneys appropriated by the general assembly to the division for each fiscal year.

(c) Repealed.

(2) Annually, every credit union shall file a financial report with the commissioner on a date established by the commissioner, in a form prescribed by the commissioner. Said commissioner may require that additional reports be filed. For failure to file a report when due, unless excused for cause, a credit union shall pay to said commissioner a penalty, as prescribed by regulation, for each day of delinquency in filing.

(3) The board may issue rules and regulations necessary for the administration and enforcement of this article and shall reference the same to the sections of this article to which they apply. Such rules and regulations shall be promulgated pursuant to the provisions of article 4 of title 24, C.R.S., and a copy of such rules and regulations and of each order shall be mailed to each credit union in this state at least thirty days prior to the effective date thereof, except as to temporary or emergency rules.

(4) Except in cases where there is a statutory right to appeal to the board, any person aggrieved and directly affected by a final order of the commissioner may obtain judicial review thereof by filing an action for review with the Colorado court of appeals pursuant to section 24-4-106 (11), C.R.S., within thirty days after the date of issuance of such order.

(5) The commissioner has the power to charge off the whole or any part of any asset of any credit union which could not be lawfully acquired by it and to reduce the value of any asset of a credit union to its market value or to a reasonable value, if no market value can be established. If the losses of a credit union exceed its undivided earnings and reserve funds so that the reasonable value of its assets is less than the total amount due the shareholders, the commissioner may order a reduction in the liability to each shareholder, dividing the loss proportionately among all shareholders. Any reduction from each share account shall be a specified percentage sufficient to correct the impaired condition and preserve the solvency of the credit union. If thereafter the credit union shall realize from such assets a greater amount than that fixed by the order of reduction, such excess shall be divided proportionately among the shareholders to whom liability was previously reduced but only to the extent of such reduction.

(6) The commissioner has the power to issue subpoenas and require attendance of any and all officers, directors, agents, and employees of any credit union and such other witnesses as he may deem necessary in relation to its affairs, transactions, and conditions, and may require such witnesses to appear and answer such questions as may be put to them by the commissioner, and may require such witnesses to produce such books, papers, or documents in their possession as may be required by the commissioner. Upon application of the commissioner, any person served with a subpoena issued by him may be required, by order of the district court of the county where the credit union has its principal office, to appear and answer such questions as may be put to him by the commissioner and be required to produce such books, papers, or documents in his possession as may be required by the commissioner.

(7) The commissioner may issue cease and desist orders if the commissioner determines from competent and substantial evidence that a credit union is engaged or has engaged, or when the commissioner has reasonable cause to believe the credit union is about to engage, in an unsafe or unsound practice or is violating or has violated, or when the commissioner has reasonable cause to believe the credit union is about to violate, a material provision of any law or regulation or any condition imposed in writing by the commissioner or any written agreement made with the commissioner. Any person aggrieved by a final order of the commissioner issued pursuant to this section may appeal such order to the financial services board pursuant to section 11-44-101.8.

(8) (a) (I) The commissioner may suspend or remove any director, officer, or employee of a credit union when the commissioner determines such person has:

(A) Violated the provisions of this article or a lawful regulation or order issued thereunder;

(B) Engaged or participated in any unsafe or unsound practice in the conduct of credit union business;

(C) Committed or engaged in any act, omission, or practice which constitutes a breach of fiduciary duty to the credit union, and the credit union has suffered or will probably suffer financial loss or other damage, or the interests of members or account holders may be seriously prejudiced thereby; or

(D) Received financial gain by reason of a violation, practice, or breach of fiduciary duty that involved personal dishonesty or demonstrated a willful or continuing disregard for the safety or soundness of the credit union.

(II) The commissioner may suspend or remove any director, officer, or employee of a credit union who, under the laws of this state, the United States, or any other state or territory of the United States:

(A) Has entered a plea of guilty or nolo contendere to or been convicted of a crime involving theft or fraud that is classified as a felony; or

(B) Is subject to an order removing or suspending such individual from office, or prohibiting such individual's participation in the conduct of the affairs of any credit union, savings and loan association, bank, or other financial institution.

(b) (I) A suspension or removal order shall specify the grounds for the suspension or removal. A copy of the order shall be sent to the credit union concerned and to each member of its board of directors. The commissioner shall send written notice by certified mail, return receipt requested, to any person affected by paragraph (a) of this subsection (8), at least ten days prior to a hearing held pursuant to section 24-4-105, C.R.S., at which the commissioner shall preside.

(II) If the commissioner determines that extraordinary circumstances require immediate action, a person may be suspended or removed under paragraph (a) of this subsection (8) without notice or a hearing, but the commissioner shall conduct a hearing under section 24-4-105, C.R.S., within thirty days after such suspension or removal.

(III) In extraordinary circumstances, upon order of the commissioner, any hearing conducted pursuant to this section shall be exempt from any provision of law requiring that proceedings of

the commissioner be conducted publicly. Such extraordinary circumstances occur when specific concern arises about prompt withdrawal of moneys from the institution.

(IV) Any person who performs any duty or exercises any power of a credit union after receipt of a suspension or removal order under paragraph (a) of this subsection (8) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**11-30-106.5. Assessment of civil money penalties.** (1) (a) After notice and a hearing as provided in article 4 of title 24, C.R.S., and after making a determination that no other appropriate governmental agency has taken similar action against such person for the same act or practice, the commissioner may assess and collect a civil money penalty from any person who has violated any final cease and desist order issued by the commissioner pursuant to section 11-30-106 (7) or any suspension order issued pursuant to section 11-30-120.

(b) For the purposes of this section, a violation includes, but is not limited to, any action, by any person alone or with another person, which causes, brings about, or results in the participation in, counseling of, or aiding or abetting of a violation.

(c) In extraordinary circumstances, upon order of the commissioner, any hearing conducted pursuant to this section shall be exempt from any provision of law requiring that proceedings of the commissioner be conducted publicly. Such extraordinary circumstances occur when specific concern arises about prompt withdrawal of moneys from the institution.

(2) Civil money penalties shall be assessed by written notice of assessment of a civil money penalty served upon the person to be assessed. The notice of assessment of a civil money penalty shall state the amount of the penalty, the period for payment, the legal authority for the assessment, and the matters of fact or law constituting the grounds for assessment. The notice of assessment of a civil money penalty may be appealed to the financial services board pursuant to section 11-44-101.8. On appeal, the board may consider, among other matters, whether the civil money penalty assessed by the commissioner is appropriate considering the financial resources of the person assessed.

(3) In determining the amount of the civil money penalty to be assessed, the commissioner shall consider the good faith of the person assessed, the gravity of the violation, any previous violations by the person assessed, and such other matters as the commissioner may deem appropriate; except that the civil money penalty shall be not more than one thousand dollars per day for each day the person assessed is determined by the commissioner to be in violation of a cease and desist order or an order of suspension or removal. Alternatively, the commissioner may assess a civil money penalty for such violation in a lump-sum amount not to exceed fifty thousand dollars.

(4) Civil money penalties assessed pursuant to this section shall be due and payable and collected within thirty days after the notice of assessment of a civil money penalty is issued by the commissioner; except that the commissioner may, in the commissioner's discretion, compromise, modify, or set aside any civil money penalty. If any person fails to pay an assessment after it has become due and payable, the commissioner may refer the matter to the attorney general, who shall recover the amount assessed by action in the district court for the

city and county of Denver. Any civil money penalty collected pursuant to this section shall be transmitted to the state treasurer, who shall credit it to the general fund.

**11-30-108. Elections.** At the annual meeting, or by other proper balloting within thirty days before and twenty days after the annual meeting, the credit union members shall elect from the membership a board of directors of not less than five members. A supervisory committee of not less than three members and a credit committee of not less than three members or a credit officer shall be elected by the credit union members or appointed by the board of directors as provided in the bylaws of the credit union. All such persons shall hold office for such terms respectively as the bylaws provide and until successors are elected or appointed and qualify. In addition, one or more alternate members of the credit committee may be elected by the credit union members or appointed by the board of directors to serve in the absence of members of the credit committee. No member shall hold more than one elected office simultaneously. A record of the names and addresses of the members of the board and such committees, such alternates, and the officers shall be filed with the commissioner within twenty days after their election or appointment.

**11-30-109. Directors and officers - compensation.** (1) At its first meeting after the annual election, the board of directors shall elect from its own number an executive officer, who may be designated as chair of the board or president; a vice-chair of the board or one or more vice-presidents; a treasurer; and a secretary. The offices of secretary and treasurer may be combined into one office known as secretary-treasurer. The persons so elected shall be the executive officers of the corporation. The board of directors shall be responsible for the general management of the affairs of the credit union, and more specifically to:

(a) Act on applications for membership, or to appoint from among the membership of the credit union, one or more membership officers who may act on applications for membership;

(b) Set policies, terms, and conditions under which loans will be available to members, determine interest rates on loans and on deposits, determine whether an interest refund shall be made to members, and declare the rates of any such interest refund and the classes of loans to which such refund shall apply. Any such refund shall be paid from interest income of the credit union and shall be paid only to members who paid interest to the credit union during the period and who were members of record of the credit union at the close of such period, but no refund shall be paid to a member whose loan is delinquent more than the period of time specified by the board of directors.

(c) Fix the amount of the blanket surety bond which shall cover all elected and appointed officials and all employees of the credit union. Such blanket surety bond shall be in an amount equal to the assets of the credit union as of December 31 of the previous year or one million dollars, whichever is less, or in such other amount as may be prescribed by the commissioner.

(d) Declare dividends and, subject to approval by the commissioner, adopt amendments to the bylaws of the credit union;

(e) Determine when any vacancy exists in the board of directors or in the credit committee, and to fill vacancies in the board and in the credit committee until successors are elected or appointed and qualify, and to appoint one or more assistant secretaries or treasurers or both, as needed; and the board may employ an officer in charge of operations whose title shall be either president or general manager, or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to act as general manager and be in active charge of the affairs of the credit union;

(f) Determine the maximum individual share holdings in the credit union and the maximum amount of individual loans which can be made either with or without security;

(g) Have charge of and supervise investments of credit union funds;

(h) Maintain records pursuant to rules promulgated by the financial services board concerning how long records should be retained and in what manner;

(i) Provide for compensation of necessary clerical and auditing assistance requested by the supervisory committee and of loan officers appointed by the credit committee, and to establish any salary which shall be paid to the treasurer or general manager.

(2) The duties of the officers shall be as determined in the bylaws; except that the treasurer shall be the general manager if none has been employed pursuant to paragraph (e) of subsection (1) of this section.

(3) The treasurer may be compensated for his service as treasurer. No other member of the board of directors or of any committee shall, as such, be compensated; except that reasonable health, accident, or similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position, shall not be considered compensation.

**11-30-110. Credit committee - credit officer.** The credit committee or credit officer shall have the general supervision of all loans to members. Applications for loans shall be on a form approved by the credit committee or the credit officer. At least a majority of the members of the credit committee or the credit officer shall pass and approve or disapprove all loans; except that the credit committee or the credit officer may appoint one or more loan officers and delegate to the same the power to approve or disapprove loans which are within limits prescribed by the credit committee or the credit officer. Each loan officer shall furnish to the credit committee or the credit officer a record of each loan application received by him within seven days after the date of filing of the application. All loans not approved by a loan officer may be considered by the credit committee or the credit officer. No member of the credit committee shall receive any compensation as a loan officer or be employed by the credit union in any other capacity. A credit officer may receive compensation in connection with the performance of his duties. The credit committee shall meet as often as may be necessary after due notice to each member. Vacancies in the credit committee shall be filled pursuant to section 11-30-109 (1) (e).

**11-30-111. Supervisory committee.**(1) The supervisory committee shall: (a) Make, or cause to be made, a comprehensive annual audit of the books and affairs of the credit union and shall submit a report of the annual audit to the board of directors and a summary of that report to the members at the next annual meeting. The committee shall make or cause to be made such supplementary audits or examinations as it deems necessary.

(b) Make an annual report and submit the same at the annual meeting of the members;

(c) By unanimous vote of the committee if it deems such action to be necessary for the proper conduct of the credit union, suspend any officer or director of the credit union, or any member of the credit committee, and shall call a special meeting of the members of the credit union not less than seven nor more than fourteen days thereafter to act on such suspension. The members at said meeting may sustain any such suspension and remove any such officer, director, or member of the credit committee permanently and elect a successor thereto for the unexpired term of office or may reinstate any such person.

(d) Biennially verify, or cause to be verified, by a random sampling or by verification of all members' accounts, the members' share, deposit, and loan accounts. Such verification may be obtained by either calling in the passbooks, by sending or causing to be sent a statement of account to each member, or by such means as may be specified by the commissioner.

(2) By majority vote, the supervisory committee may call a special meeting of the members of the credit union to consider any violation of any provision of this article, the bylaws, or any rule or requirement of the credit union, by any officer, director, member of any committee, or any member, which the committee deems to be detrimental to the credit union. The supervisory committee shall fill vacancies in its own membership until the next annual election of the credit union.

**11-30-112. Capital.** The capital of a credit union shall consist of the payments that have been made to it in shares by the several members thereof. The credit union has a lien on the shares and deposits of a member for any sum due to the credit union from said member or for any loan endorsed by him. A credit union may charge an entrance fee and an annual membership fee, but such fees shall be uniform to all members.

**11-30-113. Minors.** Shares may be issued and deposits received in the name of a minor. A member who is a minor shall be entitled to withdraw or pledge any shares owned by him and to receive from the credit union any and all dividends, or other moneys, at any time the same become due, in the same manner and subject to the same conditions as an adult, and any receipt or acquittance signed by such a minor shall constitute a valid release and discharge to the credit union for the payment of such moneys. The board of directors of the credit union may provide in the bylaws of the credit union a minimum age of any minor to be eligible for membership in the credit union and to vote at any meeting of the members.

## **11-30-114. Rates. (Repealed)**

**11-30-115. Power to borrow and loan money.** A credit union may borrow from any source a total sum which shall not exceed fifty percent of its shares, deposits, and undivided earnings. No credit union shall loan more than ten percent of its assets to any member or to another credit union.

**11-30-116. Loans.** A credit union may make loans to members subject to the provisions of this article and the bylaws of the credit union. A borrower may repay a loan in whole or in part any day the office of the credit union is open for business. A credit union may make loans to its own directors, credit officers, or members of its own supervisory committee or credit committee, but no such loan or aggregate of loans to any one director, credit officer, or committee member that exceeds twenty thousand dollars plus pledged shares may be made unless approved by the board of directors.

**11-30-117. Reserves.** (1) (Deleted by amendment, L. 2004, p. 131, § 7, effective July 1, 2004.) (2) The board may require reserves to protect the interest of members by general rules, including reserve requirements for any privately insured credit union. In addition, the commissioner may require special reserves by an order directed to an individual credit union in any special case.

**11-30-117.5. Share insurance required.** (1) Each credit union shall apply for insurance on its shares and deposits as provided by the national credit union administration board under section 201 of the "Federal Credit Union Act", 12 U.S.C. sec. 1781, or comparable insurance approved by the commissioner. Credit unions with debt and equity capital consisting primarily of funds from other credit unions shall not be subject to the requirements of this section.

(2) Any credit union which is denied a commitment for such insurance shall, within thirty days of such denial, commence steps to liquidate or merge with an insured credit union or shall apply in writing to the commissioner for an extension of time to obtain an insurance commitment. The commissioner shall grant one or more extensions of time to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making a substantial effort to satisfy the conditions precedent to the issuance of an insurance commitment.

(3) No credit union shall be granted a charter by the commissioner unless such credit union has applied for insurance on its shares and deposits as provided in this section.

(4) Neither the commissioner, nor the commissioner's deputy, nor any other person appointed by the commissioner, shall divulge any information acquired in the discharge of the person's duties, except insofar as the same may be rendered necessary by law or under order of court in an action involving the division or in criminal actions; except that any party entitled to appear in a

hearing on an application for a community credit union charter shall have access to the applicant's proposed articles or amended articles of incorporation, application for charter, and proposed bylaws. The commissioner may furnish information as to the condition of a credit union to the national credit union administration board, to any qualified insuring organization, to any liquidating agent appointed by the commissioner, a federal home loan bank, a federal reserve bank, the division of banking, the executive director of the department of regulatory agencies, or to any department or division of any other state having supervisory authority over credit unions, and may accept any report of examination made on behalf of such board, organization, liquidating agent, department, or division. In addition, the board, the commissioner, and their respective designees may exchange information obtained by the division as to possible criminal violations of any law relating to the activities of a credit union with the appropriate law enforcement agencies. Notwithstanding any provision of this article to the contrary, the commissioner may disclose any information in the records of the division or acquired by the commissioner in the discharge of the commissioner's duties that is available from the national credit union administration board or the disclosure of which has been specifically authorized by the board of directors of the credit union to which such information relates. Nothing in this section shall be construed to authorize the board of directors of a credit union to waive any privileges that belong solely to the financial services board, the division, or its employees.

**11-30-118. Dividends.** At such intervals and for such periods of time as the board of directors may authorize and after provision for the required reserves, the board of directors may declare a dividend. Dividends may be paid at various rates on different classes of shares, and dividend credit may be accrued on different classes of shares, as determined by the board of directors. Dividends shall not be paid in excess of available earnings.

**11-30-118.5. Preauthorized transfers - credit union must have written authorization. (Repealed)**

**11-30-119. Expulsion or withdrawal of members - deceased members.** (1) Any member may withdraw from the credit union at any time, but notice of withdrawal may be required in the bylaws. The board of directors may expel any member from membership in the credit union if such member fails to comply with the written rules and policies of the credit union as adopted and made available to the membership.

(2) A member shall not be expelled until the member has been informed in writing of the reasons for the expulsion and has had reasonable opportunity to be heard.

(3) All amounts paid on shares or as deposits of an expelled member or withdrawing member, together with any dividends or interest accredited thereto, to the date thereof, as funds become available and after deducting all amounts due from the member to the credit union, shall be paid to such member. The credit union may require sixty days' written notice of intention to withdraw shares and thirty days' written notice of intention to withdraw deposits. Withdrawing or expelled

members shall have no further rights in the credit union but shall not, by such expulsion or withdrawal, be released from any remaining liability to the credit union.

(4) (Deleted by amendment, L. 2004, p. 133, § 9, effective July 1, 2004.)

**11-30-120. Suspension - liquidation - procedures.** (1) (a) If it appears that any credit union is insolvent, or that it has willfully violated any provision of this article, or that it is operating in an unsafe or unsound manner, the commissioner may issue his order for such credit union to show cause why its operations should not be suspended until such insolvency, violation, or manner of operation is rectified and afford the credit union an opportunity for a hearing not less than ten days nor more than twenty days after such order. Such order shall be in writing and delivered by registered or certified mail. If the credit union fails to answer such order or if any officer or director of or attorney for the credit union fails to appear at the time set for the hearing, the commissioner either may revoke the certificate of incorporation of the credit union or may order the immediate suspension of operations of the credit union, except the collection of payments on outstanding loans or other obligations due the credit union, or both, and may enforce any such order by an action, filed in the district court of the judicial district wherein the principal office of the credit union is located, seeking to enjoin further operations or to appoint a receiver for such credit union.

(b) Any credit union to which an order to show cause has been issued pursuant to paragraph (a) of this subsection (1) may include with any answer or may present at any hearing resulting from such order its proposed plan to continue operations and rectify the insolvency, violation, or manner of operation specified in said order; or the credit union may request that it be dissolved and liquidated and a liquidating agent be appointed by the commissioner. Any credit union may request a stay of execution of any order of the commissioner revoking its certificate of incorporation or suspending its operations by filing an action in the district court for the judicial district in which the principal office of the credit union is located, within ten days after the issuance of such order.

(c) If the commissioner revokes the charter of the credit union, he shall appoint a liquidating agent to liquidate the assets of the credit union pursuant to subsection (3) of this section.

(d) If in the opinion of the board an emergency exists which may result in serious losses to the members, the board may revoke the charter of a credit union and immediately appoint a liquidating agent without notice or a hearing. Notice of the board's emergency determination shall be posted on the premises of the credit union that is the subject of the determination. Within ten days after an emergency determination by the board, the credit union or the directors of the credit union may file an application with the board to rescind such determination. The filing of an application to rescind a determination shall not act as a stay of the board's action pursuant to this subsection (1). The board shall grant the application if it finds that its action was unauthorized and upon granting an application shall rescind its action and restore the credit union to its board of directors. If no application is filed within ten days after the board's emergency determination, all action taken by the board shall be final.

(1.5) (a) The commissioner may appoint himself or herself or a third party as conservator of any credit union and immediately take possession and control of the business and assets of the credit union if the commissioner determines that:

(I) Such action is necessary to conserve the assets of the credit union or to protect the interests of its members from acts or omissions of the existing management;

(II) The credit union, by a resolution of its board of directors, consents to such action;

(III) There is a willful violation of a cease and desist order that results in the credit union being operated in an unsafe or unsound manner; or

(IV) The credit union is significantly undercapitalized and has no reasonable prospect of becoming adequately capitalized.

(b) The commissioner may appoint a conservator and take immediate possession of the credit union without prior notice or a hearing; except that, within ten days after the conservator is appointed, the credit union may file an appeal with the board requesting the board to rescind the commissioner's appointment of a conservator. Upon receipt of a timely appeal, the board shall set a date for a hearing and determine whether the commissioner's appointment should be rescinded; except that such appeal shall not act as a stay of the commissioner's action. If the board finds the commissioner's action was unauthorized, the board shall restore control of the credit union to its board of directors. If no appeal is filed within ten days after the commissioner's appointment of a conservator, any action taken by the commissioner shall be final.

(c) In extraordinary circumstances, upon order of the board, any hearing conducted pursuant to this subsection (1.5) shall be exempt from any provision of law requiring that proceedings of the board be conducted publicly. Such extraordinary circumstances occur when specific concern arises about prompt withdrawal of moneys from the credit union.

(d) The conservator shall have all the powers of the members, directors, officers, and committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets as directed by the commissioner. The conservator shall conduct the business of the credit union and make regular reports to the commissioner until such time as the commissioner has determined that the purposes of conservatorship have been accomplished and the credit union should be returned to the control of its board of directors. All costs incident to the conservatorship shall be paid out of the assets of the credit union. If the commissioner determines that the purposes of the conservatorship will not be accomplished, the commissioner may proceed with the involuntary liquidation of the credit union in the manner described in subsection (1) of this section.

(e) If a conservator is appointed, and is other than the national credit union administration, another approved insurer, or an employee of the division of financial services, the conservator and any assistants shall provide a bond, payable to the credit union and executed by a surety company authorized to do business in this state, which meets with the approval of the financial services board, for the faithful discharge of their duties in connection with such conservatorship and the accounting for all moneys coming into their hands. The cost of such bond shall be paid from the assets of the credit union. Suit may be maintained on such bond by any person injured by a breach of the conditions thereof. This requirement may be deemed met if the financial services board determines that the credit union's fidelity bond covers the conservator and any assistants.

(2) Any credit union may be voluntarily dissolved and liquidated upon majority vote of the entire membership thereof at a meeting especially called for the purpose or at the annual meeting where notice of such proposed action is mailed to the members at least thirty days prior to such

meeting. In either event, a copy of the notice shall be delivered to the commissioner not less than ten days prior to such meeting. Any member of a credit union may cast his ballot for or against such dissolution and liquidation by mail within twenty days after such meeting. If a majority of the members of the credit union vote in favor of dissolution and liquidation, the board of directors, within five days after the close of voting, shall notify the commissioner of such action and specify the names and addresses of the directors and officers of the credit union who will conduct the dissolution and liquidation of the credit union. Upon such favorable vote, the credit union shall cease to do business except for the collection of payments on outstanding loans or other obligations due the credit union.

(3) Under any procedure to dissolve and liquidate a credit union pursuant to subsection (1) or (2) of this section, the credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business, and it may sue and be sued for the enforcement of its debts and operations until its affairs are fully adjusted in liquidation. The assets of the credit union shall be used to pay: First, the expenses incidental to liquidation; second, liabilities due nonmembers; and third, deposits and savings club accounts. Any remaining assets shall be distributed to the members proportionately to the shares held by each member as of the date of dissolution.

(4) Upon the liquidation and distribution of all assets of the credit union which may be reasonably expected to be collectible, the board of directors or the liquidating agent, as the case may be, shall execute in duplicate a certificate of dissolution, prescribed by the commissioner, upon which date the credit union shall cease to exist, and file the same with the secretary of state.

### **11-30-120.5. Conversion from state to federal credit union and from federal to state credit union.**

(1) A credit union organized under the provisions of this article may be converted into a federal credit union by complying with the requirements of this section. (2) (a) The proposition for such conversion shall first be approved by a majority of the directors of the credit union. If so approved, the proposition shall be submitted to a meeting of its members. The notice of such meeting shall be in writing and may be delivered in person to each member or mailed to each member at the address for such member appearing on the records of the credit union. Such delivery or mailing shall be not more than thirty days nor less than seven days prior to the time of the meeting. Approval of the proposition for conversion shall be by the affirmative vote of not less than two-thirds of the members present and voting at the meeting.

(b) A copy of the minutes of such meeting, verified by the affidavits of the president or vice-president and the secretary of the meeting, shall be filed with the administrator within ten days after the meeting.

(3) Within ninety days after such meeting, the credit union shall take such action as may be necessary under the federal credit union act to convert into a federal credit union, and, within ten days after receipt of the federal credit union charter, there shall be filed with the commissioner a copy of the charter thus issued. Upon such filing the credit union shall cease to be a state credit union.

(4) Upon ceasing to be a state credit union, such credit union shall no longer be subject to any of the provisions of the state law under which said credit union was organized; except that the successor federal credit union, being vested with all of the assets, shall continue to be responsible for all of the obligations of the state credit union to the same extent as though the conversion had not taken place.

(5) A credit union organized under the laws of the United States may be converted into a credit union organized under the laws of this state by complying with all requirements to cease being a federal credit union and doing all acts and obtaining all authorization necessary to organize as a credit union under the provisions of this article.

**11-30-121. Change in place of business.** A credit union may change its place of business to a location outside of the county or city and county in which previously located upon receiving written permission therefor from the commissioner. A credit union may change its place of business within the county or city and county in which previously located by providing written notice of the new address and the effective date of such change to the commissioner.

**11-30-122. Merger.** (1) The method of merger of two or more credit unions shall be as follows:

(a) (I) The board of directors of the continuing and each merging credit union shall:

(A) Approve a plan for the proposed merger; and

(B) Authorize representatives of each credit union to act on each credit union's behalf to bring about the merger.

(II) The plan shall include such information as the board deems appropriate.

(b) Upon approval of the merger plan by each board of directors for each credit union involved in the transaction, the merger plan, together with the resolutions of each board of directors, shall be submitted to the board. If the board determines that the merger plan complies with the provisions of this article and any applicable rules thereto, the board may approve the merger plan, subject to such other specific requirements as may be prescribed to fulfill the intended purposes of the proposed merger.

(c) A meeting of the members of each merging credit union involved shall be called for the purpose of considering a merger. Notice of the meeting, including purpose, date, time, place, and ballot of the merger plan shall be given to the entire membership. At such meeting, at least two-thirds of the members present and voting must approve the proposed merger. If any member approves or disapproves the merger by returning a ballot, signed by such member, to the secretary of the credit union at or before the meeting, such ballot for all purposes of this section shall be deemed equivalent to the vote of such member at such meeting, notwithstanding the member is not then present.

(2) The merger shall thereupon be consummated in the following manner:

(a) The duly authorized representatives of each credit union shall execute, in duplicate, a certificate of merger stating that:

(I) The board of directors of each credit union have approved the merger;

(II) More than two-thirds of the members of each merging credit union have approved the terms and conditions of the proposed merger, at a meeting of the members called for that purpose; and

(III) The name and location of the continuing credit union.

(b) The continuing credit union shall prepare and adopt any bylaw amendments required by the board, consistent with the provisions of this article, and execute the same in duplicate.

(c) The certificate above provided for and any required bylaw amendments, both executed in duplicate, shall be forwarded to the board.

(3) (Deleted by amendment, L. 2004, p. 133, § 10, effective July 1, 2004.)

(4) If the board approves the certificate and bylaw amendments, it shall so notify the representatives and shall issue a certificate of approval, attach it to the duplicate certificate of merger, and return the same to the representatives of the participating credit unions together with the duplicate of the bylaw amendments.

(5) The duplicate of the certificate of merger with the board's certificate of approval attached shall be filed with the secretary of state who shall make a record of said certificate and return it, with his certificate of record attached, to the board for permanent record. The fee for said filing shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

(6) Thereupon the participating credit unions shall be merged in accordance with the provisions of this section. The continuing credit union shall take over the assets and assume all the liabilities of each merging credit union.

(7) A state chartered credit union may merge with a federal credit union provided all requirements outlined in this article and the appropriate federal credit union regulations have been complied with and approval of such proposed merger has been authorized by the board of directors of each credit union involved.

**11-30-123. Taxation.** A credit union shall be deemed an institution for savings and, together with all accumulations therein, shall not be subject to taxation except as to real estate owned. The shares of a credit union shall not be subject to a stock transfer tax when issued by the corporation or when transferred from one member to another.

**11-30-124. Transfer of functions - conforming of statutes.** (1) As of April 11, 1988, the powers, duties, and functions of the state bank commissioner under this article are transferred to the state commissioner of financial services.

(2) On April 11, 1988, all employees of the division of banking whose principal duties are concerned with the powers, duties, and functions transferred to the state commissioner of financial services and whose employment in the division of financial services is deemed necessary by the executive director of the department of regulatory agencies to carry out the purposes of this article are transferred to the division of financial services and shall become employees thereof. Such employees shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous.

(3) On April 11, 1988, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the division of banking pertaining to the powers, duties, and functions transferred to the state commissioner of financial services pursuant to this section shall be transferred to the division of financial services and shall become the property thereof.

(4) Whenever the state bank commissioner or the division of banking is referred to or designated by any contract or other document in connection with the powers, duties, and functions transferred to the state commissioner of financial services, such reference or designation shall be deemed to apply to the state commissioner of financial services or the division of financial services, as the case may be. All contracts entered into by the state bank commissioner or the division of banking prior to April 11, 1988, in connection with the powers, duties, and functions transferred to the state commissioner of financial services are hereby validated, with the state commissioner of financial services succeeding to all the rights and obligations of such contracts.

(5) On April 11, 1988, any unexpended appropriations of funds for the current fiscal year made to the division of banking and allocated for the administration and enforcement of this article shall be transferred to the division of financial services. The executive director of the department of regulatory agencies shall have the final authority to determine the allocation of funds for purposes of the transfer under this subsection (5).

(6) The revisor of statutes is authorized to change all references to the state bank commissioner in this article to refer to the state commissioner of financial services and to change all references to the division of banking in this article to refer to the division of financial services.

**11-30-125. Notice of branch opening and closing.** (1) Any credit union that has its principal place of business in this state, upon thirty days' prior written notice to the state commissioner of financial services, may establish one or more de novo branches anywhere in this state.

(2) No later than ninety days prior to the proposed date of any branch closing, a notice of branch closing shall be filed with the commissioner. The notice of branch closing shall include a detailed statement of the reasons for the decision to close the branch and statistical or other information in support of such reasons.