



DCU BULLETIN

Division of Credit Unions

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Revisions to the Washington Credit Union Act

2015 Senate Bill (SB) 5300 (2015 c 114) amends the Washington Credit Union Act, chapter 31.12 RCW (the “Act”). These amendments are not effective until July 24, 2015. Below is a brief summary of the amendments.

Sections:

1. Definitions – RCW 31.12.005. This section adds a definition to the Act of “low-income member”. This expands the definition of low-income qualification to include household income, whereas the current definition is for individual income only. This section employs the same language as that applicable to federal credit unions under the Rules of the National Credit Union Administration (“NCUA Rules”), at 12. C.F.R. 701.34(2).

2. Special Membership Meetings – RCW 31.12.195. This section consolidates requirements from other sections of the Act regarding (1) the supervisory committee requirements to call a special membership meeting and (2) the circumstances of a member of the supervisory committee being on the ballot.

3. Board of Directors – RCW 31.12.225. This section provides that when State Credit Union A merges into State Credit Union B, one or more members of State Credit Union A’s board may be added to State Credit Union B’s board for the duration of State Credit Union A’s unexpired term.

4. Suspension by Board – RCW 31.12.285. This section provides a consistent 90 days in which to hold a special membership meeting, no matter the purpose. Under current law, the timing to hold a special membership meeting ranges from 30 to 90 days in various sections of the Act.

5. Supervisory committee – RCW 31.12.326. This section provides that when State Credit Union A merges into State Credit Union B, one or more members of State Credit Union A’s supervisory committee may be added to State Credit Union B’s supervisory committee for the duration of State Credit Union A’s unexpired term. This is consistent with the change in Section 3 for board members.

6. Suspension by supervisory committee – RCW 31.12.345. This section changes the timing in which to hold a special membership meeting from 30 days to 90 days, consistent with the change in Section 4.

7. Risk - Bond coverage - Notice to director 0 RCW 31.12.367. This section clarifies that the notice to DFI's Director of Credit Unions is not less than 35 days from the effective date of suspension or termination, not 35 days from notice that bond coverage will be suspended or terminated.

8. Director may suspend any person, reason – RCW 31.12.372. This section provides that a suspension notice may be issued and take effect at the time of commencing a notice and statement of charges and provides timeline of action to suspend a person, similar to the Washington Commercial Bank Act, title 30A RCW.

9. Additional powers – RCW 31.12.404. This section updates the parity-power date to July 24, 2015. This permits a State Credit Union, without a specific finding by the DFI's Director of Credit Unions, to invoke the powers and authorities that a federal credit union had on December 31, 1993, or any subsequent date up to and including July 24, 2015. Parity is an essential feature in the Act for State Credit Unions to maintain a spirit of competition with federal credit unions.

10. Low-income credit unions – RCW 31.12.413. This section moves the definition of low-income to the new definition added to RCW 31.12.005 (see Section 1).

11. Investment of funds – RCW 31.12.436. This section amends a State Credit Union's investment powers to state the current name of the trade association to which State Credit Unions belong (i.e. Northwest Credit Union Association). It clarifies that State Credit Unions may use investment products related to employee benefits.

12. Mergers – RCW 31.12.461. This section adds a requirement for a "plan of merger" and clarifies the certainty of creditor claims being barred after 30 days of the last date of publication, when the existence of creditor's claims is not known by a continuing State Credit Union.

13. Merger or conversion of state credit union – RCW 31.12.464. This section changes the requirement for approving a merger or conversion by a State Chartered Credit Union from two-thirds to majority vote, consistent with voting requirements in RCW 31.12.461.

14. Authority of out-of-state or foreign credit union to operate in this state – RCW 31.12.471. This section clarifies that a person, other than a State Credit Union, federal credit union, out-of-state credit union, or foreign credit union may not hold itself out in this state as engaging in the business of a credit union. It clarifies that no person may designate itself or use the term "credit union" to refer to itself for the purpose of conducting credit union business with a resident of Washington State unless it is a federal credit union, State Credit Union, out-of-state credit union, or foreign credit union.

15. Powers of director – RCW 31.12.516. This section clarifies the authority of DFI’s Director of Credit Unions in taking administrative action against a State Credit Union, federal credit union, out-of-state credit union, foreign credit union, or corporate credit union. It clarifies the ability of DFI to collect costs and reasonable attorney fees for actions commenced and prosecuted on its behalf. In addition, it clarifies the DFI’s Director of Credit Unions authority to suspend or restrict deposit withdrawals, pursuant to written finding, for the purpose of preventing a run on deposits.

16. Examinations and investigations – RCW 31.12.545. This section authorizes DFI to examine the electronic data processing of a credit union service organization (CUSO).

17. Removal or prohibition orders – RCW 31.12.575. This section provides that when a person is ordered prohibited from working with a State Credit Union, the prohibition also extends to other depository institutions, trust companies, bank holding companies, thrift holding companies, or financial holding companies doing business in Washington State, consistent with orders of prohibition under the Washington Commercial Bank Act, Title 30A RCW.

18. This is a new section to the Act that clarifies the administrative process by which DFI may remove a director, supervisory committee member, officer or employee, consistent with the Washington Commercial Bank Act, Title 30A RCW.

19. Prohibited acts – RCW 31.12.585. This section replaces the word “entity” with “person” so as to be consistent with definitions in RCW 31.12.005.

20. Temporary cease and desist order – RCW 31.12.595. This section is amended to (1) add a CUSO as a person that is subject to a temporary cease and desist order (“TCD”), (2) add immediate “public harm” to the DFI’s determination in issuing a TCD, and (3) add TCD authority to include any applicable “person” over which DFI has jurisdiction.

21. Receiver may be required to show cause – RCW 31.12.674. This section clarifies the timeline for involuntary liquidation and receivership and provides that a State Credit Union that seeks to enjoin DFI’s action within 10 days has the burden in court to show cause why the order for involuntary liquidation or receivership should not be affirmed. This section clarifies that failure to bring an action to undo DFI’s action within 10 days of involuntary liquidation or receivership bars any action by a State Credit Union. These amendments are consistent on this subject with the Washington Commercial Bank Act, Title 30A RCW.

22. This is a new section to the Act that provides a standard severability clause.

To view the complete bill and its history, please visit the following link:
<http://app.leg.wa.gov/billinfo/summary.aspx?bill=5300&year=2015>

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This Bulletin is provided as general guidance and is not intended to substitute for legal advice by the credit union's legal counsel. If you have questions or would like more information please contact Linda Jekel, Director of Credit Unions at linda.jekel@dfi.wa.gov or (360) 902-8778.