

Opinion 96-17 (Redacted version)

December 3, 1996

“A”

Subject: Your letter dated November 22, 1996, requesting opinion on Chapter 208-440 WAC; Opinion no. 96-17

Dear _____:

By letter referenced above, you requested the answer to several questions regarding the application of Chapter 208-440 WAC. Chapter 208-440, initially adopted in 1979, is entitled "Rules On Credit Union Participation In Commercial Business Activities."

Your first question was whether Chapter 208-440 was invalidated in 1984 because the stated statutory authority for the Chapter, RCW 31.12.360, was repealed by Section 1(39), Chapter 31, Laws of 1984. In large part, RCW 31.12.360 specified procedures for the supervisor (predecessor to the Director of DFI) to remove a director or officer of a credit union. However, RCW 31.12.360 also included the following general wording, at the very end of the section:

The supervisor shall be charged with the administration and enforcement of this chapter, shall require each credit union to conduct its business in compliance therewith, and shall have power to commence and prosecute actions and proceedings to enforce the provisions of this chapter, to enjoin violations thereof, and to collect sums due the state of Washington from any credit union.

It appears that the supervisor determined that this wording provided the statutory basis for Chapter 208-440. This wording was substantially re-enacted as Section 53, Chapter 31, Laws of 1984, and is currently set forth in RCW 31.12.516. My conclusion therefore is that the 1984 repeal of RCW 31.12.360 did not invalidate Chapter 208-440.

However, as we agreed by telephone, I am returning your request in light of my desire to repeal Chapter 208-440 sometime around mid-1997 and replace it with general guidelines addressing safety and soundness issues. When I have developed a draft of the guidelines, I will forward them to you for comment.

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As I mentioned in our conversation, enclosed is our Opinion 96-15 which we recently issued on Chapter 208-440. If you have any further questions concerning Chapter 208-440, feel free to contact me at (360) 902-8778.

Sincerely,

J. Parker Cann
Assistant Director