

HOUSE BILL ANALYSIS

ON

SSB 5563

Brief Description: Modernizing, clarifying, and simplifying the Washington State Credit Union Act.

BACKGROUND: A credit union is a not-for-profit financial institution created to serve groups in a field of membership. The field of membership, or common bond, may be one of occupation, association, or well-defined neighborhood, community, or rural district.

State credit unions are regulated by the Department of Financial Institutions. Federal credit unions are regulated by the National Credit Union Administration. Federal credit unions belong to a national share (deposit) insurance fund. State credit unions in Washington may belong to the national share insurance fund or to the private Washington Credit Union Share Guarantee Association (WCUSGA). WCUSGA is in the process of dissolving; by 1998, all state-chartered credit unions must be members of the national share insurance fund.

State statutes and rules regulate, among other things, the organization of credit unions, the governance of credit unions, the membership in credit unions, the powers of credit unions, the examination and supervision of credit unions by regulators, the permissible lending and investment activities of credit unions, and the merger or liquidation of credit unions.

SUMMARY: Statutory provisions regulating credit unions are modified. These modifications clarify existing law, make regulation of credit unions more consistent with the regulation of banks, deregulate some practices, and provide expanded authority in some instances.

Generally, many credit union administrative and bylaw provisions are deregulated; the credit union board of directors is given more discretion in these areas, although the board must address certain items. Bylaw changes need approval by a simple majority of the board, not the two-thirds majority of all board members under current law; field of membership changes must also be approved by the director of the Department of Financial Institutions (DFI). Provisions specifically provide for limiting personal liability of directors and indemnifying directors, supervisory committee members, officers, and employees. The fiduciary duties owed to credit unions by directors and officers are clarified. Expelled members' shares and deposit accounts must be paid promptly; the credit union can deduct penalties for early withdrawals when expelling members. Credit unions need not document loans in writing. The ability of out-of-state and foreign credit unions to operate a branch in Washington is clarified and expanded; the current requirement that 50% of the members be from Washington is removed.

The authority and powers of credit unions are clarified in many cases and expanded in some cases. For instance, credit unions are given specific authority to enter into leases or sell group life insurance to members; this authority likely is implied now. Several areas in which credit union authority and powers are expanded include: (1) credit unions can borrow money up to 50 percent of total shares, deposits, and net capital (current law allows up to 50 percent of paid in and unimpaired capital and surplus); (2) credit unions can sell most of their assets without prior approval of the director of the DFI (current law requires DFI approval when selling over 10 percent of assets); (3) credit unions can purchase loans from others if the credit union's policies would have permitted originating the loan (current law requires the originating credit union hold at least 10 percent of the loan); (4) credit unions can loan to one borrower up to 25 percent of the credit union's capital (current law allows up to 2.5 percent of the credit union's assets be loaned to a member); (5) credit unions can invest in loans held by other credit unions and loans made to members of the credit union by other financial institutions; and (6) credit unions can lend to other credit unions up to 25 percent of total shares, deposits, and net capital (current law allows up to 25 percent of paid-in and unimpaired capital).

DFI charges fees to credit unions to cover the costs of operating the Division of Credit Unions. The DFI director's ability to serve notice to remove or suspend a credit union director, supervisory committee member, or officer or employee is clarified. The process, including the right to a hearing, is specified.

Credit unions must comply with generally accepted accounting principles as specified by rule by the director of the DFI (beginning January 1, 1999).

The director of the DFI is given authority, in addition to current authority to appoint a liquidating agent, to place a credit union under supervisory direction, appoint a conservator, and appoint a receiver for dissolving or failing credit unions, similar to the authority the DFI has for banks.

Fiscal Note: *Not requested.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*

Rulemaking: *No specific authority, although the director of the DFI is given general authority to interpret the law to facilitate delivery of financial services by credit unions to citizens in Washington State.*