

HB 1165 - S COMM AMD

By Committee on Business, Financial Services & Trade

NOT CONSIDERED 04/26/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 31.12.005 and 2017 c 61 s 1 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, as used in this
6 chapter:

7 (1) "Board" means the board of directors of a credit union.

8 (2) "Board officer" means an officer of the board elected under
9 RCW 31.12.265(1).

10 (3) "Branch" of a credit union, out-of-state credit union, or
11 foreign credit union means any facility that meets all of the
12 following criteria:

13 (a) The facility is a staffed physical facility;

14 (b) The facility is owned or leased in whole or part by the
15 credit union or its credit union service organization; and

16 (c) Deposits and withdrawals may be made at the facility.

17 (4) "Capital" means a credit union's reserves, undivided
18 earnings, and allowance for loan and lease losses, and other items
19 that may be included under RCW 31.12.413 or by rule or order of the
20 director.

21 (5) "Credit union" means a credit union organized and operating
22 under this chapter.

23 (6) "Credit union service organization" means an organization
24 that a credit union has invested in pursuant to RCW 31.12.436(1)(h),
25 or a credit union service organization invested in by an out-of-
26 state, federal, or foreign credit union.

27 (7) "Department" means the department of financial institutions.

28 (8) "Director" means the director of financial institutions.

29 (9) "Federal credit union" means a credit union organized and
30 operating under the laws of the United States.

31 (10) "Financial institution" means any commercial bank, trust
32 company, savings bank, or savings and loan association, whether state

1 or federally chartered, and any credit union, out-of-state credit
2 union, or federal credit union.

3 (11) "Foreign credit union" means a credit union organized and
4 operating under the laws of another country or other foreign
5 jurisdiction.

6 (12) "Insolvency" means:

7 (a) If, under United States generally accepted accounting
8 principles, the recorded value of the credit union's assets are less
9 than its obligations to its share account holders, depositors,
10 creditors, and others; or

11 (b) If it is likely that the credit union will be unable to pay
12 its obligations or meet its share account holders' and depositors'
13 demands in the normal course of business.

14 (13) "Loan" means any loan, overdraft line of credit, extension
15 of credit, or lease, in whole or in part.

16 (14) "Low-income member" means a member whose family income is
17 not more than eighty percent of the median family income for the
18 metropolitan statistical area where the member lives or for the
19 national metropolitan area where the member lives, whichever is
20 greater, or a member or potential member who earns not more than
21 eighty percent of the total median earnings for individuals for the
22 metropolitan statistical area where the member lives or for the
23 national metropolitan area where the member lives, whichever is
24 greater. For members living outside of a metropolitan statistical
25 area, the department must apply the statewide or national
26 nonmetropolitan area median family income or total median earnings
27 for individuals.

28 (15) "Material violation of law" means:

29 (a) If the credit union or person has violated a material
30 provision of:

31 (i) Law;

32 (ii) Any cease and desist order issued by the director;

33 (iii) Any condition imposed in writing by the director in
34 connection with the approval of any application or other request of
35 the credit union; or

36 (iv) Any supervisory agreement, or any other written agreement
37 entered into with the director;

38 (b) If the credit union or person has concealed any of the credit
39 union's books, papers, records, or assets, or refused to submit the
40 credit union's books, papers, records, or affairs for inspection to

1 any examiner of the state or, as appropriate, to any examiner of the
2 national credit union administration; or

3 (c) If a member of a credit union board of directors or
4 supervisory committee, or an officer of a credit union, has breached
5 his or her fiduciary duty to the credit union.

6 (16) "Net worth" means a credit union's capital, less the
7 allowance for loan and lease losses.

8 (17) "Operating officer" means an employee of a credit union
9 designated as an officer pursuant to RCW 31.12.265(2).

10 (18) "Organization" means a corporation, partnership,
11 association, limited liability company, trust, or other organization
12 or entity.

13 (19) "Out-of-state credit union" means a credit union organized
14 and operating under the laws of another state or United States
15 territory or possession.

16 (20) "Person" means an organization or a natural person
17 including, but not limited to, a sole proprietorship.

18 (21) "Principally" or "primarily" means more than one-half.

19 (22) "Senior operating officer" includes:

20 (a) An operating officer who is a vice president or above; and

21 (b) Any employee who has policy-making authority.

22 (23) "Significantly undercapitalized" means a net worth to total
23 assets ratio of less than four percent.

24 (24) "Small credit union" means a credit union with up to ten
25 million dollars in total assets for the purposes of RCW 31.12.569.
26 In any rule providing relief for small credit unions in RCW
27 31.12.516, the director shall determine an appropriate definition for
28 the term based on the subject matter of the rule and shall include
29 such definition in such rule.

30 (25) "Unsafe or unsound condition" means, but is not limited to:

31 (a) If the credit union is insolvent;

32 (b) If the credit union has incurred or is likely to incur losses
33 that will deplete all or substantially all of its net worth;

34 (c) If the credit union is in imminent danger of losing its share
35 and deposit insurance or guarantee; or

36 (d) If the credit union is significantly undercapitalized.

37 (26) "Unsafe or unsound practice" means any action, or lack of
38 action, which is contrary to generally accepted standards of prudent
39 operation, the likely consequences of which, if continued, would be

1 abnormal risk of loss or danger to a credit union, its members, or an
2 organization insuring or guaranteeing its shares and deposits.

3 **Sec. 2.** RCW 31.12.402 and 2011 c 303 s 6 are each amended to
4 read as follows:

5 A credit union may:

6 (1) Issue shares to and receive deposits from its members in
7 accordance with RCW 31.12.416;

8 (2) Make loans to its members in accordance with RCW 31.12.426
9 and 31.12.428;

10 (3) Pay dividends and interest to its members in accordance with
11 RCW 31.12.418;

12 (4) Impose reasonable charges for the services it provides (~~to~~
13 ~~its members~~);

14 (5) Impose financing charges and reasonable late charges in the
15 event of default on loans, subject to applicable law, and recover
16 reasonable costs and expenses, including, but not limited to,
17 collection costs, and reasonable attorneys' fees incurred both before
18 and after judgment, incurred in the collection of sums due, if
19 provided for in the note or agreement signed by the borrower;

20 (6) Acquire, lease, hold, assign, pledge, sell, or otherwise
21 dispose of interests in personal property and in real property in
22 accordance with RCW 31.12.438;

23 (7) Deposit and invest funds in accordance with RCW 31.12.436;

24 (8) Borrow money, up to a maximum of fifty percent of its total
25 shares, deposits, and net worth;

26 (9) Discount or sell any of its assets, or purchase any or all of
27 the assets of another credit union, out-of-state credit union, or
28 federal credit union. However, a credit union may not discount or
29 sell all, or substantially all, of its assets without the approval of
30 the director;

31 (10) Accept deposits of deferred compensation of its members;

32 (11) Act as fiscal agent for and receive payments on shares and
33 deposits from the federal government or this state, and any agency or
34 political subdivision thereof;

35 (12) Engage in activities and programs as requested by the
36 federal government, this state, and any agency or political
37 subdivision thereof, when the activities or programs are not
38 inconsistent with this chapter;

- 1 (13) Hold membership in credit unions, out-of-state credit
2 unions, or federal credit unions and in organizations controlled by
3 or fostering the interests of credit unions, including, but not
4 limited to, a central liquidity facility organized under state or
5 federal law;
- 6 (14) Pay additional dividends and interest to members, or an
7 interest rate refund to borrowers;
- 8 (15) Enter into lease agreements, lease contracts, and
9 lease-purchase agreements with members;
- 10 (16) Act as insurance agent or broker for the sale to members of:
11 (a) Group life, accident, health, and credit life and disability
12 insurance; and
13 (b) Other insurance that other types of Washington state-
14 chartered financial institutions are permitted to sell, on the same
15 terms and conditions that these institutions are permitted to sell
16 such insurance;
- 17 (17) Impose a reasonable service charge for the administration
18 and processing of accounts that remain dormant for a period of time
19 specified by the credit union;
- 20 (18) Establish and operate on-premises or off-premises electronic
21 facilities;
- 22 (19) Enter into formal or informal agreements with another credit
23 union for the purpose of fostering the development of the other
24 credit union;
- 25 (20) Work with community leaders to develop and prioritize
26 efforts to improve the areas where their members reside by making
27 investments in the community through contributions to organizations
28 that primarily serve either a charitable, social, welfare, or
29 educational purpose, or are exempt from taxation pursuant to section
30 501(c)(3) of the internal revenue code;
- 31 (21) Limit the personal liability of its directors in accordance
32 with provisions of its articles of incorporation that conform with
33 RCW 23B.08.320;
- 34 (22) Indemnify its directors, supervisory committee members,
35 officers, employees, and others in accordance with provisions of its
36 articles of incorporation or bylaws that conform with RCW 23B.08.500
37 through 23B.08.600;
- 38 (23) Conduct a promotional contest of chance as authorized in RCW
39 9.46.0356(1)(b), as long as the conditions of RCW 9.46.0356(5) and

1 ((30.22.260)) 30A.22.260 are complied with to the satisfaction of the
2 director; ((and))

3 (24) Cash checks, money orders, and other payment instruments for
4 members and persons who are eligible for membership in the credit
5 union; and

6 (25) Exercise such incidental powers as are necessary or
7 convenient to enable it to conduct the business of a credit union.

8 **Sec. 3.** RCW 31.12.404 and 2019 c 19 s 5 are each amended to read
9 as follows:

10 (1) Notwithstanding any other provision of law, and in addition
11 to all powers and authorities, express or implied, that a credit
12 union has under the laws of this state, a credit union has the powers
13 and authorities that a federal credit union had on December 31, 1993,
14 or a subsequent date ((not later than July 28, 2019)) by the
15 effective date of this section.

16 (2) Notwithstanding any other provision of law, and in addition
17 to the powers and authorities, express or implied, that a credit
18 union has under subsection (1) of this section, a credit union has
19 the powers and authorities that a federal credit union has subsequent
20 to ((July 28, 2019)) the effective date of this section, if the
21 director finds that the exercise of the power and authority serves
22 the convenience and advantage of members of credit unions, and
23 maintains the fairness of competition and parity between credit
24 unions and federal credit unions. However, a credit union must comply
25 with RCW 31.12.408.

26 (3) Notwithstanding any other provision of law, and in addition
27 to the powers and authorities, express or implied, that a credit
28 union has under subsections (1) and (2) of this section, a credit
29 union may exercise the powers and authorities that it would have if
30 it were an out-of-state credit union. Any such power or authority is
31 subject to regulation by the director. In exercising such power or
32 authority, a credit union:

33 (a) Must comply with RCW 31.12.408;

34 (b) Is not granted the field of membership powers or authorities
35 of any out-of-state credit union; and

36 (c) Must be able to exercise such power or authority consistent
37 with the purposes of this chapter.

38 (4) Before exercising any power or authority afforded under
39 subsection (3) of this section, a credit union must first notify the

1 director of its intent to do so. This notice must be sent to the
2 director by United States mail or by electronic means if the director
3 accepts electronic delivery. If the director takes no action on the
4 request within thirty days of delivery of the notice, the right to
5 exercise the power or authority is deemed granted, subject to the
6 restrictions in subsection (3)(a) and (b) of this section. In order
7 to grant the request, the director must find that:

8 (a) The request complies with subsection (3)(a), (b), and (c) of
9 this section; and

10 (b) The exercise of such power or authority serves the
11 convenience and advantage of members of credit unions and maintains
12 the fairness of competition and parity between credit unions and out-
13 of-state credit unions.

14 (5) The restrictions, limitations, and requirements applicable to
15 specific powers or authorities of federal or out-of-state credit
16 unions apply to credit unions exercising those powers or authorities
17 permitted under this section but only insofar as the restrictions,
18 limitations, and requirements relate to the specific exercise of the
19 powers or authorities granted credit unions solely under this
20 section.

21 (6) As used in this section, "powers and authorities" include,
22 but are not limited to, powers and authorities in corporate
23 governance matters.

24 **Sec. 4.** RCW 31.12.438 and 2013 c 34 s 9 are each amended to read
25 as follows:

26 (1) A credit union may invest in real property or leasehold
27 interests (~~(primarily for its own use or the use of a credit union~~
28 ~~service organization in conducting business,)) including, but not
29 limited to, structures and fixtures attached to real property for use
30 in conducting its business or the business of a credit union service
31 organization, subject to the following limitations:~~

32 (a) The credit union's net worth equals at least five percent of
33 the total of its share and deposit accounts;

34 (b) The board approves the investment; and

35 (c) The aggregate of all such investments does not exceed seven
36 and one-half percent of the total of its share and deposit accounts.

37 (2) (~~(If the real property or leasehold interest is acquired for~~
38 ~~future expansion, the credit union must partially occupy the premises~~
39 ~~within three years after the credit union makes the investment, if~~

1 ~~the premises are improved at the time of acquisition, or within six~~
2 ~~years after the credit union makes the investment, if the premises~~
3 ~~are unimproved at the time of acquisition.~~

4 ~~(3))~~ The director may, upon written application, waive any of
5 the limitations listed in subsection (1) (~~or (2)~~) of this section,
6 and the director may adopt rules to interpret this section."

HB 1165 - S COMM AMD

By Committee on Business, Financial Services & Trade

NOT CONSIDERED 04/26/2021

7 On page 1, line 1 of the title, after "act;" strike the remainder
8 of the title and insert "and amending RCW 31.12.005, 31.12.402,
9 31.12.404, and 31.12.438."

EFFECT: Removes RCW 31.12.436. Removes provisions that would permit credit unions under certain circumstances to invest an equity interest in an entity that is engaged in a planning or developing activity that is incidental or complementary to a credit union's operations.

--- END ---