

Summary of HB550



The Montana Credit Union Act (Title 32, Chapter 3) was updated during the 2015 session with HB 550, which will be effective on October 1, 2015. The bill was the result of 18 months of work with a committee representing all eight impacted credit unions, as well as ongoing work with the Division of Banking, the regulatory authority for state chartered credit unions.

Below is a summary of each of the changes to assist you with working toward compliance. Keep in mind that your bylaws, policies, and procedures may also need to be reviewed for changes. An online version of the updated Act will not be available until September, but the inline version of the bill can be viewed at this link if needed: <http://leg.mt.gov/bills/2015/sesslaws/ch0317.pdf>

- **Definitions-** not having definitions in the Act resulted in individual interpretation and confusion on references to said words within the Act. Some of you had definitions in your bylaws, but adding them in the Act creates consistency.
 - **“Credit Union”** means a cooperative, nonprofit association incorporated under the laws of this state pursuant to this chapter for the purposes described in subsection (1).
 - **“Immediate Family”** means a spouse, a child, a sibling, a parent, a grandparent, or a grandchild and includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
 - **“Membership shares”** means a fee paid to the credit union to be a member. The fee is held by the credit union and may be invested by the credit union. The fee must be set in the bylaws of the credit union.
 - **“Official”** means a member of the board of directors, supervisory committee, or credit committee of the credit union and includes individuals elected by the board of directors to serve as executive officers described in 32-3-408.
 - **“Shares”** means a balance of funds, minus membership shares, held by a credit union and established in accordance with standards specified by the credit union. The term includes general references to shares as well as share accounts, share certificates, share draft accounts, custodial accounts, individual retirement accounts, payable on death accounts, trust accounts, money market accounts, share checking accounts, and business share accounts.

Action Required: Review your bylaws and membership practices to ensure they fit with the new definition of ‘immediate family’ and be conscientious about who fits the definition of ‘official’ since it is referenced in other places in the Act.

- **Organization procedure-** Other than minor wording adjustments, Section 2 increases the allowable maximum par value of a share from \$25 to \$50. Most of our credit unions still only have a \$5 share, but wanted the ability to have an increased upper limit. In addition, we removed an unreasonable timeframe for the Division to respond to applications for new credit unions and added a statute reference for the Montana Administrative Procedure Act.

Action Required: None

- **Liquidation-** 10 day timeframes are adjusted to 14 to be consistent with 2011 and 2012 amendments of the Uniform District Court Rules and the Montana Rules of Civil Procedure.
Action Required: None
- **Merger-** Recent mergers have resulted in confusion about what documents are required to be filed with the Division of Banking and the Secretary of State's office, so this wording clarifies that the articles of merger must be filed with the SOS office.
Action Required: None, unless you are involved in a merger. Confer with Division of Banking on experience with recent filings if merger is in progress or planned.
- **General Powers-** Clarifying language to ensure a credit union can make deposits in a cooperative bank, revising the verbiage of 'central type credit union organization' to say 'corporate credit union' and adding the explicit authority for credit union to act as a custodian or trustee for medical care savings accounts. [Those accounts did not exist in their current form in 2003 when the Act was last updated and authority to offer them has been granted to some through the "Wild Card" provisions of §32-3-206 M.C.A. (allows the Division to approve activities that federal credit unions can engage in; application is on an individual credit union basis.)]
Action Required: None, unless your credit union wanted to offer medical savings accounts or HSAs and had not applied for authority. You will be able to offer them as of October 1 with this new authority, even if not directly approved by the Division of Banking.
- **Officials-** Several sections deal with the election and appointment of officials, including removal of conflicting duties and making it clear that the supervisory committee (similar to an audit committee) is required. The Division is given rulemaking authority for the supervisory committee to allow their duties to be updated more quickly as fraud methods and services evolve. The timeframe to fill vacancies is clarified and references back to the definition of "official" are used. There are also clarifications of the credit committee duties for those who choose to have one.
Action Required: None, yet. [Division has not yet issued rules to implement this section. We will notify you as soon as they are available for comment. Ensure your credit union has a working supervisory committee.]
- **Audits-** Federally insured credit unions are already subject to the requirements set by the National Credit Union Administration, so Act verbiage now makes it clear that NCUA requirements under Part 715.8 and 741.202 are sufficient. They deal more effectively with differing size institutions and the actual process of the audit.
Action Required: Review credit union process for audits and verifications to ensure it meets the NCUA requirements. Policies may need to be updated and supervisory committee should be notified of the change, if any.

- **Removal of Officials-** Makes it clear that the board of directors has the authority for the credit committee and incorporates a reference to the definition of “official”.
- **Loans to Officials-** This section has had verbiage that disallowed loans at favorable rates to employees. The prohibition remains for officials, but we feel should be available to employees. That is a common practice in the financial institution industry, so will allow them to be competitive in their employee benefits packages. It also allows credit unions to encourage their staff to use and promote their own products and services to the membership.
Action Required: Loan policies may be adjusted to offer favorable rate loans to employees who are not “officials” after October 1, 2015. Board approval is likely needed for policy change. **MCUN has sample policies available; contact Tracy (tracy@mcun.coop) or Donya (donya@mcun.coop).
- **Investments-** Credit unions are asking for additional investment authority to include revenue bonds. It will be implemented by Division rulemaking.
Action Required: Watch for notice of rule making and discuss with CFO or investment manager if revenue bonds are a good fit for your credit union. Investment policies likely need reviewed and possibly updated to reflect.