

A-Engrossed
Senate Bill 592

Ordered by the Senate April 17
Including Senate Amendments dated April 17

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT (at the request of Credit Union Association of Oregon)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes Director of Department of Consumer and Business Services to set by rule filing fee for credit union articles of incorporation and bylaws.

Permits credit unions to establish additional places of business for fee that Director of Department of Consumer and Business Services sets by rule. Removes requirement that credit union's charitable donations or contributions be subject to rules of Director of Department of Consumer and Business Services. Permits credit union to sell checks, money orders and other money transfer instruments to credit union members and to cash checks or money orders and send or receive domestic or international electronic funds transfers. **Limits fees credit unions may charge for cashing checks or money orders.**

Permits credit unions that have primarily low-income membership to accept deposits from persons that are not members and to issue uninsured secondary capital accounts subordinate to other claims against credit union.

Removes requirement that credit union member inform credit union in writing of member's intention to withdraw. Permits credit union, rather than credit union board of directors, to expel credit union member for certain reasons, establishes notification required for expulsion and requires opportunity for member to apply for reinstatement.

Permits person who is not credit union member to be guarantor or coobligor on loan to credit union member.

[Declares emergency, effective on passage.]

A BILL FOR AN ACT

1
2 Relating to credit unions; creating new provisions; and amending ORS 723.012, 723.032, 723.152,
3 723.202 and 723.502.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 723.012 is amended to read:

6 723.012. (1) Any seven or more residents of this state or another appropriate jurisdiction, of legal
7 age, who have a common bond referred to in ORS 723.172 may organize a credit union and become
8 charter members thereof by complying with this section.

9 (2) The incorporators shall execute the documents, including the articles of incorporation, required
10 by the Director of the Department of Consumer and Business Services to apply for a credit
11 union charter. The articles shall state:

12 (a) The name, which shall include the words "credit union" and which shall not be the same as
13 that of any other existing credit union in this state.

14 (b) The location where the proposed credit union is to have its principal place of business.

15 (c) The par value, if any, of the shares of the credit union shall be defined in the bylaws.

16 (d) The full name, residence and post-office address of each of the incorporators.

17 (e) The number of its directors, which shall not be less than five, and the names of the

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 incorporators who shall be its directors until the first annual meeting of shareholders.

2 (f) The number of members of the supervisory committee, which shall not be less than three, and
3 the name, residence and post-office address of the persons who are to serve as members until the
4 first meeting of directors.

5 (3) The incorporators shall prepare and adopt bylaws for the general government of the credit
6 union, which shall be consistent with this chapter.

7 (4) The incorporators shall forward the articles of incorporation and the bylaws to the Director
8 of the Department of Consumer and Business Services, together with a filing fee [of \$150] **in an**
9 **amount that the director sets by rule**. The director shall issue a certificate of approval if the
10 articles and the bylaws are in conformity with this chapter and the director is satisfied that the
11 ability of the proposed credit union to operate successfully is favorable. The director shall return
12 a copy of the bylaws and the articles to the applicants or their representatives, which shall be
13 preserved in the permanent files of the credit union. The application shall be acted upon by the di-
14 rector within 60 days.

15 (5) The subscribers for a credit union charter shall not transact any business until formal ap-
16 proval of the articles and bylaws has been received.

17 **SECTION 2.** ORS 723.032 is amended to read:

18 723.032. (1) A credit union may establish a place of business or change [its] **the credit union's**
19 place of business within this state upon written notice to the Director of the Department of Con-
20 sumer and Business Services.

21 (2) A credit union may establish additional places of business upon written application to the
22 director. The application shall be accompanied by a [\$500] fee **in an amount that the director sets**
23 **by rule**. The fee shall be paid only with applications for the establishment of new places of business.
24 Except as provided in subsection (3) of this section, mobile facilities described in subsection (3) of
25 this section are considered new places of business. The fee is not required to be paid with applica-
26 tions relating to the acquisition or relocation of existing places of business. The director may ap-
27 prove or disapprove the application. If the director does not disapprove an application within 30
28 days after a completed application is received, the application shall be considered approved.

29 (3) A credit union may establish one or more mobile facilities to engage in credit union oper-
30 ations. Mobile facilities of a credit union having the membership described in ORS 723.172 (2)(a) may
31 operate in this state or in other states. Mobile facilities of a credit union having the membership
32 described in ORS 723.172 (2)(b) may operate only within the well-defined local community, neigh-
33 borhood or rural district served by the credit union. An application and fee are not required under
34 this section for mobile facilities that exercise permissible credit union powers or engage in permis-
35 sible credit union activities but that do not accept deposits.

36 (4) The director may limit or restrict the ability of a credit union to establish additional places
37 of business upon written notice to the credit union if the director determines that the safety and
38 soundness of the credit union would be adversely affected by any addition.

39 (5) A credit union may share office space with one or more credit unions and contract with any
40 person or corporation to provide facilities or personnel.

41 **SECTION 3.** ORS 723.152 is amended to read:

42 723.152. In addition to the powers conferred by the general corporation law a credit union may,
43 subject to the restrictions and limitations contained in this chapter and [its] **the credit union's**
44 bylaws:

45 (1) Make contracts.

- 1 (2) Sue and be sued.
- 2 (3) Adopt, *[and]* use **and alter** a common seal *[and alter same]*.
- 3 (4) Acquire, lease, hold and dispose of property, either in whole or in part, necessary or inci-
4 dental to *[its]* **the credit union's** operations.
- 5 (5) At the discretion of the board of directors, require **any person admitted to membership**
6 **to pay** *[the payment of]* an entrance fee or annual membership fee, or both, *of any person admitted*
7 *to membership*.
- 8 (6) Receive savings from *[its]* members **of the credit union** in the form of various classes of
9 shares, deposits or deposit certificates, deposit accounts or special-purpose thrift accounts.
- 10 (7) Receive from *[its]* members **of the credit union** or from another credit union deposits or
11 deposit certificates, deposit accounts or various classes of shares payable on nonnegotiable request.
- 12 (8) Lend *[its]* **the credit union's** funds to *[its]* members **of the credit union** and **to other** credit
13 unions as provided in this chapter.
- 14 (9) Acquire and lease personal property at the request of a member **of the credit union** who
15 wishes to lease the property on terms requiring payment, during the term of the lease, of rents that
16 exceed the total expenditures made by the credit union for the acquisition, ownership, financing and
17 protection of the property. Rents may include residual value payments that are the obligation of a
18 responsible third party.
- 19 (10) Borrow from any source in accordance with policy established by the board of directors and
20 issue debentures pursuant to a plan approved by the Director of the Department of Consumer and
21 Business Services. The debentures shall be subordinate to the shares and deposits of the credit un-
22 ion.
- 23 (11) Discount and sell any eligible obligations, subject to rules adopted by the Director of the
24 Department of Consumer and Business Services.
- 25 (12) Sell all or substantially all of *[its]* **the credit union's** assets or purchase all or substantially
26 all of the assets of another credit union, subject to the approval of the Director **of the Department**
27 **of Consumer and Business Services**.
- 28 (13) Invest surplus funds as provided in this chapter.
- 29 (14) Make deposits in legally chartered banks, savings banks, savings and loan associations,
30 trust companies and credit unions.
- 31 *[(15) Assess charges to members in accordance with the bylaws for failure to meet promptly their*
32 *obligations to the credit union.]*
- 33 **(15) Assess charges to a member of the credit union in accordance with the credit union's**
34 **bylaws for the member's failure to meet the member's obligations to the credit union**
35 **promptly.**
- 36 (16) Hold membership in other credit unions organized under this chapter or other state or
37 federal laws, and in other associations and organizations composed of credit unions.
- 38 (17) Declare dividends, pay interest on deposit and deposit certificate accounts and pay interest
39 refunds to borrowers as provided in this chapter.
- 40 (18) Offer products and services reasonably related to the purposes of a credit union as set forth
41 in ORS 723.006.
- 42 (19) Receive deposits from the federal government or this state, or any agency or political sub-
43 division thereof.
- 44 (20) Make donations or contributions to any civic, charitable, political or community organiza-
45 tion as authorized by the board of directors, *subject to any rules adopted by the director*].

1 (21) Act as a custodian of qualified pension funds of members **of the credit union** if permitted
2 by federal law.

3 (22) Purchase or make available insurance for *[its]* **the credit union's** directors, officers, agents,
4 employees and members.

5 (23) Allow *[its]* members **of the credit union** to use share accounts, deposit accounts or deposit
6 certificate accounts as share draft accounts as provided in ORS 723.434.

7 (24) Provide digital signature verification or other electronic authentication services to *[its]*
8 members **of the credit union**.

9 (25) Act as trustee or custodian for members **of the credit union** under any written trust in-
10 strument or custodial agreement in connection with a tax-advantaged savings plan authorized under
11 the Internal Revenue Code, including but not limited to individual retirement, deferred compen-
12 sation, education savings and health savings accounts, provided that the trust instrument or custo-
13 dial agreement requires all funds subject to the instrument or agreement to be invested exclusively
14 in share or deposit accounts in the credit union. The State of Oregon, or the applicable
15 instrumentality or municipality, is considered to be a member **of the credit union** with respect to
16 such deposits, except that the state or other instrumentality or municipality is not entitled to vote,
17 hold office or otherwise participate in the management or operation of the credit union.

18 (26) Indemnify *[its]* **the** directors, officers, employees and committee members or other volun-
19 teers **of the credit union** in accordance with the provisions of *[its]* **the credit union's** articles,
20 bylaws and the indemnification provisions of ORS chapter 60.

21 (27) **Sell negotiable checks, including traveler's checks, money orders and other money**
22 **transfer instruments, including domestic and international electronic funds transfers, to**
23 **persons eligible for credit union membership under ORS 723.172, whether or not such persons**
24 **are members of the credit union.**

25 (28) **For a fee, cash checks and money orders and send or receive domestic and interna-**
26 **tional electronic funds transfers for persons eligible for credit union membership under ORS**
27 **723.172, whether or not such persons are members of the credit union. The fee a credit union**
28 **may charge for cashing checks or money orders in accordance with this subsection may not**
29 **exceed the following amounts, as appropriate:**

30 (a) **For a check or money order issued by the federal government or an agency of the**
31 **federal government, by this state or an agency of this state, by any other state or political**
32 **subdivision thereof or by the government of the municipality in which a person is cashing**
33 **the check or money order, or for a check that is a payroll check drawn against an account**
34 **held in a financial institution in this state:**

35 (A) **\$5 or two percent of the face value of the check or money order, whichever is**
36 **greater, if the person cashing the check or money order provides valid and current**
37 **government-issued photo identification; or**

38 (B) **\$5 or 2-1/2 percent of the face value of the check or money order, whichever is**
39 **greater, if the person cashing the check or money order does not provide valid and current**
40 **government-issued photo identification.**

41 (b) **For a check or money order not described in paragraph (a) of this subsection:**

42 (A) **\$5 or three percent of the face value of the check or money order, whichever is**
43 **greater, if the person cashing the check or money order provides valid and current**
44 **government-issued photo identification; or**

45 (B) **\$5 or 3-1/2 percent of the face value of the check or money order, whichever is**

1 **greater, if the person cashing the check or money order does not provide valid and current**
2 **government-issued photo identification.**

3 [(27)] (29) Exercise other powers that are necessary to carry out the credit union's purpose.

4 **SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS chapter 723.**

5 **SECTION 5. (1) The Director of the Department of Consumer and Business Services by**
6 **rule may establish guidelines for determining whether a credit union predominantly serves**
7 **low-income members. If the director, using the guidelines established in accordance with this**
8 **subsection, determines that a credit union predominantly serves low-income members, the**
9 **credit union may:**

10 (a) **Receive deposits from a person that is not a member of the credit union and allow**
11 **the person to hold shares in the credit union; and**

12 (b) **Issue secondary capital accounts that are subject to any terms and conditions that**
13 **the Director of the Department of Consumer and Business Services may prescribe by rule.**

14 (2) **For purposes of this section, "secondary capital account" means a deposit or share**
15 **account that is not insured by the National Credit Union Share Insurance Fund, or another**
16 **primary share insurer approved by the Director of the Department of Consumer and Busi-**
17 **ness Services, and that is subordinate to all other claims against the credit union, including**
18 **claims of creditors, owners of share accounts and the National Credit Union Share Insurance**
19 **Fund or another insurer approved by the Director of the Department of Consumer and**
20 **Business Services. Secondary capital accounts that the credit union issues in accordance**
21 **with this section are equity as defined in ORS 723.001 for the purposes of ORS 723.631 and**
22 **for any other purpose.**

23 (3) **The powers set forth in this section are in addition to the powers the credit union**
24 **has under ORS 723.152.**

25 **SECTION 6.** ORS 723.202 is amended to read:

26 723.202. [(1) *A member desiring to withdraw from a credit union shall file a written notice of in-*
27 *tention to withdraw.*]

28 [(2)] (1) Subject to subsection [(3)] (2) of this section, [*the board of directors*] **a credit union** may
29 expel any member **of the credit union** who:

30 (a) Has not carried out the member's engagements with the credit union;

31 (b) Has been convicted of a criminal offense;

32 (c) Fails to comply with the provisions of this chapter or of the credit union's articles, bylaws
33 or policies;

34 (d) Threatens, harasses or abuses any member, employee, board or committee member or agent
35 of the credit union; or

36 (e) Habitually neglects to pay the member's debts or becomes insolvent or bankrupt.

37 [(3)] (2) **A credit union that expels** a member [*shall not be expelled until the member has been*
38 *informed*] **shall inform the member** in writing of the reasons for the expulsion and [*has had*] **give**
39 **the expelled member** reasonable opportunity to [*be heard*] **request the credit union's board of**
40 **directors to reinstate the member.** Members of a credit union who withdraw or are expelled shall
41 not be relieved of any liability to the credit union. The amounts paid in on shares or deposited by
42 such members, together with any dividends credited to their shares and any interest which has ac-
43 crued on their deposits, shall be repaid to them in the order of their withdrawal or expulsion, as
44 funds become available therefor, but the credit union may deduct from such payments any sums due
45 [*it*] **to the credit union** from such members.

1 **SECTION 7.** ORS 723.502 is amended to read:

2 723.502. A credit union may [*loan*] **make loans** to members **of the credit union** for such pur-
3 pose and upon such security and terms as the credit committee, credit manager or loan officer ap-
4 proves. **A person who is not a member of the credit union may be a guarantor or coobligor**
5 **on a credit union's loan to a member of the credit union.**

6 **SECTION 8.** Section 5 of this 2007 Act and the amendments to ORS 723.032, 723.152,
7 723.202 and 723.502 by sections 2, 3, 6 and 7 of this 2007 Act apply to credit unions authorized
8 to do business in this state on or after the effective date of this 2007 Act.

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