

# Enrolled Senate Bill 177

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Commerce and Workforce Development for Northwest Credit Union Association)

CHAPTER .....

AN ACT

Relating to regulating credit union operations; amending ORS 723.292, 723.316, 723.532, 723.602 and 723.682.

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

**SECTION 1.** ORS 723.292 is amended to read:

723.292. The board of directors **of a credit union** shall meet at least [*monthly. If a quorum of directors is present at the annual meeting of the credit union's membership, the board of directors need not hold a board meeting for the month in which the annual meeting occurs.*] **10 times, in 10 separate months, during each calendar year.**

**SECTION 2.** ORS 723.316 is amended to read:

723.316. [*The credit committee may be dispensed with, and a credit manager empowered to approve or disapprove loans under conditions prescribed by the board of directors. In the event the credit committee is dispensed with, the procedures prescribed in ORS 723.302 to 723.312 do not apply, and no loans shall be made unless approved by the credit manager, except the credit manager may appoint one or more loan officers with the power to approve loans, subject to such limitations or conditions as the credit manager prescribes.*] **The board of directors of a credit union may appoint a chief credit officer in lieu of a credit committee to approve or disapprove loans under conditions that the board prescribes. If the board appoints a chief credit officer in lieu of a credit committee, the provisions of ORS 723.302 to 723.312 do not apply and the credit union may not make a loan unless the chief credit officer approves the loan, except that the chief credit officer may appoint one or more loan officers with the power to approve loans subject to limitations or conditions that the chief credit officer prescribes.**

**SECTION 3.** ORS 723.532 is amended to read:

723.532. (1) For the purposes of this section, "management team" means **the president or chief executive officer of a credit union or** an individual who holds a position in a credit union of vice president or higher [*or*] who has policymaking authority **or authority to approve loans.**

(2) A credit union may make [*loans*] **a loan** to [*individual directors, members*] **a director, a member** of the credit union's management team, [*credit managers and members*] **the chief credit officer or a member** of the credit union's supervisory and credit committees[, *provided that*] **if the credit union makes the loan under the following conditions:**

(a) The loan complies with *[all lawful requirements under]* **the provisions of** this chapter *[with respect]* **that apply** to loans to other borrowers and is not on terms more favorable than terms extended to other borrowers[;].

(b)(A) **Except as provided in subparagraph (B) of this paragraph, if** *[the credit union's board of directors has approved]* the combined aggregate amount of loans to an individual described in this subsection *[that]* exceeds five percent of the credit union's equity or \$100,000, whichever is less[; and], **the board of directors must approve making the loans in excess of the specified aggregate amount.**

(B) **The aggregate amount of loans specified in subparagraph (A) of this paragraph does not include a loan that is:**

(i) **For an amount that is equal to or less than the conforming loan limit that the Federal Housing Finance Agency specifies, or \$400,000, whichever is greater; and**

(ii) **Secured by a first lien on the borrower's principal residence.**

(c) The combined aggregate amount of loans to all individuals described in this subsection may not exceed 10 percent of the credit union's assets.

(d) **If a loan to a director, a member of the credit union's management team, the chief credit officer or a member of the credit union's supervisory or credit committee is not subject to approval by the board of directors under paragraph (b) of this subsection, after the loan is approved, the loan must be reported to the board of directors at the next meeting of the board of directors.**

(3)(a) Except as provided in *[this subsection or when approved by the board of directors of the credit union,]* **paragraph (b) of this subsection,** a director, officer or committee member may not become a surety or guarantor for a loan or advance made by the credit union **unless the board of directors approves.**

(b) A director, officer or committee member may *[without the approval of the board of directors]* become a surety or guarantor for the spouse or children of the director, officer or committee member **without the approval of the board of directors.**

(4) The Director of the Department of Consumer and Business Services may waive the requirements of this section by rule or order at a credit union's request. The Director of the Department of Consumer and Business Services may establish by rule a higher amount than the amount set in subsection (2)(b) of this section and may specify by rule the type of loans to directors, officers or committee members that the board of directors of the credit union must approve.

(5) **A director, a member of the credit union's management team, the chief credit officer or a member of the credit union's supervisory or credit committee may not participate in approving or disbursing a loan in which the director, member of the credit union's management team, chief credit officer or member of the credit union's supervisory or credit committee has a direct or indirect financial interest.**

**SECTION 4.** ORS 723.602 is amended to read:

723.602. **A credit union may invest** funds not used in loans to members *[may be invested]* **in:**

(1) *[In]* Securities, obligations or other instruments of or issued by or fully guaranteed as to principal and interest by the United States or *[any]* **an agency** *[thereof]* **of the United States** or in *[any]* **a trust or trusts** established directly or collectively in the *[same]* **securities, obligations or instruments described in this subsection.**

(2) *[In]* Obligations of *[any]* **a state of the United States, the agencies or instrumentalities of the federal government, the District of Columbia, the Commonwealth of Puerto Rico and the several territories organized by Congress, or** *[any]* **a political subdivision** *[thereof]* **of a state, district, commonwealth or territory identified in this subsection.**

(3) *[In]* Certificates of deposit or passbook type accounts issued by a state or national bank, mutual savings bank or savings and loan association.

(4) *[In]* Loans to or in shares or deposits of other credit unions.

(5) *[In]* Stocks, membership units or other ownership interests in, **or loans to**, a corporation, limited liability company or mutual association in an amount not to exceed *[one]* **five** percent of assets if:

(a) The ownership, *[or]* membership **or loan**, as applicable, is primarily confined to credit unions or organizations of credit unions; and

(b) The purposes for which the *[agency]* **corporation, limited liability company or mutual** association is organized are *[designed]* primarily to service or otherwise assist credit union operations.

*[(6) In addition to the limit specified in subsection (5) of this section, in loans to a corporation, limited liability company or mutual association, in an amount not to exceed one percent of assets, if:]*

*[(a) The ownership or membership, as applicable, is primarily confined to credit unions or organizations of credit unions; and]*

*[(b) The purposes for which the agency or association is organized are designed primarily to service or otherwise assist credit union operations.]*

*[(7)]* **(6)** *[In]* Shares of a credit union cooperative society organized under the laws of this state or of the laws of the United States in *[the]* **a** total amount not exceeding one percent of the shares, deposits[,] and surplus of the credit union.

*[(8)]* **(7)** *[In]* Loans to *[any]* **a national or state** credit union association or corporation[, *national or state,*] of which the credit union is a member, except that *[such investments shall]* **the loans must** be limited to **not more than five** *[two]* percent of the assets of the credit union.

*[(9)]* **(8)** *[In such]* Other investments *[as approved by]* the Director of the Department of Consumer and Business Services **approves** by rule or order.

**SECTION 5.** ORS 723.682 is amended to read:

723.682. (1) *[Any]* **A** credit union chartered in this state may, with the approval of the Director of the Department of Consumer and Business Services, merge with another credit union under the existing charter of the other credit union pursuant to *[any]* **a** plan *[agreed upon by]* **that** the majority of each board of directors of each credit union joining in the merger *[and approved]* **agrees to and that is approved** by the affirmative vote of a majority of the members of the merging credit union *[voting at a meeting of its members duly called for such purpose]* **that vote on the merger.**

(2) After *[agreement by]* the directors **agree to a plan** and *[approval by]* the members of the merging credit union **approve the plan**, the president and secretary of the credit union shall execute a certificate of merger, which shall set forth all of the following:

(a) The time and place of the meeting of the board of directors at which the **board agreed to the plan** *[was agreed upon]*.

(b) The vote in favor of *[the adoption of]* **adopting** the plan.

(c) A copy of the resolution or other action by which the **board agreed to the plan** *[was agreed upon]*.

(d) The time and place of the meeting of the members at which the **members approved the plan** *[agreed upon was approved]*.

(e) The vote by which the **members approved the plan** *[was approved by the members]*.

(3) The certificate and a copy of the plan of merger *[agreed upon shall]* **must** be forwarded to the director, certified by the director and returned to the continuing credit union within 30 days.

(4) *[Upon return of the certificate from]* **After** the director **returns the certificate**, all property, property rights and members' interest of the merged credit union shall vest in the continuing credit union without deed, indorsement or other instrument of transfer, and **the continuing credit union under whose charter the merger was effected assumes** all debts, obligations and liabilities of the merged credit union *[shall be deemed to have been assumed by the continuing credit union under whose charter the merger was affected]*. The rights and privileges of the members of the merged credit union *[shall]* remain intact.

*[(5) This section shall be construed, whenever possible, to permit a credit union chartered under the laws of any other state or of the United States to merge with one chartered under the laws of this state, or to permit one chartered under the laws of this state to merge with one chartered under the laws of any other state or of the United States.]*

(5) This section permits a credit union chartered under the laws of another state or of the United States to merge with a credit union chartered under the laws of this state, and a credit union chartered under the laws of this state to merge with a credit union chartered under the laws of another state or of the United States, to the same extent that the laws of this state permit two or more credit unions chartered under the laws of this state to merge.

(6)(a) After the board of directors of a credit union that is chartered in this state has approved a plan to merge with another credit union, if a member of the credit union opposes the plan to merge and wishes to inform other members of the credit union of the member's opposition, the member may submit a proposed statement of opposition to the credit union and may ask the credit union to disseminate the statement of opposition to the other members.

(b) If the credit union maintains on the Internet and publicizes to the credit union's members a public forum for communications concerning the plan to merge or other issues related to the credit union, the credit union, within 14 calendar days after receiving the proposed statement of opposition from the member and subject to paragraph (e) of this subsection, shall publish the statement of opposition on the public forum.

(c) If the credit union does not make a public forum available on the Internet and if the credit union received the member's proposed statement of opposition at least 28 days before the date on which the members of the credit union are to vote on the plan to merge, subject to paragraph (e) of this subsection, the credit union shall:

(A) Notify the member, within seven days after receiving the statement of opposition, of:

(i) Any limit, which may not be less than 500 words, that the credit union may impose on the length of the statement of opposition; and

(ii) The estimated reasonable cost to reproduce and mail the statement of opposition as a stand-alone document or the estimated cost to include the statement of opposition in any informational or persuasive material concerning the plan to merge that the credit union disseminates to credit union members. The credit union's estimate of the cost of including the statement of opposition in the credit union's material may not exceed two cents multiplied by the number of the credit union's members.

(B) Reproduce and mail the statement of opposition to the credit union's members or include the statement of opposition in the credit union's informational or persuasive materials concerning the plan to merge, within 10 days after receiving payment of the cost estimated in subparagraph (A)(ii) of this paragraph, if the member agrees to the limit the credit union imposes on the length of the statement of opposition and pays the cost at least 14 days before the date on which the members of the credit union are to vote on the plan to merge.

(d) For purposes of paragraph (c) of this subsection, informational and persuasive material concerning the plan to merge does not include a notice of the meeting at which the credit union's members are to consider the plan to merge, a summary of the merger plan or other items that state or federal law requires the credit union to send to credit union members.

(e)(A) The credit union shall notify the credit union member within seven days after receiving the proposed statement of opposition if the credit union declines to disseminate the statement of opposition because the statement of opposition:

(i) Is false or misleading with respect to a material fact at the time and in light of the circumstances in which the statement is made;

(ii) Omits a material fact that is necessary for the statement of fact not to be false or misleading;

(iii) Relates to a personal claim or grievance or solicits personal gain by or business advantage for any party;

(iv) Is not sufficiently related to the credit union's business or affairs;

(v) Impugns, directly or indirectly, a person's character, integrity or personal reputation or without an expressed factual basis charges a person with illegal, improper or immoral conduct; or

(vi) Impugns the stability or soundness of the credit union.

(B) The credit union may decline to disseminate the proposed statement of opposition if the credit union member does not agree to the limits the credit union imposes on the length of the statement of opposition or fails within the time limits set in paragraph (c) of this subsection to pay the cost of mailing the statement or including the statement with the credit union's informational or persuasive material concerning the plan to merge.

(C) The credit union may not decline to disseminate the statement of opposition for reasons other than the reasons identified in subparagraph (A) or (B) of this paragraph.

(f)(A) A credit union member may appeal to the director the credit union's decision under paragraph (e)(A) of this subsection not to disseminate the credit union member's statement of opposition. An appeal under this paragraph is not a contested case, as defined in ORS 183.310, and a party to the appeal is not entitled to notice and an opportunity for a hearing under ORS 183.413 to 183.470. As part of the appeal, the credit union member shall provide the director with:

(i) The proposed statement of opposition;

(ii) A statement of reasons for disagreeing with the credit union's decision under paragraph (e)(A) of this subsection not to disseminate the statement of opposition; and

(iii) The credit union member's name, address and telephone number or other contact information.

(B) Before issuing an order under this paragraph, the director shall request from the credit union a statement of reasons for declining to disseminate the proposed statement of opposition. The director shall consider the credit union member's proposed statement of opposition and statement of reasons and the credit union's statement of reasons and shall arrive at an independent determination as to whether the credit union correctly declined to disseminate the credit union member's proposed statement for the reasons identified in paragraph (e)(A) of this subsection.

(C) The director by order shall uphold the credit union's decision under paragraph (e)(A) of this subsection or shall require the credit union to disseminate the credit union member's proposed statement of opposition in accordance with the provisions of this subsection. The director's order is subject to appeal only as provided in ORS 183.484.

---

**Passed by Senate April 19, 2011**

.....  
Robert Taylor, Secretary of Senate

.....  
Peter Courtney, President of Senate

**Passed by House June 2, 2011**

.....  
Bruce Hanna, Speaker of House

.....  
Arnie Roblan, Speaker of House

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

.....  
Kate Brown, Secretary of State