

HCS HB 465 -- CREDIT UNIONS (Wells)

COMMITTEE OF ORIGIN: Committee on Financial Institutions

This substitute changes the laws regarding the Division of Credit Unions within the Department of Insurance, Financial Institutions and Professional Registration. In its main provisions, the substitute:

(1) Requires the division director and each employee, before entering upon the discharge of his or her duties, to take an oath to not reveal any facts, conditions, or affairs of any credit union that he or she may have knowledge of by virtue of his or her official position unless required to do so by law;

(2) Prohibits the division director and any employee who participates in the examination of any credit union or who may be called upon to make an official determination, other than as a member of the Credit Union Commission, from being an officer or director of any credit union regulated by the division or from receiving any payment or gratuity from any of these organizations, negotiating loans for others, or being indebted to any state-chartered credit union;

(3) Authorizes the division director to compel the production of documents, the attendance of, and to administer oaths to any person having knowledge on any issue involved with an examination or investigation. The division director may seek judicial enforcement of an administrative subpoena by application to the appropriate court and will be subject to the same defenses or to a protective order as deemed appropriate by the court in accordance with Missouri Supreme Court rules. All information must be held in confidence absent a court's finding of compelling reasons for disclosure;

(4) Prohibits a state-chartered credit union, its director, or any of its officers or employees from being charged with libel, slander, or defamation for any good faith communications with the division director or any division employee;

(5) Allows the division director to serve a written notice to any person of his or her intention to remove the person from office when it appears that any person conducting the affairs of a credit union has committed a violation of any law or regulation or a cease and desist order, has violated any written agreement or condition imposed in writing by the division director, has engaged in unsafe or unsound practice, or has committed or engaged in a dishonest act. If the division director finds it necessary to protect any credit union or its members, he or she can serve written notice on the person and suspend or prohibit

the person from participating in any manner in the conduct of the affairs of the credit union or from any other credit union supervised by the division director unless the division director gives written consent allowing for participation in any other credit union;

(6) Requires the notice of intention to remove a person from or to prohibit his or her participation in a credit union to contain a statement of the facts constituting the grounds for removal or prohibition and to set a hearing time and place. Any person within 10 days of suspension or prohibition from participation in the conduct of the affairs of a credit union can apply for a stay of the suspension or prohibition with the circuit court of the county in which the credit union is located or the Cole County circuit court pending the completion of the administrative proceedings under the notice served upon the person;

(7) Specifies that if at any time there are not enough members to constitute a quorum because of the suspension of one or more members of any board of directors, the remaining members will be vested with the powers or functions of the board until there is a quorum. If all directors have been suspended, the division director will appoint temporary directors;

(8) Removes provisions regarding fees and charges being added to the reserve fund of a credit union and requires all credit unions to establish and maintain sufficient reserves to qualify for and maintain federal share insurance and to meet any requirements concerning minimum reserves established by a regulation of the division director; and

(9) Requires a credit union that is merging to mail or deliver a notice to each member of the meeting to vote upon the merger between 14 and 30 days prior to the meeting. All members must be allowed to vote on the merger or consolidation plan at the meeting or by written or electronic ballot.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.