

(b) The individual performing the comprehensive audit has a material direct or indirect financial interest in any closely held business investment with an official or employee of the domestic credit union.

(c) A situation, condition, or relationship exists that, in the opinion of the commissioner, prevents the individual performing the audit from performing the audit in an objective and independent manner.

(5) A supervisory committee or individual performing an audit under this section shall prepare and retain documentation sufficient to demonstrate that the audit was performed in accordance with the requirements of this section. The audit working papers shall include at least all of the following:

(a) The planning of the audit.

(b) The nature, timing, and extent of the auditing procedures performed.

(c) The conclusions and recommendations reached by the auditor from the information obtained by him or her.

(6) As used in this section:

(a) “Audit” means a comprehensive review of the internal policies, procedures, and controls of the domestic credit union and its compliance with them that is sufficient for the auditor to reach a reasonable conclusion that the financial statements of the domestic credit union fairly and accurately represent the condition of the domestic credit union.

(b) “Professionally qualified individual” means an individual who is self-employed, employed by another person, or employed by an organization, whose usual and customary occupation includes performing audits of businesses or other organizations and reporting audit findings to the board of the organization and authorized third parties and whose education and experience levels are similar to other individuals engaged in auditing as a usual and customary occupation.

490.345 Supervisory committee; duties; appointment; vacancies.

Sec. 345. (1) A domestic credit union may have a supervisory committee. If authorized by the bylaws, 1 director who is not an officer of the domestic credit union may serve as a member of the supervisory committee. Otherwise, a director may not serve as a member of the supervisory committee.

(2) If a domestic credit union has a supervisory committee, the supervisory committee may do any of the following:

(a) By majority vote, call a special meeting of the members to consider any matter submitted to the special meeting of the members by the committee.

(b) By a unanimous vote, suspend any member of the credit committee and report the suspension and the reason for the suspension to the credit union board. At its next meeting, the credit union board shall vote on whether to remove or reinstate the suspended credit committee member. A 2/3 vote of the credit union board is required to remove the suspended credit committee member.

(c) By a unanimous vote, suspend a member of the credit union board for cause.

(d) Access any credit union records.

(3) If a domestic credit union has a supervisory committee and the members elect the committee, the committee shall fill vacancies on the committee until the next meeting of the members. If a domestic credit union has a supervisory committee and the credit union board appoints the committee, the credit union board shall fill vacancies on the supervisory committee.

PART 4

MEMBERS

490.351 Annual meeting; special meeting; voting; removal of member.

Sec. 351. (1) A domestic credit union shall hold an annual meeting of the members each calendar year in the manner indicated in the bylaws. The members shall elect the credit union board at the annual meeting.

(2) A domestic credit union may hold a special meeting of the members in the manner indicated in the bylaws.

(3) At any meeting of the members, a member with 1 or more shares has 1 vote on any matter submitted to the members. A member may not vote by proxy. A member who is not a natural person may vote through an agent with authority to vote on that member's behalf.

(4) The members of a domestic credit union may remove a member of the credit union board or a credit or supervisory committee member elected by the members of the domestic credit union from office but only at a special meeting of the members called for that purpose.

490.352 Domestic credit union; membership; composition; field of membership; application; approval by commissioner; revision; continuation as member.

Sec. 352. (1) The membership of a domestic credit union is comprised of each person that organized the domestic credit union, and each person that meets all of the following:

(a) The person belongs to a group of persons that is within the domestic credit union's field of membership.

(b) The person is accepted by the domestic credit union as a member.

(c) The person pays any entrance or membership fee required by the domestic credit union.

(d) The person pays for 1 or more shares, including a membership share if the domestic credit union requires ownership of a membership share.

(e) The person complies with any other requirement for membership contained in the domestic credit union's bylaws.

(2) The credit union board of a domestic credit union shall establish the field of membership for a domestic credit union. The field of membership shall consist of 1 or more of the following:

(a) One or more groups of any size that have a common bond of occupation, association, or religious affiliation.

(b) One or more groups composed of persons whose common bond is residence, employment, or place of religious worship within a geographic area composed of 1 or more school districts, counties, cities, villages, or townships.

(c) One or more groups whose common bond is common interests, activities, or objectives.

(3) One or more credit unions may serve 1 or more groups described in subsection (2).

(4) A credit union board that establishes or revises the field of membership of the domestic credit union shall submit the proposed or revised field of membership to the commissioner for approval on an application form provided by the commissioner. The commissioner shall promptly notify an applicant when he or she determines that an application is complete and the date of that determination. If the application seeks to revise a field of membership to include 1 or more groups described in subsection (2)(b), the commissioner may require that the applicant provide additional information regarding the common bond of persons within the proposed geographical area or areas. The commissioner by rule, order, or declaratory ruling shall establish standards for obtaining this additional information.

(5) The commissioner has 60 days after the date of determination described in subsection (4) to approve or disapprove of an application under subsection (4). In reviewing an application under subsection (4), the commissioner must first determine whether the proposed field of membership meets the common bond requirements of subsection (2). If the commissioner determines that the proposed field of membership does meet the common bond requirements of subsection (2), then the commissioner may only disapprove of the application on the basis of safety and soundness of the domestic credit union. If the commissioner does not approve or disapprove of the application, or extend the 60-day period under subsection (6), within that 60-day period, the application is considered approved as of the day after the 60-day period.

(6) The commissioner may extend the 60-day period described in subsection (5) for 1 or more additional 60-day periods for administrative reasons or to allow for public comment if the commissioner delivers notice of each 60-day extension in writing to the domestic credit union before the 60-day period and any prior 60-day extensions expire. An extension notice shall explain the reason for the extension. If the commissioner does not approve or disapprove of the application, or grant an additional 60-day extension, within a 60-day extension period, the application is considered approved as of the day after the 60-day extension period. The commissioner may grant any number of 60-day extensions, but the domestic credit union may treat any extension after the third 60-day extension as a disapproval of the application and may pursue any administrative or legal remedies available for a disapproval.

(7) If authorized in the bylaws of the domestic credit union, a member that is no longer in the field of membership of the domestic credit union because the field of membership is revised under this section, or the member leaves the field of membership, may continue as a member, on the same basis as any other member, or on a different basis if the bylaws establish a different basis for that continued membership.

(8) A domestic credit union shall respond to an application for membership within 30 calendar days after receiving it. If the domestic credit union determines that there is a sound business reason for the action, a domestic credit union may deny membership to any applicant for membership.

490.353 Membership; conditions.

Sec. 353. (1) Except as provided in this part, ownership of a share is a condition of membership in a domestic credit union. A domestic credit union may require ownership of a membership share rather than a share as a condition of membership. Except as provided in this section, a member may own only 1 membership share.

(2) A domestic credit union may accept and maintain deposits under section 401(2)(x) without the depositor subscribing to or paying for a share in the domestic credit union.

(3) If it is comprised for the most part of the same general group as the membership of the domestic credit union, a domestic credit union may accept a legal entity as a member of a domestic credit union.

(4) If the domestic credit union elects, a single account jointly owned by 2 or more individuals may serve as the basis for membership of any of those individual owners who are otherwise eligible for membership if the account contains at least 1 share for each of them.

(5) If an individual was a member of the domestic credit union at the time of his or her death, a domestic credit union may accept the estate of the individual as a member.

490.354 Acceptance of trust as member; conditions.

Sec. 354. (1) A domestic credit union may accept a trust as a member if any of the settlors living at the time of application are eligible for membership, or if none of the settlors are living at the time of application and 1 or more beneficiaries are eligible for membership.

(2) An account owned by 1 or more individuals may be titled or retitled in the name of a trust and not in the name of the individuals if all of the following are met:

(a) The trust is eligible for membership in the domestic credit union under subsection (1).

(b) Each owner consents in writing to titling or retitling the account in the name of the trust.

(c) Any beneficiaries listed on the account are removed as beneficiaries by the owners.

(d) The account is not an account that provides tax deferrals or any other tax benefit under state or federal law.

(3) If an account is retitled in the name of a trust under subsection (2), the membership of any individual or individuals who had owned all or an interest in the account is terminated unless he or she is a member based on ownership of another account, or he or she qualifies for, applies for, and is accepted into membership.

490.355 Designation as inactive account.

Sec. 355. A domestic credit union may allow a member to designate an account upon which his or her membership is based as inactive. If the account is the basis for the membership of more than 1 individual, each individual must agree to the designation. While an account is inactive, the member involved shall retain his or her membership but is not entitled to any of the privileges of membership. While an account is inactive, the domestic credit union shall not charge any fees to the account. The member who designated an account as inactive may remove the designation of inactive at any time. If the inactive designation is not removed within 5 years, the domestic credit union shall deliver all money or other property in the account to the department of treasury under the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265, and terminate any membership based on the account.

490.356 Minor; deposit, investment, or withdrawal.

Sec. 356. A domestic credit union may issue shares to and receive deposits from a minor. The minor may withdraw the deposits or shares and any dividends or interest on the deposits or shares. A deposit, investment in a share, or withdrawal under this section by a minor is valid and enforceable and the minor is considered an adult with respect to that deposit, investment, or withdrawal.

490.357 Termination or withdrawal of member.

Sec. 357. (1) A credit union board may terminate the membership of, or terminate some or all services to, a member who does any of the following:

(a) Causes a loss to the domestic credit union.

(b) Commits fraud against the domestic credit union or violates any law on the premises of the domestic credit union.

(2) Pending action by the credit union board at its next regularly scheduled meeting, a domestic credit union may immediately suspend any credit union services to a member who does any of the following:

(a) Causes a loss to the domestic credit union.

(b) Commits fraud or another misdeed against the domestic credit union or against a person on the premises of the domestic credit union.

(3) A member may withdraw from a domestic credit union at any time, but the domestic credit union may require a notice of withdrawal from the withdrawing member as a condition of withdrawal.

(4) When money becomes available, and after deducting all amounts owed to the domestic credit union by the member, a domestic credit union shall pay a person whose membership is terminated or who is a withdrawing member any amounts paid on shares or as deposits of the member and any dividends or interest accrued on the shares or deposits before the date of payment.

(5) Unless the withdrawal of a member occurs on a maturity date or within 7 days after a maturity date, a domestic credit union may require that a withdrawing member give a 60-day notice of intention to withdraw shares or a 30-day notice of intention to withdraw deposits. A domestic credit union that requires a notice of intention to withdraw may wait until the expiration of the applicable notice period before complying with subsection (4). A domestic credit union may waive an applicable notice period for a specific member or account in writing.

(6) After a termination or withdrawal under this section, the former member has no rights in the domestic credit union, but the termination or withdrawal does not release the former member from any remaining liability to the domestic credit union.

PART 5**CAPITAL****490.361 Capital; share payments; entrance fee; secondary capital; liability of member for acts, debts, or obligations of domestic credit union; placement of lien on member account.**

Sec. 361. (1) The capital of a domestic credit union consists of the payments that have been made to it by the members for shares. If authorized by the bylaws, a domestic credit union may charge an entrance fee.

(2) If at any time after the effective date of this act a federal credit union is authorized by the federal regulatory authority with jurisdiction and by federal law to utilize 1 or more forms of secondary capital other than capital stock, the commissioner may by rule, order, or declaratory ruling allow a domestic credit union to utilize 1 or more forms of secondary capital other than capital stock. The rule, order, or declaratory ruling must

include disclosure requirements concerning the conditions for return of the secondary capital and its liquidation priority.

(3) Unless otherwise provided by law or by agreement between the member and the domestic credit union, a member of a domestic credit union is not liable for the acts, debts, or obligations of the domestic credit union.

(4) Except as provided in this subsection or where prohibited by applicable state or federal law or otherwise agreed by contract, a domestic credit union has a lien on any share of a member, or any deposit account from which a member may withdraw for his or her own benefit without the consent of another person, for any obligation owed to the domestic credit union by that member or for any loan cosigned or guaranteed by that member. A domestic credit union does not have a lien on any individual retirement account or other account permitting tax deferrals or providing other tax benefits under state or federal law. A domestic credit union may refuse to allow a withdrawal from any account on which it has a lien if the member is delinquent in any outstanding obligation to the domestic credit union at the time of the withdrawal.

490.362 Dividend; declaration; payment; rate; amount.

Sec. 362. A credit union board may declare and pay a dividend on shares from current or accumulated net earnings, or both, but only after providing for required reserves, accrued and unpaid expenses, and established loan and lease losses. A domestic credit union may pay a dividend on partial or full shares and may pay the dividend at differing levels and at differing intervals based on the type of share accounts owned by a member, the liquidation priority of the share accounts, and the balances of the member's share accounts. A domestic credit union may determine the rate and amount of a dividend before the end of the dividend period involved. A domestic credit union shall not pay a dividend if payment would result in the insolvency of the domestic credit union.

490.363 Payment to general administrator or executor of deceased out-of-state resident.

Sec. 363. (1) If a deceased individual who resided in another state or country owns a share or deposit account in a domestic credit union, the credit union may pay all or part of the balance of the account to the special or general administrator or executor appointed in the state or country where the account holder resided at the time of death if the administrator or executor provides both of the following to the credit union:

(a) Authenticated copies of the letter or order of appointment authorizing him or her to collect, receive, and remove assets of the estate of the decedent.

(b) An affidavit by the administrator or executor that he or she is the representative of the estate of the decedent, that no proceeding is pending in any state with respect to the question of domicile of the decedent, and that to his or her knowledge and belief no letters or orders of appointment are outstanding in this state, no proceeding is pending in this state for the appointment of a fiduciary for the estate in this state, and there are no creditors of the estate in this state.

(2) A credit union that makes a payment to an administrator or executor under this section after receiving the affidavit and authenticated copies described in subsection (1) is released and discharged from liability to the same extent as if the credit union made the payment to a legally qualified resident executor or administrator.

PART 6

MERGER, CONSOLIDATION, CONVERSION

490.371 Merger of 1 or more credit unions.

Sec. 371. (1) Two or more domestic credit unions may merge into 1 of the credit unions, or into a newly formed domestic credit union, if all of the following are met:

(a) The credit union board of each constituent credit union by majority vote adopts a plan of merger that includes all of the following:

(i) The name of each constituent credit union and the name of the surviving credit union.

(ii) The terms and conditions of the proposed merger, including the manner and basis of converting the member shares in each constituent credit union into member shares in the surviving credit union, or into cash or other property, or into a combination of shares, cash, or other property.

(iii) A statement of any amendment to the certificate of organization of the surviving credit union affected by the merger or a statement that no changes are to be made in the certificate of organization of the surviving credit union.

(iv) Any other provisions concerning the proposed merger that the constituent credit unions consider necessary or desirable.

(b) If the credit union board of each constituent credit union adopts the plan of merger, the constituent credit unions submit the plan of merger to the commissioner. Each constituent credit union shall submit the time and place of the meeting of the credit union board at which it approved the plan, the vote of the directors on approving the plan, and a copy of the resolution of the credit union board approving the plan to the commissioner with the plan of merger.

(c) Subject to subsection (6), the members of each constituent credit union except the surviving credit union approve the plan of merger, at a special membership meeting called for that purpose or by mail ballot. If the vote is held at a special membership meeting, the credit union board shall provide each member with written notice of the meeting that states the purpose of the meeting, at least 10 days and not more than 30 days before the meeting. The plan of merger is approved if a majority of the members of the constituent credit union who vote on the merger vote in favor of the merger.

(d) If the membership of a constituent credit union approves of a plan of merger under subdivision (c), the credit union shall notify the commissioner that the plan of merger is approved, the vote by which the members approved the plan, and a copy of the meeting notice if the plan was approved at a special membership meeting or the ballot and mailing date and closing date if the plan was approved by mail ballot of the members.

(e) The commissioner grants final approval of the plan of merger. The commissioner shall grant final approval of the plan if all of the requirements of subdivisions (a) to (d) are met.

(2) One or more domestic credit unions may merge with 1 or more foreign credit unions if both of the following are satisfied:

(a) The merger is permitted by the law of the jurisdiction under whose law each foreign constituent credit union is organized and each foreign constituent credit union complies with that law in effecting the merger.

(b) Each domestic constituent credit union complies with subsection (1).

(3) If a plan of merger under subsection (1) or (2) is approved, each constituent credit union shall execute and file a certificate of merger with the commissioner that contains all of the following:

(a) The statements required in subsection (1)(a)(i) and (iii).

(b) A statement that the plan of merger has been approved by the members of the constituent credit unions required to vote under subsection (1)(c).

(c) A statement of any trade names the surviving credit union will use in this state if the commissioner approves. The statement shall specify each new trade name of the surviving credit union, each current trade name the surviving entity retains, and each trade name transferred to the surviving entity from another constituent credit union.

(d) The effective date of the merger, if later than the date the certificate of merger is filed. The commissioner shall not accept a certificate of merger and the merger is not effective if an effective date is specified that is more than 90 days after the date of filing.

(4) When a merger takes effect, all of the following apply:

(a) Every other constituent credit union merges into the surviving credit union and the separate existence of every constituent credit union except the surviving credit union ceases.

(b) All property, debts, causes of action, and other interests of, belonging to, or due to each constituent credit union are vested in the surviving credit union without further act or deed and without reversion or impairment.

(c) The surviving credit union has all of the liabilities of each constituent credit union.

(d) A proceeding pending against any constituent credit union may be continued as if the merger had not occurred or the surviving credit union may be substituted in the proceeding for the constituent credit union if the existence of the constituent credit union ceased.

(e) The certificate of organization of the surviving credit union is amended to the extent provided in the certificate of merger.

(f) The membership shares in each constituent credit union are converted into membership shares in the surviving credit union, cash, or other property as provided in the plan of merger. If a person is a member of more than 1 of the constituent credit unions, the person is entitled to only 1 membership in the surviving credit union.

(g) The surviving credit union is liable for, and is subject to service of process in a proceeding in this state for the enforcement of, any obligation of a domestic constituent credit union.

(5) If the surviving credit union in a merger under subsection (2) is a foreign credit union, and the surviving credit union transacts business in this state, it shall comply with the provisions of this act concerning foreign credit unions.

(6) The commissioner may waive the membership vote described in subsection (1)(c) for a constituent credit union if he or she determines that it is in the best interests of the membership of the constituent credit union or that the constituent credit union is insolvent or in imminent danger of becoming insolvent.

(7) Credit unions with different fields of membership may merge under this section.

490.372 Conversion of domestic credit union into foreign credit union.

Sec. 372. (1) A domestic credit union may convert into a foreign credit union under this section if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering

a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

(iii) A request for members' written comments on the proposed conversion.

(b) The credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. An affirmative vote of 2/3 of the entire credit union board is required to approve a plan of conversion. The plan of conversion shall meet all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion and contains a statement indicating any material differences in powers of the converted credit union.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The converted credit union is likely to be economically viable.

(c) The members of the credit union approve of the plan of conversion by a 2/3 vote of the members voting on the plan. Subject to subsection (2), a member may vote at a special meeting called to vote on the plan of conversion or by mail ballot. Before the vote, the credit union board shall call a special meeting of the members to provide information on the plan. At least 14 days before the meeting, the credit union board shall mail to each member a notice of the meeting and a ballot with a postage paid return envelope. The notice shall state the date, at least 15 days following the meeting, by which the member must return the ballot and the methods permitted for casting a vote, describe briefly the reasons for and the major positive and negative effects of the conversion, and state how members may obtain copies of the conversion plan. The credit union board shall count the votes cast by members upon the expiration of the time given to the members to return their ballots.

(d) The credit union files with the commissioner copies of member comments submitted to the credit union under subdivision (a)(iii) and certified copies of records of all proceedings held by the credit union board and members of the credit union.

(e) If required by the laws of the applicable jurisdiction, the credit union files with the commissioner a certified copy of the consent or approval of the appropriate regulatory authority with jurisdiction over foreign credit unions chartered by that authority.

(2) If the commissioner approves of the method before the vote, the credit union board may establish an alternative method for accepting votes from members of a converting domestic credit union on the plan of conversion under subsection (1)(c) if the alternative method is reasonably calculated to ensure each member has an opportunity to vote.

(3) If all of the conditions required by this section are met and the commissioner determines that any notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

490.373 Conversion of domestic credit union into mutual savings bank or mutual savings association.

Sec. 373. (1) A domestic credit union may convert into a mutual savings bank or mutual savings association if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

(iii) A request for members' written comments on the proposed conversion.

(b) The credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. An affirmative vote of 2/3 of the entire credit union board is required to approve a plan of conversion. The plan of conversion shall meet all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion and contains a statement indicating any material differences in powers between a credit union and a mutual savings bank or mutual savings association.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The conversion plan does not provide any official of the converting credit union with any remuneration or other economic benefit in connection with the conversion.

(iv) After conversion, the mutual savings bank or mutual savings association is likely to be economically viable.

(c) The credit union board shall call a special meeting of the members to vote on the conversion plan and mail to each member notice of the meeting and proposed conversion 90 days and 60 days before the date of the special meeting. Each notice shall include all of the following:

(i) A summary of the positive and negative effects of the proposed conversion.

(ii) A statement that the directors will not receive any remuneration or other economic benefit in connection with the conversion of the domestic credit union.

(iii) A statement that any interested person may obtain more detailed information about the conversion from the domestic credit union at its principal place of business, or by any method approved in advance by the commissioner.

(iv) A statement that the credit union board may substantively amend the proposed plan of conversion before the special meeting based on comments from regulatory authorities or any other reason and that the credit union board may terminate the proposed plan of conversion.

(v) Instructions for obtaining a copy of the conversion plan.

(vi) The date of the special meeting and a statement that the vote on the conversion will close on that date.

(vii) Any other information required by the commissioner.

(d) Thirty days before the special meeting of the members, the credit union board mails a notice of the meeting and proposed conversion. The notice shall include all of the information described in subdivision (c) for the 90-day and 60-day notices and shall include the date, time, and place of the special member meeting, a ballot and postage-paid return envelope, and a summary of the methods permitted for casting votes.

(e) If the plan of conversion is substantively amended by the credit union board, at least 30 days before the vote of the members on the plan the credit union board shall mail a notice to each member. The notice shall contain the information concerning the amended plan of conversion described in subdivision (c) for a notice under that subdivision.

(f) At a special meeting of members, the members by a 2/3 vote of members voting to approve of the conversion and the plan of conversion. A member may vote in person or by mail. With the prior approval of the commissioner, a domestic credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(g) The domestic credit union files with the commissioner all of the following:

(i) Certified copies of records of all proceedings held by the credit union board and members of the domestic credit union.

(ii) Copies of member comments submitted to the domestic credit union under subdivision (a)(iii).

(iii) If that consent or approval is required, a certified copy of the consent or approval of any state or federal regulatory authority with jurisdiction over the mutual savings bank or mutual savings association after the conversion and, if a holding company is to be formed in connection with the conversion, the regulations of the federal reserve board of governors or of the office of thrift supervision applicable to holding companies.

(iv) Verification that deposits in the converted mutual savings bank or mutual savings association qualify for federal insurance.

(2) If the requirements of this section are met and the commissioner determines that the notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

(3) Except as otherwise required by the commissioner, this section does not apply to a domestic credit union that submitted to the commissioner a plan of conversion into a mutual savings bank or mutual savings association before the effective date of this act.

490.374 Conversion of domestic credit union into bank, stock savings bank, or stock savings and loan association.

Sec. 374. (1) A domestic credit union may convert into a bank, stock savings bank, or stock savings and loan association if all of the following are met:

(a) At least 30 days before voting on a plan of conversion under subdivision (b), the credit union board gives written notice to the credit union's members that it is considering a conversion. The credit union board shall mail the notice to the credit union's members and shall not include any other mailing with the notice. The notice shall include all of the following:

(i) A brief statement of why the credit union board is considering the conversion.

(ii) A brief statement of the major positive and negative effects of the proposed conversion.

(iii) A complete and accurate description of the differences between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate.

(iv) A request for members' written comments on the proposed conversion.

(b) By an affirmative vote of 2/3 of the entire credit union board, the credit union board approves of a plan of conversion and files the plan of conversion with the commissioner. The conversion plan shall include all of the following:

(i) The member eligibility record date and the subscription offering priority established in connection with any proposed stock offering.

(ii) A business plan, including a detailed discussion of how the capital acquired in the conversion will be used, expected earnings for at least a 3-year period following the conversion, and a justification for any proposed stock repurchases.

(iii) A full appraisal report, prepared by an independent appraiser, of the value of the credit union and the pricing of the stock to be sold in the conversion transaction.

(iv) A legal opinion that any proposed stock offering complies with state and federal law.

(v) Copies of notices to be provided to members under subdivisions (d) and (e).

(c) The commissioner grants preliminary approval of the plan of conversion approved by the credit union board. The commissioner shall review the contents of the plan and member comments on the plan and grant preliminary approval of the plan if the commissioner is satisfied of all of the following:

(i) The conversion plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion, contains a complete and accurate description of the differences between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate, and contains a statement indicating any material differences in powers between a credit union and a bank, stock savings bank, or stock savings and loan association, as appropriate.

(ii) The conversion is not intended to circumvent a pending supervisory action initiated by the commissioner or another regulatory agency because of a concern over the safety and soundness of the credit union.

(iii) The conversion plan does not provide any official of the converting credit union with any remuneration or other economic benefit in connection with the conversion.

(iv) The conversion plan does not permit the converting credit union to loan funds or otherwise extend credit to any person to purchase the capital stock of the bank, stock savings bank, or stock savings and loan association.

(v) After conversion, the bank, stock savings bank, or stock savings and loan association is likely to be economically viable.

(d) If the commissioner grants preliminary approval under subdivision (c), the credit union board shall call a special meeting of the members to vote on the conversion plan and mail to each member notice of the meeting and proposed conversion 90 days and 60 days before the date of the special meeting. Each notice shall include all of the following:

(i) A summary of the positive and negative effects of the proposed conversion.

(ii) A statement that the directors will not receive any remuneration or other economic benefit in connection with the conversion of the domestic credit union.

(iii) A statement that any interested person may obtain more detailed information about the conversion from the domestic credit union at its principal place of business, or by any method approved in advance by the commissioner.

(iv) If the conversion plan includes a distribution of a portion of the credit union's net worth to members, a statement describing the amount of the distribution, the form of the distribution, and eligibility requirements to receive a distribution.

(v) The par value and approximate number of shares of capital stock to be issued and sold under the proposed plan of conversion.

(vi) A statement that savings and share account holders will continue to hold accounts in the converted bank, stock savings bank, or stock savings and loan association identical as to dollar amount and general terms, and that their accounts will continue to be insured.

(vii) A statement that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed before conversion.

(viii) A statement that the credit union board may substantively amend the proposed plan of conversion before the special meeting based on comments from regulatory authorities or any other reason and that the credit union board may terminate the proposed plan of conversion.

(ix) Instructions for obtaining a copy of the conversion plan.

(x) The date of the special meeting and a statement that the vote on the conversion will close on that date.

(xi) Any other information required by the commissioner.

(e) Thirty days before the special meeting of the members, the credit union board mails a notice of the meeting and proposed conversion to the members. The notice shall include all of the information described in subdivision (d) for the 90-day and 60-day notices and shall include the date, time, and place of the special member meeting, a ballot and postage-paid return envelope, and a summary of the methods permitted for casting votes.

(f) If the plan of conversion is substantively amended by the credit union board, at least 30 days before the vote of the members on the plan the credit union board shall mail a notice to each member. The notice shall contain the information concerning the amended plan of conversion described in subdivision (d) for a notice under that subdivision.

(g) At a special meeting of members, the members by a 2/3 vote of members voting to approve of the conversion and the plan of conversion. A member may vote in person or by mail. With the prior approval of the commissioner, a domestic credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(h) The domestic credit union files with the commissioner all of the following:

(i) Certified copies of records of all proceedings held by the credit union board and members of the domestic credit union.

(ii) Copies of member comments submitted to the domestic credit union under subdivision (a)(iii).

(iii) If that consent or approval is required, a certified copy of the consent or approval of any state or federal regulatory authority with jurisdiction over the bank, stock savings bank, or stock savings and loan association after the conversion and, if a holding company is to be formed in connection with the conversion, the regulations of the federal reserve board of governors or of the office of thrift supervision applicable to holding companies.

(iv) Verification that deposits in the converted bank, stock savings bank, or stock savings and loan association qualify for federal insurance.

(2) If the requirements of this section and the regulations of the federal agency providing federal deposit insurance regarding mutual-to-stock conversions are met, and

the commissioner determines that the notices to members were accurate, timely, and not misleading, and that conduct of the vote on the conversion plan was fair and lawful, the commissioner shall approve the conversion and the conversion is effective.

490.375 Rights, obligations, relationships, and trusts of converting credit union.

Sec. 375. (1) Except as provided in subsection (2), if a conversion becomes effective under section 372, 373, or 374, the converted entity is a continuation of the converting credit union and all the property and interests in property and every cause of action, right, privilege, interest, and asset of the converting credit union is immediately and without any conveyance, transfer, or other action vested in the converted organization. Every right, obligation, and relationship of the converting credit union to or in respect to any person, estate, creditor, member, depositor, trust, trustee, collective bargaining agreement, or beneficiary of any trust or fiduciary function continue unimpaired. The converted organization shall continue to hold all the rights, obligations, relationships, and trusts, and the duties and liabilities connected with them, and shall execute and perform each and every trust and relationship in the same manner as if the credit union had not converted. The conversion does not release the converted organization from its obligations to pay and discharge all the liabilities created by law or incurred by the converting credit union before the conversion, or any tax imposed by the laws of this state up to the day of the conversion in proportion to the time that has elapsed since the last preceding tax payment, or any assessment, penalty, or forfeiture imposed or incurred under the laws of this state before the date of the conversion.

(2) Within 1 year after the conversion, the commissioner may for good cause require a converting credit union to divest itself of an asset that does not conform to the legal requirements relative to assets acquired and held by the converted organization.

(3) If a converting credit union was appointed in a fiduciary capacity by a court or governmental tribunal, agency, or officer, the converted organization shall file an affidavit with the appointing authority setting forth the fact of conversion, the name and address of the converted organization, and the amount of its capital and surplus. A converted organization acting as a fiduciary by appointment of a court is subject to removal by a court of competent jurisdiction.

490.376 Conversion of foreign credit union into domestic credit union.

Sec. 376. (1) A foreign credit union may convert to a domestic credit union if all of the following are met:

(a) The foreign credit union complies with the applicable law under which it is chartered for a conversion under that law.

(b) The credit union board files a certificate of organization with the commissioner, approved and executed in triplicate by a majority of the credit union board.

(c) After executing the certificate of organization, a majority of the directors adopt bylaws for the governance of the credit union consistent with this act and execute any other agreements or documents and take any other action required to complete the conversion.

(d) After an examination of the credit union and the proceedings of the directors and members concerning the conversion, the commissioner approves of the certificate of organization filed under subdivision (b).

(e) If the commissioner approves the certificate of organization, the commissioner shall notify the applicants of the commissioner's decision and shall immediately issue a

certificate of approval attached to the duplicate certificate of organization and return it to the credit union. The certificate shall indicate that the conversion complies with the laws of this state and that after conversion the credit union and all its members, officers, and employees have the same rights, powers, and privileges and are subject to the same duties, liabilities, and obligations that apply to domestic credit unions under this act.

(2) The credit union shall pay the expenses of the examination described in subsection (1)(d), in an amount established by the commissioner. The amount paid for the examination is not refundable.

(3) If the commissioner approves a conversion, the credit union shall pay an operating fee determined under section 201, on a prorated basis for the operating fee period in which the conversion becomes effective. The date that the conversion becomes effective is the basis for calculating the proration.

(4) If a conversion becomes effective under this section, the converted domestic credit union is a continuation of the converting foreign credit union and all the property and interests in property and every cause of action, right, privilege, interest, and asset of the converting foreign credit union is immediately and without any conveyance, transfer, or other action vested in the converted domestic credit union. Every right, obligation, and relationship of the converting foreign credit union to or in respect to any person, estate, creditor, member, depositor, trust, trustee, collective bargaining agreement, or beneficiary of any trust or fiduciary function continue unimpaired. The converted domestic credit union shall continue to hold all the rights, obligations, relationships, and trusts, and the duties and liabilities connected with them, and shall execute and perform each and every trust and relationship in the same manner as if it had after the conversion assumed the trust or relationship and obligations and liabilities connected with the trust or relationship.

(5) Any directors of the foreign credit union converting to a domestic credit union under this section that meet the criteria described in section 341(8) may continue as directors of the domestic credit union.

PART 7

ADMINISTRATION

490.381 Disclosure of confidential information.

Sec. 381. Except as otherwise required by law, a director, officer, member of a committee, or employee of a domestic credit union shall not disclose any confidential information related to the conduct of the business of the domestic credit union that he or she has a duty not to disclose, including, but not limited to, personnel matters, matters involving actual or potential litigation or real estate transactions, or other matters related to strategic business endeavors of the domestic credit union, and shall not disclose any information concerning transactions between the domestic credit union and either its members or other persons. This subsection does not apply to any disclosure necessary to the conduct of the business of the domestic credit union.

490.382 Fiscal year.

Sec. 382. A domestic credit union shall use the calendar year as its fiscal year.

490.383 Discharge of duties by officers; standards; indemnification.

Sec. 383. (1) An official of a domestic credit union shall discharge the duties of his or her position in good faith and with that degree of diligence, care, and skill that an ordinarily

prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, an official may rely upon the opinion of legal counsel for the domestic credit union, upon the report of an independent appraiser selected with reasonable care by the board or by an officer of the domestic credit union, or upon financial statements of the domestic credit union represented to him or her to be correct by the general manager or the officer of the domestic credit union having charge of its records, or as stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the domestic credit union.

(2) A domestic credit union may indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, other than an action by or on behalf of the domestic credit union, because he or she is or was an official, employee, or agent of the domestic credit union or is or was serving at the request of the domestic credit union as an official, employee, or agent of 1 or more domestic credit unions or other profit or nonprofit enterprises, for attorney fees, judgments, penalties, fines, amounts paid in settlement, and other expenses actually and reasonably incurred by him or her in connection with the action, suit, or proceeding. A domestic credit union may only indemnify a person under this subsection if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members, and with respect to a criminal action or proceeding, if the person had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or a plea of *nolo contendere* or its equivalent, does not of itself create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members and with respect to a criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(3) A domestic credit union may indemnify a person who was or is a party to or is threatened to be made a party to a threatened, pending, or completed action or suit, by or on behalf of the domestic credit union to procure a judgment in its favor by reason of the fact that he or she is or was an official, employee, or agent of the domestic credit union or is or was serving at the request of the domestic credit union as an official, employee, or agent of 1 or more domestic credit unions or other profit or nonprofit enterprises, for actual and reasonable attorney fees, amounts paid in settlement incurred by the person in connection with the action or suit, and other expenses. A domestic credit union may only indemnify a person under this subsection if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the domestic credit union or its members and a domestic credit union shall not indemnify a person for a claim, issue, or matter in which the person has been found liable to the domestic credit union unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses that the court considers proper.

(4) To the extent that an official, employee, or agent of a domestic credit union is successful on the merits or otherwise in defense of an action, suit, or proceeding described in subsection (8), or in defense of any claim, issue, or matter in the action, suit, or proceeding, the domestic credit union shall indemnify the person for actual and reasonable attorney fees and other expenses incurred by him or her in connection with the action, suit, or proceeding and any action, suit, or proceeding brought to enforce the mandatory indemnification provided in this subsection.

(5) Unless ordered by a court, a domestic credit union shall indemnify a person under subsection (2) or (3) only for the action, suit, or proceeding specified by the domestic credit union in the determination described in this subsection and only if the domestic credit union obtains from 1 of the following a determination that indemnification of the person is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (2) or (3):

(a) The credit union board, by a majority vote of a quorum of the board consisting of directors who are or were not parties to the action, suit, or proceeding.

(b) If a quorum described in subdivision (a) is not obtainable, a committee of directors that consists of 2 or more directors who are or were not parties to the action, by majority vote.

(c) Independent legal counsel in a written opinion.

(d) The members.

(6) If a person is entitled to indemnification under subsection (2) or (3) for a portion of attorney fees, judgments, penalties, fines, amounts paid in settlement, and other expenses, but not for the total amount of the expenses, the domestic credit union may indemnify the person for the portion of the attorney fees, judgments, penalties, fines, amounts paid in settlement, or other expenses for which the person is entitled to indemnification.

(7) A domestic credit union may pay expenses incurred by a person in defending a civil or criminal action, suit, or proceeding described in subsection (2) or (3) before the final disposition of the action, suit, or proceeding if the domestic credit union receives an unlimited, general, secured, or unsecured guarantee by or on behalf of the person to repay the expenses if it is ultimately determined that the person is not entitled to indemnification from the domestic credit union.

(8) An indemnification or advance of expenses provided under subsections (2) to (7) is not exclusive of other rights to which a person seeking indemnification or advancement of expenses is entitled under the bylaws or an agreement. The total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking the indemnification or advance of expenses. An indemnification provided under subsections (2) to (7) continues after the person ceases to be an official, employee, or agent and inures to the benefit of the heirs, executors, and administrators of the person.

(9) As used in subsections (2) to (8), “domestic credit union” includes all other credit unions that become related to a domestic credit union by a consolidation or merger and the resulting or continuing credit union. A person who is or was an official, employee, or agent of a domestic credit union that is consolidated or merged into the domestic credit union or is or was serving at the request of a credit union that is consolidated or merged into the domestic credit union as an official, partner, trustee, employee, or agent of 1 or more other credit unions, or other profit or nonprofit enterprises is in the same position under this section with respect to the resulting or continuing credit union as he or she would if he or she had served the resulting or continuing credit union in the same capacity.

490.384 Participation in deliberation or board action.

Sec. 384. (1) Unless the matter involves setting dividends, loan rates, or fees for services or other general policy applicable to all members of the domestic credit union, a director, committee member, officer, or employee of a domestic credit union shall not in any manner, directly or indirectly, participate in the deliberation or board action on any matter that affects his or her pecuniary interest or the pecuniary interest of an entity other than the domestic credit union in which he or she is interested.

(2) If 1 or more directors are disqualified from participating in a matter before the credit union board pursuant to subsection (1), the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified directors, may by majority vote exercise all the powers of the board with respect to the matter under consideration. If all of the directors are disqualified, the members of the domestic credit union shall act on the matter.

(3) If 1 or more committee members are disqualified from participating in a matter before the committee pursuant to subsection (1), the remaining qualified committee members, if constituting a quorum with the disqualified committee members, may by majority vote exercise all the powers of the committee with respect to the matter under consideration. If all of the committee members are disqualified, the credit union board shall act on the matter.

(4) As used in this section, an individual is “interested” in an entity if he or she meets any of the following:

(a) Serves as a director, officer, or employee of the entity.

(b) Has a business or deposit relationship with the entity.

(c) Has an ownership interest in the entity that is more than a 10% equity interest.

(d) Has a business, financial, or familial relationship with an individual who he or she knows has a pecuniary interest in the entity.

490.385 Payment to person claiming interest in account; restrictions.

Sec. 385. (1) A domestic credit union may refuse to make a payment from an account to a person claiming an interest in the account if the domestic credit union is uncertain under the agreement governing the account of who is entitled to receive that payment or if the domestic credit union has actual knowledge of a dispute between any account owners, beneficiaries with present vested rights in the account, or other persons concerning their respective ownership to the money in the account, the proposed withdrawal, or any previous withdrawals from the account.

(2) If a domestic credit union refuses to make a payment under subsection (1), the domestic credit union may notify the account owners, beneficiaries with present vested rights in the account, and other persons claiming an interest in the account in writing of the basis for its refusal and may refuse to make the payment until all interested parties consent in writing to the requested payment or a court with jurisdiction orders the domestic credit union to make the payment. The domestic credit union is not liable for any damages resulting from an action taken under this subsection.

490.386 Establishment and maintenance of reserves.

Sec. 386. (1) A domestic credit union shall establish and maintain reserves in an amount that qualifies the domestic credit union for insurance of its accounts under federal law and meets any requirement of the commissioner.

(2) A domestic credit union shall establish allowances for loan and lease losses account based on its reasonably foreseeable loan and lease losses and shall maintain the account in accordance with generally accepted accounting principles. A domestic credit union shall charge a loan or lease or any portion of a loan or lease to the allowance for loan and lease losses account if any of the following occur:

(a) The credit union board considers the loan or lease or any portion of a loan or lease uncollectible.

(b) The loan or lease is 12 or more contractual payments delinquent, the borrower has not made a contractual payment in the past 90 days, and the domestic credit union has not instituted judicial proceedings to collect the loan or lease.

(c) The commissioner orders the domestic credit union to charge the loan or lease or any portion of a loan or lease to the allowance for loan and lease losses account.

(3) A domestic credit union shall establish special reserves to protect the interests of members if required by rule of the commissioner or if the credit union board or the commissioner decide that a special reserve is necessary to protect the interests of the members concerning a specific event.

(4) This section applies to a corporate credit union only to the extent the commissioner determines is necessary to protect the interests of the members and other share and deposit account holders of the corporate credit union.

490.387 Insurance of member share and deposit accounts.

Sec. 387. (1) A domestic credit union that is not a corporate credit union shall apply for and maintain insurance of member share accounts and member deposit accounts from an agency of the federal government that provides that insurance.

(2) A credit union that is denied a commitment for insurance of its share and deposit accounts by the insuring federal agency or that is given notice by the insuring federal agency of the agency's intent to terminate insurance of the credit union's shares and deposits shall either dissolve, merge with another credit union that is insured by an agency of the federal government, or apply in writing to the commissioner within 30 days after the denial or notice for additional time to obtain an insurance commitment.

(3) The commissioner shall grant a credit union described in subsection (2) 1 or more additional periods of time to obtain or reinstate an insurance commitment if the commissioner receives satisfactory evidence that the credit union has made or is making a substantial effort to meet the conditions required by the insuring federal agency for issuance of an insurance commitment.

(4) A credit union may contract with an insurance carrier licensed to do business in this state for insurance of the balances of its accounts that exceed the amount insured by the insuring federal agency.

ARTICLE 4

DOMESTIC CREDIT UNION POWERS

PART 1

GENERAL PROVISIONS

490.401 Domestic credit union; powers.

Sec. 401. (1) A domestic credit union has the powers described in this section, specified or implied by this act, and specified in any other law of this state.

(2) A domestic credit union has all of the following powers:

(a) To enter into contracts.

(b) To sue and be sued.

(c) To adopt and alter a seal.

(d) To individually or jointly with other credit unions, purchase, lease, or otherwise acquire and hold tangible personal property necessary or incidental to its operations. A domestic credit union shall depreciate or appreciate personal property in the manner and at the rates the commissioner prescribes by rule, order, or declaratory ruling.

(e) To sell, convey, lease, or otherwise dispose of, or assign, pledge, or create a security interest in, all or part of its tangible personal property, including property obtained as a result of a default of an obligation owed to the domestic credit union. A domestic credit union may finance the sale of its personal property to a person at a rate of interest that does not exceed the rate of interest permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for loans to its members for the purchase of equivalent property.

(f) To incur and pay necessary and incidental operating expenses.

(g) To receive the funds of its members either as payment on shares or as deposits. Subject to the limitation on payment of dividends in section 362, a domestic credit union may have 1 or more classes of share or deposit accounts in the classifications and form, under the terms and conditions and with liquidation priorities authorized by the credit union board, unless otherwise prescribed by law. A domestic credit union shall provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the credit union board determines best serve the convenience and needs of its members.

(h) To charge fees in connection with shares, savings, extensions of credit, and other services by contract or agreement.

(i) To make secured or unsecured loans to any member, at fixed or variable interest rates, and take and hold any real or personal property as security. In establishing an interest rate, the domestic credit union may consider the collateral provided, the credit-worthiness of the borrower, the duration of the loan, and any other factor reasonably determined by the domestic credit union to affect the interest rate.

(j) To borrow funds from any source. Funds borrowed under this subdivision are not deposits. The domestic credit union may secure a loan described in this subdivision with a pledge of some or all of the domestic credit union's assets.

(k) To make loans to a trade association of which it is a member.

(l) To provide debt counseling and other financial counseling services to its members. If the counseling includes debt management for a member and the member is delinquent in any indebtedness owed to the domestic credit union, the domestic credit union shall not charge that member, directly or indirectly, a fee for providing the counseling services.

(m) To disburse loan proceeds as the borrower directs.

(n) To act as trustee or custodian of and administer, for individuals or as part of an employer group plan, retirement accounts or other accounts that permit tax deferrals or provide other tax benefits under federal or state law.

(o) To act as agent for its members and depositors in the purchase, sale, or other disposition of securities, interests in mutual funds, and interests or participations in any other type of investment, if the purchase, sale, or other disposition is done solely for the accounts of its members and depositors and is done on a nonrecourse basis.

(p) To discount, sell, convey, or otherwise dispose of, or assign, pledge, or create a security interest in, all or part of its intangible personal property.

(q) To purchase any of the assets of another domestic credit union, or with the approval of the commissioner assume any of the liabilities of another domestic credit union.

(r) To make deposits in, loan to, or under section 431 invest in banks, savings banks, savings and loan associations, trust companies, and other domestic credit unions, or purchase shares of mutual savings and loan associations and other domestic credit unions.

A domestic credit union may also make deposits in, loans to, or under section 431 purchase shares of a corporate credit union and invest funds as provided in section 431.

(s) To join, make deposits in or loans to, or purchase shares of any federal reserve bank, federal home loan bank, or central liquidity facility established under federal or state law.

(t) To hold membership in associations and organizations controlled by or fostering the interests of credit unions or in a central liquidity facility organized under federal or state law.

(u) To, if approved by the credit union board and not inconsistent with this act, engage in activities and programs of the federal government, a state, a territory of the United States, or an agency or political subdivision of the federal government or a state or territory of the United States.

(v) To receive funds as shares or deposits from other domestic credit unions or from banks, savings banks, savings and loans, or any other type of depository institution.

(w) To receive funds as shares or deposits from a retirement plan that serves all or any of the domestic credit union's members or potential members.

(x) To receive funds as shares or deposits from a public employee retirement system or plan.

(y) To lease tangible personal property to its members.

(z) To purchase, sell, pledge, discount, or otherwise acquire, or dispose of all or part of the obligations of its members in accordance with section 432. This subdivision does not apply to participation loans originated pursuant to section 423(5).

(aa) At the domestic credit union's expense, to purchase insurance for its members in connection with share, deposit, loan, or other accounts.

(bb) To establish, operate, participate in, or hold membership in systems that allow the transfer of credit union funds and funds of its members or other account holders by electronic or other means, including clearinghouse associations, data processing and other electronic networks, the federal reserve system, or any other payment or liquidity program and contract with outside vendors to process member payments, send or receive funds for member investments, or initiate and execute electronic funds transfers on behalf of its members.

(cc) To service loans sold by the domestic credit union, in whole or in part, to a third party.

(dd) To receive payments on shares or deposits from or make loans to the United States or an agency or instrumentality of the United States.

(ee) To act as a fiscal agent and maintain treasury tax and loan accounts of the United States.

(ff) To receive payments on shares or deposits from a state, a territory of the United States, or from an agency, political subdivision, or instrumentality of a state or territory of the United States. A domestic credit union may act as fiscal agent for, maintain tax and loan accounts of, and make loans to, an entity that the domestic credit union has authority to receive payments from under this subdivision.

(gg) To organize, invest in, and make loans to corporations or other organizations that engage in activities incidental to the conduct of a credit union or in activities that further or facilitate the purposes of a credit union or that furnish services to credit unions. In addition to the activities authorized by section 407, the commissioner shall determine by rule, order, or declaratory ruling the activities and services that fall within the meaning

of this subdivision. Investments and loans described in this subdivision shall not in the aggregate exceed 12% of the assets of the domestic credit union, and without the prior approval of the commissioner shall not in the aggregate exceed 6% of the assets of the domestic credit union. A domestic credit union may not invest in or make loans to a corporation or other organization under this subdivision unless the corporation or organization agrees in writing to allow the commissioner to conduct an examination of the corporation or organization to the same extent that the commissioner is authorized to examine credit unions and agrees in writing to make any reports to the commissioner that he or she requires.

(hh) To individually or jointly with other credit unions or other financial organizations, purchase, lease, construct, or otherwise acquire and hold land and buildings for the purpose of providing adequate facilities for the transaction of present and potential business. A domestic credit union may use land and buildings for its principal place of business functions, a branch, a service center, or another facility used to conduct an activity in which it engages. A domestic credit union may rent excess space as a source of income. A domestic credit union shall depreciate or appreciate buildings owned by it in the manner and at the rates the commissioner may prescribe by rule, order, or declaratory ruling. A domestic credit union's investment or contractual obligations, direct, indirect, or contingent, in land and buildings under this subdivision may not exceed 5% of its assets without the prior approval of the commissioner. An agreement to acquire and hold buildings or land jointly with other credit unions or other financial organizations requires the prior approval of the commissioner. The commissioner shall act on a completed application within 30 days after the application is filed.

(ii) To own stock in a corporation that owns land or buildings used to provide a facility described in subdivision (hh), but ownership of the stock is an investment in the land and buildings for all purposes under subdivision (hh). If a domestic credit union owns less than 100% of the stock in a corporation described in this subdivision, the investment is a joint agreement that requires the commissioner's approval under subdivision (hh).

(jj) To sell, convey, lease, or otherwise dispose of, or assign, mortgage, pledge, or create a lien in, all or part of its land and buildings, including land and buildings obtained as a result of a default of an obligation owed to it, or stock in a corporation described in subdivision (ii). A domestic credit union may finance the sale of its land and buildings to any person at a rate of interest that does not exceed the rate of interest permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for loans to its members for the purchase of land and buildings.

(kk) Pursuant to a written agreement, to perform services for members of other domestic or foreign credit unions. A domestic credit union may allow other credit unions to perform services for its members pursuant to a written agreement. A domestic credit union shall perform services described in this subdivision in accordance with the laws of this state.

(ll) To engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(mm) To own an insurance agency in whole or in part as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(nn) To make charitable contributions if the individual contributions and the aggregate amount of the contributions are reasonable in amount.

(oo) To offer tax return preparation and filing services.

(pp) To contract with entities offering funds transfer services and provide those services to any person.

(qq) To receive payments on shares or deposits or make loans to corporations that are wholly owned by 1 or more of the types of entities from which the domestic credit union may receive payments on shares under subdivision (dd) or (ff).

(rr) To enter into marketing and other support arrangements to facilitate members' purchases of goods and services from third parties that may include compensation to the domestic credit union.

(ss) To purchase insurance policies and other investment products to fund deferred compensation arrangements for its employees. If the deferred compensation arrangement does not present a risk to the safety and soundness of the domestic credit union, the purchase of those investment products is not subject to the limitations of this act.

(tt) Subject to section 352, to establish and revise its field of membership.

(uu) Guarantee the signature of a member in connection with a transaction involving tangible or intangible property in which a member has or seeks to acquire an interest.

(vv) Perform any of the following services for a person who is not a member of the credit union if the service is performed under a contractual arrangement in which another financial organization performs the same service for the credit union's members:

(i) Cash advances.

(ii) Funds transfers.

(iii) Cashing travelers checks.

(iv) Any other service specified by the commissioner by rule, order, or declaratory ruling.

(ww) To perform any of the following services for any person in an underserved area or who does not have an established relationship with a financial institution:

(i) Cashing and selling checks, drafts, or money orders.

(ii) Purchasing and selling foreign currencies in exchange for United States currency.

(iii) Wire transfers.

490.402 Corporate credit union; additional powers.

Sec. 402. (1) A corporate credit union has all of the following powers in addition to the powers granted by this act to all domestic credit unions:

(a) To accept funds, either as shares or deposits, from a domestic, foreign, or alien credit union, whether or not that credit union is a member of the corporate credit union.

(b) To make loans to or investments or deposits in a credit union, whether or not that credit union is a member of the corporate credit union.

(c) To make loans to or place deposits in a bank, savings bank, trust company, or savings and loan association chartered by this state, by another state or territory of the United States, or by the United States.

(d) To place deposits in a bank chartered under the laws of Canada or a member state of the European Union.

(e) To borrow from any source.

(f) To act as a fiscal agent for the United States, a state, or an agency or political subdivision of the United States or a state.

(g) To participate with any other credit union in making loans to its members or to members of the other participating credit union, on the terms and conditions to which the participating credit unions agree.

(h) To purchase, sell, and hold investment securities that are marketable obligations in the form of bonds, notes, or debentures and that are salable under ordinary circumstances. A corporate credit union board shall adopt a written investment policy and the corporate credit union shall make all investments and related contracts and agreements under this subdivision in accordance with that policy.

(i) To contract for penalties for loans paid before their scheduled maturity.

(j) In its bylaws, to authorize the corporate credit union board to delegate to management the authority to set interest rates on loans and deposits and to determine dividends on shares.

(k) To act as an intermediary of member and credit union funds.

(l) To act as an agent to pay, receive, and transfer assets and liabilities.

(m) To receive and hold securities and other assets.

(n) To provide payment systems services in conjunction with financial institutions or other vendors, or other correspondent services.

(o) To provide services to members involving investments and liquidity management.

(p) To engage in repurchase agreement transactions with broker-dealers.

(q) To purchase, sell, and hold financial derivatives.

(r) To exercise any other power approved by the commissioner by rule, order, or declaratory ruling.

(2) This act does not permit a corporate credit union to make or participate in a loan to a natural person that has terms and conditions that would not otherwise be authorized for a loan to a natural person made by another domestic credit union.

490.403 Domestic credit union; incidental powers.

Sec. 403. A domestic credit union may exercise any incidental powers that are necessary or required to enable it to effectively carry out the business for which it is organized.

490.404 Business outside of state.

Sec. 404. A domestic credit union may do business outside of this state if permitted by the laws of that jurisdiction.

490.405 Pledging domestic credit union assets as collateral security; limitations.

Sec. 405. (1) A domestic credit union shall not give preference to any member or depositor by pledging the assets of the domestic credit union as collateral security for purposes of accepting the funds or money of any county, city, village, township, school district, or community college district. With written consent of the commissioner, a domestic credit union may pledge assets of the domestic credit union in an amount not in excess of 10% of its total shares and deposits for the purpose of securing any of the following:

(a) Shares or deposits belonging to the United States or belonging to or administered by an officer, instrumentality, or agent of the United States, shares or deposits of estates being administered by a federal court under federal bankruptcy laws, and any other

shares or deposits if required or permitted to do so under the laws of the United States or an order of a federal court.

(b) Shares or deposits acquired or made with surplus funds of this state held by the state treasurer.

(c) Shares or deposits belonging to the Mackinac bridge authority, a political subdivision of this state under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.304.

(d) Shares or deposits of the international bridge authority, a political subdivision of this state under 1954 PA 99, MCL 254.221 to 254.240.

(e) Shares owned or funds on deposit under 1941 PA 205, MCL 252.51 to 252.64.

(f) Shares or deposits belonging to the Michigan employment security commission.

(g) Shares or deposits acquired or made by the Michigan state housing development authority with funds constituting proceeds of the sale of the authority's notes and bonds and repayments of the notes and bonds under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(2) The requirements, restrictions, and limitations imposed by subsection (1) do not apply to the pledging of obligations of the United States, direct or fully guaranteed, or both, for the purpose of securing shares or deposits owned by the United States when such shares or deposits are established coincidentally with the purchase of obligations of the United States by or through any domestic credit union.

490.406 Domestic credit union; powers authorized by credit union board; acquisition of interest in real property; definitions.

Sec. 406. (1) If authorized by the credit union board, a domestic credit union may do any of the following:

(a) Assist in providing cooperative housing and related facilities for its members. A domestic credit union shall not invest more than 5% of its unimpaired share capital in programs described in this subdivision. This section does not authorize a domestic credit union to invest in the stock of a housing cooperative.

(b) Assist in creating a housing cooperative for its members.

(c) Assist a housing cooperative composed of its members in selecting a housing site.

(2) If authorized by the credit union board, a domestic credit union may acquire any interest in real property if all of the following are met:

(a) The property is suitable for a housing cooperative and related facilities for its members.

(b) The domestic credit union will dispose of its interest in the property to a housing cooperative within 3 years.

(c) The purchase price of the property does not exceed the appraised value of the property as determined by a competent disinterested appraiser retained by the domestic credit union.

(d) Before the domestic credit union acquires its interest, if state or federal assistance is contemplated, the domestic credit union where possible obtains the approval of the state or federal agency that will assist the housing cooperative in determining the acceptability to that agency of the property for use as a cooperative housing site.

(3) If within a reasonable time after the domestic credit union acquires its interest in a housing cooperative it determines that the property is not suitable for cooperative

housing for its members, the domestic credit union shall dispose of its interest in the manner most advantageous to the domestic credit union.

(4) A domestic credit union may employ consultants, appraisers, or other persons or organizations qualified by experience and training to provide advice and assistance in the acquisition of cooperative housing sites, the creation of housing cooperatives, the processing of applications for state or federal assistance, or the development of plans for the housing and financing, and may take any other action related to its authority under this section.

(5) As used in this section:

(a) “Domestic credit union” may include more than 1 domestic credit union acting in combination.

(b) “Housing cooperative” means a nonprofit housing cooperative corporation.

490.407 Credit union service organizations; organizing, investing, or loaning money; limitations; requirements.

Sec. 407. (1) Subject to subsection (3), a domestic credit union may organize, invest in, or loan money to 1 or more credit union service organizations that provide 1 or more of the following products or services to credit unions:

(a) Automated information processing services.

(b) Share draft and other item processing.

(c) Credit and debit card services.

(d) Microfilm and microfiche services.

(e) Printing and supply services.

(f) Service center functions.

(g) Selling or leasing real estate.

(h) Automated teller machine and electronic funds transfer services.

(i) Collection activities.

(j) Personnel services.

(k) Appraisal, closing, or other services in connection with real estate loan activities.

(l) Investment management, investment research, and other full service broker-dealer services, but not underwriting of investment securities.

(m) Property leasing to credit unions.

(n) Accounting and auditing services.

(o) Records retention and preservation.

(p) Security for data processing equipment and other credit union property.

(q) Architectural services, including, but not limited to, providing original designs, remodeling, and redesigning.

(r) Administration and other services related to commercial loans and participation loans.

(s) Providing management and operating services.

(t) Marketing services.

(u) Management, development, sale, or lease of fixed assets.

(v) Sale, lease, or servicing of computer hardware and software.

- (w) Sale of repossessed property or other personal property of credit unions.
 - (x) Locator services.
 - (y) Credit analysis.
 - (z) Loan origination, processing, servicing, and sale.
 - (aa) Research services.
 - (bb) Developing and administering individual retirement accounts or Keogh (HR-10), deferred compensation, or other personnel benefit plans.
 - (cc) Property maintenance services.
 - (dd) Courier services.
 - (ee) If approved by the commissioner, any other product or service.
- (2) Subject to subsection (3), a domestic credit union may organize, invest in, or loan money to 1 or more credit union service organizations that provide 1 or more of the following products or services to credit unions or their members:
- (a) Equipment leasing and financing.
 - (b) Payroll services.
 - (c) Real estate brokerage services.
 - (d) Prepaid legal services.
 - (e) Motor vehicle purchasing services.
 - (f) Group travel services.
 - (g) Insurance, to the extent not prohibited by state law.
 - (h) Financial planning, investment counseling, or other financial services.
 - (i) Consumer purchasing referral services.
 - (j) Income tax services.
 - (k) Retirement counseling.
 - (l) Securities brokerage counseling.
 - (m) Estate planning.
 - (n) Personal property leasing.
 - (o) Service contracts or extended warranty contracts for motor vehicles, motorcycles, recreational vehicles, manufactured homes, boats, computers, or other personal property items.
 - (p) Investment management, investment research, or other full-service securities broker-dealer services, but not underwriting of investment securities.
 - (q) If approved by the commissioner, any other product or service.
- (3) A domestic credit union may organize, invest in, or loan money to a credit union service organization described in subsection (1) or (2) only if all of the following are met:
- (a) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if it is to be formed or is newly formed.
 - (b) The credit union service organization is structured and operated as a separate legal entity from the domestic credit union.
 - (c) The domestic credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the domestic credit union's potential liability for the debts and liabilities of the credit union service organization to not

more than the loss of money invested in or loaned to the credit union service organization by the domestic credit union.

(d) The credit union service organization agrees in writing to prepare financial statements and provide them to the domestic credit union at least quarterly.

(e) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the domestic credit union.

(f) The credit union service organization operates in compliance with applicable federal and state laws.

(4) The credit union board of a domestic credit union that organizes, invests in, or lends money to a credit union service organization shall establish, in writing, the maximum percentage amount of net worth that the domestic credit union may invest in or loan to the credit union service organization.

(5) The senior management employees of a domestic credit union shall not receive any salary, commission, investment income, or other income or compensation from a credit union service organization that is an affiliate of the domestic credit union.

(6) In determining compliance with the percentage limitations in section 401(2)(gg), all loans cosigned, endorsed, or otherwise guaranteed by a domestic credit union to credit union service organizations are included in determining the aggregate amount of loans by the domestic credit union.

(7) A domestic credit union shall follow generally accepted accounting principles in its accounting of its financial involvement in a credit union service organization.

490.408 Automated information processing services.

Sec. 408. (1) A domestic credit union wishing to utilize automated information processing services of a vendor shall enter into a written contract, lease, or licensing agreement with the vendor. The credit union board shall review the contract, lease, or licensing agreement to ensure the interests of the domestic credit union are protected. Approval of the contract, lease, or licensing agreement is required before any automated information processing services are performed or provided to the domestic credit union.

(2) The written contract, lease, or licensing agreement described in subsection (1) shall provide at least all of the following:

(a) That the vendor will furnish the written assurance described in subsection (4) to the commissioner.

(b) That the domestic credit union will retain permanent and exclusive ownership of all internal information and member information in the possession of the vendor, that the vendor may not disclose any of that information to third parties except as explicitly authorized in writing by the domestic credit union, and that the vendor may not use any of that information for the vendor's own purposes except as explicitly authorized in writing by the domestic credit union.

(c) That the vendor will provide contingency planning and disaster recovery provisions to reconstruct the transactions of the domestic credit union and to resume automated information processing within a reasonable time after a failure of the automated information processing services.

(d) That upon termination of the contract, lease, or licensing agreement, the vendor shall return copies of all internal information and member information in an electronic

form usable to the domestic credit union, and disclose any fees related to the return of the information in electronic form.

(e) The extent to which the vendor is liable for nonperformance, breach, or fraud or other dishonesty.

(f) That each employee of the vendor with access to internal information or member information is sufficiently bonded against fraud or other dishonesty.

(g) A statement of each service the vendor will perform, the frequency of each service, and the fees charged in connection with performance of each service.

(h) A description of the ownership of the hardware, software, or systems utilized in the performance of the automated information processing services.

(i) An allocation of responsibility for delivering internal information or member information to the vendor, and liability for loss of internal information or member information before it is delivered.

(3) If automated information processing services are donated to a domestic credit union by a sponsor, the domestic credit union shall make available sufficient off-premises storage and duplication of internal information and member information to enable the sponsor or the sponsor's vendor to reconstruct the transactions of the domestic credit union and resume automated information processing within a reasonable time after a failure of the automated information processing services.

(4) A domestic credit union shall not purchase automated information processing services from a vendor unless the domestic credit union and the vendor, and any subcontractors of the vendor, furnish the commissioner with an assurance in writing that the performance of the services is subject to examination and regulation to the same extent as if the services were performed by the domestic credit union on its own premises.

(5) As used in this section:

(a) "Automated information processing" means automated processing, updating, and storage of internal information or member information.

(b) "Internal information" means the accounts, books, and records of a domestic credit union maintained in any form.

(c) "Member information" means the share, deposit, loan account balances, or other information related to any member of a domestic credit union maintained in any form.

(d) "Sponsor" means an entity around which all or part of a domestic credit union's field of membership is formed.

(e) "Vendor" means a person who supplies hardware, software, or systems used for automated information processing services to a domestic credit union or performs automated information processing services for a domestic credit union. The term includes a subcontractor of a vendor.

490.409 Insurance programs to members.

Sec. 409. (1) A credit union board may offer insurance programs to members of the domestic credit union, individually or as a group, including insurance programs at the individual member's own expense. An insurance program offered under this section shall meet 1 of the following conditions:

(a) Except for insurance described in subdivision (b), the purchase of the insurance coverage by a member is voluntary and a copy of the written election to purchase the insurance is on file at the domestic credit union.

(b) If the insurance is a condition of a loan, the member who is borrowing may purchase or provide the insurance from a carrier of the member's choice or may assign any existing insurance coverage.

(2) A domestic credit union may receive payment for making an insurance program available to its members.

(3) Other than a refund of premium if he or she is a purchaser of the insurance services, a credit union officer, director, committee member, or employee shall not directly or indirectly be paid or receive, and a person shall not directly or indirectly offer, a fee, compensation, commission, gift, or other consideration for insurance sold to the domestic credit union or its membership from any person other than the domestic credit union. This subsection does not prevent a credit union officer, director, committee member, or employee from receiving customary salary or commission as an employee or agent of an insurance company if the salary or commission is not related to making insurance programs available to credit union members or to placing insurance with a domestic credit union served by the credit union officer, director, committee member, or employee.

(4) A domestic credit union shall not directly or indirectly enter into any act or transaction involving an insurance program unless all of the parties to the insurance program expressly agree in writing to meet all of the requirements of this section.

(5) If a domestic credit union makes an insurance program available to its members, the domestic credit union shall maintain documentary evidence that it has investigated various plans of insurance and has determined that the provisions relating to costs and benefits and other provisions of the plan selected protect and serve the interest of its members. The commissioner may inspect the documentary evidence on request.

(6) A domestic credit union may advise its members of the availability of an insurance program and of its action taken under subsection (5) and may use marketing materials supplied by the insurance carrier.

(7) If authorized by the credit union board, a domestic credit union may furnish to an insurance carrier or an agent membership lists of addresses without compensation from the insurance carrier or agent. For an appropriate fee, if authorized by the credit union board, a domestic credit union may mail marketing materials about an insurance program to its membership.

(8) A domestic credit union may assist a member in filing a claim and with other matters dealing with an insurance carrier if that assistance does not violate any applicable insurance law and regulation.

490.410 Safe deposit department.

Sec. 410. (1) If authorized by the credit union board, a domestic credit union may invest in the stock of not more than 1 safe and collateral deposit company or may operate a safe deposit department.

(2) If a domestic credit union operates a safe deposit department, the legal liability of the domestic credit union for any loss to a customer shall not exceed the sum of \$10,000.00 for any 1 box or compartment. The domestic credit union may contract with the renter to have the renter assume the risks arising from the use of the box or compartment.

(3) A domestic credit union has a lien for unpaid rental charges on the contents of any safe deposit box or compartment. If rental charges are not paid within 1 year after the date of accrual, the domestic credit union may sell the property in the box or compartment at public auction, after providing any notice required by any law applicable to the sale. The domestic credit union may retain from the proceeds of sale the amount of all charges

due and owing at the time of the sale and the reasonable expenses of the sale and shall pay the balance, if any, to the renter of the box or compartment or to any person who proves to the satisfaction of the domestic credit union that he or she is entitled to the proceeds. If it acts fairly and in good faith, the domestic credit union may purchase all or part of the property at the sale.

490.411 Savings promotion raffle.

Sec. 411. (1) If authorized by the credit union board, a domestic credit union may conduct a savings promotion raffle. The domestic credit union shall conduct a savings promotion raffle so that each token or ticket representing an entry in the raffle has an equal chance of being drawn. A domestic credit union shall not conduct a savings promotion raffle in a manner that jeopardizes the domestic credit union's safety and soundness or misleads its members.

(2) Pursuant to his or her supervisory powers under article 2, the commissioner may examine the conduct of a savings promotion raffle. The commissioner may issue a cease and desist order for a violation of this section under article 2.

(3) A domestic credit union shall maintain records sufficient to facilitate an audit of a savings promotion raffle.

(4) As used in this section, "savings promotion raffle" means a raffle conducted by a domestic credit union where the sole consideration required for a chance of winning designated prizes is the deposit of at least a specified amount of money in a savings account or other savings program offered by the domestic credit union.

490.412 Check cashing fees.

Sec. 412. (1) Except as provided in subsection (2), a domestic credit union shall not contract for, receive, impose, assess, or collect a charge or fee for the cashing of a check that exceeds 1 of the following percentages of the face amount of the check, as applicable:

(a) Five percent for a payroll, pension, or government check.

(b) Seven percent for a check from an insurance company, including, but not limited to, a private health or disability insurance plan payment.

(c) Ten percent for a personal check, money order, or other check.

(2) A domestic credit union may contract for, receive, impose, assess, or collect a charge or fee that does not exceed \$25.00 for the first check the credit union cashes for an individual.

PART 2

LOANS

490.421 Credit committee; powers; meetings; loan officers; appeals of loan rejections; designation of secretary; maintenance of records of activities.

Sec. 421. (1) If a domestic credit union has a credit committee, the credit committee has general supervision of all loans to members.

(2) A credit committee shall meet as often as the business of the domestic credit union requires. The credit committee shall consider applications for loans or review the credit decisions of the loan officers of the domestic credit union. A majority vote of the members

of the committee who are present at a meeting is required to approve or disapprove of a loan to a member.

(3) A credit committee, or the credit union board if the domestic credit union does not have a credit committee, may appoint 1 or more loan officers and delegate to them the power to approve or reject loans or lines of credit or to make credit decisions concerning loans or lines of credit, subject to any limitations or conditions established by the credit committee.

(4) A member whose loan application is disapproved by a loan officer may appeal in writing to the credit committee, or to the credit union board if the domestic credit union does not have a credit committee.

(5) A domestic credit union may establish and use an automated loan approval and rejection process but may not use the automated process for appeals of loan rejections. If a domestic credit union uses an automated process, the domestic credit union shall establish a written procedure to ensure the proper functioning of the automated process.

(6) The credit committee shall designate a secretary of the credit committee. The secretary shall maintain records of the actions of the committee concerning its lending activities as required by the credit union board.

490.422 Loan agreement with member or another domestic credit union.

Sec. 422. (1) A loan made by a domestic credit union to another domestic credit union is not subject to any interest rate limitation contained in any law of this state.

(2) In addition to any other loan authorized by law, a domestic credit union may enter into a loan agreement under this subsection with a member. All of the following apply to a loan under this subsection:

(a) The loan may be for any amount up to \$1,000.00.

(b) The term of the loan shall be 30 days.

(c) The domestic credit union may charge a fee in addition to any interest in connection with the loan. A fee is in addition to interest authorized by law and is not part of the interest collected or agreed to be paid on loans within the meaning of a law of this state that limits the rate of interest which may be exacted in a transaction.

(d) The total interest, fees, and other costs of the loan shall not exceed 10% of the principal amount.

(e) A member shall not have more than 1 loan under this subsection outstanding with the credit union.

490.423 Loan conditions; repayment; costs; rates, terms, or conditions to officers, committee members, or family; open-end credit arrangements; joint loans; guaranteed federal or state loan program; reduced rate loans and extensions; restriction.

Sec. 423. (1) A loan by a domestic credit union to a member shall conform to any conditions contained in the bylaws.

(2) A borrower may repay his or her loan from a domestic credit union in whole or in part at any time the domestic credit union is open for business or otherwise capable of receiving payment on the loan.

(3) A domestic credit union may contract with a borrower for the borrower to reimburse the domestic credit union for any specifically identified third party costs related to a loan originally paid by the domestic credit union, and for any amount specifically identified in the loan agreement as an incentive if the borrower prepays the loan in full within 3 years of the date that the loan is made and the originally scheduled amortization period of the loan is more than 5 years.

(4) A domestic credit union shall not agree to rates, terms, or conditions on any loan or line of domestic credit made to or endorsed or guaranteed by a director, credit committee member, or supervisory committee member, or an immediate family member of a director, credit committee member, or supervisory committee member that are more favorable than the rates, terms, and conditions for comparable loans or lines of credit to other credit union members.

(5) A domestic credit union shall process a loan to a director or member of the credit committee or supervisory committee in the same manner as a loan to other members, except that the applicant shall not participate in the approval process for his or her loan.

(6) A domestic credit union may provide open-end or closed-end credit arrangements for its members if the credit union board has established a policy for those credit arrangements. Unless prohibited by the agreement for the open-end credit arrangement, a domestic credit union may under an open-end credit arrangement unilaterally increase the approved limit or may increase the approved limit on the request of the member.

(7) A domestic credit union may participate in loans to credit union members jointly with other credit unions, credit union service organizations, or other financial institutions.

(8) A domestic credit union may participate in a guaranteed loan program of the federal or state government under the terms and conditions specified in the law establishing that program.

(9) A domestic credit union may offer reduced rate loans and other extensions of credit to its employees under a policy adopted by its credit union board. The credit union board, or the credit committee if the domestic credit union has a credit committee that does not include any credit union employees, must approve of any loan or other extension of credit to or purchase of an obligation of the general manager.

(10) A domestic credit union shall not make a loan or extend a line of credit if an official or senior management employee will receive a commission, fee, or compensation other than salary if the loan or line of credit is approved.

490.424 Property and casualty insurance as condition to mortgage loan.

Sec. 424. (1) Except as provided in subsection (2), a domestic credit union that requires a mortgagor to maintain property and casualty insurance as a condition to receiving a mortgage loan shall not require an amount of property and casualty insurance that is greater than the replacement cost of the mortgaged building or buildings.

(2) A domestic credit union may require an amount of property and casualty insurance that is required of the domestic credit union as a condition of a sale, transfer, or assignment of all or part of the mortgage to a third party. This subsection does not require that the domestic credit union anticipate a sale, transfer, or assignment at the time the mortgage loan is made.

PART 3

INVESTMENTS

490.431 Investment of funds not used in member loans; limitations; maintenance of files.

Sec. 431. (1) A domestic credit union may invest funds not used in loans to members in any of the following:

(a) Securities, obligations, or other instruments of or issued by or fully guaranteed as to principal and interest by the United States or an agency or instrumentality of the

United States, or in any trust or trusts established for investing directly or collectively in those securities, obligations, or instruments.

(b) Securities, obligations, or other instruments of or issued by any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory organized by Congress, or any of their political subdivisions.

(c) Securities, obligations, or other instruments of any central liquidity facility or corporate credit union established under the laws of this state, the laws of another state or territory of the United States, or the laws of the United States, or any federal reserve bank.

(d) An obligation that meets all of the following:

(i) In the domestic credit union's prudent judgment, which may be based in part upon estimates which it believes are reliable, there is adequate evidence that the obligor of the obligation will be able to perform all it undertakes to perform in connection with the obligation, including all debt service requirements, and that the obligation may be sold with reasonable promptness at a price that corresponds to its fair value.

(ii) The investment characteristics of the obligation are not considered distinctly or predominantly speculative.

(iii) The obligation is not in default in the payment of principal or interest.

(iv) The obligation is a marketable obligation in the form of a bond, note, or debenture, commonly regarded as an investment security, and salable under ordinary circumstances with reasonable promptness at a fair value.

(e) Shares or certificates of an open-end management investment company registered with the securities and exchange commission under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, if all of the following conditions are met:

(i) Not less than 90% of the fund's assets consist of and are limited to securities in which a domestic credit union may invest directly.

(ii) The domestic credit union has an equitable and undivided interest in the underlying assets of the fund.

(iii) The domestic credit union is not liable for acts or obligations of the fund.

(iv) The domestic credit union's investment in any 1 fund does not exceed the amount of its net worth.

(f) Investments in mortgage-backed securities either issued by or guaranteed by a private organization if the securities involved meet the investment standards for an obligation described in subdivision (d).

(2) A domestic credit union other than a corporate credit union shall not invest more than 25% of its net worth in an obligor or affiliate of the obligor. This subsection does not apply to the extent that the investment is insured or guaranteed by the United States government or an agency of the United States government or a state or local government, or the investment is in a corporate credit union.

(3) A domestic credit union may not invest in or hold common stock or another equity investment except as provided in section 401(2), or in bank and bank holding company stock legally acquired before December 19, 1986. If a domestic credit union possesses capital stock or another equity investment as the result of a loan default, it shall dispose

of that investment within a reasonable period of time that does not exceed 1 year, or a longer period of time approved by the commissioner for that domestic credit union.

(4) In addition to investments authorized by this act, a domestic credit union may make any other type of investment approved by the commissioner by rule, order, or declaratory ruling.

(5) A domestic credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this act or by rule, order, or declaratory ruling of the commissioner.

490.432 Purchase of obligation of member.

Sec. 432. (1) If the purchase meets the conditions of a written policy of the credit union board, a domestic credit union may purchase 1 or more of the following obligations:

(a) An obligation of a member that satisfies this act, the bylaws, and the lending policies established by the credit union board, other than any annual percentage interest rate requirement.

(b) An obligation of a member if before the domestic credit union agrees to purchase the obligation the member agrees in writing to refinance the obligation within 60 days after the purchase in a manner that will result in the obligation meeting subdivision (a).

(2) A domestic credit union may purchase an obligation of a member under this section if the credit union board approves the purchase of the obligation or a class of obligations that includes the obligation, there is a written agreement for the purchase, and the domestic credit union retains the written agreement and a schedule of the obligations covered by the agreement at its principal place of business.

(3) If a domestic credit union agrees to purchase a partial interest in an obligation of a member, the agreement shall disclose the responsibilities of each party if the obligation is subject to collection, loss, or foreclosure and shall provide that in the event of a loss each owner shares in the loss in proportion to the owner's interest in the obligation.

(4) A domestic credit union may purchase an obligation of a member at a discount or premium if the discount or premium is amortized monthly over the remaining term of the obligation.

(5) A domestic credit union may sell all or part of an obligation of a member if the sale meets the conditions of the sale policy adopted by the credit union board, the credit union board approves the sale, there is a written agreement for the sale, and the domestic credit union retains the written agreement and a schedule of the obligations covered by the agreement at its principal place of business.

(6) An agreement to sell a partial interest in an obligation of a member shall not include a recourse or repurchase provision other than 1 or more of the following:

(a) A provision that requires the seller to repurchase the obligation because of a breach of warranty or misrepresentation.

(b) A provision that allows the domestic credit union to repurchase the obligation at its discretion.

(c) A provision that allows substitution of 1 loan for another loan.

(7) A domestic credit union may pledge all or any part of an obligation of a member if the pledge meets the conditions of the pledge policy adopted by the credit union board, and the credit union board approves the pledge.

(8) An agreement to pledge an obligation of a member shall identify the obligations covered by the agreement and set forth the responsibilities of each party if an obligation covered by the agreement is subject to collection, loss, foreclosure, or default.

(9) This section does not permit a domestic credit union to pledge an obligation of a member unless authorized in section 401(2).

(10) For a fee, a domestic credit union may agree to service all or part of an obligation it purchases or sells.

(11) A member shall not directly or indirectly give and a senior management employee shall not directly or indirectly receive a fee, compensation, commission, gift, or other consideration as an inducement to purchase, sell, or pledge an obligation of a member.

ARTICLE 5

FOREIGN CREDIT UNIONS

490.501 Conduct of business by foreign credit union.

Sec. 501. (1) A foreign credit union, other than a federal credit union, may conduct business as a credit union in this state only with the written approval of the commissioner. The commissioner shall not grant approval unless the commissioner finds that the foreign credit union meets all of the following requirements:

(a) The credit union is organized under a law similar to this act.

(b) The credit union is financially solvent.

(c) The credit union has insurance through an agency of the federal government of member share and deposit accounts.

(d) The credit union is examined and supervised by the supervisory authority of the state or territory in which it is organized.

(e) The credit union conducts business in this state to adequately serve its members in this state.

(2) The commissioner shall not grant approval under subsection (1) unless the foreign credit union agrees in writing as a condition of the approval to do all of the following:

(a) To charge a rate of interest that does not exceed any rate of interest permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864, for a loan in this state by a domestic credit union.

(b) Comply with the same consumer protection laws that a domestic credit union must comply with when making a loan or providing other services in this state. For purposes of this subdivision, a loan is made in this state if any person, other than a guarantor, while physically in this state, signed the loan agreement setting forth the terms and conditions of any obligation created or to be created under the agreement. For purposes of this subdivision, a service other than a loan is provided in this state if a person does not physically travel out of this state to obtain the service or if an agreement to provide the service is signed by a person in this state.

(c) Designate and maintain an agent for the service of process in this state.

(d) File any reports required by the commissioner.

(e) Allow the commissioner to conduct an examination, if necessary, to the same extent as the commissioner is authorized to conduct examinations of domestic credit unions under article 2.

(f) Meet any other requirements that the commissioner requires of domestic credit unions under this act.

(3) The commissioner shall not grant approval under subsection (1) if the state or territory in which the credit union is organized does not permit credit unions organized in this state to do business in that state or territory.

(4) This section does not exempt a foreign credit union from complying with the laws of this state to the extent compliance is otherwise required.

490.502 Violations by foreign credit union.

Sec. 502. (1) If in the opinion of the commissioner a foreign credit union is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of a credit union at a branch located in this state, or is violating, has violated, or is about to violate a state or federal law or a state or federal rule or regulation, the commissioner may notify any state or federal regulatory authority with jurisdiction over the foreign credit union of the practice or violation, or may issue and serve upon the foreign credit union a notice of intent to revoke the foreign credit union's authority to engage in business in this state. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or violation and inform the foreign credit union of its right to request a hearing within 10 days.

(2) If a foreign credit union described in subsection (1) requests a hearing within the 10-day time period, the commissioner shall hold a hearing in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) Within 60 days after the date of a hearing under subsection (2), the commissioner shall file a written decision containing his or her findings and serve a copy on the foreign credit union.

ARTICLE 6

REPEAL OF PREDECESSOR ACT

490.601 Repeal of MCL 490.1 to 490.31.

Sec. 601. 1925 PA 285, MCL 490.1 to 490.31, is repealed.

Effective date.

Enacting section 1. This act takes effect June 1, 2004.

This act is ordered to take immediate effect.

Approved December 1, 2003.

Filed with Secretary of State December 2, 2003.

[No. 216]

(SB 493)

AN ACT to amend 1976 PA 331, entitled "An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties," by amending section 4 (MCL 445.904), as amended by 2000 PA 432.

The People of the State of Michigan enact:

445.904 Exemptions; burden of proof.

Sec. 4. (1) This act does not apply to either of the following:

(a) A transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States.

(b) An act done by the publisher, owner, agent, or employee of a newspaper, periodical, directory, radio or television station, or other communications medium in the publication or dissemination of an advertisement unless the publisher, owner, agent, or employee knows or, under the circumstances, reasonably should know of the false, misleading, or deceptive character of the advertisement or has a direct financial interest in the sale or distribution of the advertised goods, property, or service.

(2) Except for the purposes of an action filed by a person under section 11, this act does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice that is made unlawful by any of the following:

(a) The banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105.

(b) 1939 PA 3, MCL 460.1 to 460.10cc.

(c) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

(d) The savings bank act, 1996 PA 354, MCL 487.3101 to 487.3804.

(e) The credit union act.

(3) This act does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice that is made unlawful by chapter 20 of the insurance code of 1956, 1956 PA 218, MCL 500.2001 to 500.2093.

(4) The burden of proving an exemption from this act is upon the person claiming the exemption.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 496 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 1, 2003.

Filed with Secretary of State December 2, 2003.

Compiler's note: Senate Bill No. 496, referred to in enacting section 1, was filed with the Secretary of State December 2, 2003, and became P.A. 2003, No. 215, Eff. June 1, 2004.

[No. 217]

(SB 494)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 315a and 376a (MCL 750.315a and 750.376a), as added by 1982 PA 395.

The People of the State of Michigan enact:

750.315a Savings promotion raffle.

Sec. 315a. This chapter does not apply to a savings promotion raffle conducted by a domestic credit union pursuant to section 411 of the credit union act or to a savings promotion raffle conducted by a federally chartered credit union, a state or nationally chartered bank, or a state or federally chartered savings and loan association that is conducted in the same manner as a raffle conducted by a domestic credit union under section 411 of the credit union act.

750.376a Savings promotion raffle.

Sec. 376a. This chapter shall not apply to a savings promotion raffle conducted by a domestic credit union pursuant to section 411 of the credit union act or to a savings promotion raffle conducted by a federally chartered credit union, a state or nationally chartered bank, or a state or federally chartered savings and loan association that is conducted in the same manner as a raffle conducted by a domestic credit union under section 411 of the credit union act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 496 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 1, 2003.

Filed with Secretary of State December 2, 2003.

Compiler's note: Senate Bill No. 496, referred to in enacting section 1, was filed with the Secretary of State December 2, 2003, and became P.A. 2003, No. 215, Eff. June 1, 2004.

[No. 218]

(SB 495)

AN ACT to amend 1973 PA 43, entitled "An act to permit associations, institutions and credit unions to process or handle food stamps; and to prescribe powers and duties," by amending section 1 (MCL 400.171).

The People of the State of Michigan enact:

400.171 Definitions.

Sec. 1. As used in this act:

(a) "Association" means an association as defined in section 108 of the savings and loan act of 1980, 1980 PA 307, MCL 491.108.

(b) "Department" means the family independence agency.

(c) "Food stamps" means the coupons issued pursuant to the food stamp program established pursuant to the food stamp act of 1977, Public Law 88-525, 7 U.S.C. 2011 to 2012 and 2013 to 2036.

(d) "Institution" means an institution as defined in section 1202 of the banking code of 1999, 1999 PA 276, MCL 487.11202.

(e) “Credit union” means a domestic credit union as that term is defined in section 102 of the credit union act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 496 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 1, 2003.

Filed with Secretary of State December 2, 2003.

Compiler's note: Senate Bill No. 496, referred to in enacting section 1, was filed with the Secretary of State December 2, 2003, and became P.A. 2003, No. 215, Eff. June 1, 2004.

[No. 219]

(HB 4695)

AN ACT to amend 1851 PA 156, entitled “An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act,” by amending section 12a (MCL 46.12a), as amended by 2002 PA 730.

The People of the State of Michigan enact:

46.12a Insurance; pension or retirement plan; effect of collective bargaining agreement; reemployment of retiree; adjusted pension or retirement benefit; payment of benefits subject to eligible domestic relations order; effect of divorce from spouse named as retiree's survivor beneficiary on election of reduced retirement allowance; employee of credit union as member of plan; written policy.

Sec. 12a. (1) A county board of commissioners at a lawfully held meeting may do 1 or more of the following:

(a) Provide group life, health, accident and hospitalization, and disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds for the insurance. For a county with 100 employees or more, self-insure for health, accident and hospitalization, and group disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds.

(b) Adopt and establish a plan by which the county purchases or participates in the cost of an endowment policy or retirement annuity for a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, to provide monthly pension or retirement benefits for each employee 60 years of age or older in an amount not to exceed \$150.00 per month or 2% of the average monthly earnings of the employee for 5 years immediately before retirement times the

years of service of the employee, whichever is the lesser sum. As an option, a county board of commissioners may adopt and establish a plan by which the county pays pension or retirement benefits to a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, who has been employed for not less than 25 years, or who is 60 years of age or older and has been employed for not less than 5 years, in monthly payments not to exceed 2.5% of the employee's highest average monthly compensation or earnings received from the county or county road fund for 5 years of service times the total number of years of service of the employee, including a fraction of a year, not to exceed $\frac{3}{4}$ of the average final compensation of the employee. A plan may also pay early retirement benefits at 55 years of age or older to the extent of actuarially equivalent benefits not increasing the costs of the plan. Except as provided in subsection (27), endowment policies, retirement benefits, pensions, or annuity retirement benefits in excess of the amounts stipulated in this subdivision may be provided for by a plan of employee participation to cover the cost of the excess. If the employment or the pension or retirement benefits of an employee who participated in the cost of pension or retirement benefits are terminated before the employee receives pension or retirement benefits equal to the total amount of the employee's participation, the balance of the total participation shall be refunded to the employee at the time of termination, if living, or if deceased, to the employee's heir, estate, legal representative, or designated beneficiary as provided in the plan adopted and established by the county board of commissioners. If a terminated employee is subsequently rehired by the county, the employee may repay the amount of participation refunded to the employee upon the employee's termination, together with compound interest from the date of refund to the dates of repayment at the rates provided in the plan. As conditions for repayment, the plan may require return to employment for a period not to exceed 3 years and may require that repayment be completed within a period of not less than 1 year following return to employment. A plan adopted for the payment of retirement benefits or a pension shall grant benefits to an employee eligible for pension or retirement benefits according to a uniform scale for all persons in the same general class or classification. An employee shall not be denied benefits by termination of his or her employment after the employee becomes eligible for benefits under the plan and this section. An endowment policy or annuity purchased pursuant to this section shall be purchased from an insurer authorized to write endowment policies or annuities in this state.

(2) In a plan adopted under this section, at least 60% of the total pension or retirement benefit granted to an employee from county funds shall consist of a percentage not to exceed 2.5% of the employee's average final compensation times the employee's years of service and shall be granted to each employee eligible for retirement under the plan uniformly and without restriction or limitation other than those prescribed in this section. As used in this section:

(a) "Average final compensation" means the annual average of the highest actual compensation received by a county employee, other than a county employee who is a judge of a municipal court of record subject to subsection (20) or a judge subject to subsection (23), during a period of 5 consecutive years of service contained within the employee's 10 years of service immediately before the employee's retirement or a period of 5 years of service as specified in the plan. In a county that adopts a plan for granting longevity pay, the county board of commissioners may exclude this longevity pay from average final compensation for the purpose of computing the rate of employee contribution and the amount of benefits payable to an employee upon retirement.

(b) "Longevity pay" means increments of compensation payable at annual or semiannual intervals and based upon years of service to the county, exclusive of compensation provided for a given class of positions.

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the county or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

(4) If the employment of a county employee eligible to receive a pension or retirement benefit under a plan established pursuant to this section is terminated after the employee has completed 8 or more years of service in county employment, the employee shall receive the amount of pension or retirement benefit to which the employee's service would have entitled the employee under the plan established, if the employee waives the employee's right to a refund of the employee's total participation upon the termination of employment. The payment of pension or retirement benefits shall begin, as provided in the plan, after the employee would have become eligible for retirement under the plan had the employee's employment not been terminated, but not later than 90 days after the employee becomes 65 years of age. The payment of pension or retirement benefits shall not begin until the employee has applied for pension or retirement benefits in the manner prescribed in the plan established.

(5) A plan established under this section may provide for pension or retirement benefits for a county employee who becomes totally disabled for work in the county service from any cause, after not less than 10 years of county employment, to the extent of the limitations provided in this section. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or \$400.00 per month, whichever is the greater sum, for an employee who becomes totally disabled for work in the county service from causes that are the direct and proximate result of county employment, to continue for the duration of the disability or until the employee becomes eligible for retirement pursuant to other provisions of the plan authorized by this section. A plan may also provide for pension or retirement benefits, to the extent of the limitations provided in this section, for the actual dependents of a county employee who dies while still employed by the county after not less than 10 years of county employment, or who dies after leaving county employment with not less than the number of years of service required to vest in the plan but before becoming eligible to receive a pension or retirement benefit. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or \$400.00 per month, whichever is greater, for the actual dependents of a deceased county employee whose death is the direct and proximate result of county employment. The plan may provide that the period from the end of the deceased or disabled employee's period of service to the date that employee would have become eligible for retirement be used as service for the sole purpose of computing the amount of disability or death pension.

(6) As used in this section, "county employee" includes a bailiff of the district court in the thirty-sixth district who serves pursuant to section 8322 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322, and a person who receives more than 50% of all compensation for personal services, rendered to governmental units, from a county fund or county road fund, except a person, other than a bailiff of the district court in the thirty-sixth district, engaged for special services on a contract or fee basis. Until December 31, 1979, a plan adopted under this section may include as a county employee a person on leave of absence from county employment who is not a member of another retirement system except as a retiree and who pays or arranges payment of contributions equal to the contributions that would have been required to be paid under the plan by both the county and the employee, based upon the compensation the employee would have received from the county, if the employee had not taken a leave of absence or a person who complies with the requirements of such a provision approved for inclusion in a plan by the

county board of commissioners before January 1, 1976, who shall be considered to be a county employee during the period of compliance. A plan adopted under this section may exclude a person who is employed on a temporary basis and a person employed in a position normally requiring less than 1,000 hours, or some lesser specified number of hours, work per year. A bailiff serving in the district court in the thirty-sixth district is eligible to receive benefits under this section if a plan has been established by law by which the cost of benefits is payable from sources including charges on all legal instruments in which the service of process by a bailiff is required and earmarked by law for benefits, and contributions made by the city of Detroit and each bailiff pursuant to section 8322(6) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which a bailiff or former bailiff who served as bailiff as of January 1, 1967, may retire after 25 years of service regardless of age, with maximum benefits to be computed as follows: starting as of January 1, 1969, the average of any 5 years of earnings of the previous 10 years served in succession before retirement multiplied by 1.9% times the years of service; starting as of June 1, 1975, the average of any 5 years of earnings multiplied by 2% times the years of service. As used in this subsection, "earnings" means the salary and fees, other than mileage, received by a bailiff pursuant to section 8322(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which health, accident, and hospitalization insurance premiums may be paid out of the earnings of this fund. These payments shall be made at the discretion of the pension board of trustees. A county that has a retirement fund for bailiffs under this section shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8274, and to the state court administrator.

(7) An employee while receiving a pension or retirement benefit because of disability, pursuant to this section, may be considered as employed in the county service for the purpose of retirement under this section.

(8) A county employee who is included by law in another pension or retirement system by reason of the compensation the employee receives from the county may be excluded from a plan established under this section or included only to the extent of the difference between benefits granted under this section and the other pension or retirement system.

(9) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of government service resulting from employment with the United States government, except military service, employment with a state, or employment with any of their political subdivisions under the following conditions:

(a) Employment by the county occurred within 15 years following the county employee's separation from service of the last unit of government by which the county employee was employed.

(b) Service rendered before the last break in service of more than 15 years shall not be credited.

(c) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(d) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee would have made had the service been acquired in the employ of the county, plus interest from the dates the contributions would have been made to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(e) The county employee has 8 or more years of credited service in county employment, has legal vesting in the county plan, and deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer would have made had the government service being credited under this section been acquired in the employ of the county.

(10) A plan adopted under this section may provide for annual or less frequent postretirement redetermination of a pension. The redetermined amount of pension shall be not greater than the amount of pension otherwise payable multiplied by the sum of 100% and the percentage the county board of commissioners determines appropriate for each full year, excluding a fraction of a year, in the period from the effective date of payments of the pension and the date as of which the redetermination is being made. The redetermined amount shall not be less than the amount of pension otherwise payable. A provision of this section that limits the amount of a pension shall not apply to the operation of this subsection redetermining the amount of a pension. As used in this subsection, "the amount of pension otherwise payable" means the amount of pension that would be payable without regard to this subsection. The application of a provision redetermining pension amounts may be restricted to pensions that have an effective date of payment either before or after a specified date.

(11) The cost of pension or retirement benefits for a county employee under this section may be paid from the same fund from which the employee receives compensation, and the county board of commissioners may appropriate the necessary funds to carry out the purposes of this section. If a county establishes a plan by which the county pays pension or retirement benefits to an employee pursuant to this section, the county, pursuant to provisions for pension or retirement benefits that are incorporated in the plan, shall establish and maintain reserves on an actuarial basis in the manner provided in this subsection sufficient to finance the pension and retirement and death benefit liabilities under the plan and sufficient to pay the pension and retirement and death benefits as they become due. A county that adopts a retirement plan under this section and establishes reserves on an actuarial basis shall maintain the reserves as provided in this subsection. The reserves shall be determined by an actuarial valuation and established and maintained by yearly appropriations by the county and contributions by employees. The reserves shall be established, maintained, and funded to cover the pension and other benefits provided for in the plan in the same manner and within the same limits as to time as is provided for Benefit Program B in the municipal employees retirement system described in former section 14 of the municipal employees retirement act of 1984, 1984 PA 427. These reserves are trust funds and shall not be used for any other purpose than the payment of pension, retirement, and other benefits and refunds of employee contributions pursuant to the plan established in a county. An employee's contributions shall be kept and accumulated in a separate fund and used only for the payment of annuities and refunds to employees. This subsection does not apply to a county that adopted a retirement plan under this section and did not establish reserves on an actuarial basis before October 11, 1947.

(12) If a county establishes a plan for the payment of pension and retirement benefits to its employees pursuant to this section, the county board of commissioners may provide for a board of trustees to administer the plan and for the manner of election or appointment of the members of the board of trustees. The county board of commissioners may grant authority to the board of trustees to fully administer and operate the plan and to deposit, invest, and reinvest the funds and reserves of the plan within the limitations prescribed by the county board of commissioners in the plan. The county board of commissioners may authorize the investment of funds of a county retirement plan established under this section in anything in which the funds of the state employees' retirement system or the funds of the municipal employees retirement system may be invested, pursuant to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555. A county retirement plan established under this section may provide for financing, funding, and the payment of benefits in the same manner and to the same extent as is provided for in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, may provide for and require contributions by county employees, and may permit additional employee contributions on a voluntary basis.

(13) Upon the approval of the county board of commissioners, a member who entered the armed service of the United States before June 1, 1980 or who entered the armed service of the United States on or after June 1, 1980 during a time of war or emergency condition as described in section 1 of 1965 PA 190, MCL 35.61, may elect to receive credited service for not more than 5 years of active military service. Credit for military service shall be given upon request and payment to the retirement system of an amount equal to 5% of the member's full-time or equated full-time annual compensation for the year in which payment is made multiplied by the number of years, and fraction of a year, of credited service that the member elects to purchase up to the maximum. Service shall not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, except for service that is or would be credited under the federal government for services in the reserve. Service shall not be credited under this subsection until the member has the number of years of credited service needed to vest under the plan. Only completed years and months of armed service shall be credited under this subsection.

(14) A member who enters or entered any armed service of the United States may purchase credited service for periods of continuous active duty lasting 30 days or more, subject to the following conditions:

(a) The county board of commissioners authorizes the purchase of credited service under this subsection by an affirmative vote of a majority of the members of the county board of commissioners. The county board of commissioners shall establish a written policy to implement the provisions of this subsection in order to provide uniform application of this subsection to all members of the plan.

(b) The member has at least the number of years of credited service needed to vest under the plan, not including any credited service purchased under this subsection and subsection (13).

(c) The member pays the plan 5% of the member's annual compensation multiplied by the period of credited service being purchased. As used in this subdivision, "annual compensation" means the aggregate amount of compensation paid the member during the 4 most recent calendar quarters for each of which the member was credited $\frac{3}{12}$ of a year of credited service.

(d) Fractional months of armed service shall not be recognized for the purposes of this subsection.

(e) Armed service credited a member under subsection (13) shall not be the basis of credited service under this section.

(f) Armed service credited a member under this subsection shall not exceed either 5 years or the difference between 5 years and the armed service credited the member under subsection (13).

(g) Credited service shall not be granted for periods of armed service that are or could be used for obtaining or increasing a benefit from another retirement system, except for service that is or would be credited under the federal government for services in the reserve.

(15) As used in this subsection, “transitional public employment program” means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans’ outreach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the former comprehensive employment and training act of 1973, Public Law 93-203. A person participating in a transitional public employment program shall not be eligible for membership in a retirement system or pension plan established under this section. If the person later becomes a member of a retirement system or pension plan established under this section within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment in the transitional public employment program for purposes of determining a retirement allowance upon the payment by the person and the person’s employer under the transitional public employment program from funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, as funds permit, to the retirement system of the contributions, plus regular interest, the person and the employer would have paid had the employment been rendered in a position covered by this section. During the person’s employment in the transitional public employment program, the person’s employer shall provide an opportunity by payroll deduction for the person to make his or her employee contribution to the applicable pension system. To provide for the eventual payment of the employer’s contribution, the person’s employer shall during this same period place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this section, but only for that number of employees that the employer determined would transfer from the transitional public employment program into positions covered by this section. If the funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, are insufficient, the remainder of the employer contributions shall be paid by the person’s current employer.

(16) Subsection (15) does not exclude the participant in a transitional public employment program from the accident, disability, or other benefits available to members of the retirement system covered by this section.

(17) If a probate judge who is a member of a plan established under this section contributes for 20 years or more, the county board of commissioners may allow the probate judge to cease further contributions.

(18) An employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who became an employee of the state judicial council on September 1, 1981, and who was 44 years of age or older as of that date, and who will have accumulated 25 or more years of service credit by September 1, 1987, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. A person who was an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit on August 31, 1981, who last entered county employment before November 2, 1956, who became an employee of the state judicial council on September 1, 1981, and who accumulated not less than 24 years of service credit by August 31, 1981, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. An election to continue to be a member of a pension or retirement benefit plan established pursuant to this section as authorized by section 594(2) of the revised judicature act of 1961, 1961 PA 236, MCL 600.594, as that section read on February 8, 1985, or former section 36(2) of 1919 PA 369, is not effective unless the employee has made the election in the manner prescribed by those sections and has made the payments required by those sections.

(19) A plan adopted under this section may provide that an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who is a member of the Wayne county employees' retirement system on August 31, 1981, who becomes an employee of the state judicial council and a member of the state employees' retirement system on September 1, 1981, receive a benefit based on the annual average of the highest actual compensation received by the employee during a period of 5 years of county or state service.

(20) Beginning September 1, 1981, for determining the retirement benefit for a county employee who is a judge of a municipal court of record pursuant to subsection (2), "average final compensation" means the annual average of the highest actual compensation received by the judge as additional salary pursuant to former section 13(2) of 1919 PA 369, or section 9932(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9932, during a period of 5 years of service as specified in the plan. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(21) Beginning September 1, 1981, for each county employee who is a judge of a municipal court of record, or of the circuit or district court, the sum of the average final compensation determined for that county employee pursuant to this section and the final salary determined for that county employee as a member of the state of Michigan judges' retirement system created by former 1951 PA 198, or as a member of the Michigan judges' retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(22) Beginning September 1, 1981, for each county employee who is a judge of the probate court, the sum of the average final compensation calculated for that employee pursuant to this section and the final salary calculated for that employee as a member of the state of Michigan probate judges retirement system created by former 1954 PA 165 or as a member of the Michigan judges retirement system created by the judges retirement

act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(23) Beginning September 1, 1981, for determining a retirement benefit pursuant to subsection (2) for a county employee who is a judge who receives an annuity pursuant to section 14(5) of former 1951 PA 198 or pursuant to section 503(2)(c) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final compensation" means the difference between the judge's total annual salary payable from all sources on August 31, 1981, and the judge's state base salary payable on August 31, 1981. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(24) Beginning January 1, 1983, the sum of the final salary determined for each county employee who is a judge of the probate court used as the basis for determining the judge's retirement allowance as a member of a retirement system established pursuant to this section and the salary or compensation figure used as the basis for determining the judge's retirement allowance as a member of the state of Michigan judges' retirement system created by former 1951 PA 198 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the judge's total annual salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(25) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of membership service that the county employee was previously credited with by the retirement system established under this section under the following conditions:

(a) The membership service previously credited to the county employee was service rendered for the same county.

(b) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(c) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee made at the time of the previous membership service plus interest from the date of withdrawal of the accumulated contributions to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(d) The county employee deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer made at the time of the previous membership service plus interest from the date of separation to the date of deposit, at rates determined by the county board of commissioners.

(26) A person participating in a program described in this subsection is not eligible for membership in a retirement system or pension plan established under this section. In addition, that person shall not receive service credit for the employment described in this

subsection even though the person subsequently becomes or has been a member of the retirement system. This subsection applies to all of the following:

(a) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(b) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(c) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259 and sections 148 to 160 of 1984 PA 246.

(d) A person, not regularly employed by the county, who is hired by the county to administer a program described in subdivision (a), (b), or (c).

(27) If a county enters into a collective bargaining agreement pursuant to 1947 PA 336, MCL 423.201 to 423.217, that provides for retirement benefits that are in excess of the retirement benefits otherwise authorized to be provided under this section for employees of the county who are covered by a plan under this section, then the county board of commissioners may amend or adopt a plan under this section to provide those benefits to employees who are members of the bargaining unit covered by the agreement, and may, after December 31, 1987, amend or adopt a plan under this section to provide those benefits to other employees of the county.

(28) One of the following conditions applies to a retirant who is receiving a pension or retirement benefit from a plan under this section if the retirant becomes employed by a county that has established a plan under this section:

(a) Payment of the pension or retirement benefit to the retirant shall be suspended if the retirant is employed by the county from which the retirant retired and the retirant does not meet the requirements of subdivision (b) or (d). Suspension of the payment of the pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retirant is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retirant shall not be a member of the plan during the period of employment.

(b) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if all of the following requirements are met:

(i) The retirant meets 1 of the following requirements:

(A) For any retirant, is employed by the county for not more than 1,000 hours in any 12-month period.

(B) For a retirant who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retirant's retirement allowance effective date.

(C) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date.

(D) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retirant retired for a term of office that begins 2 years or more after the retirant's retirement allowance effective date.

(ii) The retirant is not eligible for any benefits from the county other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.

(iii) The retirant is not a member of the plan during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

(c) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of the employment if the retirant becomes employed by a county other than the county from which the retirant retired. For the purposes of membership and potential benefit entitlement under the plan of the other county, the retirant shall be considered in the same manner as an individual with no previous record of employment by that county.

(d) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if the retirant was an employee of the state judicial council on September 30, 1996, and becomes a county-paid employee of the recorder's court of the city of Detroit or the third judicial circuit of the circuit court on October 1, 1996.

(29) A county may increase the percentage of the highest average monthly compensation or earnings that was used to calculate the pension or retirement benefit under subsection (1)(b) of a person receiving a pension or retirement benefit under this section on the date the county increases the percentage of compensation or earnings. The county shall recalculate the pension or retirement benefit using the increased percentage of compensation or earnings. The person receiving the pension or retirement benefit is eligible to receive an adjusted pension or retirement benefit based upon the recalculation effective the first day of the month following the date the county increases the percentage of compensation or earnings under this subsection.

(30) The payment of pension or retirement benefits under a plan established pursuant to this section is subject to an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(31) If a county retirement plan established under this section provides an optional form of payment of a retirement allowance and if a retirant receiving a reduced retirement allowance under that plan is divorced from the spouse who had been named the retirant's survivor beneficiary, the election of a reduced retirement allowance form of payment shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court dated after July 18, 1991 provides that the election of a reduced retirement allowance form of payment is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance form of payment is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment