



Sub. H.B. 510

123rd General Assembly
(As Passed by the General Assembly)

Reps. Evans, Householder, Verich, Schuler, Salerno, Barnes, Myers, Carey, Tiberi, Buchy, Jolivette, Hartnett, Stevens, Flannery, Olman, Hollister, Austria, Peterson, Redfern

Sens. White, Kearns, Ray, Hottinger, Spada, Drake, Gardner, Mumper

Effective date: *

ACT SUMMARY

- Modifies the qualifications of members, meeting and voting requirements, and duties of the Savings and Loan Associations and Savings Banks Board.
- Increases the size of the Credit Union Council, and modifies the qualifications, duties, and responsibilities of its members.
- Modifies the Banking Law relative to the authorized name or designation of entities carrying on banking or trust activities.

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* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

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CONTENT AND OPERATION

The act reorganizes and modifies the law relative to the Savings and Loan Associations and Savings Banks Board and modifies the law relating to the Credit Union Council. Generally, these modifications include the qualifications of members, meeting and voting requirements, and duties of the Board and the Council.

The act also makes modifications in the Banking Law relative to the authorized name or designation of entities carrying on banking or trust activities.

THE SAVINGS AND LOAN ASSOCIATIONS AND SAVINGS BANKS BOARD

Member qualifications

(sec. 1181.16(C) to (E); Section 3)

Under continuing law, the Savings and Loan Associations and Savings Banks Board consists of seven members: the Deputy Superintendent for Savings and Loan Associations and Savings Banks and six members appointed by the Governor with the advice and consent of the Senate. The following chart compares the qualifications of the appointed members under prior law with those adopted by the act.

<p style="text-align: center;"><i>PRIOR LAW</i></p> <p style="text-align: center;">Of the six appointed members:</p>	<p style="text-align: center;"><i>THE ACT</i></p> <p style="text-align: center;">Of the six appointed members:</p>
<p>Two were required to have experience at a savings and loan association organized and transacting business under the laws of Ohio.</p>	<p>Two must have experience at a savings and loan association organized and transacting business under authority granted by the Superintendent of Financial Institutions.</p>
<p>Two were required to have experience at a savings bank organized and transacting business under the laws of Ohio.</p>	<p>Two must have experience at a savings bank organized and transacting business under authority granted by the Superintendent of Financial Institutions.</p>
<p>Two were required to represent the public and could not be engaged or engage in the management or direction of a financial institution or have any financial interest in a financial institution.</p>	<p>No provision.</p>
<p>No provision.</p>	<p>A person who has been convicted of or pleaded guilty to a felony involving dishonesty or breach of trust cannot serve as a member of the Savings and Loan Associations and Savings Banks Board.</p>
<p>No provision.</p>	<p>A member of the Savings and Loan Associations and Savings Banks Board may serve two full consecutive terms following the remainder of a term for which the member was appointed to fill a vacancy.</p>

In addition, the act provides that the Savings and Loan Associations and Savings Banks Board is to be reorganized in accordance with the act within 60 days after the act's effective date.

Meetings and voting

(sec. 1181.16(H)(1) and (4))



Continuing law requires the Savings and Loan Associations and Savings Banks Board to meet regularly at the discretion of the Board. The act, however, specifies that meetings be held at least once every six months.

Under prior law, the Board could adopt or amend bylaws and rules "by a majority vote." The act specifies that the majority vote be "of those present at a meeting at which there is a quorum."

Duties of the Board

(secs. 1155.13, 1163.16, 1181.16(I), and 1181.17)

Prior law authorized the Savings and Loan Associations and Savings Banks Board to undertake certain duties. As shown in the following chart, the act adds additional duties and makes the performance of each duty mandatory.

<i>PRIOR LAW</i>	<i>THE ACT</i>
<i>Permitted</i> the Board to consider and make recommendations upon matters addressed in the Savings and Loan Associations or the Savings Banks laws that the Superintendent of Financial Institutions or Deputy Superintendent for Savings and Loan Associations and Savings Banks submitted to it for that purpose.	<i>Requires</i> the Board to consider and make recommendations upon such matters.
<i>Permitted</i> the Board to pass upon and determine any matter which the Superintendent or Deputy Superintendent submitted to it for determination.	<i>Requires</i> the Board to pass upon and determine any such matter.
<i>Permitted</i> the Board to submit to the Governor proposed amendments to the laws governing savings and loan associations and savings banks.	<i>Requires</i> the Board to submit to the Governor proposed amendments to those laws.
No provision.	<i>Requires</i> the Board to make recommendations to the Superintendent and the Deputy Superintendent on matters relating to the business of savings and loan associations and savings banks.

<i>PRIOR LAW</i>	<i>THE ACT</i>
No provision.	<i>Requires</i> the Board to consider and determine whether to confirm the annual schedule of assessments proposed by the Superintendent (see below).

As noted in the chart above, the act requires the Superintendent to annually present to the Savings and Loan Associations and Savings Banks Board for confirmation a schedule of the assessments to be billed savings and loan associations and a schedule of the assessments to be billed savings banks. Pursuant to continuing law, these assessments are based on the total assets of a savings and loan association or savings bank, and are used to fund the budget of the Division of Financial Institutions of the Department of Commerce for examination and regulation of savings and loan associations and savings banks.

THE CREDIT UNION COUNCIL

Membership of the Council

(sec. 1733.329)

Number of members; chairperson

Under prior law, the Credit Union Council consisted of the Deputy Superintendent for Credit Unions and five members appointed by the Governor with the advice and consent of the Senate. The act specifies that the Council is created "in the Division of Financial Institutions" of the Department of Commerce, increases the number of appointed members from five to six, and designates the Deputy Superintendent as chairperson of the Council. (Under former law, the Council was required to annually choose a chairperson from its membership.)

Member qualifications

The following chart compares the qualifications of appointed members under former law with those required by the act.

<i>PRIOR LAW</i>	<i>THE ACT</i>
Of the five appointed members:	Of the six appointed members:
Three had to have at least five years of experience, and be currently serving, as	-- At least five must have had credit union experience.

<i>PRIOR LAW</i>	<i>THE ACT</i>
Of the five appointed members:	Of the six appointed members:
<p>a director, chief executive officer (CEO), or committee member of a credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law. Of these three members:</p> <p style="padding-left: 40px;">(1) At least one had to be a director, CEO, or committee member of a state-chartered, federally insured credit union;</p> <p style="padding-left: 40px;">(2) At least one had to be a director, CEO, or committee member of a state-chartered, privately insured credit union;</p> <p style="padding-left: 40px;">(3) At least one had to be a director, CEO, or committee member of a credit union with less than \$2 million in assets.</p>	<p>--At least four must be serving, at the time of appointment, as a director or CEO of a state-chartered credit union having its principal office in Ohio and doing business under the Ohio Credit Unions Law.</p> <p>--At least one must be a director or CEO of a state-chartered, federally insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered, privately insured credit union.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with \$5 million or less in assets.</p> <p>--At least one must be a director or CEO of a state-chartered credit union with more than \$5 million in assets.</p>
Two had to represent the public and could not be engaged in the management or direction of, or have a financial interest in, a financial institution.	No provision.
Not more than three could be from the same political party.	No provision.

Terms of office; oath

Formerly, terms of office were for five years. Under the act, terms of office are for three years. Initial appointments to the Council must be made within 60 days after the act's effective date. The act provides that of the initial appointments, two expire one year after the act's effective date, two expire two years after the act's effective date, and two expire three years after the act's effective date.

Continuing law prohibits any appointed member from serving more than two consecutive full terms. However, under the act, a member may serve two consecutive full terms following (1) the remainder of a term for which the member was appointed to fill a vacancy or (2) any term for which the member was appointed prior to the act's effective date.

Prior to entering upon the duties of membership, each appointed member was required by former law to subscribe to and file with the Secretary of State, the constitutional oath of office. The act removes this statutory requirement. It does not affect, however, the requirement for taking the constitutional oath of office as provided by the Ohio Constitution (Sec. 7, Art. XV).

Meetings; votes; conflicts of interest

Prior law. Under prior law, the Council was required to meet at least quarterly. The members had to be given written notice of the time and location of each meeting at least ten days prior to the scheduled meeting date. A majority of the members of the Council constituted a quorum to transact and vote on all business; however, the Deputy Superintendent could not vote on field of membership matters on appeal before the Council (see chart below).

The act. The act requires the Council to meet at least once *every six months*. Written notice of the time and location of each meeting must be provided at least *two* days prior to the scheduled meeting date, unless the Council by resolution provides for a shorter time. Four members of the Council constitute a quorum to transact and vote on all business coming before the Council.

The Council, by a majority vote of those present at a meeting at which there is a quorum, may adopt and amend bylaws and rules the Council considers necessary and proper. The Council is required to select one of its members as secretary to record all of its proceedings.

Lastly, the act prohibits a member from participating in a proceeding before the Council involving any credit union of which the member is, or was at any time in the preceding 12 months, a member of the board of directors, an officer, an employee, or a shareholder. A member may refrain from participating for any other cause the member considers sufficient.

Compensation

Council members formerly were compensated for any actual and necessary expenses incurred in the discharge of Council duties. The act states that members are not to receive a salary, but expenses incurred in performance of their duties are to be paid from funds appropriated for that purpose.

Removal

Under prior law, the Governor could remove a member, with the advice and consent of the Senate, if the member was inefficient, was derelict in the discharge of the member's duties, had used the office corruptly, or for other specified reasons. The act allows the Governor to remove any of the six appointed members "whenever in the [G]overnor's judgment the public interest requires removal." The Governor is required by the act to file a statement of the cause for removal with the Superintendent of Financial Institutions.

Duties of the Council

(secs. 1733.32(E) and 1733.3210; Section 4)

Prior law authorized the Credit Union Council to undertake certain duties, and mandated that it undertake others. As shown in the following chart, the act modifies those duties, adds additional ones, and makes the performance of each duty mandatory.

<i>PRIOR LAW</i>	<i>THE ACT</i>
<i>Permitted</i> the Council to advise the Superintendent of Financial Institutions and the Deputy Superintendent for Credit Unions on matters relating to the regulation, examination, safety and soundness, and applications of credit unions.	<i>Requires</i> the Council to advise the Superintendent and the Deputy Superintendent on such matters, and adds <i>field of membership</i> to the matters upon which advice is to be given.
<i>Permitted</i> the Council to hear appeals from final decisions of the Superintendent or Deputy Superintendent regarding <i>fields of membership</i> , and issue determinations affirming, modifying, vacating, or reversing those decisions.	No provision.
<i>Permitted</i> the Council to submit to the Governor recommendations concerning amendments to the Credit Unions Law, or rules adopted thereunder.	<i>Requires</i> the Council to submit such recommendations to the Governor.
<i>Required</i> the Council to advise the Superintendent or Deputy Superintendent concerning the	<i>Requires</i> the Council to <i>be present</i> at the public hearings required for the adoption, amendment, or recession of

<i>PRIOR LAW</i>	<i>THE ACT</i>
development and proposal of rules affecting credit unions, and to <i>conduct</i> the public hearings required for the adoption, amendment, or rescission of rules.	rules, and to provide advice at the hearings.
No provision.	<i>Requires</i> the Council to consider and make recommendations upon any matter addressed in the Credit Unions Law or the Credit Union Guaranty Corporations Law that the Superintendent or Deputy Superintendent submits to the Council for that purpose.
No provision.	<i>Requires</i> the Council to pass upon and determine any matter the Superintendent or Deputy Superintendent submits to the Council for determination.
No provision.	<i>Requires</i> the Council to consider and determine whether to confirm the supervisory fees proposed by the Superintendent (see below).

As noted in the chart above, the act requires the Superintendent to annually present to the Council for confirmation the supervisory fees to be billed credit unions and corporate credit unions. Pursuant to continuing law, these fees are determined by the Superintendent of Financial Institutions based on a percentage of the gross assets of a credit union as shown by its last annual financial report. For corporate credit unions, the aggregate annual amount of the fee cannot exceed the annual operating fee that the National Credit Union Administration charges a federally chartered credit union. The total amount of each semiannual billing to all credit unions and corporate credit unions combined generally must equal one-half of the appropriation made by the main operating appropriation act to the Division of Financial Institutions for the regulation of credit unions.

If during the period between the Council's confirmation and when the fees are collected, the Council determines additional money is required to adequately fund the operations of the Division of Financial Institutions for that fiscal year, the act permits the Council, by the affirmative vote of five of its members, to increase the fees billed. The Superintendent promptly must notify each credit union and corporate credit union of the increased supervisory fees, and each credit union or corporate credit union must pay the increased fees.

Finally, the act requires the Council to conclude, within 60 days after the act's effective date, any pending matters for which the Council was responsible under prior law and for which the Council is not responsible under the act.

Liability

(sec. 1733.3210(B))

The act states that neither the Deputy Superintendent, nor any other member of the Credit Union Council, can be held liable, in any civil or criminal action or proceeding, for any mistake of judgment or discretion in any action taken, or in any omission made, in good faith by the Deputy Superintendent or other member.

AUTHORIZED NAMES AND DESIGNATIONS UNDER THE BANKING LAW

Ongoing law generally prohibits any person, other than a state or federally chartered bank, from using "bank," "banker," or "banking," or a word or words of similar meaning in any other language, as a designation or name, or as part of a designation or name, under which business is conducted in Ohio. The law provides several exceptions to this prohibition. Under prior law, those exceptions included one for any nonprofit organization, *if* the Superintendent of Financial Institutions determined the organization's use was not likely to mislead the public and authorized the organization to use the word or words. (Sec. 1101.15(A).)

Ongoing law also generally prohibits any person, other than a corporation licensed as a trust company under the Trust Companies Law, a savings and loan association licensed to serve as a fiduciary, a national bank with trust powers, or a federal savings association with trust powers, to use the word "trust," or a word or words of similar meaning in any other language, as a designation or name, or part of a designation or name, under which business is conducted in the state. The law provides several exceptions to this prohibition. Under prior law, those exceptions included one for any nonprofit organization, *if* the Superintendent determined the organization's use was not likely to mislead the public and authorized the organization to use the word or words. (Sec. 1101.15(B).)

The act eliminates these specific exceptions for nonprofit organizations and, instead, provides an exception for *any person, whether operating for profit or not*, to use the word "bank," "banker," or "banking," or the word "trust," as applicable, in or as part of a designation or name under which business is conducted, *if* the Superintendent determines the name, *on its face*, is not likely to mislead the public and authorizes the use of the name (sec. 1101.15 (A)(2)(d) and (B)(2)(f)).



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-29-99	p. 1375
Reported, H. Financial Institutions	03-29-00	p. 1740
Passed House (94-1)	04-05-00	pp. 1763-1764
Reported, S. Finance & Financial Institutions	05-18-00	p. 1759
Passed Senate (33-0)	05-23-00	pp. 1785-1786
House concurred in Senate amendments (97-0)	05-24-00	pp. 2065-2066

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