

COMPLETELY NEW

OLD DUTY THAT MUST STILL BE DONE BY BOARD

OLD DUTY THAT MAY NOW BE DELEGATED

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SENATE BILL NO. 53

INTRODUCED BY DICK BARRETT

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DUTIES OF A CREDIT UNION'S BOARD OF DIRECTORS; REQUIRING DEVELOPMENT OF CERTAIN POLICIES RELATING TO CREDIT UNION OPERATIONS AND FUNCTIONS; PROVIDING DIRECTOR DUTIES AND MINIMUM COMPETENCIES; CLASSIFYING DIRECTORS' DUTIES AS GENERAL, NONDELEGABLE, AND DELEGABLE; PROVIDING RULEMAKING AUTHORITY; AND REPEALING SECTION 32-3-412, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Duties of directors -- rulemaking. (1) General duties of directors include

but are not limited to:

(a) acting in good faith, in a manner the directors reasonably believe to be in the best interests of the credit union's membership, with the care, including reasonable inquiry, that an ordinarily prudent director in a like position would exercise under similar circumstances;

(b) administering the affairs of the credit union fairly and impartially; and

(c) having, or promptly achieving after appointment or election, a working knowledge of

(i) basic finance and accounting practices and principles, including the ability to read and understand the credit union's balance sheet and income statement and the ability to ask substantive questions of management and auditors commensurate with the size and complexity of the credit union's operations; and

(ii) the primary types of significant risks associated with credit union operations and a general knowledge of managing risks.

(2) **Nondelegable** duties of directors pertaining to the general direction and control of the credit union include:

(a) (i) determining the maximum number and classes of shares, share certificates, and share draft accounts; [PREVIOUSLY 32-3-412(6)]

(ii) setting the par value of the shares of the credit union; and

(iii) limiting the number of shares that may be owned by a member, which must apply equally to all

1 members;

2 (b) declaring dividends on shares in the manner and form provided in the bylaws; [PREVIOUSLY 32-3-412(5)]

3 (c) establishing a detailed written policy concerning interest refunds to members based on credit union
4 income. The interest refunds must be in proportion to the interest paid by members on classes of loans during
5 a fixed period that must coincide with the credit union's dividend period. [PREVIOUSLY 32-3-412(3)]

6 (d) approving an annual operating budget for the credit union.

7 (e) authorizing the employment of persons necessary to conduct the business of the credit union and
8 fixing the compensation, if any, of the general manager and the treasurer; [PREVIOUSLY 32-3-412(8)]

9 (f) suspending or removing a member of the credit committee or supervisory committee for failure to
10 perform duties. If the credit committee or supervisory committee is elected by the membership of the credit union
11 under its bylaws and 32-3-403, the board of directors shall appoint a member to fill a vacancy created under this
12 subsection (2)(f) to serve until election and qualification of the successor by the members at the next annual
13 meeting of the membership or at a special meeting called for that purpose. [PREVIOUSLY 32-3-412(12)]

14 (g) borrowing money to carry on the functions of the credit union; [PREVIOUSLY 32-3-412(10)]

15 (h) fixing, from time to time, the maximum amount of credit that may be extended or the maximum
16 amount that may be loaned to any one member within the limits of 32-3-603; [PREVIOUSLY 32-3-412(4)]

17 (i) lending money to members and establishing, by loan class or type of credit extension, a detailed
18 written policy containing standards and conditions for approving credit applications, identifying acceptable loan
19 purposes, establishing loan underwriting standards, and establishing maximum maturities, terms of repayment
20 or amortization of loans, and standards pertaining to collections and charge-offs; [PREVIOUSLY 32-3-412(4)
and (10)]

21 (j) approving the charge-off of credit union losses.

22 (k) terminating or suspending memberships and expelling members following a procedure that is fair and
23 reasonable, under the provisions of 35-2-520, as applied to a nonprofit credit union corporation.

24 (l) designating persons or management positions authorized to execute or certify documents or records
25 other than deposit account transactions on the credit union's behalf.

26 (m) designating a depository or depositories for the funds of the credit union and designating the persons
27 or positions authorized to execute the credit union's deposit account transactions; [PREV 32-3-412(11)]

28 (n) authorizing the conveyance of property; [PREVIOUSLY 32-3-412(9)]

29 (o) appointing any special committees considered necessary; [PREVIOUSLY 32-3-412(13)]

30 (p) purchasing a blanket fidelity bond to protect the credit union against losses caused by

1 occurrences covered by the bond such as fraud, dishonesty, forgery, theft, misappropriation, misapplication, or
2 unfaithful performance of duty by a director, officer, employee, member of a duly appointed committee, or other
3 agent of the credit union; [PREVIOUSLY 32-3-412(2)]

4 (q) performing other duties as the members occasionally direct; and [PREVIOUSLY 32-3-412(14)]

5 (r) performing or authorizing any action not inconsistent with this chapter and not specifically reserved
6 by the bylaws for the members. [PREVIOUSLY 32-3-412(14)]

7 (3) A credit union's directors shall adopt detailed written policies that include standards, conditions, and
8 controls governing the following operational functions, any of which may be delegated to an appointed committee
9 or qualified person to be executed consistent with the policies:

10 (a) acting on applications for membership and making a written record of the basis for each approval
11 or denial of membership. The notification to an applicant of the decision made by an appointed membership
12 committee or qualified person must include notice of the opportunity to appeal an adverse decision to the board
13 of directors and must state the procedure and time period for commencing an appeal. [PREVIOUSLY 32-3-
14 412(1)]

14 (b) investing surplus funds; [PREVIOUSLY 32-3-412(7)] and

15 (c) determining, from time to time, the interest rate or rates to be charged on loans and extensions of
16 credit, consistent with credit union safety and soundness principles, by classes of loans, loan sizes, terms or
17 maturities of loans, reference indexes, and other factors the board of directors considers appropriate.
[PREVIOUSLY 32-3-412(3)]

18 (4) The department of administration may adopt rules necessary to implement this section.

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20 **NEW SECTION. Section 2. Repealer.** The following section of the Montana Code Annotated is
21 repealed:

22 32-3-412. Duties of directors.

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24 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 32, chapter 3, part 4, and the provisions of Title 32, chapter 3, part 4, apply to [section 1].

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