

HOUSE BILL NO. 731

INTRODUCED BY M. NOLAND, D. BARTEL, M. BLASDEL, T. MOORE, A. OLSZEWSKI, V. RICCI

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CREDIT UNION LAWS TO PROVIDE PENALTIES FOR DIRECTORS AND OTHERS IN POSITIONS OF RESPONSIBILITY FOR FALSE STATEMENTS, FRAUD, OR OTHER ACTS OF DECEPTION; PROVIDING FOR REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES FOR CERTAIN ACTIONS; PROVIDING PRIMA FACIE EVIDENCE IF CREDIT UNION LOSSES ARE TIED TO CERTAIN DISHONEST ACTIONS CITED BY THE DEPARTMENT OF ADMINISTRATION; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Penalty for false statements or entries to books and records.** (1) The department of administration may impose a fine not exceeding \$50,000 on a director, an executive officer, an agent, or an employee of a credit union who willfully and knowingly:

- (a) makes or subscribes a false statement of facts, statement of account, or report; or
- (b) makes a false entry in the books of the credit union or knowingly subscribes or exhibits false papers with the intent to deceive a person authorized to examine the credit union.

(2) The fines must be deposited in the general fund.

**NEW SECTION. Section 2. Penalty for fraud by director, executive officer, agent, or employee.** (1) The department of administration may impose the penalty described in subsection (2) if a director, an executive officer, an agent, or an employee of a credit union:

- (a) (i) knowingly receives or takes possession of any credit union property, except in payment for a just demand; and
- (ii) with the intent to defraud fails to make or to cause or direct to be made a full and true entry of the receipt or possession in its books and accounts or concurs in failing to make a material entry in its books and account;
- (b) knowingly concurs in making or publishing a written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement that is false; or

1 (c) having the custody or control of the credit union's books, willfully refuses or neglects to make a proper  
 2 entry in the credit union's books as required by law, to exhibit the books, or to allow the books to be inspected  
 3 and allow extracts to be taken from the books by the department.

4 (2) An individual who is found guilty or pleads guilty to a charge under subsection (1) may be imprisoned  
 5 in a state correctional facility for a term not exceeding 5 years or be fined by the department an amount not to  
 6 exceed \$10,000, or both.

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 8 **NEW SECTION. Section 3. Theft of funds.** (1) The following conditions are considered theft for which  
 9 the offender, upon conviction, is to be imprisoned in a state correctional facility for a term not exceeding 20 years  
 10 and fined by the department of administration an amount not to exceed \$50,000:

11 (a) fraudulent appropriation, misapplication, or theft of the money, funds, credits, or property of a credit  
 12 union, whether owned by the credit union or held in trust;

13 (b) fraudulent issuance or putting forth of a SHARE certificate ~~of deposit~~;

14 (c) fraudulent drawing of an order or bill of exchange;

15 (d) fraudulent acceptance or assignment of a note, bond, draft, bill of exchange, mortgage, judgment,  
 16 or decree with intent to injure or defraud the credit union; or

17 (e) fraudulent attempt to deceive an officer of the credit union or anyone appointed to examine the affairs  
 18 of the credit union.

19 (2) This section applies to a credit union director, officer, or employee or any person who with like intent  
 20 aids or abets any individual listed under this subsection (2) in the actions listed in subsection (1).

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 22 **NEW SECTION. Section 4. Concealing actions from directors.** (1) An officer or employee of a credit  
 23 union who intentionally conceals from the directors or a committee of the directors any of the actions under  
 24 subsection (2) may be charged with a misdemeanor, and upon being found guilty or pleading guilty is subject for  
 25 each offense to a term of not more than 12 months in the county jail or a fine by the department of administration  
 26 of not more than \$500, or both.

27 (2) The following actions intentionally concealed from the directors are violations of this chapter:

28 (a) providing a discount, an extension of credit, or a loan made on behalf of the credit union; or

29 (b) purchasing a security, selling any of the credit union's securities, or making any guarantee,  
 30 repurchase agreement, or other agreement obligating the credit union.

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2           **NEW SECTION. Section 5. False statement to obtain or extend loan.** An individual may be fined by  
3 the department of administration not more than \$1,000 for each false statement made:

4           (1) to obtain for the individual or for another person, a firm, a corporation, or an association a loan of  
5 money from a credit union;

6           (2) to gain an extension of time for the payment of a debt owed to the credit union; or

7           (3) to extend credit to a customer.  
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9           **NEW SECTION. Section 6. Removal of directors, officers, employees -- hearing.** (1) A director, an  
10 officer, or an employee of a credit union who is found by the department of administration, after examination, to  
11 be negligent, dishonest, reckless, or incompetent or to have violated the provisions of [sections 1 through 5] must  
12 be removed from office by the ~~board of directors~~ SUPERVISORY COMMITTEE of the credit union on the written order  
13 of the department.

14           (2) If the directors neglect or refuse to remove the director, officer, or employee and any losses accrue  
15 to the credit union by reason of the negligence, dishonesty, recklessness, or incompetency of the director, officer,  
16 or employee, the department's written order is conclusive evidence of the negligence of the directors' failure to  
17 act as required in subsection (1) in any action brought against the board of directors by a member of the credit  
18 union for recovery of losses.

19           (3) If the ~~board of directors~~ SUPERVISORY COMMITTEE refuses to remove the director, officer, or employee  
20 on order of the department, the ~~board of directors~~ SUPERVISORY COMMITTEE may file a request for hearing pursuant  
21 to the Montana Administrative Procedure Act.  
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23           **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified  
24 as an integral part of Title 32, chapter 3, and the provisions of Title 32, chapter 3, apply to [sections 1 through 6].  
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26           **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 2019.  
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