

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: JUDITH WEHRWEIN
Legal Assistant

DATE: 02/14/85

FROM: GREGORY P. HUWE
Special Assistant
Attorney General

PHONE: 6-9418

SUBJECT: AMENDMENTS TO RULES RELATING TO CREDIT UNIONS
Your File No. 1120

Enclosed herewith and resubmitted for your review, pursuant to Minn. Stat. § 14.26, are Commerce Department amendments to the rules governing credit unions and supporting documents as required by Minn. Rules pt. 2000.0400 (1983).

These rules were previously submitted to your office on August 10, 1984, and were rejected for deficiencies in the Statement of Need and Reasonableness and Notice of Rulemaking on August 31, 1984.

The rules were resubmitted on December 12, 1984, and withdrawn.

An additional Notice of Intent to Adopt Rules Without a Public Hearing was published in the State Register on January 14, 1985, and the Notice was mailed to persons on the Department's mailing list on January 11, 1985.

The Commerce Department did not receive any comments, objections, or requests for hearing in response to the republication.

Please contact me if you have any questions.

GPH:ddj

Enc.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE, FINANCIAL EXAMINATIONS

Office Memorandum

TO : Gregory P. Huwe
Special Assistant Attorney General

Larry D. Starns
Special Assistant Attorney General

DATE: February 14, 1985

FROM : Allyn R. Long al
Assistant Commissioner

PHONE: 7-2750

SUBJECT: Amendments to Rules Governing Credit Unions - AR0482

This is to submit the above titled administrative rule file to your office for review pursuant to Minn. Stat. § 14.26. There were no comments submitted regarding the amendments to the rules.

If you have any questions please contact me at 297-2750.

Enclosures:

Three copies of Adopted Rules Governing Credit Unions - AR0482
Notice of Intent to Adopt Rules republished in State Register 1-14-85
A copy of Proposed Rules as Published in State Register 10-22-84
Certificate and list of persons mailed copies of the rules 1-11-85
Affidavit of Mailing Proposed Rules 1-11-85
Statement of Need and Reasonableness
Order Adopting Rules - 2-11-85
Notice of Submission to Attorney Generals - 2-11-85
Statement of Compliance with Rulemaking Procedures 2-11-85
Affidavit of Mailing Notice of Submission to Attorney General 2-11-85

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : GREG HUWE
Commerce Division

DATE: 12/28/84

FROM : JUDITH V. WEHRWEIN JVW
Legal Assistant

PHONE: 297-3471

SUBJECT: DEPARTMENT OF COMMERCE - RULES GOVERNING CREDIT UNIONS

Enclosed please find documents submitted to this office for review of the above-referenced rules. In accordance with our telephone converation of December 24, 1984, it is understood you are withdrawing the rules because appropriate notice was not mailed.

When resubmitting the rules please refer to our File No. 1120. Thank you.

JVW:dw

Enclosures

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Bremer Tower

Office Memorandum

TO: JUDITH WEHRWEIN
Administration Division

DATE: Dec. 12, 1984

FROM: GREGORY P. HUWE GPH
Commerce Division

PHONE: 6-9412

SUBJECT: Amendments to Rules Relating to Credit Unions

Enclosed herewith and resubmitted for your review pursuant to Minn. Stat. § 14.26 are Commerce Department amendments to rules governing credit unions and supporting documents as required by Minn. Rules part 2000.0400 (1983).

These rules were previously submitted to your office on August 10, 1984, and were not approved for deficiencies in the Statement of Need and Reasonableness and Notice of Rule-making. Please refer to the memorandum of Larry D. Starns to Michael A. Hatch, Commissioner of Commerce, dated August 31, 1984.

A new Notice of Intent to Adopt Rules without a Public Hearing and a corrected Statement of Need and Reasonableness were drafted and the rules were republished in the State Register on October 22, 1984. The Commerce Department did not receive any comments, objections or requests for hearing in response to the republication.

Please contact me if you have any questions.

GPH:sab
Enclosures

RECEIVED
DEC 13 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MICHAEL A. HATCH
Commissioner of Commerce

DATE: August 31, 1984

ATTN: GREGORY P. HUWE
Special Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: Department of Commerce: Amendments of Rules Governing Credit Unions

The above-referenced rules have not been approved for the following reasons:

1. The Statement of Need and Reasonableness in large part merely recites the nature of the amendment to the rules without referencing why the rules need amending and why the proposed amendment is a reasonable method of accomplishing the purpose of the amendment. A new more comprehensive Statement of Need and Reasonableness must be prepared and made available to the public prior to adoption of the rules in order to comply with Minnesota Rules pt. 2000.0400, subp. 1.G (1983).

2. The Notice of Rulemaking violates Minnesota Rules pt. 2000.0400, subp. 1.I (1983) by failing to correctly cite the Agency's statutory authority for adopting these rules. The authority cited, Minnesota Stat. §14.22, is applicable only with respect to the notice of requirements for rulemaking. It does not, as does Minnesota Stat. §46.01, subd. 2, provide the direct delegation of authority to the Agency to promulgate these rules to carry out its Statutory function. Without the correct reference, the Notice is ineffectual in alerting the public to the authority which enables this Agency to promulgate these rules. A new Notice of Rulemaking, which refers the public to the correct statute authorizing these rules, must be drafted and disseminated prior to adoption of the rules.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for our review. Upon resubmission, please include a new or supplemental Order Adopting and four copies of the new Rules as Adopted. Also, please include a memorandum specifying that the rules are being re-submitted so that we may obtain our initial file in this matter.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

LDS:cb

cc: Duane Harves
Kathy Burek
Paul Marinac

Our File No. 1120

See our File 1058 - RULE REVIEW CHECKLIST

rule was disapproved.

DATE RULE RECEIVED ~~12-13-84~~ 2-14-85
DATE FOR REVIEW ~~12-22-84~~ 2-22-85
DATE DUE ~~12-27-84~~ 2-28-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved _____ Disapproved with drawn 12/28/84 Returned to Agency _____

New Submission
~~Resubmitted~~ 2-14-85
Approved 2-28-85 (LCB) Disapproved _____ Due 2-28-85 Returned to Agency _____

Date filed w/Secretary of State 3-1-85 Revisor approved 12/13/84 disapproved _____

✓ ✓ Rule as Adopted

✓ Rule as Proposed

✓ ✓ Order Adopting 12.11.84 Date 2.14.85.

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
1.11.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ ✓ Publication in State Register 1.14.85.
10.22.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption
✓ 10.29.84 Errata notice

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ ✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ ✓ Certificate of Compliance w/Rulemaking Procedures

✓ ✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ ✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO Michael A. Hatch, Commissioner
Department of Commerce

DATE: 3-1-85

ATTN: Gregory Huwe
Special Assistant Attorney General

FROM : Larry D. Starns LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Amendment to Rules Relating to Credit Unions.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

LDS:sz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Commerce

Adopted Rules Governing Credit Unions

Rules as Adopted

2675.6100 BOOKS, RECORDS, AND REPORTS.

Subpart 1. [See repealer.]

Subp. 2. **Data processing off premises.** Any credit union receiving recordkeeping services from another credit union or from a service corporation shall provide a certificate from the other credit union or service corporation, stating its agreement to perform the services in compliance with Minnesota Statutes, section 52.06. The certificate must acknowledge that it is subject to regulation and examination to the same extent as if the services were being performed by the credit union on its premises.

Subp. 2a. **Daily closing.** Credit unions that maintain in excess of $500,000 in accounts subject to draft withdrawal shall post all assets and liabilities daily.

Subp. 3. **Semiannual audit.** The supervisory committee shall file a report in duplicate on forms furnished by the Department of Commerce, within 30 days after the date of each semiannual audit.

Subp. 4. **Commingled funds.** All cash receipts and assets of the credit union must be kept intact and separate from other funds.

Subp. 5. [See repealer.]

Subp. 5a. **Statement of accounts.** A statement of account that itemizes all transactions must be issued at least monthly for sharedraft accounts. A statement must be issued at the end of a dividend period on all other accounts, except that a statement need not be issued more often than quarterly and must be issued at least annually.

Subp. 5b. **Inactive and segregated accounts.** If the board determines that an account is inactive and segregated, it must be issued a statement at least annually. Statements on inactive

accounts must be issued under the control of the supervisory committee.

Subp. 5c. **Passbooks.** When issued, passbooks must show the current position of shares, deposits, and loans. The credit union shall annually notify members to bring passbooks into the credit union office for current posting. A credit union may not hold a passbook.

Subp. 6. **Issuing account numbers.** A number must be assigned to each member in sequence upon his election to membership, and that number may never be reissued to another member. Each member's assigned number must appear on his individual record of accounts for shares, deposits, and loans.

2675.6110 PURCHASE OF REAL ESTATE.

A credit union may not purchase real estate other than for credit union premises.

2675.6111 INVESTMENTS IN CREDIT UNION PREMISES.

Investments in credit union premises or leasehold investments may not exceed 50 percent of total reserves of the credit union unless the Department of Commerce grants a prior approval.

2675.6120 OTHER REAL ESTATE.

Subpart 1. **Transfers.** Whenever real estate is acquired by a credit union through foreclosure or by deed in lieu of foreclosure, it must be transferred from loans to an account titled "other real estate" on the date upon which the credit union actually acquired title.

Subp. 2. **Repair and restoration costs.** Costs of repairs and costs of restoration of the property may not be added to the real estate account, unless the expenditures are for permanent improvements. Taxes delinquent when title is acquired may, when paid by the credit union, be added to the book value of the property.

Subp. 3. **Additions to book value.** Additions to book value may not be made after the date of sale in cases of foreclosure except as noted in subpart 2. If a deed is taken in lieu of

foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus delinquent taxes and assessments paid by the credit union at the time of acquiring title.

Subp. 4. **Sale of other real estate.** A credit union may finance the sale of other real estate or credit union premises under the terms and conditions available to any seller or owner of real property. A profit on the sale of other real estate sold on contract is considered deferred profit and must be held in reserve to be realized after two consecutive years of contracted payments have been made.

Subp. 5. **Unsold other real estate.** Other real estate that is not sold must be charged off annually through earnings at the rate of at least ten percent of the original amount. The first charge off must be based on the number of full months in which other real estate was booked.

2675.6141 REAL ESTATE MORTGAGES.

Subpart 1. **Loans.** Credit unions may make loans upon the security of real estate if it is a first lien on the real estate. Additionally, credit unions may take a junior lien if the loan is made:

A. to secure debts previously contracted;

B. if at least 80 percent of the principal balance is guaranteed or insured by a governmental agency or nationally recognized insurer;

C. to secure a loan if the total unpaid aggregate of all outstanding liens against the same real estate, including the credit union's proposed lien, does not exceed 80 percent of its appraised value. A loan made under Minnesota Statutes, section 52.165 is deemed to comply with this rule if it was in compliance at the date of its origination.

Subp. 2. **Appraisal report.** Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the credit committee or, in the absence of a credit committee, the board of directors. The appraisal report and its acceptance by

the board or credit committee must be made part of the mortgage file.

Subp. 3. **Valid lien.** An attorney's opinion or a title insurance policy is required on all real estate loans and must describe the status of fee title, the validity of the credit union's lien, and the position of the lien.

Subp. 4. **Insurance.** Evidence of adequate insurance with loss payable clause payable to credit union is required for mortgages on improved property.

Written binders of insurance are acceptable evidence of insurance. A credit union may not refuse to accept a binder tendered at the time of closing as evidence of insurance coverage required as a condition of a loan agreement; provided that the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

Subp. 5. **Fees.** As specified by board policy, a credit union may require members to pay fees in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Upon acceptance of an application for a real estate loan, the borrower shall be provided with an estimate of all costs other than interest authorized by law. Additionally, the applicant shall be provided with an estimate of costs to be refunded in the event the loan is not granted.

Subp. 6. **Exempt loans.** Real estate lending policies may exclude the title perfection requirements of part 2675.6141 on advances of $7,500 or less. These loans will not be considered real estate secured loans for examination purposes or for purposes of transferring or imposing fees as provided by part 2675.6141, subpart 5.

2675.6142 PERSONAL LOANS.

Subpart 1. **Fees.** Charges, other than interest authorized by law, may not be made for any non-real estate loan except that there may be charged to the borrower or included in the amount financed:

A. Fees paid or to be paid by the credit union to any public officer for filing, recording, or releasing in a public

office an instrument securing the loan.

B. Premiums or charge for insurance protecting the lender against the risk of loss from not filing or recording a security agreement or financing statement and in lieu of filing the agreement or statement. The premium or charge may not exceed the actual premium or charge made by the insurance company to the lender or the actual costs if the documents were filed, recorded, or released in any public office.

C. The premium on any life, accident and health, property, or other insurance written upon or in connection with a loan; provided notification is given in writing that the borrower has the option of furnishing this coverage through existing policies of insurance owned or controlled by him or of furnishing the coverage through any insurer authorized to transact business in this state. The premium may not be included as part of the loan and must be accounted for as a separate receivable unless advanced as part of the principal at the time of origination or payments are increased to provide amortization of the premium within the original maturity of the loan.

Subp. 2. **Financial statements.** An unsecured loan in an amount indicated below must be supported by a signed financial statement of the borrower, comaker, and guarantors that lists the assets and obligations and shows the net worth of the borrower, comaker, or guarantor:

A. an unsecured loan in excess of $1,500 in a credit union with assets of less than $1,000,000;

B. an unsecured loan in excess of $3,000 in a credit union with assets of $1,000,000 to $10,000,000; or

C. an unsecured loan in excess of $5,000 in a credit union with assets of $10,000,000 or more.

Current financial information is also required on loans which the commissioner or his examiners consider inadequately secured. The loan application must show the estimated value of any collateral offered at the time a loan is granted.

2675.6143 DELINQUENT LOANS.

Subpart 1. **Installment loans.** A note due on a monthly installment basis must be scheduled for delinquency. The whole principal balance is considered past due if any portion of an installment remains unpaid 60 days after the scheduled payment date. Delinquent loans must be shown by categories coded as follows:

A. 60 days to 180 days, code A;

B. 181 days to 364 days, code B; and

C. 365 days or more, code C.

Subp. 2. **Single payment loans.** A single payment loan is considered past due the next day after maturity and must be coded past due from that date according to the schedule in subpart 1.

Subp. 3. **Extensions.** A loan is not considered current by extension unless accrued interest has been paid to the date of extension. Special consideration for unusual circumstances affecting the general membership may be permitted by a detailed application to the Department of Commerce.

Subp. 4. **Delinquent loan report.** A detailed report on delinquent loans must be reviewed at each board meeting and made a part of the minutes. The report must include a summary of collection activity, the number of new additions to the delinquent loan list, and a review of loans on the prior month's delinquent loan list which have been extended or rewritten. The board shall verify by direct examination or otherwise that the record of delinquent loans is reasonably accurate.

Subp. 5. **Delinquent loan reserve requirement.** Before declaration of a dividend the board of directors shall ascertain that the statutory reserve as of the date of declaration exceeds the sum of:

A. ten percent of code A loans;

B. 25 percent of code B loans; and

C. 100 percent of code C loans.

No net earnings or undivided earnings may be used to pay dividends until the statutory reserve exceeds the above calculations or the commissioner of commerce has approved

payment.

Subp. 6. **Interest earned not collected.** Interest earned not collected reflected on a credit union's books under the accrual method of accounting may not be continued on a loan which is more than 90 days delinquent. Accrued interest must be reversed to earnings or undivided profits at the time a loan is charged off to the statutory reserve fund or at the time an allowance for loan losses is established.

2675.6180 BOARD OF DIRECTORS.

Subpart 1. **Change.** Notice of any change in officers, directors, or committee members between annual meetings must be forwarded to the Department of Commerce within ten days of the effective date of the change.

Subp. 2. **Review of examiner's report.** When the examiner's report is received by a credit union, it must be reviewed by the board of directors at a regular or special meeting and a reply must be submitted to the Department of Commerce within 60 days of the receipt of the report or as instructed in the transmittal letter. The letter from the Department of Commerce which accompanies the report must also be read at the directors' meeting.

Subp. 3. [See repealer.]

Subp. 4. **Minute book.** The minutes of any meeting must be written up as soon as practicable and signed by the secretary and the presiding officer at the next meeting upon approval. The minutes must be kept in a book and be available along with the credit union records for inspection by the commissioner of commerce or his representatives at all times with or without previous notice.

2675.6210 ASSET RECEIPT.

Whenever it becomes necessary to remove any asset from the files for any reason whatsoever, a properly executed receipt attached to a copy of the asset must replace it.

2675.6220 CHARGED OFF ASSETS.

A record of all assets charged off, either to the statutory

reserve fund or undivided earnings, along with recoveries thereto must be maintained. This record must be available to the examiners at each examination.

2675.6230 FURNITURE AND FIXTURES ACCOUNT.

Purchases capitalized to the furniture and fixtures account shall be amortized at the minimum rate of ten percent annually, unless exception is made by the commissioner of commerce. The charge off may be based on the number of full months in which the item was capitalized. Adequate records must be maintained to facilitate a determination of the unamortized amount of each capitalized item.

2675.6250 FIDELITY BONDS.

Subpart 1. **Requirements.** A credit union operating under Minnesota law is required to be protected by a blanket bond with the following provisions: all officers, committee members, employees, bank messengers, and attorneys representing the credit union shall be covered by the bond. The credit union shall be protected against losses from a lack of honesty, burglary or robbery, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. The bond must be approved by the Department of Commerce. The bond must provide that the commissioner of commerce will be given notice of pending cancellation within 60 days of final termination.

Subp. 2. [See repealer.]

Subp. 3. **Minimum provisions.** The board of directors shall at least once a year approve the amount of fidelity insurance to be carried for the ensuing year. The board of directors may establish minimum amounts of bond coverage and maximum deductible amounts.

2675.6270 INVESTMENTS.

Subpart 1. **Records required.** During the period in which investments are carried on a credit union's books, original invoices of bond purchases and sales must be retained as a part of the records of a credit union.

A record must be maintained of all securities bought and

sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where deposited for safekeeping.

Any investment, other than United States governments direct and/or guaranteed, must be supported by full credit information at the time of purchase (dealer's circular or prospectus).

Subp. 2. **Bond price exceeding par.** Purchase of a bond at a price exceeding par is prohibited, unless the credit union shall:

A. charge off the premium when the securities are placed on the books;

B. provide for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under item B.

Subp. 3. **Charges.** Accrued interest paid on securities must be charged to interest received under the cash basis of accounting. Bond commissions and all costs of sales or purchase must be charged to expense.

Subp. 4. **Security at price less than par.** Upon the purchase of a security at a price less than par, the credit union shall place the security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

2675.6290 INSURANCE.

Subpart 1. **Insurance agency.** A credit union may establish, operate, or maintain an insurance agency as a separate corporation or agency within its physical premises.

Subp. 2. **Policyholder.** A credit union may be the policyholder of either a group insurance plan or a subgroup under a master policy plan.

Subp. 3. **Remission of premiums.** Premiums may be remitted by the credit union to an insurer or the holder of a master policy on behalf of a credit union member provided that the credit union has obtained written authorization from the member.

Subp. 4. **Election by member.** Where a credit union is engaged in the facilitation of its members' voluntary purchase of insurance incidental to the borrowing of money, including but not limited to fire, theft, automobile, life, and temporary disability insurance, a member shall be given the elective of purchasing any required insurance from the vendor of his choice, and the members' file shall contain his signed written elective.

Subp. 5. **Canceled insurance.** If the insurance is canceled, the unearned premium shall be paid to the member or credited to the member's share or deposit or loan account.

2675.6301 CERTIFIED PUBLIC ACCOUNTANT REPORT IN LIEU OF EXAMINATION.

Subpart 1. **Request for approval.** A credit union may request prior approval by the Department of Commerce to submit a certified public accountant report in lieu of examination. If approval is given, the department retains the authority to reject the report if it is inadequate by the standards of the department.

Subp. 2. **Contents of report.** A report submitted in lieu of examinations must include a balance sheet examination and the classifying of assets in a manner consistent with Department of Commerce credit union examinations. The report must be submitted on the same forms and in the same manner that Department of Commerce credit union examiners employ.

REPEALER. Parts 2675.6100, subparts 1 and 5; 2675.6130; 2675.6140; 2675.6150; 2675.6160; 2675.6170; 2675.6180, subpart 3; 2675.6190; 2675.6240; 2675.6250, subpart 2; 2675.6280; 2675.6300; and 2675.9910 of the Department of Commerce are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR – 1 1985
Joan Anderson Growe
Secretary of State
10:50 AM

APPROVED AS TO LEGALITY
February 28, 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of
Amendment to Rules Relating to Credit Unions

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled amendments to rules without a public hearing was published in the State Register on January 14, 1985 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. § 14.14, subd. 1a, on January 11, 1985.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, no comments were received and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minnesota Rules 2675.6100 through 2675.6301 are adopted this 14th day of February, 1985, pursuant to authority vested in me by Minn. Stat. § 14.22.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Amendments to Rules Relating to Credit Unions

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Linda J. Phillips, being first duly sworn, deposes and says:

That on the 11th day of January, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Linda J. Phillips

Linda J. Phillips

Subscribed and sworn to before me this
11th day of January, 1985.

Barbara Ahlberg

BARBARA AHLBERG
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES JULY 31, 1990

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Amendments to Rules Relating to Credit Unions

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Allyn R. Long, Assistant Commissioner, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-2750. Any person requesting a public hearing should state her/his name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and to send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 46.01, subd. 2. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request by contacting Linda Phillips at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. If a hearing is not required, notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any person requesting to receive the notice. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Linda Phillips, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Linda Phillips at the above address.

Michael A. Hatch
Commissioner of Commerce

cash receipts and assets of the credit union must be kept intact and ~~not commingled with any~~ separate from other funds ~~under any circumstances~~.

Subp. 5. [See repealer.]

Subp. 5a. **Statement of accounts.** A statement of account that itemizes all transactions must be issued at least monthly for sharedraft accounts. A statement must be issued at the end of a dividend period on all other accounts, except that a statement need not be issued more often than quarterly and must be issued at least annually.

Subp. 5b. **Inactive and segregated accounts.** If the board determines that an account is inactive and segregated, it must be issued a statement at least annually. Statements on inactive accounts must be issued under the control of the supervisory committee.

Subp. 5c. **Passbooks.** When issued, passbooks must show the current position of shares, deposits, and loans. The credit union shall annually notify members to bring passbooks into the credit union office for current posting. A credit union may not hold a passbook.

Subp. 6. ~~**Individual ledger cards**~~ **Issuing account numbers.** A number ~~shall~~ must be assigned to each member in sequence upon his election to membership, and ~~no such~~ that number ~~shall ever~~ may never be reissued to ~~any other~~ another member. Each member's assigned number ~~shall~~ must appear on his ~~passbook and~~ individual ~~ledger card~~ record of accounts for shares, deposits, and loans. ~~All ledger cards must be kept so that the year can be readily ascertained.~~

2675.6110 PURCHASE OF REAL ESTATE.

~~No~~ A credit union ~~shall~~ may not purchase real estate ~~unless approved by the commissioner of banks~~ other than for credit union premises.

2675.6111 INVESTMENTS IN CREDIT UNION PREMISES.

Investments in credit union premises or leasehold investments may not exceed 50 percent of total reserves of the

credit union unless the Department of Commerce grants a prior approval.

2675.6120 OTHER REAL ESTATE.

Subpart 1. **Transfers.** Whenever real estate is acquired by a credit union through foreclosure or by deed in lieu ~~thereof~~ of foreclosure, it ~~shall~~ must be transferred from loans to an account titled "other real estate" on the date upon which the credit union actually acquired title.

Subp. 2. **Repair and restoration costs.** ~~No~~ Costs of repairs ~~or~~ and costs of restoration of ~~such~~ the property may not be added to the real estate account, ~~except such~~ unless the expenditures ~~as represent~~ are for permanent improvements. Taxes delinquent when title is acquired may, when paid by the credit union, be added to the book value of the property.

Subp. 3. **Additions to book value.** ~~No~~ Additions to book value may not be made after the date of sale in cases of foreclosure except as noted in ~~the preceding paragraph~~ subpart 2. If a deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus delinquent taxes and assessments paid by the credit union at the time of acquiring title ~~thereto~~.

~~When sales are made on a contract for deed at a price exceeding the book value of the real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profit after one third of the purchase price has been paid on the contract, excluding interest payments.~~

~~"Other real estate" must be charged off annually at the rate of at least ten percent of the original amount and the first charge off must be made not later than 12 months after the date of acquisition.~~

Subp. 4. **Sale of other real estate.** A credit union may finance the sale of other real estate or credit union premises under the terms and conditions available to any seller or owner of real property. A profit on the sale of other real estate sold on contract is considered deferred profit and must be held

in reserve to be realized after two consecutive years of contracted payments have been made.

Subp. 5. **Unsold other real estate.** Other real estate that is not sold must be charged off annually through earnings at the rate of at least ten percent of the original amount. The first charge off must be based on the number of full months in which other real estate was booked.

2675.6141 REAL ESTATE MORTGAGES.

Subpart 1. **Loans.** Credit unions may make loans upon the security of real estate if it is a first lien on the real estate. Additionally, credit unions may take a junior lien if the loan is made:

A. to secure debts previously contracted;

B. if at least 80 percent of the principal balance is guaranteed or insured by a governmental agency or nationally recognized insurer;

C. to secure a loan if the total unpaid aggregate of all outstanding liens against the same real estate, including the credit union's proposed lien, does not exceed 80 percent of its appraised value. A loan made under Minnesota Statutes, section 52.165 is deemed to comply with this rule if it was in compliance at the date of its origination.

Subp. 2. **Appraisal report.** Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the credit committee or, in the absence of a credit committee, the board of directors. The appraisal report and its acceptance by the board or credit committee must be made part of the mortgage file.

Subp. 3. **Valid lien.** An attorney's opinion or a title insurance policy is required on all real estate loans and must describe the status of fee title, the validity of the credit union's lien, and the position of the lien.

Subp. 4. **Insurance.** Evidence of adequate insurance with loss payable clause payable to credit union is required for mortgages on improved property.

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Written binders of insurance are acceptable evidence of insurance. A credit union may not refuse to accept a binder tendered at the time of closing as evidence of insurance coverage required as a condition of a loan agreement; provided that the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

Subp. 5. **Fees.** As specified by board policy, a credit union may require members to pay fees in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Upon acceptance of an application for a real estate loan, the borrower shall be provided with an estimate of all costs other than interest authorized by law. Additionally, the applicant shall be provided with an estimate of costs to be refunded in the event the loan is not granted.

Subp. 6. **Exempt loans.** Real estate lending policies may exclude the title perfection requirements of part 2675.6141 on advances of $7,500 or less. These loans will not be considered real estate secured loans for examination purposes or for purposes of transferring or imposing fees as provided by part 2675.6141, subpart 5.

2675.6142 PERSONAL LOANS.

Subpart 1. **Fees.** Charges, other than interest authorized by law, may not be made for any non-real estate loan except that there may be charged to the borrower or included in the amount financed:

A. Fees paid or to be paid by the credit union to any public officer for filing, recording, or releasing in a public office an instrument securing the loan.

B. Premiums or charge for insurance protecting the lender against the risk of loss from not filing or recording a security agreement or financing statement and in lieu of filing the agreement or statement. The premium or charge may not exceed the actual premium or charge made by the insurance company to the lender or the actual costs if the documents were filed, recorded, or released in any public office.

C. The premium on any life, accident and health,

property, or other insurance written upon or in connection with a loan; provided notification is given in writing that the borrower has the option of furnishing this coverage through existing policies of insurance owned or controlled by him or of furnishing the coverage through any insurer authorized to transact business in this state. The premium may not be included as part of the loan and must be accounted for as a separate receivable unless advanced as part of the principal at the time of origination or payments are increased to provide amortization of the premium within the original maturity of the loan.

Subp. 2. **Financial statements.** An unsecured loan in an amount indicated below must be supported by a signed financial statement of the borrower, comaker, and guarantors that lists the assets and obligations and shows the net worth of the borrower, comaker, or guarantor:

A. an unsecured loan in excess of $1,500 in a credit union with assets of less than $1,000,000;

B. an unsecured loan in excess of $3,000 in a credit union with assets of $1,000,000 to $10,000,000; or

C. an unsecured loan in excess of $5,000 in a credit union with assets of $10,000,000 or more.

Current financial information is also required on loans which the commissioner or his examiners consider inadequately secured. The loan application must show the estimated value of any collateral offered at the time a loan is granted.

2675.6143 DELINQUENT LOANS.

Subpart 1. **Installment loans.** A note due on a monthly installment basis must be scheduled for delinquency. The whole principal balance is considered past due if any portion of an installment remains unpaid 60 days after the scheduled payment date. Delinquent loans must be shown by categories coded as follows:

A. 60 days to 180 days, code A;

B. 181 days to 364 days, code B; and

C. 365 days or more, code C.

Subp. 2. **Single payment loans.** A single payment loan is considered past due the next day after maturity and must be coded past due from that date according to the schedule in subpart 1.

Subp. 3. **Extensions.** A loan is not considered current by extension unless accrued interest has been paid to the date of extension. Special consideration for unusual circumstances affecting the general membership may be permitted by a detailed application to the Department of Commerce.

Subp. 4. **Delinquent loan report.** A detailed report on delinquent loans must be reviewed at each board meeting and made a part of the minutes. The report must include a summary of collection activity, the number of new additions to the delinquent loan list, and a review of loans on the prior month's delinquent loan list which have been extended or rewritten. The board shall verify by direct examination or otherwise that the record of delinquent loans is reasonably accurate.

Subp. 5. **Delinquent loan reserve requirement.** Before declaration of a dividend the board of directors shall ascertain that the statutory reserve as of the date of declaration exceeds the sum of:

A. ten percent of code A loans;

B. 25 percent of code B loans; and

C. 100 percent of code C loans.

No net earnings or undivided earnings may be used to pay dividends until the statutory reserve exceeds the above calculations or the commissioner of commerce has approved payment.

Subp. 6. **Interest earned not collected.** Interest earned not collected reflected on a credit union's books under the accrual method of accounting may not be continued on a loan which is more than 90 days delinquent. Accrued interest must be reversed to earnings or undivided profits at the time a loan is charged off to the statutory reserve fund or at the time an allowance for loan losses is established.

2675.6180 BOARD OF DIRECTORS.

Subpart 1. **Change.** Notice of any change in officers, directors, or committee members between annual meetings must be forwarded to the ~~commissioner of banks~~ Department of Commerce within ten days ~~after such~~ of the effective date of the change.

Subp. 2. **Review of examiner's report.** When the examiner's report is received by a credit union, it must be reviewed by the board of directors at a regular or special meeting ~~within 30 days after its receipt~~ and a reply must be submitted to the Department of Commerce within 60 days of the receipt of the report or as instructed in the transmittal letter. The letter from ~~this~~ the Department of Commerce which accompanies the report must also be read at the directors' meeting. ~~The directors' reply must be on the form attached to the face of the examiner's report. The minutes must show the fact that the directors reviewed the report and also any action taken.~~

Subp. 3. [See repealer.]

Subp. 4. **Minute book.** The minutes of any meeting must be written up as soon as practicable and signed by the secretary and the presiding officer at the next meeting ~~as soon as~~ approved upon approval. ~~They should~~ The minutes must be kept in a book and be available along with the credit union records for inspection by the commissioner of ~~banks~~ commerce or his representatives at all times with or without previous notice.

2675.6210 ASSET RECEIPT.

Whenever it becomes necessary to remove any asset from the files for any reason whatsoever, ~~an authentic~~ a properly executed receipt attached to a copy of ~~such~~ the asset must replace it.

2675.6220 CHARGED OFF ASSETS.

A record of all assets charged off, either to the statutory reserve fund or undivided earnings, along with recoveries thereto must be maintained. This record ~~should be kept current~~ and must be available to the examiners at each examination.

2675.6230 FURNITURE AND FIXTURES ACCOUNT.

Purchases capitalized to the furniture and fixtures account

shall be amortized at the minimum rate of ten percent annually, ~~with-such-exceptions-as-may-be~~ unless exception is made by the commissioner of ~~banks~~ commerce. ~~Each-such-annual-charge-shall-be-based-on-the-remaining-book-value-at-the-end-of-each-year~~ The charge off may be based on the number of full months in which the item was capitalized. Adequate records must be maintained to facilitate a determination of the unamortized amount of each capitalized item.

2675.6250 ~~SURETY~~ FIDELITY BONDS.

Subpart 1. ~~Minimum-provisions~~ Requirements. A credit ~~unions~~ union operating under Minnesota law ~~shall-be~~ is required to be protected by a blanket bond with the following provisions: all officers, committee members, employees, bank messengers, and attorneys representing the credit union shall be covered by the bond. The credit union shall be protected against losses from a lack of honesty ~~or-a-lack-of-faithful-performance~~, burglary or robbery, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. ~~The-schedule-of-basic-coverage-required-shall-be-as-set-forth-in-part-2675.9910~~. The bond must be approved by the Department of Commerce. The bond must provide that the commissioner of commerce will be given notice of pending cancellation within 60 days of final termination.

Subp. 2. [See repealer.]

Subp. 3. Minimum provisions. The board of directors shall at least once a year approve the amount of fidelity insurance to be carried for the ensuing year. The board of directors may establish minimum amounts of bond coverage and maximum deductible amounts.

2675.6270 ~~INVESTMENT-RECORDS~~ INVESTMENTS.

Subpart 1. Records required. During the period in which investments are carried on a credit union's books, ~~it-shall-be-required-that:~~

~~A.~~ original invoices of bond purchases and sales must be retained as a part of the records of a credit union~~;~~.

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~~B.~~ A record must be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where deposited for safekeeping~~;~~.

~~C.~~ Any investment, other than ~~U.S.~~ United States governments direct and/or guaranteed, ~~shall~~ must be supported by full credit information at the time of purchase (dealer's circular or prospectus)~~;-and~~.

~~D.~~ Subp. 2. **Bond price exceeding par.** Purchase of a ~~security~~ bond at a price exceeding par is prohibited, unless the credit union shall:

~~(1)~~ A. charge off the premium when the securities are placed on the books; ~~or~~

~~(2)~~ B. provide for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

~~(3)~~ C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under ~~subitem (2)~~ item B.

Subp. 3. **Charges.** Accrued interest paid on securities must be charged to interest received under the cash basis of accounting. Bond commissions and all costs of sales or purchase must be charged to expense.

Subp. 4. **Security at price less than par.** Upon the purchase of a security at a price less than par, the credit union shall place ~~such~~ the security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

2675.6290 INSURANCE.

Subpart 1. **Insurance agency.** A credit union may establish, operate, or maintain an insurance agency as a separate corporation or agency within its physical premises.

Subp. 2. **Policyholder.** A credit union may be the policyholder of either a group insurance plan or a subgroup under a master policy plan.

Subp. 3. **Remission of premiums.** Premiums may be remitted by the credit union to an insurer or the holder of a master policy on behalf of a credit union member provided that ~~said~~ the credit union has obtained written authorization from ~~such~~ the member.

~~The credit union may accept reimbursement from the insurer for the actual cost of ministerial tasks performed pertaining to insurance. This reimbursement shall not exceed ten percent of gross premiums. The credit union may not accept a commission on the insurance sale.~~

Subp. 4. **Election by member.** Where a credit union is engaged in the facilitation of its members' voluntary purchase ~~of types~~ of insurance incidental to the borrowing of money ~~for provident and productive purposes~~, including but not limited to fire, theft, automobile, life, and temporary disability insurance, a member shall be given the elective of purchasing any required insurance from the vendor of his choice, and the members' file shall contain his signed written elective.

Subp. 5. **Canceled insurance.** If the insurance is canceled, the unearned premium shall be paid to the member or credited to the member's share or deposit or loan account ~~as the case may be~~.

2675.6301 CERTIFIED PUBLIC ACCOUNTANT REPORT IN LIEU OF EXAMINATION.

Subpart 1. **Request for approval.** A credit union may request prior approval by the Department of Commerce to submit a certified public accountant report in lieu of examination. If approval is given, the department retains the authority to reject the report if it is inadequate by the standards of the department.

Subp. 2. **Contents of report.** A report submitted in lieu of examinations must include a balance sheet examination and the classifying of assets in a manner consistent with Department of

Commerce credit union examinations. The report must be submitted on the same forms and in the same manner that Department of Commerce credit union examiners employ.

REPEALER. Parts 2675.6100, subparts 1 and 5; 2675.6130; 2675.6140; 2675.6150; 2675.6160; 2675.6170; 2675.6180, subpart 3; 2675.6190; 2675.6240; 2675.6250, subpart 2; 2675.6280; 2675.6300; and 2675.9910 of the Department of Commerce are repealed.

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD631

Agency: Department of Commerce

Division:

Agency Contact: Allyn Long 297-2750

Minnesota Rules: Parts 2675.6100, 2675.6110, 2675.6111, 2675.6120, 2675.6141, 2675.6142, 2675.6143, 2675.6180, 2675.6210, 2675.6220, 2675.6230, 2675.6250, 2675.6270, 2675.6290, and 2675.6301

Title: Proposed Rules Governing Credit Unions

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: September 12, 1984

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Amendments to Rules Relating to Credit Unions

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 Noon, this 11th day of January, 1985.

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Wausau Insurance Group
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or severely eroded areas ~~(including urban areas)~~ or in areas where vegetation is needed to protect or improve water quality, such as, but not limited to, ~~dams, dikes,~~ abandoned mine spoil, ~~levees, channels, waterways, terrace backslopes~~ construction sites, and denuded or gullied areas where vegetation is difficult to establish.

Subp. 4. Policies. Cost-sharing for stabilizing ~~roadside, streambed, and~~ streambank, lakeshore ~~erosion is authorized only when it is a part of a larger stabilization project~~, and roadside areas must be addressed with the approved practice in part 8400.2705.

Cost-sharing is authorized for:

A. earthwork, materials, seed, and ~~seeding~~ seedings and other associated costs necessary to stabilize the area;

B. temporary materials and seedings necessary to stabilize the area during construction; and

C. permanent fencing of the area as determined by the district board.

8400.2705 APPROVED PRACTICE: STREAMBANK, LAKESHORE, AND ROADSIDE STABILIZATION.

Subpart 1. Definition. "Streambank, lakeshore, and roadside stabilization" means stabilizing and protecting streambank, lakeshore, and roadside areas against erosion by vegetative or structural means.

Subp. 2. Purpose. The purpose of streambank, lakeshore, and roadside stabilization is to control erosion or protect or improve water quality.

Subp. 3. Applicability. Streambank, lakeshore, and roadside stabilization may be used on eroding or sediment producing areas on streambank, lakeshore, or roadside sites where vegetative or structural measures are needed to correct the problem.

Subp. 4. Policy. Cost-sharing is authorized for:

A. earthwork, materials, seed, and seedings necessary to stabilize the area;

B. temporary materials and seedings necessary to stabilize the area during construction; and

C. permanent fencing of the area as determined by the district board.

Permanent fencing may be used as the sole remedy if it is determined by the district board to be the most practical solution, except that fencing of property boundaries and roads is ineligible for cost-sharing.

Subp. 5. Cost-sharing limit. Cost-sharing may not exceed 50 percent of total eligible project costs.

8400.2800 MAXIMUM RATES.

The maximum percent of the total cost of a practice installed to control a high priority erosion or water quality problem that may be funded by state cost-share funds is 75 percent. ~~Where state and federal moneys are cost-shared on the same project, their combined amount shall not exceed 75 percent of the total cost of the project~~ except where a flat rate is authorized. The maximum percent of the total cost of a practice installed to control a secondary priority nonshoreland erosion problem that may be funded by state cost-share funds is 50 percent except where a flat rate is authorized. State cost-share funds may be matched with federal money or other state funds. The combined state and federal amount may not exceed the maximum rates in this part or part 8400.2705, subpart 5.

REPEALER. Minnesota Rules, parts 8400.0100, subparts 7, 17, and 24; and 8400.0600, subpart 2 are repealed.

EFFECTIVE DATE. These rules are effective July 1, 1985.

Department of Commerce

Proposed Rules Governing Credit Unions

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28. These rules were published previously in the *State Register* on October 22, 1984 (9 SR 816).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Allyn R. Long, Assistant Commissioner, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-2750. Any person requesting a public hearing should state her/his name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and to send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 46.01, subd. 2. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request by contacting Linda Phillips at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. If a hearing is not required, notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any person requesting to receive the notice. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption should submit a written statement of such request to Linda Phillips, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Linda Phillips at the above address.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Governing Filing Fees for insurance Policy Rates and Forms

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21. Although no changes have been made in the rules, they are being republished as they appeared in the *State Register* (9 SR 1018) due to a procedural calculation.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Donald Peterson,

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE, FINANCIAL EXAMINATIONS

Office Memorandum

TO : Marsha Storck
State Register's Office

DATE: December 28, 1984

FROM : Linda J. Phillips
Secretary to the Assistant Commissioner

PHONE: 297-2750

SUBJECT: Credit Union Rules

Enclosed are two copies of the Adopted Rules Governing Credit Unions and the Notice of Intent to Adopt to be published in the State Register of January 14, 1985. Please add a statement in the publication that these rules are a republication of the rules as published in the State Register October 22, 1984. If you have any questions please call.
Thanks!!

Enclosure

cc: Greg Huwe, SAAG

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devices~~, other than those provided by the office of Administrative Hearings or at its discretion, shall~~ may be operated in the hearing room during the course of the hearing ~~unless~~ after permission is obtained from the ~~hearing examiner prior to the opening of the hearing~~ judge and then ~~subject~~ only pursuant to ~~such~~ any conditions ~~as~~ the ~~hearing examiner~~ judge may impose to avoid disruption of the hearing.

Subp. 2. Other conduct. Pursuant to and in accordance with ~~the provisions of~~ Minnesota Statutes, section 624.72, no person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. In the event ~~of such~~ interference ~~or~~, disruption, or threat ~~thereof~~, the ~~hearing examiner~~ judge shall read this subpart to those persons causing such interference or disruption and thereafter proceed as ~~he deems~~ deemed appropriate, which may include ordering the disruptive person to leave or be removed from the hearing.

1400.8100 ~~HEARING EXAMINER'S~~ ADMINISTRATIVE LAW JUDGE'S REPORT.

Subpart 1. Based on the record. No factual information or evidence which is not a part of the record shall be considered by the ~~hearing examiner~~ judge or the agency in the determination of a contested case.

Subp. 2. Administrative notice. The ~~hearing examiner~~ judge and agency may take administrative notice of general, technical, or scientific facts within their specialized knowledge in conformance with ~~the requirements of~~ Minnesota Statutes, section 14.60.

Subp. 3. Completion and distribution. Following the close of the record, the ~~hearing examiner~~ judge shall make ~~his~~ a report pursuant to Minnesota Statutes, ~~sections 14.15 and~~ section 14.50, and, upon completion, a copy of ~~said~~ the report shall be served upon all parties by personal service, by first class mail, or by depositing it with the Central Mailing Section, Publications Division, Department of Administration.

1400.8200 AGENCY DECISION.

Following receipt of the ~~hearing examiner's~~ judge's report, the agency shall proceed to make its final decision in accordance with Minnesota Statutes, sections 14.61 and 14.62 and shall serve a copy of its final order upon the ~~hearing examiner~~ office by first class mail.

1400.8300 RECONSIDERATION OR REHEARING.

Once a judge has issued a report, unless that report is binding on the agency, the judge loses jurisdiction to amend the report except for clerical or mathematical errors. Unless the report is a final order, binding on the agency, petitions for reconsideration or rehearing must be filed with the agency. An agency notice of and order for rehearing shall be served on all parties in the same manner prescribed for the notice of and order for hearing provided that the ~~hearing examiner~~ judge may permit service of the notice and order for rehearing less than 30 days prior to rehearing or 20 days in conference contested cases. The rehearing shall be conducted in the same manner prescribed for a hearing.

REPEALER. Minnesota Rules, parts 1400.6300, 1400.8500, 1405.5100, 1405.5200, 1405.5300, 1405.5400, 1405.5500, 1405.5600, 1405.5700, 1405.5800, 1405.5900, 1405.6000, 1405.6100, 1405.6200, 1405.6300, 1405.6400, 1405.6500, 1405.6600, 1405.6700, 1405.6800, 1405.6900, 1405.7000, 1405.7100, 1405.7200, and 1405.7300 are repealed.

EFFECTIVE DATE. These rules apply to all contested cases initiated pursuant to part 1400.5300 after the effective date of the rules.

Department of Commerce

Proposed Rules Governing Credit Unions

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Allyn R. Long, Assistant Commissioner, Deaprtment of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-2750. Any person requesting a public hearing should state her/his name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and to send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 46.01, subd. 2. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request by contacting Linda Phillips at the above address.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. If a hearing is not required, notice of the date of submission of the proposed rules to the Attorney General for review will be mailed to any person requesting to receive the notice. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Linda Phillips, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Linda Phillips at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2765.6100 BOOKS, RECORDS, AND REPORTS.

Subpart 1. [See repealer.]

Subp. 2. ~~Recordkeeping services~~ Data processing off premises. Any credit union receiving recordkeeping services from another credit union or from a service corporation shall provide ~~the following:~~

~~A.~~ a certificate from the other credit union ~~receiving such services~~ or service corporation, stating ~~that it will comply~~ its agreement to perform the services in compliance with ~~the provisions of~~ Minnesota Statutes, section 52.06 ~~and giving full assurance that the performance of such recordkeeping services by the other credit union, or the respective clerical service corporation (name of either to be given), will be subject to Banking Division rules in the same manner as if such services were being performed by the credit union itself and on its own premises;~~

~~B. a certificate to be furnished by the credit union furnishing such clerical services, or the clerical service corporation, agreeing as to performing such services as outlined in Minnesota Statutes, section 52.06 that its performance thereof will be subject to regulation and examination by the commissioner of banks to the same extent as if such services were being performed by the serviced credit union itself on its own premises~~. The certificate must acknowledge that it is subject to regulation and examination to the same extent as if the services were being performed by the credit union on its premises.

Subp. 2a. Daily closing. Credit unions that maintain in excess of $500,000 in accounts subject to draft withdrawal shall post all assets and liabilities daily.

Subp. 3. Semiannual audit report. The supervisory committee shall file a report in duplicate on forms furnished by the ~~commissioner of banks~~ Department of Commerce, within 30 days after the date of each semiannual audit.

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Subp. 4. Cash receipts and assets Commingled funds. All cash receipts and assets of the credit union must be kept intact and ~~not commingled with any~~ separate from other funds ~~under any circumstances~~.

Subp. 5. [See repealer.]

Subp. 5a. Statement of accounts. A statement of account that itemizes all transactions must be issued at least monthly for sharedraft accounts. A statement must be issued at the end of a dividend period on all other accounts, except that a statement need not be issued more often than quarterly and must be issued at least annually.

Subp. 5b. Inactive and segregated accounts. If the board determines that an account is inactive and segregated, it must be issued a statement at least annually. Statements on inactive accounts must be issued under the control of the supervisory committee.

Subp. 5c. Passbooks. When issued, passbooks must show the current position of shares, deposits, and loans. The credit union shall annually notify members to bring passbooks into the credit union office for current posting. A credit union may not hold a passbook.

Subp. 6. ~~Individual ledger cards~~ Issuing account numbers. A number ~~shall~~ must be assigned to each member in sequence upon his election to membership, and ~~no such~~ that number ~~shall ever~~ may never be reissued to ~~any other~~ another member. Each member's assigned number ~~shall~~ must appear on his ~~passbook and~~ individual ~~ledger card~~ record of accounts for shares, deposits, and loans. ~~All ledger cards must be kept so that the year can be readily ascertained.~~

2675.6110 PURCHASE OF REAL ESTATE.

~~No~~ A credit union ~~shall~~ may not purchase real estate ~~unless approved by the commissioner of banks~~ other than for credit union premises.

2675.6111 INVESTMENTS IN CREDIT UNION PREMISES.

Investments in credit union premises or leasehold investments may not exceed 50 percent of total reserves of the credit union unless the Department of Commerce grants a prior approval.

2675.6120 OTHER REAL ESTATE.

Subpart 1. Transfers. Whenever real estate is acquired by a credit union through foreclosure or by deed in lieu ~~thereof~~ of foreclosure, it ~~shall~~ must be transferred from loans to an account titled "other real estate" on the date upon which the credit union actually acquired title.

Subp. 2. Repair and restoration costs. ~~No~~ Costs of repairs ~~or~~ and costs of restoration of ~~such~~ the property may not be added to the real estate account, ~~except such~~ unless the expenditures ~~as represent~~ are for permanent improvements. Taxes delinquent when title is acquired may, when paid by the credit union, be added to the book value of the property.

Subp. 3. Additions to book value. ~~No~~ Additions to book value may not be made after the date of sale in cases of foreclosure except as noted in ~~the preceding paragraph~~ subpart 2. If a deed is taken in lieu of foreclosure, real estate must be carried at a figure not exceeding the balance due on the mortgage, plus delinquent taxes and assessments paid by the credit union at the time of acquiring title ~~thereto~~.

~~When sales are made on a contract for deed at a price exceeding the book value of the real estate, the profit involved shall be considered a deferred profit and held in a reserve account and only credited to actual profit after one-third of the purchase price has been paid on the contract, excluding interest payments.~~

~~"Other real estate" must be charged off annually at the rate of at least ten percent of the original amount and the first charge off must be made not later than 12 months after the date of acquisition.~~

Subp. 4. Sale of other real estate. A credit union may finance the sale of other real estate or credit union premises under the terms and conditions available to any seller or owner of real property. A profit on the sale of other real estate sold on contract is considered deferred profit and must be held in reserve to be realized after two consecutive years of contracted payments have been made.

Subp. 5. Unsold other real estate. Other real estate that is not sold must be charged off annually through earnings at the rate of at least ten percent of the original amount. The first charge off must be based on the number of full months in which other real estate was booked.

2675.6141 REAL ESTATE MORTGAGES.

Subpart 1. Loans. Credit unions may make loans upon the security of real estate if it is a first lien on the real estate. Additionally, credit unions may take a junior lien if the loan is made:

A. to secure debts previously contracted;

B. if at least 80 percent of the principal balance is guaranteed or insured by a governmental agency or nationally recognized insurer;

C. to secure a loan if the total unpaid aggregate of all outstanding liens against the same real estate, including the credit union's proposed lien, does not exceed 80 percent of its appraised value. A loan made under Minnesota Statutes, section 52.165 is deemed to comply with this rule if it was in compliance at the date of its origination.

Subp. 2. Appraisal report. Real estate appraisal reports are required for each mortgage. The appraisal and the reasonableness of its accuracy is the responsibility of the credit committee or, in the absence of a credit committee, the board of directors. The appraisal report and its acceptance by the board or credit committee must be made part of the mortgage file.

Subp. 3. Valid lien. An attorney's opinion or a title insurance policy is required on all real estate loans and must describe the status of fee title, the validity of the credit union's lien, and the position of the lien.

Subp. 4. Insurance. Evidence of adequate insurance with loss payable clause payable to credit union is required for mortgages on improved property.

Written binders of insurance are acceptable evidence of insurance. A credit union may not refuse to accept a binder tendered at the time of closing as evidence of insurance coverage required as a condition of a loan agreement; provided that the binder conforms with usual and customary conditions as to designation of loss payee and mortgagor.

Subp. 5. Fees. As specified by board policy, a credit union may require members to pay fees in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Upon acceptance of an application for a real estate loan, the borrower shall be provided with an estimate of all costs other than interest authorized by law. Additionally, the applicant shall be provided with an estimate of costs to be refunded in the event the loan is not granted.

Subp. 6. Exempt loans. Real estate lending policies may exclude the title perfection requirements of part 2675.6141 on advances of $7,500 or less. These loans will not be considered real estate secured loans for examination purposes or for purposes of transferring or imposing fees as provided by part 2675.6141, subpart 5.

2675.6142 PERSONAL LOANS.

Subpart 1. Fees. Charges, other than interest authorized by law, may not be made for any non-real estate loan except that there may be charged to the borrower or included in the amount financed:

A. Fees paid or to be paid by the credit union to any public officer for filing, recording, or releasing in a public office an instrument securing the loan.

B. Premiums or charge for insurance protecting the lender against the risk of loss from not filing or recording a security agreement or financing statement and in lieu of filing the agreement or statement. The premium or charge may not exceed the actual premium or charge made by the insurance company to the lender or the actual costs if the documents were filed, recorded, or released in any public office.

C. The premium on any life, accident and health, property, or other insurance written upon or in connection with a loan; provided notification is given in writing that the borrower has the option of furnishing this coverage through existing policies of insurance owned or controlled by him or of furnishing the coverage through any insurer authorized to transact business in this state. The premium may not be included as part of the loan and must be accounted for as a separate receivable unless advanced as part of the principal at the time of origination or payments are increased to provide amortization of the premium within the original maturity of the loan.

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Subp. 2. Financial statements. An unsecured loan in an amount indicated below must be supported by a signed financial statement of the borrower, comaker, and guarantors that lists the assets and obligations and shows the net worth of the borrower, comaker, or guarantor:

A. an unsecured loan in excess of $1,500 in a credit union with assets of less than $1,000,000;

B. an unsecured loan in excess of $3,000 in a credit union with assets of $1,000,000 to $10,000,000; or

C. an unsecured loan in excess of $5,000 in a credit union with assets of $10,000,000 or more.

Current financial information is also required on loans which the commissioner or his examiners consider inadequately secured. The loan application must show the estimated value of any collateral offered at the time a loan is granted.

2675.6143 DELINQUENT LOANS.

Subpart 1. Installment loans. A note due on a monthly installment basis must be scheduled for delinquency. The whole principal balance is considered past due if any portion of an installment remains unpaid 60 days after the scheduled payment date. Delinquent loans must be shown by categories coded as follows:

A. 60 days to 180 days, code A;

B. 181 days to 364 days, code B; and

C. 365 days or more, code C.

Subp. 2. Single payment loans. A single payment loan is considered past due the next day after maturity and must be coded past due from that date according to the schedule in subpart 1.

Subp. 3. Extensions. A loan is not considered current by extension unless accrued interest has been paid to the date of extension. Special consideration for unusual circumstances affecting the general membership may be permitted by a detailed application to the Department of Commerce.

Subp. 4. Delinquent loan report. A detailed report on delinquent loans must be reviewed at each board meeting and made a part of the minutes. The report must include a summary of collection activity, the number of new additions to the delinquent loan list, and a review of loans on the prior month's delinquent loan list which have been extended or rewritten. The board shall verify by direct examination or otherwise that the record of delinquent loans is reasonably accurate.

Subp. 5. Delinquent loan reserve requirement. Before declaration of a dividend the board of directors shall ascertain that the statutory reserve as of the date of declaration exceeds the sum of:

A. ten percent of code A loans;

B. 25 percent of code B loans; and

C. 100 percent of code C loans.

No net earnings or undivided earnings may be used to pay dividends until the statutory reserve exceeds the above calculations or the commissioner of commerce has approved payment.

Subp. 6. Interest earned not collected. Interest earned not collected reflected on a credit union's books under the accrual method of accounting may not be continued on a loan which is more than 90 days delinquent. Accrued interest must be reversed to earnings or undivided profits at the time a loan is charged off to the statutory reserve fund or at the time an allowance for loan losses is established.

2675.6180 BOARD OF DIRECTORS.

Subpart 1. Change. Notice of any change in officers, directors, or committee members between annual meetings must be forwarded to the ~~commissioner of banks~~ Department of Commerce within ten days ~~after such~~ of the effective date of the change.

Subp. 2. Review of examiner's report. When the examiner's report is received by a credit union, it must be reviewed by the board of directors at a regular or special meeting ~~within 30 days after its receipt~~ and a reply must be submitted to the Department of Commerce within 60 days of the receipt of the report or as instructed in the transmittal letter. The letter from ~~this~~ the Department of Commerce which accompanies the report must also be read at the directors' meeting. ~~The directors'~~

~~reply must be on the form attached to the face of the examiner's report. The minutes must show the fact that the directors reviewed the report and also any action taken.~~

Subp. 3. [See repealer.]

Subp. 4. Minute book. The minutes of any meeting must be written up as soon as practicable and signed by the secretary and the presiding officer at the next meeting ~~as soon as approved~~ upon approval. ~~They should~~ The minutes must be kept in a book and be available along with the credit union records for inspection by the commissioner of ~~banks~~ commerce or his representatives at all times with or without previous notice.

2675.6210 ASSET RECEIPT.

Whenever it becomes necessary to remove any asset from the files for any reason whatsoever, ~~an authentic~~ a properly executed receipt attached to a copy of ~~such~~ the asset must replace it.

2675.6220 CHARGED OFF ASSETS.

A record of all assets charged off, either to the statutory reserve fund or undivided earnings, along with recoveries thereto must be maintained. This record ~~should be kept current and~~ must be available to the examiners at each examination.

2675.6230 FURNITURE AND FIXTURES ACCOUNT.

Purchases capitalized to the furniture and fixtures account shall be amortized at the minimum rate of ten percent annually, ~~with such exceptions as may be~~ unless exception is made by the commissioner of ~~banks~~ commerce. ~~Each such annual charge shall be based on the remaining book value at the end of each year~~ The charge off may be based on the number of full months in which the item was capitalized. Adequate records must be maintained to facilitate a determination of the unamortized amount of each capitalized item.

2675.6250 ~~SURETY~~ FIDELITY BONDS.

Subpart 1. ~~Minimum provisions~~ Requirements. A credit ~~unions~~ union operating under Minnesota law ~~shall be~~ is required to be protected by a blanket bond with the following provisions: all officers, committee members, employees, bank messengers, and attorneys representing the credit union shall be covered by the bond. The credit union shall be protected against losses from a lack of honesty ~~or a lack of faithful performance~~, burglary or robbery, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. ~~The schedule of basic coverage required shall be as set forth in part 2675.9910~~. The bond must be approved by the Department of Commerce. The bond must provide that the commissioner of commerce will be given notice of pending cancellation within 60 days of final termination.

Subp. 2. [See repealer.]

Subp. 3. Minimum provisions. The board of directors shall at least once a year approve the amount of fidelity insurance to be carried for the ensuing year. The board of directors may establish minimum amounts of bond coverage and maximum deductible amounts.

2675.6270 ~~INVESTMENT RECORDS~~ INVESTMENTS.

Subpart 1. Records required. During the period in which investments are carried on a credit union's books, ~~it shall be required that:~~

~~A.~~ original invoices of bond purchases and sales must be retained as a part of the records of a credit union~~;~~.

~~B.~~ A record must be maintained of all securities bought and sold showing date of purchase or sale, interest rate, maturity, par value, description, from whom purchased, to whom sold, selling price, and where deposited for safekeeping~~;~~.

~~C.~~ Any investment, other than ~~U.S.~~ United States governments direct and/or guaranteed, ~~shall~~ must be supported by full credit information at the time of purchase (dealer's circular or prospectus)~~;~~ ~~and~~.

~~D.~~ **Subp. 2. Bond price exceeding par.** Purchase of a ~~security~~ bond at a price exceeding par is prohibited, unless the credit union shall:

~~(1)~~ A. charge off the premium when the securities are placed on the books; ~~or~~

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

~~(2)~~ B. provide for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

~~(3)~~ C. set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under ~~subitem (2)~~ item B.

Subp. 3. Charges. Accrued interest paid on securities must be charged to interest received under the cash basis of accounting. Bond commissions and all costs of sales or purchase must be charged to expense.

Subp. 4. Security at price less than par. Upon the purchase of a security at a price less than par, the credit union shall place ~~such~~ the security on its books at cost and may provide for the regular accretion of the discount, ratably over the period from purchase to maturity of the security.

2675.6290 INSURANCE.

Subpart 1. Insurance agency. A credit union may establish, operate, or maintain an insurance agency as a separate corporation or agency within its physical premises.

Subp. 2. Policyholder. A credit union may be the policyholder of either a group insurance plan or a subgroup under a master policy plan.

Subp. 3. Remission of premiums. Premiums may be remitted by the credit union to an insurer or the holder of a master policy on behalf of a credit union member provided that ~~said~~ the credit union has obtained written authorization from ~~such~~ the member.

~~The credit union may accept reimbursement from the insurer for the actual cost of ministerial tasks performed pertaining to insurance. This reimbursement shall not exceed ten percent of gross premiums. The credit union may not accept a commission on the insurance sale.~~

Subp. 4. Election by member. Where a credit union is engaged in the facilitation of its members' voluntary purchase ~~of types~~ of insurance incidental to the borrowing of money ~~for provident and productive purposes~~, including but not limited to fire, theft, automobile, life, and temporary disability insurance, a member shall be given the elective of purchasing any required insurance from the vendor of his choice, and the members' file shall contain his signed written elective.

Subp. 5. Canceled insurance. If the insurance is canceled, the unearned premium shall be paid to the member or credited to the member's share or deposit or loan account ~~as the ease may be~~.

2675.6301 CERTIFIED PUBLIC ACCOUNTANT REPORT IN LIEU OF EXAMINATION.

Subpart 1. Request for approval. A credit union may request prior approval by the Department of Commerce to submit a certified public accountant report in lieu of examination. If approval is given, the department retains the authority to reject the report if it is inadequate by the standards of the department.

Subp. 2. Contents of report. A report submitted in lieu of examinations must include a balance sheet examination and the classifying of assets in a manner consistent with Department of Commerce credit union examinations. The report must be submitted on the same forms and in the same manner that Department of Commerce credit union examiners employ.

REPEALER Parts 2675.6100, subparts 1 and 5; 2675.6130; 2675.6140; 2675.6150; 2675.6160; 2675.6170; 2675.6180, subpart 3; 2675.6190; 2675.6240; 2675.6250, subpart 2; 2675.6280; 2675.6300; and 2675.9910 of the Department of Commerce are repealed.

Energy & Economic Development Authority

Proposed Rules Governing School Energy Conservation Investment Loans

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Energy & Economic Development Authority (hereinafter "the Authority") proposes to adopt the above entitled rules without a public hearing. The Authority has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 14.21 to § 14.28.

STATEMENT OF NEED AND REASONABLENESS
OF AMENDMENTS TO RULES GOVERNING CREDIT UNIONS

November 26, 1984

The Minnesota Code of Agency Rules concerning the operation of credit unions are being modified, deleted and promulgated to facilitate changes in the industry.

BOOKS, RECORDS, AND REPORTS

Recordkeeping services has been changed to data processing off premises to more clearly identify the subject of the rule. The rule which requires another credit union or service corporation to issue a certificate stating its agreement to perform the services in compliance with statute and acknowledging that its services are subject to the same regulation and examination as the contractee has been simplified through language changes.

DAILY CLOSING

Added to Rule 135 Books, Records and Report is a section which requires credit unions that maintain in excess of $500,000 in accounts subject to draft withdrawal to post all assets and liabilities on a daily basis. Credit unions now prepare a monthly financial statement which is required by the standard bylaws to be posted in a conspicuous place in the credit union office by the 10th of

the following month. Many credit unions are unable to prepare the monthly statement within 10 days of the following month due to a delay in obtaining data from the data processing servicer.

Accumulation of data until month end has caused difficulty in reconciling accounts, planning cash flow, general management of the credit unions affairs and violation of credit unions bylaws when preparation of the monthly statement is delayed beyond the prescribed period of time. Large credit unions and credit unions with sharedrafts are especially vulnerable from the failure to prepare a daily statement of the credit union's assets and liabilities. Compounding of differences in accounts from failure to reconcile accounts on a daily basis has contributed to the need for supervisory action to restore financial integrity in several credit unions. Daily closing and reconciliation would have prevented this problem.

On-line data processing and an integrated general ledger package is available and used by some credit unions. Due to the need and the availability it is reasonable to require the daily posting of accounts.

STATEMENT OF ACCOUNTS

The section of the rules dealing with statement of accounts have been modified to include three changes. The first change requires a statement of account to be issued at least monthly on sharedraft accounts. The purpose of this is to assist the member draft account holder in reconciling his account position with that of the credit union so that any discrepencies can be promptly corrected.

Statements on other types of accounts which were required to be issued quarterly have been changed to coincide with the dividend period. The Rule now provides that statements must be issued at least annually but need not be issued more often than quarterly. This is a cost saving consideration for smaller credit unions who normally pay an annual dividend.

For expense reduction and audit control, special treatment has been given to those accounts which the board has determined to be inactive. These accounts may be segregated and issued a statement annually under the control of the supervisory committee.

Where passbooks are issued in place of account statements the rule has been modified to require an annual notification to members to have their passbooks brought into the credit union office for current posting.

PURCHASE OF REAL ESTATE

The rule prohibiting the purchase of real estate without prior approval of the Commissioner has been modified to provide greater flexibility. Under the modification, a credit union may purchase real estate for credit union premises. In recognition of the need to limit investments in fixed assets to maintain safety and soundness, credit unions are required to obtain prior approval from the Commissioner when an investment in credit union premises or leasehold investments will exceed 50 percent of total reserves. A disproportionate asset investment in fixed assets will have an adverse affect on earnings and must therefore be controlled. At the same time, credit unions should have the

flexibility to make decisions on investments in fixed assets where safety and soundness is maintained. Fifty percent of reserves is a benchmark found in the banking industry. Most credit unions have investments in credit union premises at levels significantly less than 50% of their total reserves.

OTHER REAL ESTATE

This section of the rules has been rewritten for better understanding and to authorize the financing of the sale of other real estate as owned real estate. This authorizes a loan to a non-member where the loan is to purchase property owned by the credit union.

REAL ESTATE MORTGAGES

Authorization is provided for equity lending taking real estate as security as long as the total of the liens outstanding do not exceed 80% of the property appraised value. The authorization is in response to the demand from members for this type of loan while maintaining restrictions required for safety and soundness.

Additionally, the section dealing with document requirements has been rewritten for better understanding and to provide greater flexibility while retaining the necessary requirements for safety and soundness.

The rules permit the board of directors to establish fees in connection with real estate loans and require that the member be presented with a estimate of those fees at the time of application as well as the refundable portion in case the loan is not approved. This provides flexibility in the management of the credit union's loans as well as providing disclosure for the benefit of the member.

The board may exclude certain loans from the classification of real estate loans as provided in the provisions of the rules titled exempt loans. This is an expense consideration and again provides flexibility in the management of the loan portfolio.

PERSONAL LOANS

Accounting for premiums paid by the credit union to provide insurance coverage on items taken as security has been included in the rules. This is necessary to accurately assess the asset condition of the credit union. Adding such premiums to loan balances led to inaccurate delinquent loan computation and increased the booked asset value of low quality loans.

The rule requiring financial statements to support unsecured advances in excess of a stated amount has been modified to provide for an increase in the stated amount for those credit unions whose assets exceed $10,000,000. These larger credit unions can absorb more risk and the change is consistent with their policies.

DELINQUENT LOANS

Several changes have been made in the delinquent loan section of the rules for consistency, better understanding and safety and soundness. The required scheduling of delinquent loans has been modified to provide consistency in interpretation and to require scheduling consistent with that used by the National Credit Union Administration, the insuring agency.

Rules in regard to extensions and reporting of delinquent loans have been written as a means of control over this critical area. These are safety and soundness considerations which do not place additional burdens on credit union management.

The delinquent loan reserve requirement has been modified to substitute,in the reserving requirement, 100 percent of loans coded "C" in examination reports for 80 percent of loans coded "C". This is consistent with the examination recommendation that loans coded "C" be included in a special loss reserve or considered for charge off. Timely recognition of loan losses ensures financial integrity.

The final change under delinquent loans is in regard to accounting for interest earned not collected. This rule requires that accruing for interest earned not collected on a credit union's books be discontinued when accounts become delinquent more than 90 days. The purpose is to present the financial statement at market value rather than on an ongoing concern basis. The rule allows

unearned interest to be reversed to accumulated earned when a loan is charged off or fully reserved for. Again, the purpose is to maintain financial integrity.

FIDELITY BOND

Major revisions were made in this section of the rules. The requirement of protection against lack of faithful performance has been removed and the schedule of basic coverage has been deleted. The rule now requires the credit union's board of directors to review and establish the amount of fidelity insurance annually. This provides management with greater flexibility, is consistent with other financial institutions and should result in less expense for some credit unions.

INSURANCE

Reinbursement from insurers for ministerial tasks not to exceed ten percent of gross premiums has been deleted to be consistent with authority granted by Minnesota Statutes, Section 52.04, Subdivision 1, Paragraph (13).

Additional changes in wording were made to facilitate ease in reading and understanding. The redrafting of the rules was done in the spirit of deregulation to rewrite sections which were unclear or no longer necessary while including items to ensure the safety and soundness of credit union operations. Expense considerations in the implementation of rule requirements were weighed in all cases. The conclusion is that the rules contribute to satisfying a need

to maintain safety and soundness in the operations of credit unions. The rules are not overly burdensome and increased costs will not result from their implementation. Based on these factors and as determined by industry representatives including two credit union trade associations and their counsel, the rules are reasonable.

In the Matter of the Proposed Adoption of Amendments of Rules Governing Credit Unions

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Greg Huwe, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Gregory P. Huwe

Greg Huwe
Special Assistant Attorney General

Dated: 2-14-85

In the Matter of the Proposed Adoption of
Amendments to Rules Relating to Credit Unions

AFFIDAVIT OF
MAILING NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Linda J. Phillips, being first duly sworn, deposes and says:

That on the 14th day of February, 1985, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at the City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Linda J. Phillips

Subscribed and sworn to before me this
14th day of February, 1985.

Barbara Ahlberg

BARBARA AHLBERG
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES JULY 31, 1990

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Amendments to Rules Relating to Credit Unions

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, February 14, 1985, for review as to form and legality. Pursuant to Minn. Stat. § 14.26, the Attorney General will approve or disapprove the rules within 14 calendar days after receipt. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, (612) 296-7030.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Linda Phillips, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101.

Michael A. Hatch
Commissioner of Commerce