

**STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

Before the Commissioner of Financial and Insurance Services

In the matter of domestic credit unions making deposits in, making loans to, making investments pursuant to MCL 490.431 in, or purchasing shares of, credit unions, including corporate credit unions, chartered in other states, the territories of the United States, or the United States and purchasing shares of savings banks

Order No. 04-049-M

**Issued and entered
this 1st day of June 2004
by Linda A. Watters
Commissioner**

DECLARATORY RULING

**I
BACKGROUND**

State Employees Credit Union, a domestic credit union, through its attorney, Steven L. Owen, of Foster, Swift, Collins, and Smith, P.C., has requested a declaratory ruling authorizing domestic credit unions, effective June 1, 2004, to make deposits in, make loans to, make investments pursuant to MCL 490.431 in, or purchase shares of credit unions, including corporate credit unions, chartered in other states, territories of the United States, or the United States and to purchase shares of mutual savings banks.

This matter involves the recodification of the Michigan Credit Union Act. The old Credit Union Act, 1925 PA 285, as amended, MCL 490.1, *et seq.*, which was repealed effective June 1, 2004, authorized Michigan state-chartered credit unions to:

Make deposits in or loans to banks, savings banks, savings and loan associations, trust companies, and other credit unions, and purchase shares of mutual savings and loan associations and other credit unions if the bank, savings bank, savings and loan association, trust company, or other credit union is insured by an agency of the United States.

MCL 490.4(2)(r).

The new Credit Union Act, 2003 PA 215, MCL 490.101, *et seq.*, which took effect June 1, 2004, authorizes “domestic credit unions”:

To make deposits in, loan to, or under section 431 invest in banks, savings banks, savings and loan associations, trust companies, or other domestic credit unions, or purchase shares of mutual savings and loan associations and other domestic credit unions. A domestic credit union may also make deposits in, loans to, or under section 431 purchase shares of a corporate credit union and invest funds as provided in section 431.

MCL 490.401(2)(r).

Under the new Credit Union Act, domestic credit union is defined as “a cooperative, nonprofit **entity organized under this act . . .**” [Emphasis added.] MCL 490.102(1).

Due to new definitions of terms, the new section of law became more restrictive than the old section of law. The new statute only allows a Michigan state-chartered credit union, now known as a “domestic credit union,” to make deposits in, make loans to, or purchase shares of other domestic credit unions, along with other financial institutions that are not credit unions.

In addition, under both the old and new sections of law, credit unions, formerly, and domestic credit unions, currently, may purchase shares of mutual savings and loan associations, but not mutual savings banks.

Further, domestic credit unions are authorized, pursuant to MCL 490.401(2)(r), to invest in banks, savings banks, savings and loan associations, trust companies, and other domestic credit unions under section 431. MCL 490.401(2)(r), however, does not specifically authorize a domestic credit union to make such investments in credit unions, including corporate credit unions, chartered by other states of the United States, the territories of the United States, or the United States.

Federal credit unions, with which domestic credit unions compete, are permitted to make deposits in, make loans to, or purchase shares in other federal credit unions, or credit unions chartered by the several states and territories of the United States.

The Commissioner may, pursuant to MCL 490.208, authorize a domestic credit union to exercise powers not specifically authorized by the Credit Union Act, 2003 PA 215, MCL 490.101 *et seq.*

Further, pursuant to MCL 490.431(4), a domestic credit union may make other investments as approved by rule, order, or declaratory ruling of the Commissioner.

It has been requested by State Employees Credit Union, a domestic credit union, through their counsel, that the Commissioner issue, pursuant to her authority in the Credit Union Act, a Declaratory Ruling authorizing domestic credit unions to make deposits in, make loans to, make investments pursuant to MCL 490.431 in, or purchase shares of credit unions, including corporate credit unions, chartered in other states of the United States, the territories of the United States, or the United States, and to purchase shares in savings banks pursuant to MCL 490.431.

II ANALYSIS

Under MCL 490.4(2)(r), which was repealed effective June 1, 2004, Michigan state-chartered credit unions could make deposits in, make loans to, or purchase shares of credit unions and corporate credit unions chartered in Michigan, as well as credit unions and corporate credit unions chartered by other states in the United States and the United States, a long-standing and accepted practice.

Under MCL 490.401(2)(r), however, the making of deposits, making of loans, making of investments, and purchasing of shares by domestic credit unions is restricted to deposits in, loans to, investments in, and purchases of shares of other domestic credit unions, and certain other financial institutions. The new statute does not authorize domestic credit unions to make deposits in, loans to, investments in, and purchase of shares of credit unions chartered by other states of the United States, territories of the United States, or the United States, or in purchasing shares of mutual savings banks.

Thus, 2003 PA 215, places restrictions on domestic credit unions that did not exist in 1925 PA 285, as amended, and neither Act permits the purchase of shares of mutual savings banks.

Many domestic credit unions have accounts or investments with credit unions, including corporate credit unions, chartered by other states or the United States that were acquired under the old Credit Union Act.

Consequently, absent authorization to continue a long-standing and accepted practice, domestic credit unions are required to divest their deposits in, loans to, investments in, and purchases of shares of credit unions chartered in other states of the

United States, the territories of the United States, and the United States and in purchasing shares of mutual savings banks.

The Commissioner has reviewed the nature of deposits in, loans to, investments in, and purchases of shares of credit unions chartered by other states of the United States, the territories of the United States, and the United States, and purchases of shares of mutual savings banks. The Commissioner has determined that such deposits, loans, investments, and purchases of shares are appropriate and necessary to compete with other providers of financial services in this state, and that domestic credit unions have the ability to exercise any such power in a safe and sound manner. Further, the Commissioner notes that federal credit unions may exercise these powers.

To ameliorate this situation, and to continue a long-standing and accepted practice, and to authorize domestic credit unions to make certain investments and purchases, the Commissioner should issue a declaratory ruling effective June 1, 2004, authorizing domestic credit unions to make deposits in, make loans to, make investments pursuant to MCL 490.431 in, and to purchase shares of credit unions chartered by other states of the United States, the territories of the United States, or the United States, and to purchase shares of mutual savings banks.

III RULING

Therefore, it is my RULING that based upon the facts presented domestic credit unions shall have the power to make deposits in, make loans to, make investments pursuant to MCL 490.431 in, and to purchase shares of credit unions chartered by other

states of the United States, the territories of the United States, or the United States, and to purchase shares of mutual savings banks.

Linda A. Watters
Commissioner