

determine the rights of any child of the spouses to child support from either spouse or rights of child custody or parenting time.

(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each spouse is represented by separate legal counsel.

(d) A postnuptial contract or settlement is ~~valid and enforceable only if at the time of its execution each of the spouses entering into the contract or settlement has marital property titled in that spouse's name, nonmarital property, or a combination of marital property titled in that spouse's name and nonmarital property with a total net value exceeding \$1,200,000~~ presumed to be unenforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution, unless the spouse seeking to enforce the postnuptial contract or settlement can establish that the postnuptial contract or settlement is fair and equitable.

(e) ~~A postnuptial contract or settlement is not valid or enforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution.~~

(f) Nothing in this section shall impair the validity or enforceability of a contract, agreement, or waiver which is entered into after marriage and which is described in chapter 524, article 2, part 2, further, a conveyance permitted by section 500.19 is not a postnuptial contract or settlement under this section.

Presented to the governor April 12, 2002

Signed by the governor April 16, 2002, 11:58 a.m.

### CHAPTER 339—S.F.No. 2650

*An act relating to financial institutions; modifying regulation of credit unions; amending Minnesota Statutes 2000, sections 52.02, subdivision 3; 52.04, subdivision 3; 52.05, subdivisions 1, 2; 52.09, subdivision 3; 52.12; 52.15, subdivision 1; 52.19, subdivision 2; Minnesota Statutes 2001 Supplement, section 52.04, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 52.*

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

#### Section 1. [52.001] DEFINITIONS.

Subdivision 1. APPLICATION. For purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. BOARD. "Board" means the board of directors of a credit union.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of the department of commerce.

Subd. 4. CREDIT UNION. "Credit union" means a cooperative, not-for-profit financial institution formed and operating under this chapter.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **COMMUNITY.** “Community” means an identifiable local neighborhood, community, rural district, or other geographically well-defined area in which individuals have common interests or interact. “Well-defined” means the proposed area has specific geographic boundaries, including a school district, city, township, county, or clearly identifiable neighborhood, but does not include the state as a whole.

Subd. 6. **DIRECTOR.** “Director” means a member of the board.

Subd. 7. **FEDERAL CREDIT UNION.** “Federal credit union” means a credit union organized and operating under the laws of the United States.

Subd. 8. **INSOLVENT.** “Insolvent” means the condition that results when the cash value of assets realizable in a reasonable period of time is less than the liabilities that must be met within that time.

Subd. 9. **MEMBER.** “Member” means a person whose application for membership has been approved as meeting the membership criteria of the credit union, who has paid any required entrance or membership fee, and who has paid for one or more shares.

Subd. 10. **ORGANIZATION.** “Organization” means any corporation, association, partnership, limited liability company, cooperative, trust, or other legal entity.

Subd. 11. **OUT-OF-STATE CREDIT UNION.** “Out-of-state credit union” means a credit union organized under the laws of another state or United States territory or possession.

Subd. 12. **SMALL GROUP.** “Small group” means a group that has less than 500 potential members that has made a written request to a credit union for credit union services.

Subd. 13. **UNSAFE OR UNSOUND PRACTICE.** “Unsafe or unsound practice” means any action or lack of action that is contrary to generally accepted standards of prudent operation and that poses an abnormal risk of loss to the credit union or its members.

Sec. 2. Minnesota Statutes 2000, section 52.02, subdivision 3, is amended to read:

Subd. 3. **APPROVAL.** Amendments to the certificate of organization or bylaws, other than the addition to the field of membership of a small group or a group determined by the commissioner under section 52.05 to be too small to form its own credit union, must be approved by the commissioner of commerce before they become operative. The commissioner shall not unreasonably withhold approval if the amendments do not violate any provision of this chapter or other state law. In any event, the commissioner shall approve or disapprove the proposed amendment within 60 days of the date the proposed amendment is submitted to the commissioner by the credit union. In case of disapproval the credit union shall have the right to appeal to a court of competent jurisdiction within the time limits stated in section 52.01, clause (6). In case any amendment to the certificate of organization is adopted, the resolution, containing a full text of the amendment and verified by its president or treasurer and approved by the commissioner of commerce, shall be recorded in the office of the secretary of state.

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Upon addition to the field of membership of a small group or a group determined by the commissioner under section 52.05 to be too small to form its own credit union, a credit union must provide timely written notice to the commissioner, and the commissioner shall have 30 days from receipt of the notice to reject the addition of that group; if the commissioner does not reject the addition within that period, it is deemed approved.

Sec. 3. Minnesota Statutes 2001 Supplement, section 52.04, subdivision 1, is amended to read:

Subdivision 1. A credit union has the following powers:

(1) to offer its members and other credit unions various classes of shares, share certificates, deposits, or deposit certificates;

(2) to receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other thrift organizations within its membership. Trust funds received by a real estate broker or the broker's salespersons in trust may be deposited in a credit union;

(3) to make loans to members for provident or productive purposes as provided in section 52.16;

(4) to make loans to a cooperative society or other organization having membership in the credit union;

(5) to deposit in state and national banks and trust companies authorized to receive deposits;

(6) to invest in any investment legal for savings banks or for trust funds in the state and, notwithstanding clause (3), to invest in and make loans of unsecured days funds (federal funds or similar unsecured loans) to financial institutions insured by an agency of the federal government and a member of the Federal Reserve System or required to maintain reserves at the Federal Reserve;

(7) to borrow money as hereinafter indicated;

(8) to adopt and use a common seal and alter the same at pleasure;

(9) to make payments on shares of and deposit with any other credit union chartered by this or any other state or operating under the provisions of the Federal Credit Union Act, in amounts not exceeding in the aggregate 25 percent of its unimpaired assets. However, payments on shares of and deposit with credit unions chartered by other states are restricted to credit unions insured by the National Credit Union Administration. The restrictions imposed by this clause do not apply to share accounts and deposit accounts of the Minnesota corporate credit union in United States central credit union or to share accounts and deposit accounts of credit unions in the Minnesota corporate credit union;

(10) to contract with any licensed insurance company or society to insure the lives of members to the extent of their share accounts, in whole or in part, and to pay all or a portion of the premium therefor;

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(11) to indemnify each director, officer, or committee member, or former director, officer, or committee member against all expenses, including attorney's fees but excluding amounts paid pursuant to a judgment or settlement agreement, reasonably incurred in connection with or arising out of any action, suit, or proceeding to which that person is a party by reason of being or having been a director, officer, or committee member of the credit union, except with respect to matters as to which that person is finally adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duties. The indemnification is not exclusive of any other rights to which that person may be entitled under any bylaw, agreement, vote of members, or otherwise;

(12) upon written authorization from a member, retained at the credit union, to make payments to third parties by withdrawals from the member's share or deposit accounts or through proceeds of loans made to such member, or by permitting the credit union to make those payments from the member's funds prior to deposit; to permit draft withdrawals from member accounts, but a credit union proposing to permit draft withdrawals shall notify the commissioner of commerce, in the form prescribed, of its intent not less than 90 days prior to authorizing draft withdrawals. The board of directors of a credit union may restrict one class of shares to the extent that it may not be redeemed, withdrawn, or transferred except upon termination of membership in the credit union;

(13) to inform its members as to the availability of various group purchasing plans which are related to the promotion of thrift or the borrowing of money for provident and productive purposes by means of informational materials placed in the credit union's office, through its publications, or by direct mailings to members by the credit union;

(14) to facilitate its members' voluntary purchase of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes including, but not limited to the following types of group or individual insurance: Fire, theft, automobile, life and temporary disability; to be the policy holder of a group insurance plan or a subgroup under a master policy plan and to disseminate information to its members concerning the insurance provided thereunder; to remit premiums to an insurer or the holder of a master policy on behalf of a credit union member, if the credit union obtains written authorization from the member for remittance by share or deposit withdrawals or through proceeds of loans made by the members, or by permitting the credit union to make the payments from the member's funds prior to deposit; and to accept from the insurer reimbursement for expenses incurred or in the case of credit life, accident and health, and involuntary unemployment insurance within the meaning of chapter 62B commissions for the handling of the insurance. The amount reimbursed or the commissions received may constitute the general income of the credit union. The directors, officers, committee members and employees of a credit union shall not profit on any insurance sale facilitated through the credit unions;

(15) to contract with another credit union to furnish services which either could otherwise perform. Contracted services under this clause are subject to regulation and

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examination by the commissioner of commerce like other services;

(16) in furtherance of the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes, and not in limitation of the specific powers hereinbefore conferred, to have all the powers enumerated, authorized, and permitted by this chapter, and such other rights, privileges and powers incidental to, or necessary for, the accomplishment of the objectives and purposes of the credit union;

(17) to rent safe deposit boxes to its members if the credit union obtains adequate insurance or bonding coverage for losses which might result from the rental of safe deposit boxes;

(18) notwithstanding the provisions of section 52.05, to accept deposits of public funds in an amount secured by insurance or other means pursuant to chapter 118A or section 9.031 or other applicable law and to receive deposits of trust funds provided that either the provider or the beneficial owner of the funds is a member of the credit union accepting the deposit;

(19) to accept and maintain treasury tax and loan accounts of the United States and to pledge collateral to secure the treasury tax or loan accounts, in accordance with the regulations of the Department of Treasury of the United States;

(20) to accept deposits pursuant to section 149A.97, subdivision 5, notwithstanding the provisions of section 52.05, if the deposits represent funding of prepaid funeral plans of members;

(21) to sell, in whole or in part, real estate secured loans provided that:

(a) the loan is secured by a first lien;

(b) the board of directors approves the sale;

(c) if the sale is partial, the agreement to sell a partial interest shall, at a minimum:

(i) identify the loan or loans covered by the agreement;

(ii) provide for the collection, processing, remittance of payments of principal and interest, taxes and insurance premiums and other charges or escrows, if any;

(iii) define the responsibilities of each party in the event the loan becomes subject to collection, loss or foreclosure;

(iv) provide that in the event of loss, each owner shall share in the loss in proportion to its interest in the loan or loans;

(v) provide for the distribution of payments of principal to each owner proportionate to its interest in the loan or loans;

(vi) provide for loan status reports;

(vii) state the terms and conditions under which the agreement may be terminated or modified; and

(d) the sale is without recourse or repurchase unless the agreement:

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(i) requires repurchase of a loan because of any breach of warranty or misrepresentation;

(ii) allows the seller to repurchase at its discretion; or

(iii) allows substitution of one loan for another;

(22) in addition to the sale of loans secured by a first lien on real estate, to sell, pledge, discount, or otherwise dispose of, in whole or in part, to any source, a loan or group of loans, other than a self-replenishing line of credit; provided, that within a calendar year beginning January 1 the total dollar value of loans sold, other than loans secured by real estate or insured by a state or federal agency, shall not exceed 25 percent of the dollar amount of all loans and participating interests in loans held by the credit union at the beginning of the calendar year, unless otherwise authorized in writing by the commissioner;

(23) to designate the par value of the shares of the credit union by board resolution;

(24) to exercise by resolution the powers set forth in United States Code, title 12, section 1757. Before exercising each power, the board must submit a plan to the commissioner of commerce detailing implementation of the power to be used;

(25) to offer self-directed individual retirement accounts and Keogh accounts and act as custodian and trustee of these accounts if:

(1) all contributions of funds are initially made to a deposit, share or share certificate account in the credit union;

(2) any subsequent transfer of funds to other assets is solely at the direction of the member and the credit union exercises no investment discretion and provides no investment advice with respect to plan assets; and

(3) the member is clearly notified of the fact that National Credit Union Share Insurance Fund coverage is limited to funds held in deposit, share or share certificate accounts of National Credit Union Share Insurance Fund-insured credit unions;

(26) to impose reasonable charges for the services it provides to its members;

(27) to impose financing charges and reasonable late charges in the event of default on loans, and recover reasonable costs and expenses, including, but not limited to, actual collection costs and attorneys' fees incurred both before and after judgment, incurred in the collection of sums due, if provided for in the note or agreement signed by the borrower; and

(28) to acquire, lease, hold, assign, pledge, sell, or otherwise dispose of interests in a loan or groups of loans other than a self-replenishing line of credit.

Sec. 4. Minnesota Statutes 2000, section 52.04, subdivision 3, is amended to read:

Subd. 3. **COMPARABILITY WITH FEDERAL CREDIT UNIONS PARITY.**

The commissioner of commerce may authorize credit union activity in which credit unions subject to the jurisdiction of the federal government may be authorized to

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engage by federal legislation, ruling, or regulation. Notwithstanding any other provision of law, and in addition to all powers and activities, express, implied, or incidental, that a credit union has under the laws of this state, a credit union may exercise the powers and activities of, or take any action permitted for, a federal credit union, upon approval of the commissioner. The commissioner must approve or deny a request under this subdivision within 60 days after submission of the request by a credit union. The commissioner may not authorize state credit unions subject to this chapter to engage in credit union activity prohibited by the laws of this state.

Sec. 5. Minnesota Statutes 2000, section 52.05, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** Credit union membership consists of the incorporators and other persons as may be elected to membership and subscribe to at least one share as designated by the board of directors, pay the initial installment thereon and the entrance fee if any. In addition to a regularly qualified member, the spouse of a member, the blood or adoptive relatives of either of them and their spouses may be members. When an individual member of a credit union leaves the field of membership, the member, and all persons who became members by virtue of that individual's membership may continue as members. The surviving spouse of a regularly qualified member, and the blood or adoptive relatives of either of them and their spouses may become members. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit unions chartered by this or any other state, or any federal credit union may be members. Credit union organizations shall be limited to persons within one or more groups or any combination of groups, of both large and small membership, having a common bond of occupation, or association, or to residents within a well-defined neighborhood, community, or rural district.

Sec. 6. Minnesota Statutes 2000, section 52.05, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** Any two persons representing a group of 30 or less or any 15 persons representing a larger group may apply to the commissioner, advising the commissioner of the common bond of the group and its number of potential members, for a determination whether it is feasible for the group to form a credit union. Upon a determination that it is not feasible to organize because the number of potential members is too small, the applicants will be certified by the commissioner as eligible to petition for membership in an existing credit union capable of serving the group. If the credit union so petitioned resolves to accept the group into membership, it shall follow the bylaw amendment and approval procedure set forth in section 52.02.

The commissioner ~~shall~~ may adopt rules to implement this subdivision. If adopted, these rules must provide that:

(1) for the purpose of this subdivision, groups with a potential membership of less than 1,500 500 will be considered too small to be feasible as a separate credit union, unless there are compelling reasons to the contrary, relevant to the objectives of this subdivision;

(2) for the purpose of this subdivision, groups with a potential membership of at least 500 but less than 3,000 may be considered to be too small to be feasible as a

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separate credit union, based upon criteria developed by the commissioner, taking into account the objectives of this subdivision;

(3) groups with a potential membership ~~in excess of 1,500~~ 3,000 or more will be considered in light of all circumstances relevant to the objectives of this subdivision; and

(3) (4) all group applications, except for applications from groups made up of members of existing credit unions or groups made up of people who have a common employer which qualifies them for membership in an existing credit union, will be considered separately from any consideration of the membership provisions of existing credit unions; except that, groups made up of members of an existing credit union may be certified under this subdivision with the agreement of the credit union.

Sec. 7. Minnesota Statutes 2000, section 52.09, subdivision 3, is amended to read:

Subd. 3. **OFFICERS, BYLAWS; COMPENSATION.** The duties of the officers shall be as determined in the bylaws, except that the treasurer may be the general manager. No member of the board, the supervisory committee or an elected credit committee shall receive a salary as such, but may be reimbursed for necessary expenses incurred while serving in such capacity and may be compensated for time actually spent in official duties at an hourly rate as determined by the annual meeting of members. Provision of reasonable health, accident, and similar insurance protection shall not be considered compensation, and is subject to approval by the membership.

Sec. 8. Minnesota Statutes 2000, section 52.12, is amended to read:

**52.12 CAPITAL; ENTRANCE FEES; CREDIT UNION TO HAVE LIEN.**

The capital of a credit union includes shares, share certificates, any special class of shares, undivided earnings, reserves, member investment shares, non-member subordinated debt, member paid-in capital, and any entrance or membership fees. The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from the member, or for any loan endorsed by that member. In addition to any other statutory right of setoff or lien and subject to any contractual provision, if any party to an account is indebted to a credit union, the credit union has a right to setoff against any account in which the party has or had immediately before death a present right of withdrawal. A credit union may, at its discretion, charge an entrance or annual membership fee if authorized by the bylaws.

Sec. 9. Minnesota Statutes 2000, section 52.15, subdivision 1, is amended to read:

Subdivision 1. **40 50 PERCENT OF UNIMPAIRED ASSETS.** A credit union may borrow from any source, or sources, sums not exceeding in the aggregate 40 50 percent of its unimpaired assets. For the purposes of this subdivision, "unimpaired assets" mean total assets less borrowings, including all forms of indebtedness, accounts payable, and any amount by which reserves and undivided earnings will not be adequate to meet the reserve requirements caused by classified assets.

Sec. 10. Minnesota Statutes 2000, section 52.19, subdivision 2, is amended to read:

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Subd. 2. The board of directors may adopt a procedure and policy for expulsion of members for cause and for nonparticipation in the affairs of the credit union. The nonparticipation policy must be based on:

(1) failure to purchase and maintain at least one credit union share or to pay entrance or membership fees, if any; or

(2) causing monetary loss to the credit union.

If adopted, written notice of the procedure and policy and their effective date shall be mailed not less than 30 days before their effective date to each member of the credit union at the member's address on the credit union records. Each new member shall be provided written notice of the procedure and policy before or upon applying for membership.

Presented to the governor April 12, 2002

Signed by the governor April 16, 2002, 11:59 a.m.

#### CHAPTER 340—S.F.No. 3238

*An act relating to nonprofit corporations; neighborhood organizations; providing options regarding the election of directors, voting rights, and meeting notice requirements; amending Minnesota Statutes 2000, sections 317A.435, by adding a subdivision; 317A.439, by adding a subdivision; 317A.441.*

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

Section 1. Minnesota Statutes 2000, section 317A.435, is amended by adding a subdivision to read:

**Subd. 4. NEIGHBORHOOD ORGANIZATIONS.** (a) A neighborhood organization must hold an annual meeting at which there must be an election of successors to directors whose terms expire at the annual meeting. Notwithstanding subdivisions 1 and 2, notice of a meeting to elect directors and any other meeting at which articles or bylaws are proposed to be amended must be given as specified by this subdivision. The articles or bylaws of a neighborhood organization may provide for electing directors by petition, if notice of the petition process is given as provided by this subdivision.

(b) At least ten but not more than 30 days before a meeting of the members of the neighborhood organization is to be held, notice of the date, time, and place of the meeting or the date and process applicable to petitions and any other information required by this chapter must be given in a manner designed to notify all members with voting rights to the extent practical.

(c) For purposes of this subdivision, "neighborhood organization" means a nonprofit corporation under this chapter that represents a defined geographic area and has been accepted by a political subdivision as the basic planning unit for the area.

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