



Summary of Changes to the Credit Union Statutes – HB 515

Background:

In 2011, the Office of the Commissioner of Banks funded a legislative study committee to modernize North Carolina's banking laws under Chapter 53. The outcome of the committee's work was the passage of Senate Bill 816 in July 2012 with an effective date of October 1, 2012.

Following adjournment of the General Assembly, the League researched various changes under the banking statutes for possible parallel authority for credit unions. Additionally, guidance was sought from credit unions on gaps in the law that may limit a credit union and its ability to serve members. As a result, the attached draft legislation identifies areas in the laws governing credit unions that can be updated. Below provides a detailed outline of proposed statute changes.

Section 1:

G.S. 54-109-57A Payable on death accounts

This is a technical change resulting from the passage of HB 686 in June of 2011 which repealed §54-109.57 and replaced it with §54-109.57A. The addition (e) provides for the continuing validity of payable on death accounts and further provides for the application of the new law to accounts opened/established under the former §54 109.58.

Section 2:

G.S. 54-109.58. Joint accounts

§54-109.58 authorizes the creation of joint accounts with or without right of survivorship. With right of survivorship means that when one of the joint owners dies, the account belongs to the survivor and probate is avoided.

The new provisions under subsections (g) and (h) authorize any joint tenant to terminate the account or have his or her name removed from the account. This has been problematic given that the statute as written is silent as to how to address the issue. Further, subsection (e) creates a safe harbor. The addition in subsection (f) creates consistency with §54-109.57A Payable on Death (POD) accounts allowing the model language to be included on a signature card or on a separate document.

Section 3:

G.S. 54 109.60A. Minors

§54 109.60A authorizes a credit union to deal with a minor like an adult for the purposes of share or deposit accounts, allowing for a joint or POD account. Further, subsection (b) eliminates confusion of who to pay in the event of the minor's death.

G.S. 54 109.60B. Accounts opened by adults for minors

§54 109.60B provides the structure for a simple custodial share account that one or more adults may open for a minor. The custodial share account will be transferred to the control of the minor upon his or her reaching the age of majority (age of 18), if not transferred sooner by the custodian; and the custodian's name will be removed from the account.

This addition was designed to address operational challenges in the existing laws under the Uniform Transfers to Minors Account Act and simplifies the process for opening accounts for minors. Under UTMA, a custodian may designate to transfer the property after the age of 18 and before the age of 21. At the age of 21, the custodian must release the property. Further, an UTMA account allows for only one custodian and in the event of death, there are several legal steps to undertake to have the custodian changed.

G.S. 54 109.62. Payment of balance of deceased person or person under disability to personal representative or guardian

§54 109.62 is a new section that identifies the proper procedures for dealing with accounts of decedents who were under a disability or had been found incompetent. Presentation of documents issued or certified by the appointing court are conclusive proof granting the credit union the authority to make payment. Further, a safe harbor is included.

G.S. 54 109.62A. Powers of attorney; notice of revocation; payment after notice

This new section provides much needed clarity by establishing parameters within which a credit union may rely upon POAs without liability; until the time of receipt of actual notice of the principal's death or a written notice of revocation signed by the principal.

Section 4:

G.S. 54-109.63. Personal agency accounts.

The addition in subsection (a) creates consistency with §54-109.57A Payable on Death (POD) accounts and §54 109.58 Joint accounts allowing the model language to be included on a signature card or on a separate document.

Section 5:

G.S. 54-109.82. Investment of funds

Under NC law, state-chartered credit unions are permitted to invest in corporate bonds but are currently limited in their ability to invest. The investment statutes governing state charters currently references the Treasurer's authority under G.S. 147-69.1, which requires corporate bonds to have an AAA or equivalent rating. The proposed change under the investment provisions would allow a state-chartered credit union to invest in corporate bonds with at least A+ or equivalent rating, expanding a state-charter's ability to invest while monitoring overall risk.

Section 6:

The effective date will be July 1, 2013.

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