**Fiscal Notes for Rules with Technical Amendments**

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|---|---|
| **Agency:** | North Carolina Department of Commerce, Credit Union Division |
| **Rulemaking Coordinator:** | Tony Knox, Deputy Administrator |
| **The Rule Making Authority** | G.S. 54-109.12 and 54-109.21(25) |
| **Summary of Impact:** | State Government: No<br>Local Government: No<br>Substantial Impact: No |

The Division is proposing technical amendments to the following Rules:

| | | |
|---|---|---|
| 04 NCAC | 06A | .0101 Name and Address |
| 04 NCAC | 06B | .0301 Petition For Adoption: Amendments or Repeal of Rules |
| 04 NCAC | 06B | .0302 Notice of Rule Making Hearing (History Note change) |
| 04 NCAC | 06B | .0303 Rule Making Hearing: General Information (History Note change) |
| 04 NCAC | 06C | .0101 Definitions |
| 04 NCAC | 06C | .0300 Basic Internal Controls: (change in section title) |
| 04 NCAC | 06C | .0307 Listing of officials and Operating Hours |
| 04 NCAC | 06C | .0311 Surety Bond and Insurance Coverage |
| 04 NCAC | 06C | .0801 Financial Statements and other information |
| 04 NCAC | 06C | .0802 Additional Reports |

(See proposed rule text changes in the Appendix)

The 10 technical changes above consist of address changes, preferred English or terms that do not change the meaning, and history note changes.

The Fiscal Impact will be De minimis, as there will be a minimum impact, if any at all. Although not required by the proposed changes, these amendments will lead to the reprinting of pages in the Administrative Code for the Credit Union Division. They cost is as follows:

| | |
|---|---|
| Reprint 100 copies for $2.80 per copy, | $ 28.00 |
| Mail 60 Copies First Class approx. $2.20 per copy | $132.00 |
| One to each credit union, NC League, NCUA, NC Attorney General | |
| Attorney Drake, Local CPA firms that work with Credit Unions | |

The impact on state government will be very small and should not have a material impact on the budget of the N C Credit Union Division. After the initial copy has been given to credit unions they will either make their own copies or request additional ones from the credit union division at a cost per book of $5.00.

## APPENDIX

**04 NCAC 06A .0101 NAME AND ADDRESS**

The Credit Union Division of the Department of ~~Economic and Community Development~~ **Commerce** is located in Raleigh, North Carolina. The mailing address for the Credit Union Division is ~~P.O. Box 25249~~4314 Mail Service Center, Raleigh, North Carolina ~~**27611**~~ **27699-4314**. The office is open to the public Monday through Friday~~, 7:30 a.m. to 4:45 p.m.~~ **8:00a.m. to 5:00p.m.** , excluding state holidays.

*History Note:* *Authority G.S. 54-109.10; 150B-10;*
*Eff. February 1, 1976;*
*Readopted Eff. April 4, 1978;*
*Amended Eff. December 1, 1989.*

**SECTION .0300 - RULE-MAKING HEARINGS**

**04 NCAC 06B .0301 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES**

(a) Right to Petition. Any interested person may petition the Administrator to promulgate, amend, or repeal an administrative rule.

(b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. In addition, the petition shall contain the following information:

(1) a draft of the proposed rule, amendment or repeal or a summary thereof;
(2) the reason(s) for the proposal;
(3) the effect on existing rules or orders or both;
(4) any data showing the probable effect of the proposal on existing practices in the area involved, including cost; and
(5) the names of those most likely to be affected by the proposal with addresses if reasonably known.

(c) Address for Petition. Petitions shall be addressed to the Division at its mailing address.

(d) Disposition of Petition. Upon receipt of a petition, the Administrator will make a study of the facts stated in the petition and any additional information he deems relevant. The Administrator's disposition of the petition will be made in one of the following forms within 30 days of receipt of the petition:

(1) a written denial of the proposal setting forth the reasons for such denial, or
(2) a written communication to the petitioner indicating the Administrator's plan to initiate rulemaking procedures pursuant to G.S. ~~150B-12~~ **150B-21.2**

*History Note:* *Authority G.S. 54-109.12; ~~150B-12~~; **150B-21.2***

*Eff. June 1, 1990.*

**04 NCAC 06B .0302 NOTICE OF RULE-MAKING HEARINGS**

Any person or agency desiring to be placed on the mailing list for the Administrator's rule-making notices may file such request by furnishing a name and mailing address in writing to the Division at its mailing address. The request must state the subject areas within the authority of the Administrator's office for which the notice is requested. The Administrator may require reasonable postage and stationery costs to be paid by persons receiving such notices.

*History Note:* *Authority G.S. ~~150B-12~~; **150B-21.2***

*Eff. June 1, 1990.*

**04 NCAC 06B .0303 RULE-MAKING HEARINGS: GENERAL INFORMATION**

The hearing officer shall have complete control of the proceedings, including extensions of any time requirements, order of presentations, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. Each person participating in the hearing shall be given a fair opportunity to present views, data, and comments.

*History Note:* *Authority G.S. ~~150B-12~~ **150B-21.2***

*Eff. June 1, 1990.*

**SECTION .0100 - GENERAL INFORMATION**

**04 NCAC 06C .0101 DEFINITIONS**

When used in this ~~Chapter~~, **Subchapter** the following words and phrases shall have the following meaning, except to the extent that any such word or phrase is specifically qualified by its context:

(1) "Administrator" shall mean the Administrator of State-Chartered Credit Unions.

(2) "Capital" consists of shares, undivided earnings, and reserves.

(3) "Commission" shall consist of seven members and they are vested with full power and authority to review, approve or modify any action taken by the Administrator of Credit Unions in the exercise of all powers, duties and functions vested by law in or exercised by the Administrator of Credit Unions under the Credit Union Laws of North Carolina.

(4) "Credit union" is a cooperative nonprofit corporation organized for the purpose of promoting thrift among its members by affording them an opportunity for accumulating their savings; and to create for them a source of credit for loans for provident and productive purposes; and may undertake such other activities relating to the purpose of the corporation as its bylaws may provide; such credit union being chartered under the General Statutes of North Carolina.

(5) "Deposits" are a preferred savings account on which the Credit Union is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of directors approve.

(6) "Dividend" is an operating expense of a credit union which is declared payable on share accounts from time to time by the Board of directors.

(7) "EDP" shall mean electronic data processing.

(8) "Interest on deposit accounts" is an expense paid by the Credit Union for obtaining funds in a deposit account.

(9) "Interest on loans" is an amount charged to a member for borrowing funds from a credit union at a specified rate as declared by the Board of directors, not to exceed the maximum legal rate.

(10) "Interest refund" is a percentage of the interest collected on loans which is refunded to those members who borrowed during a specific period pursuant to action of the Board of directors.

(11) "Members" shall mean persons or organizations who have been accepted for membership by either the Board, membership officer, or an executive committee, after having met qualifications of being within the field of membership.

(12) "Membership" in a credit union is limited to those as stipulated in the bylaws of such credit union.

(13) "Membership fee" is a fee that may be charged to applicants for membership as an entrance fee or as an annual membership fee as determined by the Board of directors or as the bylaws may provide.

(14) "Reserve fund" is the portion of income to be entered on the books of the corporation to offset uncollectible loans in accordance with Section 54-109.86 of the General Statutes.

(15) "Shares" is the primary capital owned by the members and is comprised of the savings of the members. The par value shall be as the bylaws provide.

(16) "Unimpaired capital" shall consist of the shares, undivided surplus and reserves less any known or probable losses.

(17) "Funds" means cash on hand, cash in the bank and investments.

(18) "Book value of loans" is the dollar amount of loans the Credit Union has on its books.

(19) Types of investment transactions are defined as follows:

(a) "Standby commitments" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.

(b) "Cash forward agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and which requires mandatory delivery and acceptance.

(c) "Reverse repurchase agreement" means an agreement whereby a credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, irrespective of the amount of consideration paid by the Credit Union or the purchaser.

(d) "Repurchase agreement" means an agreement whereby a credit union enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be of two types:

(i) "Investment-type repurchase agreement" means a repurchase which contains the essential elements of a sale of security as specified in Rule .1202(5) of this Subchapter.

(ii) "Loan-type repurchase agreement" means any repurchase agreement which does not qualify as an investment-type repurchase agreement.

(e) "Future" means a standardized contract for the future delivery of commodities, including certain government securities, sold on designated commodities exchange.

(20) "Corporate Credit Union" is a credit union with an institutional field of membership.

(21) "Credit Union Service Organization" or "CUSO" is an organization formed and operated by credit union(s), or associations or organizations of credit unions, to provide revenue generating services of the highest quality to credit union members, credit unions and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment.

(22) "Branch Office" is a facility which a credit union maintains and staffs at a location other than its main office to furnish credit union services to its members.

*History Note:* *Authority G.S. 54-109.12;*
*Eff. February 1, 1976;*
*Readopted Eff. April 4, 1978;*
*Amended Eff. January 1, 1992; October 1, 1983; April 1, 1979.*

**SECTION .0300 - BASIC INTERNAL CONTROLS: ~~BOOKKEEPING~~ ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS**

**04 NCAC 06C .0307 LISTING OF OFFICIALS AND OPERATING HOURS**

(a) Each credit union shall notify and keep the Administrator current on the names and addresses of officers, directors, committee~~men~~ **members,** and key operating personnel. Changes shall be reported in writing within 10 working days of the change.

(b) Each credit union shall notify and keep the Administrator current on the days and hours it is open.

*History Note: Authority G.S. 54-109.12;*
*Eff. February 1, 1976;*
*Readopted Eff. April 4, 1978.*

**04 NCAC 06C .0311 SURETY BOND AND INSURANCE COVERAGE**

(a) It shall be the duty of the Directors to purchase a blanket fidelity bond including such other bond coverages as required by the statutes or as may be required by the Administrator.
(b) Every state chartered credit union will maintain the minimum bond and insurance coverage as required by statute.

No form of surety bond shall be used except as is approved by the Administrator. Credit Union Blanket Bond, ~~Standard Form No. 23 of the Surety Association of America~~ **500 Bond Series,** plus faithful performance rider, or NCUA Optional Form 581 or its equivalent, shall be considered the minimum coverages required and are hereby the approved forms. The approved bond forms in this Paragraph provide faithful performance coverage for all employees and officials. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit committee members. Other forms, or changes in the amount of bond coverage, must be approved by the Administrator.
(c) Maximum deductible limits may be applied to the required coverage contained in ~~Standard Form No. 23,~~ **500 Bond Series,** as specified in this Paragraph:

| Assets | Maximum Deductible |
|---|---|
| 0 to $100,000 | -0- |
| $100,001 to $250,000 | $ 500 |
| $250,001 to $500,000 | 750 |
| $500,001 to $750,000 | 1,000 |
| $750,001 to $1,000,000 | 1,500 |
| $1,000,001 to $2,000,000 | 2,000 |
| $2,000,001 to $3,000,000 | 3,000 |
| $3,000,001 to $5,000,000 | 4,000 |
| $5,000,001 to $50,000,000 | 5,000 |
| $50,000,001 to $100,000,000 | 7,500 |
| Over $100,000,001 | 10,000 |

Deductibles in excess of those shown must be approved by the Administrator. In no event shall any deductible be applied to the fidelity coverage or the faithful performance provision of the bond unless approved by the Administrator.

*History Note:* *Authority G.S. 54-109.11 (5); 54-109.12; 54-109.44 (2);*
*Eff. April 1, 1981;*
*Amended Eff. February 1, 1992; April 1, 1985.*

**SECTION .0800 - REPORTS TO ADMINISTRATOR**

**04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION**

~~Within 31 days~~ **Each credit union shall furnish a report of condition due on the same date as designated by the federal insurer** ~~of~~ following the end of December, **March**, ~~and~~ June **and September.** ~~each credit union will furnish a report of condition~~ **The report is submitted** to the Administrator on forms supplied by him for that purpose. Fines and penalties for delay in filing reports shall be assessed as set forth in G.S. 54-109.13 and 54-109.15 (b).

*History Note:* *Authority G.S. 54-109.12; 54-109.13; 54-109.15 (b);*
*Eff. February 1, 1976;*
*Readopted Eff. April 4, 1978;*
*Amended Eff. December 1, 1979.*

**04 NCAC 06C .0802 ADDITIONAL REPORTS**

The Administrator may require any additional reports of the status of credit unions as he deems necessary. The additional reports are due within fifteen (15) **calendar** days of the date specified by the Administrator.

*History Note:* *Authority G.S. 54-109.12; 54-109.15;*
*Eff. February 1, 1976;*
*Readopted April 4, 1978;*
*Amended Eff. December 1, 1979.*