

# ARIZONA CREDIT UNIONS

Not-for-Profit. Cooperative. Local. Trusted.

## SB 1296 - Section-by-Section Summary

### 6-501. Definitions

**6-501(4)** Updates the definition of credit union to “assisting members to manage and control their financial resources to improve their social and economic condition.”

**Why:** This new language was added to better align with the purpose of credit unions.

**6-501(10):** Remove the term “equivalent” in the definition for “insuring organization.”

**Why:** Currently, DIFI has the authority to approve a different insurer other than the national credit union administration (NCUA). However, since NCUA is an agency of the federal government, the word equivalent creates an unattainable standard. This change does not authorize any new insurer, as that would still require regulatory approval.

### 6-506 Organization procedure

**6-506(C)(1)** Clarifies that a credit union membership can consist of more than one common bond.

**Why:** This update better aligns with federal law, which provides credit unions to have a field of membership that is comprised of a single common bond, a multiple common bond, or a community.

### 6-510. Principal place of business; branch office; automated teller machine

**6-510(C)** Removes requirement that a credit union must notify DIFI at least 30-days before establishing an ATM.

**Why:** Removes unnecessary administrative red tape.

### 6-512. Fiscal year

**6.512.** Removes section to allow credit unions the ability to decide their own fiscal year.

**Why:** Allowing a credit union to set its own fiscal year saves the credit union, and ultimately their members money. For example, if credit unions were afforded more flexibility in determining their fiscal year, they would not have to hire accountants/audit firms at a time when they are in higher demand and most expensive.

Also, when certain federal rules go into effect, they may be written in a way that has them go into effect based on the credit union's fiscal year. By giving them flexibility to determine your fiscal year they can delay implementing rules that end up costing the credit union money and ultimately their members.

Example there were certain accounting changes that went into effect for credit unions on January 1, 2023 called CECL. If credit unions had been able to decide their fiscal year, they could have pushed the implementation of those new accounting rules until the 4th quarter of 2023, saving more money for the credit union and ultimately their members.

## **6-516. General powers**

**6-516(A)(6)** Clarifies that a credit union can purchase assets from any in or out-of-state financial institution.

**Why:** The change provides consistency with federal law and regulations surrounding asset purchases of financial institutions. Asset purchases would still require the same regulatory approval of the purchasing and selling financial institutions.

**6-516(A)(7)** Replaces "business" with "purpose" to better align with language that is used in the definition of "credit union" in 6-501(4).

**Why:** Technical change to align with the change made to the definition for "credit union" in 6-501(4).

**6-516(A)(8)** Removes reference to "Arizona credit union league", which no longer exists and clarifies that credit unions can join any associations or organizations.

**Why:** Clean up language that removes the name of an organization that no longer exists.

## **6-522. Organization members**

**6-522(A)** Clarifies that a credit union membership is not just limited to an individual or corporation, but also includes any type of organization, such as, limited liability companies, trusts, partnerships, etc.

Also clarifies that an organization geographically located within a credit union's field of membership may be admitted as a member, even if one of more owners is not in the field of membership.

**Why:** Ensures that any organization, not just a corporation, can be eligible for credit union membership. Also., ensures that credit unions can serve an organization if the business is geographically in the credit unions' field of membership.

### **6-523. Membership applications**

**6-523(A)** Requires that the board establish policies for denying membership. If a person is denied membership, requires that their appeal to the board of directors must be made within 30 days of the denial.

**Why:** Establishes that a credit union has policies and procedures in place to deny membership.

### **6-524. Termination of membership**

**6-524(B)** Allows the board to delegate the duty of member expulsion to management and establishes that the person be notified of the reason for the expulsion.

Allows the member to appeal against the expulsion via written response within 30 days of notice of expulsion, rather than an in-person hearing before the board.

**Why:** A member expulsion can sometimes be a result of dangerous or abusive behavior/actions, including violence, intimidation, physical threats, harassment, and physical or verbal abuse of credit union officials, employees, members, or agents.

This change would still allow these individuals to maintain their right to appeal but removes the requirement that the appeal be done in front of the board of directors (who are oftentimes volunteers).

### **6-531. Authority and responsibility of directors; voting**

**6-531(B)** Allows boards members that are not in person to vote by electronic meeting, rather than just telephone conference.

**Why:** Ensures that boards can vote via an electronic meeting (zoom, teams, etc.) in the same manner that they are currently allowed to for telephone conference.

**6-531(C)** Reduces the required number of board meetings from 10 a year, to once every two months. Allows the deputy director to require the credit union's board to meet more frequently.

**Why:** By reducing the number of board meetings, this saves credit union staff and resources preparing and organizing board meetings. There is similar legislation that has been introduced by Senator Sinema on the federal level. State Regulators can still require a credit union to meet more often if they deem necessary.

### **6-537. Certain duties of directors; insurance**

**6-537(A)(5)** Removes that the duty that the board of directors is to "borrow or lend money."

**Why:** This is an outdated statute that doesn't apply in practice since the credit union employees are lending out the money and not the board.

## **6-542. Suspension and removal of officials**

**6-542(A)** Changes that a director, officer, or board members can be suspended for cause by a majority vote of the membership. Currently requires a 2/3 vote of the membership to approve removal.

**Why:** The super majority threshold is too high of a standard. Examples of why an official could be removed include: Breach of Fiduciary Duty, Financial Mismanagement, Violation of Policies, Legal Issues, Ethical Violations, Failure to Disclose a Conflict of Interest, Poor Performance, Failure to Attend Meetings, etc.

**6-542(B)** Allows the suspended director, officer, or board members to appeal suspension within 10 days by calling a special meeting of the members to consider the suspension. This special meeting would need to take place within 7 to 30 days after suspended director, officer or board member called for the special meeting.

**Why:** Establishes timelines and guidelines on how suspended directors, officer or board member can appeal their suspension to the membership.

**6-542(C)** Outlines that a director, officer or board member is deemed removed from office if no request for hearing is made within 10-days.

**Why:** Adds additional clarification for how a suspended director, officer or board member can appeal their suspension to the membership.

## **6-551. Share accounts**

**6-551(A)** Changes that the board of directors determines how shares accounts are determined, rather than the bylaws.

**Why:** Setting share account policy should be a responsibility of the board. This allows credit unions to make share account policy changes more quickly.

## **6-556. Multiple party accounts**

**6-556(A)** Ensures that the statutes regarding non-probate transfers apply to multiple party accounts.

**Why:** Current state statute states that multiple party accounts are subject to Title 14, Chapter 6, Article 1, which deals with non-probate transfers. This change strikes article 1, to simply ensure that all statutes in Title 14, Chapter 6 regarding non-probate transfer apply (not just article 1).

A multiple party account is also known as a joint account and is often used as a way to transfer assets to a beneficiary without the need for a will.

The non probate transfer statutes govern the transfer of certain assets upon an individual's death without the need for probate.

### **6-561. Purpose and conditions of loans; prepayment penalties**

**6-561(A)** Allows loan policy to be set by the board rather than the bylaws.

**Why:** Setting loan policy should be a responsibility of the board. This allows credit unions to make loan policy changes more quickly.

**6-561(D)** This change simply cleans up language to ensure that a prepayment penalty may only be applied on business loans.

**Why:** The current definition of a “member business loan” points to a definition in federal regulations, however that section is no longer relevant to the original intent. The new language makes it clear that prepayment penalties are not allowed on personal, family or household loans, but rather on loans for business purposes.

### **6-563. Other loan programs**

**6-563(A)** Allows a state-chartered credit union to hold 5% of loans they originate. Under current state law, a state-chartered credit union that originates a loan and sells a portion of that loan to others credit unions or organizations must retain 10% of that loan.

**Why:** By not requiring credit unions to hold as much of a loan on their books, it frees up capital that allows credit unions ability to make additional loans.

Current federal law allows state-chartered credit unions to retain 5% of the loan.

### **6-564. Loans to officials**

**6-564(C)** Changes the threshold for reporting loans made to a credit union official to the board of directors from \$20,000 to 1% of the credit union’s net worth. Adds requirement that loans aggregating more than \$50,000 or 1% of net worth must be reported to the deputy director. This change mirrors the bank statutes regarding loans to officials (6-353).

**Why:** Increasing the amount to better keep up with inflation. In addition, updated it to mirror the statutes regulating state-chartered banks.

It helps prevent situations where one board member must share their personal finances with their peers on the board, while still ensuring loans aggregated above a certain be reported to the regulator.