



HOUSE BILL 515: Amend Credit Union Laws

2013-2014 General Assembly

Committee:	Senate Judiciary I	Date:	June 5, 2013
Introduced by:	Reps. J. Bell, L. Hall, Wells, Jordan	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Counsel

SUMMARY: *House Bill 515 amends the credit union statutes to conform to changes made to State banking laws in S.L. 2012-56, and permits credit unions to invest in corporate bonds with a minimum rating of A+.*

SECTION 1 – Payable on Death Accounts

CURRENT LAW: S.L. 2011-236 (House Bill 686) repealed G.S. 54-109.57 and replaced it with G.S. 54-109.57A, effective October 1, 2011. Under the new statute, credit unions were permitted to offer customers payable on death accounts (PODs) naming an entity other than a natural person as a beneficiary. PODs created by agreements executed prior to October 1, 2011, remained subject to the laws in effect at the time the parties executed the agreement.

BILL ANALYSIS: Section 1 provides that any POD account created prior to S.L. 2011-236 is governed by the new statute and that any references to the predecessor statute in documents concerning POD accounts are deemed to refer to the new statute.

SECTION 2 – Joint Accounts

CURRENT LAW: Under G.S. 54-109.58, joint accounts can be created with or without the right of survivorship.

BILL ANALYSIS: Section 2 amends G.S. 54-109.58 to:

- divide existing subsection (a) into five subsections (a) through (d) and (f)
- add subsection (e) to provide that the credit union is not liable to joint tenants for complying in good faith with legal processes that appears to have been issued by a court or other authority of competent jurisdiction and that seeks funds held in the name of any one or more of the joint tenants
- provide in subsection (f) that language required to be acknowledged by persons electing to set up a joint account with right of survivorship may be placed on a signature card or in a separate document given to the persons setting up the account
- add new subsections (g) and (h) allowing any joint tenant to terminate a joint account or be removed from the account and providing that a joint tenant removed from the account at the joint tenant's request remains liable for any debts incurred in connection with the joint account while the person was a joint tenant

SECTION 3 – New sections added to Article 14F (Savings Accounts)

G.S. 54-109.60A. Accounts Opened by Minors

ANALYSIS: Provides that credit unions can issue and operate a share or deposit account in the name of a minor and the minor would be bound by the terms of the account agreement as if the minor were of



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full age and legal capacity. If a minor has an account that is not a POD or joint account with right of survivorship and the minor dies, the parent or legal guardian of the minor could access funds.

G.S. 54-109.60B. Accounts Opened by Adults for Minors

ANALYSIS: Provides that adults may open and maintain a custodial share account for a minor. Unless otherwise agreed to in the agreement, the following conditions apply: (i) beneficial ownership of the account vests exclusively in the minor; (ii) control of the account vests exclusively in the custodian but the custodian can turn over control to the minor even before the minor reaches the age of majority; (iii) if control has not be transferred before the minor reaches the age of majority, then the minor can instruct the credit union to transfer control once the age of majority is reached and remove the custodian; (iv) if the custodian dies before the minor reaches the age of majority, the minor's parent or legal guardian can act as custodian. The terms in the section are not deemed as exclusive.

G.S. 54-109.62. Payment of Balance of Deceased Person or Person under Disability to Personal Representative or Guardian

ANALYSIS: Provides that credit unions would be allowed to pay balances on deposit to the credit of a deceased individual to a duly qualified personal representative. In addition, credit unions would be allowed to pay balances on deposit to the credit of any individual judicially declared incompetent or under a legal disability to a duly qualified personal representative or guardian. Presentations of letters of qualification issued or certified by the appointing court would be conclusive proof of the jurisdiction of the court issuing the letter and would be sufficient authority for the payment and payment by a credit union in good faith would discharge its liability to the extent of the payment.

G.S. 54-109.62A. Powers of Attorney; Notice of Revocation; Payment after Notice

ANALYSIS: Provides that a credit union would be able to continue to recognize acts of attorneys-in-fact or other agents until the credit union receives actual notice of the principal's death or a written revocation signed by the principal who granted the authority of the revocation. Payments made by the credit union to or at the direction of an attorney-in-fact or other agent before receipt of the notice would be a total discharge of the credit union's obligation to the amount paid. Even if the credit union has received a written notice of revocation of an attorney-in-fact or other designated agent, the credit union may, until 10 days after receipt of the notice, pay any item made, drawn, accepted, or endorsed by the attorney-in-fact or agent prior to the revocation if the item is otherwise properly payable.

SECTION 4 – Personal Agency Accounts

CURRENT LAW: G.S. 54-109.63(a) permits a person to open a personal agency account through a written contract that names an agent who has the authority to act on behalf of the depositor and can execute checks drawn on the account and make withdrawals; endorse checks for deposit; and deposit cash or negotiable instruments into the account. The person establishing the account must sign a statement acknowledging the customer's understanding of the agent's powers and of how money remaining in the account upon the customer's death will be disposed of.

BILL ANALYSIS: Amends G.S. 54-109.63(a) to provide that the required statement may be provided on the signature card or in a separate document given to the person setting up the account.

SECTION 5 – Investment of Funds

CURRENT LAW: Pursuant to G.S. 54-109.82, State chartered credit unions may invest their capital, deposits, undivided profits, and reserve funds in a number of ways, including in any form of investment authorized for General Fund and Highway Fund assets in G.S. 147-69.1. G.S. 147-69.1(c)(10) limits the

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Treasurer's investments in corporate bonds to those rated AAA or equivalent by at least one nationally recognized rating service.

BILL ANALYSIS: Amends G.S. 54-109.82 to permit credit unions to invest in corporate bonds bearing a minimum rating of A+ by at least one nationally recognized rating service, and to require credit unions to monitor overall credit exposure by setting corporate bond investment limits as a percentage of assets.

EFFECTIVE DATE: This act becomes effective July 1, 2013, and Sections 2 and 4 will apply to accounts established as of that date and accounts created on or after that date.

Drupti Chauhan, counsel to House Banking Committee, and Wendy Graf Ray, counsel to Senate Commerce Committee, substantially contributed to this summary.