

## CHAPTER 6-06.1 VOLUNTARY LIQUIDATION OF CREDIT UNIONS

### **6-06.1-01. Approval of liquidation - Notice to commissioner.**

A credit union may go into voluntary liquidation on approval of a majority of its members in writing or by a vote in favor of such liquidation by a majority of the members of the credit union at a regular meeting of the members or at a special meeting called for that purpose. When authorization for liquidation is to be obtained at a meeting of members, notice in writing must be given to each member at least seven days before such meeting and the minutes of the meeting must show the number of members present and the number that voted for and against liquidation. If approval by a majority of all members is not obtained at the meeting of members, authorization for voluntary liquidation may be obtained by having a majority of members sign a statement in substantially the following form:

We the undersigned members of the \_\_\_\_\_ Credit Union, Charter No. \_\_\_\_\_, hereby request the dissolution of our credit union.

Within ten days after the decision of the board of directors to submit the question of liquidation to the members, the president shall notify the commissioner thereof in writing, setting forth in detail the reasons for the proposed action. Within ten days after the action of the members on the question of liquidation, the president shall notify the commissioner in writing as to whether a majority of the members approved the proposed liquidation.

### **6-06.1-02. Transactions during liquidation.**

Immediately on decision by the board of directors of a credit union to seek approval of the members for liquidation, payments on shares, withdrawal of shares including any transfer of shares to loans and interest, making investments of any kind, and granting of loans must be suspended pending action by members on the proposal to liquidate, and on approval by a majority of the members of such proposal, payments on shares, withdrawal of shares including any transfer of shares to loans and interest, making investments of any kind, and the making of loans must be permanently discontinued. Necessary expenses of operation must, however, continue to be paid on authorization by the board of directors or liquidating agent during the period of the liquidation.

### **6-06.1-03. Notice of liquidation to members - Creditors.**

Immediately on decision by the board of directors, a notice of such decision must be handed to each member or mailed to the member's last-known address together with a request that the member furnish the member's passbook or confirm in writing the shares held by the member in the credit union and the loans owed by the member to the credit union.

On approval of a majority of the members of a credit union of a proposal to liquidate, the board of directors of the credit union shall immediately have prepared and mailed to all creditors a notice of liquidation containing instructions to them to present their claims to the credit union within ninety days for payment.

### **6-06.1-04. Report at commencement of liquidation - Reports during period of liquidation.**

At the commencement of voluntary liquidation of a credit union, the treasurer or agent conducting the liquidation shall file with the commissioner a financial and statistical report and a schedule showing the name, book number, share balance, and loan balance of each member.

Credit unions in the process of voluntary liquidation shall file with the commissioner a financial and statistical report as of December thirty-first within ten days after such date. Additional reports, as determined by the commissioner to be necessary, must be furnished promptly on written request.

### **6-06.1-05. Examinations in voluntary liquidation.**

When deemed advisable by the commissioner, an examination of the books and records of a credit union may be made prior to, during, or following completion of voluntary liquidation. A

fee for each examination must be assessed at the rate currently in effect for examinations of operating credit unions. Fees must be collected by the commissioner, transferred to the state treasurer, and deposited in the financial institutions regulatory fund.

**6-06.1-06. Responsibility for conduct of voluntary liquidation.**

The board of directors of a credit union in voluntary liquidation is responsible for conserving the assets, for expediting the liquidation, and for equitably distributing the assets to members. The board of directors shall determine that all persons handling or having access to funds of the credit union are adequately covered by surety bond. The board of directors shall appoint a custodian for the credit union's records that are to be retained for five years after the charter is canceled. The board of directors may appoint a liquidating agent and delegate part or all of these responsibilities to the agent and may authorize reasonable compensation for the agent's services. Any such liquidating agent must be bonded for faithful performance of the agent's duties. The supervisory committee is responsible for making periodic audits of the credit union's records, at least quarterly, during the period of liquidation.

**6-06.1-07. Partial distribution.**

With the written approval of the commissioner, a partial distribution of the credit union's assets may be made to its members from cash funds available on authorization by its board of directors or by a duly authorized liquidating agent whose appointment specifically includes such authority.

**6-06.1-08. Completion of liquidation.**

When all assets of the credit union have been converted to cash or found to be worthless and all loans and debts owing to it have been collected or found to be uncollectible and all obligations of the credit union have been paid, with the exception of amounts due its members, the books must be closed and the pro rata distribution to members computed. The amount of gain or loss must be entered in each member's share account and should be entered in the member's passbook or statement of account.

**6-06.1-09. Distribution of assets.**

Promptly after the pro rata distribution to members has been computed, checks must be drawn for the amounts to be distributed to each member who has surrendered the member's passbook or has given a written confirmation of the member's balance. The checks must be mailed to such members at their last-known addresses or handed to them in person. The passbooks or written confirmations submitted by members to verify balances must be retained with the credit union records. The commissioner must be notified promptly of the date final distribution of assets to the members is started. Unclaimed share accounts which have been dormant for the period which makes them subject to the escheat or abandoned property laws of the state of North Dakota must be paid to the state as required by such laws.

**6-06.1-10. Final report.**

Within one hundred twenty days after the final distribution to members is started, the credit union shall furnish to the commissioner's office the following:

1. A schedule on an official form of unpaid claims, if any, due members who failed to surrender their passbooks or confirm their balances in writing during liquidation whose accounts are not payable to the state under applicable escheat or abandoned property laws, and of unpaid claims, if any, due members or creditors who failed to cash final distribution checks within the said one hundred twenty days; this schedule must be accompanied by a certified check or money order payable to the state treasurer in the exact amount of the total of these unpaid claims. The state treasurer will deposit said funds in a special account where they will be held for the account of the individuals named on said schedule. Each such individual or any authorized person on the individual's behalf may submit to the state treasurer a written claim for the amount of such funds held for the individual.

2. A schedule on an official form showing the name, book number, share balance at the commencement of liquidation, pro rata share of gain or loss, and the amount of each unclaimed share account paid to the state under applicable escheat or abandoned property laws. The check number and date of payment to the state should be included in the schedule.
3. A schedule on an official form showing the name, book number, share balance at the commencement of liquidation, pro rata share of gain or loss, and the amount distributed to each member.
4. A summary report on liquidation in duplicate on an official form.
5. The certificate of dissolution and liquidation on an official form signed under oath by the board of directors or agent who conducted the liquidation and made the final distribution of assets to the members.
6. The name and address of the custodian of the credit union's records.
7. The charter of the credit union.

**6-06.1-11. Retention of records - Cancellation of charter.**

All records of the liquidated credit union necessary to establish that creditors were paid and that members' shareholdings were equitably distributed must be retained by a custodian appointed by the board of directors of said credit union for a period of five years following the date of cancellation of the charter.

On proof that distribution of assets has been made to members and within one year after receipt of the certificate of dissolution and liquidation, the commissioner shall cancel the charter of the credit union concerned.

**6-06.1-12. Further instructions and information.**

Further detailed instructions, information, and official forms pertaining to voluntary liquidations may be obtained from the commissioner's office, Bismarck, North Dakota, 58505.