

## **DCU Opinion No. O-00-4**

**Date: October 24, 2000**

**From: Parker Cann, Director**

**Subject: Interim Director Appointed To Fill A New Board Seat May Serve Only Until The Next Annual Meeting Of Members**

### **Issue**

The Board of Directors of a credit union wants to expand the number of Board members from 13 to 15. The Board intends to appoint two interim directors to fill the vacancies created by the expansion of the Board. The directors' terms are staggered and members serve three-year terms.

How long may the interim directors serve before standing for re-election? More specifically, may they serve out their full term of office (three years), or may they serve only until the next annual meeting of members?

### **Analysis**

The Washington State Credit Union Act (Act), Chapter 31.12 RCW, provides that directors must be elected at the credit union's annual membership meeting. RCW 31.12.225(2). However, the Act specifies that the Board must appoint interim directors to fill vacancies on the Board, unless the director would serve a term of fewer than 90 days. RCW 31.12.225(4). This provision permits (but does not require) the Board to appoint an interim director if the director would serve a term of fewer than 90 days.

The Act also provides that an interim director will serve out the term of the director they replace, unless the credit union's bylaws state otherwise. RCW 31.12.225(4). However, the Act does not explicitly address the current issue, where the interim directors are filling vacancies created by an increase in the number of Board members. For ease of reference, the remainder of this opinion refers to "interim replacement directors" as those appointed to fill an existing seat, and "interim new directors" as those appointed to fill vacancies on a Board created by an increase in the number of directors.

In the absence of clear direction in the Act, we looked to see how the legislature has dealt with this issue in parallel contexts. The Washington Business Corporation Act (WBCA), Title 23B RCW, provides that interim directors serve until the next annual meeting of shareholders. RCW 23B.08.050(4). The WBCA does not differentiate between the two types of interim directors we have distinguished above. Other state statutes governing financial institutions with elected directors have similar provisions. See RCW 33.16.010 [savings and loan associations]; RCW 32.32.495(4) [savings banks]; compare RCW 30.12.010 [commercial banks].

It appears that the legislature has generally concluded that interim new directors should serve only until the next regularly scheduled election of directors. We believe that the same conclusion is appropriate for credit unions.

**Conclusion**

Interim new directors of a credit union may serve only until the next annual meeting of members.

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