

1 HB367  
2 175072-1  
3 By Representative Johnson (K)  
4 RFD: Financial Services  
5 First Read: 03-MAR-16

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8 SYNOPSIS: This bill would clarify and codify certain  
9 powers of credit unions, including, but not limited  
10 to, loan purchases, borrowing capacity, mergers,  
11 voluntary dissolutions, and other measures to  
12 provide parity with products and services offered  
13 by federal credit unions.

14 This bill would provide appellate rights for  
15 persons affected by a suspension of operation of a  
16 credit union.

17 This bill would authorize the Administrator  
18 of the Alabama Credit Union Administration to  
19 involuntarily merge a credit union into another  
20 credit union or another financial institution in  
21 certain extenuating circumstances.

22 This bill would modernize the bond  
23 provisions covering employees of the Alabama Credit  
24 Union Administration by providing that the  
25 employees are bonded under the Alabama Division of  
26 Risk Management.

1                   This bill would provide the Administrator of  
2                   the Alabama Credit Union Administration with  
3                   certain investigatory and enforcement powers.

4                   This bill would also codify the  
5                   confidentiality of the conditions and affairs of a  
6                   credit union.

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8                   A BILL  
9                   TO BE ENTITLED  
10                  AN ACT

11  
12                  Relating to credit unions; to amend Sections 5-17-2,  
13                  5-17-4, 5-17-6, 5-17-7, 5-17-8, 5-17-10, 5-17-11, 5-17-12,  
14                  5-17-13, 5-17-19, 5-17-21, 5-17-22, 5-17-42, 5-17-45, 5-17-46,  
15                  5-17-47, 5-17-51, 5-17-52, 5-17-54, and 5-17-55, Code of  
16                  Alabama 1975; to clarify and codify certain powers of credit  
17                  unions, including, but not limited to, loan purchases,  
18                  borrowing capacity, mergers, voluntary dissolutions, and other  
19                  measures to provide parity with products and services offered  
20                  by federal credit unions; to provide appellate rights for  
21                  persons affected by a suspension of operation of a credit  
22                  union; to authorize the Administrator of the Alabama Credit  
23                  Union Administration to involuntarily merge a credit union  
24                  into another credit union or another financial institution in  
25                  certain extenuating circumstances; to modernize the bond  
26                  provisions covering employees of the Alabama Credit Union  
27                  Administration by providing that the employees are bonded

1 under the Alabama Division of Risk Management; to provide the  
2 Administrator of the Alabama Credit Union Administration with  
3 certain investigatory and enforcement powers; and to codify  
4 the confidentiality of the conditions and affairs of a credit  
5 union.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 5-17-2, 5-17-4, 5-17-6, 5-17-7,  
8 5-17-8, 5-17-10, 5-17-11, 5-17-12, 5-17-13, 5-17-19, 5-17-21,  
9 5-17-22, 5-17-42, 5-17-45, 5-17-46, 5-17-47, 5-17-51, 5-17-52,  
10 5-17-54, and 5-17-55, Code of Alabama 1975, are amended to  
11 read as follows:

12 "§5-17-2.

13 "~~(a) Any seven residents of the State of Alabama~~ For  
14 the purposes of this chapter, both a natural person credit  
15 union and a corporate credit union are considered a "credit  
16 union" unless otherwise indicated.

17 "(b) The following may apply to the Administrator of  
18 the Alabama Credit Union Administration for permission to  
19 organize a credit union.:

20 "(1) For a natural person credit union, any seven  
21 residents of the state.

22 "(2) For a corporate credit union, any seven or more  
23 individuals each representing different natural person credit  
24 unions.

25 "~~(b)~~ (c) A credit union is organized in the following  
26 manner: The applicants shall execute in duplicate a  
27 certificate of organization by the terms of which they agree

1 to be bound. The certificate shall state: (1) the name and  
2 location of the proposed credit union, (2) the names and  
3 addresses of the subscribers to the certificate and the number  
4 of shares subscribed by each, and (3) the par value of the  
5 shares of the credit union. They shall next prepare and adopt  
6 bylaws for the general governance of the credit union  
7 consistent with the provisions of this chapter and shall  
8 execute the same in duplicate. The certificate and bylaws,  
9 both executed in duplicate, shall be forwarded to the  
10 Administrator of the Alabama Credit Union Administration. ~~The~~  
11 ~~administrator shall, within 30 days of the receipt of said~~  
12 ~~certificate~~ Not later than 30 days after receiving the  
13 certificate of organization and bylaws, and proof of the  
14 issuance of a certificate of insurance for member accounts  
15 from either the National Credit Union Administration or a  
16 private insurance carrier approved in writing by the  
17 administrator, the administrator shall determine whether ~~they~~  
18 the certificate of organization and bylaws conform with the  
19 provisions of this chapter and whether or not the organization  
20 of the credit union in question would benefit the members of  
21 it and be consistent with the purpose of this chapter.  
22 Thereupon the Administrator of the Alabama Credit Union  
23 Administration shall notify the applicants of his or her  
24 decision. If it is favorable, ~~he~~ the administrator shall issue  
25 a certificate of approval, attached to the duplicate  
26 certificate of organization, and return the same, together  
27 with the duplicate bylaws, to the applicants. The applicants

1 shall thereupon file the said duplicate of the certificate of  
2 organization, with the certificate of approval attached  
3 thereto, with the judge of probate of the county within which  
4 the credit union is to do business, who shall make a record of  
5 said certificate and return it, along with his certificate of  
6 record attached thereto, to the Administrator of the Alabama  
7 Credit Union Administration for permanent record. ~~Thereupon~~  
8 Within 180 days, the applicants shall become and be a credit  
9 union, operating with normal business hours to serve its field  
10 or fields of membership and be incorporated in accordance with  
11 the provisions of this chapter. In order to simplify the  
12 organization of credit unions, the Administrator of the  
13 Alabama Credit Union Administration shall cause to be prepared  
14 an approved form of certificate of organization and a form of  
15 bylaws, consistent with this chapter, which may be used by  
16 credit union incorporators for their guidance, and on written  
17 application of any seven residents of the state, shall supply  
18 them without charge a blank certificate of organization and a  
19 copy of said form of suggested bylaws.

20 "§5-17-4.

21 "A credit union shall have all of the following  
22 powers:

23 "(1) To receive the savings of its members either as  
24 payment on shares or as deposits, including the right to  
25 conduct Christmas clubs, vacation clubs and other thrift  
26 organizations within the membership.

1           "(2) To accept deposits of fiduciary funds if a  
2 member is the beneficiary, trustee, or personal representative  
3 and if the funds are part of the estate of a deceased member.

4           "(3) To make loans to members.

5           "(4) To make loans to other credit unions, including  
6 credit union service organizations.

7           "(5) To purchase loans from financial institutions,  
8 provided a purchased loan is of the nature and type that the  
9 credit union could have originated itself.

10          "(6) To make loans to a cooperative society or other  
11 organizations having membership in the credit union.

12          "~~(6)~~ (7) To deposit funds in state and national  
13 banks, savings and loan associations, the accounts which are  
14 insured by ~~the Federal Savings and Loan Insurance Corporation~~  
15 ~~or~~ the Federal Deposit Insurance Corporation, and ~~of~~ in other  
16 credit unions.

17          "~~(7)~~ (8) To invest in any investment legal for  
18 ~~savings banks or for trust funds~~ federally chartered credit  
19 unions in the state.

20          "~~(8)~~ (9) To borrow money from any source not  
21 prohibited by applicable law and to give its note therefor;  
22 provided, ~~that~~ the borrowing, in the aggregate, shall not at  
23 any time exceed the lesser of:

24           "a. 50 percent of its assets; or

25           "b. The combination of undivided earnings, regular  
26 reserves, equity acquired in a merger, net income or net loss

1 not already included in undivided earnings, and shares and  
2 deposits.

3 ~~"(9)~~ (10) To assess each member a recurring or  
4 nonrecurring membership fee.

5 ~~"(10)~~ (11) To exercise incidental powers as  
6 necessary to enable it to carry on effectively the purposes  
7 for which it is chartered and incorporated and other powers as  
8 are expressly authorized by the Administrator of the Alabama  
9 Credit Union Administration.

10 ~~"(11)~~ (b) In addition to any and all other powers  
11 heretofore granted to credit unions, any credit union shall  
12 have the power to engage in any activity in which the credit  
13 union could engage were the credit union operating as a  
14 federally chartered credit union, including but not by way of  
15 limitation because of enumeration, the power to do any act and  
16 own, possess, and carry as assets property of that character  
17 including stocks, bonds, or other debentures which, at the  
18 time, are authorized under federal laws or regulations for  
19 transactions by federal credit unions, notwithstanding any  
20 restrictions elsewhere contained in the statutes of the State  
21 of Alabama. No credit union can exercise any power which it  
22 claims only by virtue of the power being possessed by a  
23 federal credit union if the administrator issues a written  
24 order prohibiting a credit union from exercising that power.

25 "(c) Notwithstanding any other provision of this  
26 chapter or any other state law, a credit union may offer any



1 product or service that is authorized or permitted to any  
2 federal credit union as defined in 12 U.S.C. § 1752.

3 "(d) Notwithstanding any other provision of this  
4 chapter or any other state law, the administrator may  
5 condition the exercise of any power upon terms and conditions  
6 intended to ensure safe and sound operation of a credit union  
7 in the administrator's discretion.

8 "§5-17-6.

9 "(a) Any member may withdraw from the credit union  
10 at any time, but notice of withdrawal may be required. All  
11 amounts paid on shares or as deposits of an expelled or  
12 withdrawing member, with any dividends or interest accredited  
13 thereto to the date thereof shall, as funds become available  
14 and after deducting all amounts due from the member to the  
15 credit union, be paid to the individual. The credit union may  
16 require 60 days' notice of intention to withdraw shares and 30  
17 days' notice of intention to withdraw deposits. A credit union  
18 may reserve in its bylaws the right to pay out not more than  
19 one half of its monthly receipts to withdrawing members and  
20 depositors.

21 "(b) The board of directors may expel a member for  
22 cause by a majority vote of a quorum of directors, pursuant to  
23 a written policy adopted by the board. For the purposes of  
24 this section, cause includes a loss to the credit union, a  
25 violation of the membership agreement or any policy or  
26 procedure adopted by the board, or inappropriate behavior such  
27 as physical, sexual, or verbal abuse of credit union members

1 or staff. All members shall be ~~given~~ provided written notice  
2 of such policies. Any person expelled by the board shall have  
3 the right to file a written appeal to the board to reconsider  
4 the expulsion.

5 "(c) A credit union may terminate the membership of  
6 any member who withdraws his or her shares to less than one  
7 par share.

8 "(d) Persons whose membership has been terminated,  
9 whether by withdrawal or expulsion, shall have no further  
10 rights in the credit union, but are not released from any  
11 obligation owed to the credit union.

12 "(e) A member who has been expelled may not be  
13 readmitted to membership except upon approval by a majority  
14 vote of the board after application and proof that the  
15 applicant remains within the credit union's field of  
16 membership, has adequately explained, addressed, or remedied  
17 the conditions leading to expulsion, and will abide by the  
18 terms and conditions of membership. Not more than one such  
19 application for readmission may be made within any 12-month  
20 calendar period.

21 "§5-17-7.

22 "(a) All state chartered credit unions shall pay an  
23 annual operating fee and, if deemed necessary by the  
24 administrator, an assessment, the exact amount of which shall  
25 be fixed from time to time by the Administrator of the Alabama  
26 Credit Union Administration.

1           "(b) Except as hereinafter provided, the annual  
2 operating fee set by the administrator shall not exceed the  
3 fee calculated by use of the following scale or the  
4 administrator may authorize payment of the schedule used by  
5 federal credit unions if the administrator determines it to be  
6 appropriate:

7           "(1) Credit unions having total assets of less than  
8 \$500,000.00 shall pay a fee not in excess of \$.12 for each  
9 \$100.00 of assets, subject to a minimum of \$200.00.

10           "(2) Credit unions with assets of \$500,000 but not  
11 in excess of \$1,000,000 shall pay a fee of \$600 plus \$.05 per  
12 \$100 of assets over \$500,000 but not in excess of \$1,000,000;  
13 credit unions with assets of \$1,000,000 but not in excess of  
14 \$5,000,000 shall pay a fee of \$850 plus \$.035 per \$100 of  
15 assets of \$1,000,000 but not in excess of \$5,000,000; credit  
16 unions with assets of \$5,000,000 but not in excess of  
17 \$10,000,000 shall pay a fee of \$2,250 plus \$.02 per \$100 of  
18 assets over \$5,000,000 but not in excess of \$10,000,000;  
19 credit unions with assets of \$10,000,000 but not in excess of  
20 \$20,000,000 shall pay a fee of \$3,250 plus \$.018 per \$100 on  
21 assets over \$10,000,000 but not in excess of \$20,000,000;  
22 credit unions with assets of \$20,000,000 but not in excess of  
23 \$50,000,000 shall pay a fee of \$5,050 plus \$.016 per \$100 on  
24 assets over \$20,000,000 but not in excess of \$50,000,000;  
25 credit unions with assets of \$50,000,000 but not in excess of  
26 \$100,000,000 shall pay a fee of \$9,850 plus \$.013 per \$100 on  
27 assets over \$50,000,000 but not in excess of \$100,000,000;

1 credit unions with assets of \$100,000,000 or more shall pay a  
2 fee of \$16,350 plus \$.011 per \$100 on all assets over  
3 \$100,000,000.

4 "(3) The annual operating fee for a corporate credit  
5 union shall be set by the administrator and shall not exceed  
6 the above scale.

7 "(c) Annually, the administrator may fix an annual  
8 operating assessment to ensure that the Alabama Credit Union  
9 Administration does not continue to operate in a deficit for  
10 any given year. The assessment shall be approved by the Credit  
11 Union Board of the Alabama Credit Union Administration. Any  
12 credit union failing to pay the assessment within 30 days of  
13 the notice of assessment may be charged a fine not to exceed  
14 fifty dollars (\$50) for each day that the assessment remains  
15 unpaid.

16 "(d) The annual operating fee shall be paid on or  
17 before the last day of January of each year, based upon the  
18 assets of the credit union as of the end of the previous year.  
19 Any credit union failing to pay the operating fee may be  
20 charged a fine not to exceed fifty dollars (\$50) for each day  
21 that the fee remains unpaid.

22 "(e) Whenever application is made to the  
23 Administrator of the Alabama Credit Union Administration for  
24 permission to organize a credit union, the applicant shall at  
25 the time of filing the certificate of organization with the  
26 Administrator of the Alabama Credit Union Administration pay a  
27 fee not to exceed one thousand dollars (\$1,000) for the

1 purpose of paying the costs incidental to the determination by  
2 the Administrator of the Alabama Credit Union Administration  
3 whether such certificate of organization shall be approved.  
4 The Administrator of the Alabama Credit Union Administration  
5 shall from time to time fix the exact charge to be made, but  
6 in no event shall the charge exceed one ~~hundred~~ thousand  
7 dollars ~~(\$100)~~ (\$1,000). The provisions of this subsection  
8 shall not apply to any existing credit union seeking charter  
9 conversion.

10 "(f) All fees collected under this section shall be  
11 paid into the special fund set up by the State Treasurer. This  
12 special fund shall be used to pay the salaries of the  
13 officials and employees and the expenses of the Alabama Credit  
14 Union Administration including the purchase of equipment,  
15 vehicles, and supplies necessary for the examination and  
16 supervision of credit unions and may be spent by the  
17 Administrator of the Alabama Credit Union Administration for  
18 the uses and purposes specified herein. No taxes, fees,  
19 assessments, penalties, or other revenues collected by the  
20 Alabama Credit Union Administration shall be used for any  
21 purpose other than the expenses of operating the Alabama  
22 Credit Union Administration.

23 "(g) All the jurisdiction, authority, powers, and  
24 duties now conferred upon and imposed by law upon the  
25 Superintendent of Banks and the Supervisor of the Credit Union  
26 Bureau in relation to the management, control, regulation, and  
27 general supervision of credit unions are hereby transferred

1 to, conferred upon, and imposed upon the Alabama Credit Union  
2 Administration and administrator.

3 "(h) All assets primarily used by the Bureau of  
4 Credit Unions, including books, records, documents, furniture,  
5 equipment, and supplies are hereby transferred to the Alabama  
6 Credit Union Administration. All funds in the special fund  
7 previously maintained by the State Treasurer for the Bureau of  
8 Credit Unions are hereby transferred to the Alabama Credit  
9 Union Administration. All taxes, fees, assessments, penalties,  
10 or other revenues owed to or collected by the Bureau of Credit  
11 Unions are hereby transferred to the Alabama Credit Union  
12 Administration. Any employee presently employed by the  
13 Superintendent of Banks who is presently primarily involved  
14 with the Bureau of Credit Unions shall be employed by the  
15 Alabama Credit Union Administration.

16 "§5-17-8.

17 "(a) Credit unions shall report to the Administrator  
18 of the Alabama Credit Union Administration at least annually  
19 on or before January 31 ~~on blanks supplied~~ in such manner and  
20 form as required by the administrator for that purpose.  
21 Additional reports may be required. Credit unions shall be  
22 examined at least annually by employees of the administrator  
23 or by other persons designated by the administrator. For  
24 failure to file reports when due, unless excused for cause by  
25 the administrator, the credit union shall pay to the State  
26 Treasurer five dollars (\$5) for each day of its delinquency.

1           "(b) If the administrator determines that the credit  
2 union is violating this chapter, or is insolvent, the  
3 administrator may suspend operations of the credit union by  
4 issuing an order requiring that the credit union cease  
5 operations pending a hearing on the revocation of the  
6 certificate of approval, or the administrator may set a date  
7 for a hearing on the revocation of the certificate of approval  
8 without suspending operations of the credit union. If the  
9 administrator suspends operations of the credit union, a  
10 hearing on the revocation of the certificate of authority  
11 shall be held by the administrator if requested within 90 days  
12 from the date of the order requiring suspension of operations.  
13 If demanded by the credit union, the hearing on revocation of  
14 the certificate of authority, whether or not the administrator  
15 has suspended operations of the credit union pending the  
16 hearing, shall be conducted on the record by the administrator  
17 who shall also make findings of fact and a written  
18 determination concerning revocation of the certificate of  
19 authority. The determination may contain an order requiring  
20 that credit union to immediately suspend operations or  
21 continue in effect a previous order requiring the suspension  
22 of operations. If the determination is that the credit union  
23 is violating this chapter, or is insolvent, and that the  
24 certificate of authority be revoked, and if, for a period of  
25 15 days after the hearing, any violation continues, the  
26 administrator may revoke the certificate and take possession  
27 of the business and property of the credit union and maintain

1 possession until the administrator shall permit it to continue  
2 business or its affairs are finally liquidated through merger  
3 or otherwise.

4 "(c) The administrator may, with the approval of a  
5 majority of the Credit Union Board of the Alabama Credit Union  
6 Administration, issue a cease and desist order upon finding  
7 that the credit union or any officer, director, committee  
8 member, or employee has done any one of the following:

9 "(1) Committed any violation of a law, rule, or  
10 regulation.

11 "(2) Engaged or participated in any unsafe or  
12 unsound practice in connection with the credit union business.

13 "(3) Engaged in any act, omission, or practice which  
14 constitutes a breach of fiduciary duty to the credit union.

15 "(4) Committed any fraudulent or questionable  
16 practice in the conduct of the credit union's business which  
17 endangers the credit union's reputation or threatens  
18 insolvency.

19 "(5) Violated any condition imposed in writing by  
20 the administrator or any written agreement made with the  
21 administrator.

22 "(6) Concealed, destroyed, removed, falsified, or  
23 perjured any book, record, paper, report, statement, or  
24 account related to the business and affairs of the credit  
25 union.

26 "Any cease and desist order shall be effective not  
27 earlier than 10 calendar days after it is delivered to the



1 credit union. The credit union or any person subject to a  
2 cease and desist order shall have 10 calendar days from the  
3 receipt of any cease and desist order to appeal to the Credit  
4 Union Board of the Alabama Credit Union Administration by  
5 serving the administrator with a written notice of appeal  
6 within the 10-day period. Upon receipt of a notice of appeal  
7 from the credit union, the effect of the cease and desist  
8 order will be suspended pending a decision upon appeal;  
9 provided that a majority of the Credit Union Board of the  
10 Alabama Credit Union Administration may order that a cease and  
11 desist order be in force and effect pending the decision on  
12 appeal. A hearing of any appeal shall be held before the  
13 Credit Union Board of the Alabama Credit Union Administration  
14 within 60 calendar days of the notice of appeal and the  
15 decision of the Credit Union Board shall be rendered within 30  
16 calendar days after the conclusion of the hearing.

17 "(d) The Administrator of the Alabama Credit Union  
18 Administration may suspend from office and prohibit further  
19 participation in any manner in the conduct of the affairs of a  
20 credit union, ~~of~~ any director, officer, committee member, or  
21 employee who has done any one of the following:

22 "(1) Committed any violation of a law, rule, or  
23 regulation.

24 "(2) Engaged or participated in any unsafe or  
25 unsound practice in connection with the credit union business.

26 "(3) Engaged in any act, omission, or practice which  
27 constitutes a breach of fiduciary duty to the credit union.

1           "(4) Committed any fraudulent or questionable  
2 practice in the conduct of the credit union's business which  
3 endangers the credit union's reputation or threatens  
4 insolvency.

5           "(5) Violated any condition imposed in writing by  
6 the administrator or any written agreement made with the  
7 administrator.

8           "(6) Concealed, destroyed, removed, falsified, or  
9 perjured any book, record, paper, report, statement, or  
10 account related to the business and affairs of the credit  
11 union.

12           "(7) Unless the administrator directs otherwise, the  
13 prohibition against participation in the conduct of the  
14 affairs of a credit union shall remain effective until it is  
15 rescinded by a vote of the Credit Union Board of the Alabama  
16 Credit Union Administration.

17           "(e) A person subject to an order issued under  
18 subsection (d) may file an appeal in writing delivered to the  
19 administrator not more than 10 calendar days after the  
20 issuance of the order. Not later than 60 calendar days after  
21 the filing of an appeal, the Credit Union Board of the Alabama  
22 Credit Union Administration shall hold a hearing and not later  
23 than 30 calendar days after the conclusion of the hearing, the  
24 Credit Union Board shall issue a decision. The hearing shall  
25 be confidential.

26           "~~(e)~~ (f) The Administrator of the Alabama Credit  
27 Union Administration, with the approval of a majority of the

1 Credit Union Board of the Alabama Credit Union Administration,  
2 ex parte without notice, may appoint the Alabama Credit Union  
3 Administration as conservator and immediately take possession  
4 and control of the business and assets of any state-chartered  
5 credit union in any case in which any one of the following  
6 occurs:

7 "(1) The Alabama Credit Union Administration  
8 determines that the action is necessary to conserve the assets  
9 of any state-chartered credit union or the interests of the  
10 members of the credit union.

11 "(2) A credit union, by resolution of its board of  
12 directors, consents to the action by the Alabama Credit Union  
13 Administration.

14 "(3) There is a willful violation of a  
15 cease-and-desist order which has become final.

16 "(4) There is concealment of books, papers, records,  
17 or assets of the credit union or refusal to submit books,  
18 papers, records, or affairs of the credit union for inspection  
19 to any examiner or to any lawful agent of the Alabama Credit  
20 Union Administration.

21 "~~(f)~~ (g) Not later than 10 calendar days after the  
22 date on which the Alabama Credit Union Administration takes  
23 possession and control of the business and assets of a credit  
24 union pursuant to subsection ~~(e)~~ (f), officials of the credit  
25 union who were terminated by the conservator may apply to the  
26 circuit court for the judicial circuit in which the principal  
27 office of the credit union is located for an order requiring

1 the administration to show cause why it should not be enjoined  
2 from continuing possession and control. Except as provided in  
3 this subsection, no court may take any action, except at the  
4 request of the Credit Union Board by regulation or order, to  
5 restrain or affect the exercise of powers or functions of the  
6 board as conservator.

7 ~~"(g)~~ (h) The administrator shall report to the  
8 Credit Union Board of the Alabama Credit Union Administration  
9 at least semi-annually on the condition of the credit unions  
10 in which the administration serves as conservator. Reports  
11 shall contain the following:

12 "(1) The most recent income statement and balance  
13 sheet of the credit union.

14 "(2) Actions taken since the last report by the  
15 administrator in its role as conservator of the credit union.

16 "(3) A detailed report of all expenditures,  
17 reimbursements, and other financial considerations paid out of  
18 the assets of the credit union to the Alabama Credit Union  
19 Administration or its designated agents during  
20 conservatorship.

21 "(4) A business plan outlining necessary actions and  
22 timetables under which the credit union would remain under  
23 conservatorship.

24 ~~"(h)~~ (i) The Alabama Credit Union Administration may  
25 maintain possession and control of the business and assets of  
26 the credit union and may operate the credit union until the  
27 time as the following occurs:

1           "(1) The administrator shall permit the credit union  
2 to continue business subject to the terms and conditions as  
3 may be imposed by the Alabama Credit Union Administration.

4           "(2) The credit union is liquidated in accordance  
5 with the provisions of Section 5-17-21.

6           "(3) The Credit Union Board of the Alabama Credit  
7 Union Administration votes by a majority of voting members  
8 that the Alabama Credit Union Administration shall relinquish  
9 possession and control of the credit union. Such vote shall be  
10 held on at least a semi-annual basis while the credit union is  
11 held in conservatorship by the Alabama Credit Union  
12 Administration.

13           "~~(i)~~ (j) The Alabama Credit Union Administration may  
14 appoint special agents as it considers necessary in order to  
15 assist the administration in carrying out its duties as a  
16 conservator under this section.

17           "~~(j)~~ (k) All ~~expenses~~ costs incurred by the  
18 administration in exercising its authority under this section  
19 and Section 5-17-8.1, with respect to including, without  
20 limitation, all expenses and legal fees incurred in exercising  
21 its authority or defending any action taken pursuant to its  
22 exercise of authority, and any appeal by any credit union or  
23 by any director, officer, committee member, or employee  
24 thereof shall be paid out of the assets of the credit union.

25           "~~(k)~~ (l) The conservator shall have all powers of  
26 the members, the directors, the officers, and the committees  
27 of the credit union and shall be authorized to operate the

1 credit union in its own name or to conserve its assets in the  
2 manner and extent authorized by the administration.

3 ~~"(1)~~ (m) After taking possession of the property and  
4 business of a credit union through conservatorship, the  
5 conservator may terminate or adopt any executory contract to  
6 which the credit union may be a party. The termination of any  
7 contracts shall be made within six months after ~~obtaining the~~  
8 conservator has obtained knowledge of the existence of the  
9 contract or lease. Any provision in the contract or lease  
10 which provides for damages or cancellation fees upon  
11 termination shall not be binding on the conservator or credit  
12 union. The directors, the conservator, and the credit union  
13 are not liable for damages arising from or relating to such  
14 executory contracts.

15 ~~"(m)~~ (n) The administrator may appoint a temporary  
16 board of directors to any credit union subject to  
17 conservatorship.

18 "(o) (1) Notwithstanding any other provision of state  
19 law, if the administrator determines that an emergency  
20 requiring expeditious action exists with respect to a credit  
21 union, that other alternatives are not reasonably available  
22 consistent with National Credit Union Administration  
23 precedent, and that the public interest, including the  
24 interests of the members of the credit union, would best be  
25 served by such action, the administrator may do either of the  
26 following:

1           "a. Initiate the involuntary merger of a credit  
2 union that is insolvent or is in danger of insolvency with any  
3 other credit union or may authorize a credit union to purchase  
4 any of the assets of, or assume any of the liabilities of, any  
5 other credit union that is insolvent or in danger of  
6 insolvency.

7           "b. Authorize a financial institution whose deposits  
8 or accounts are insured to purchase any of the assets of, or  
9 assume any of the liabilities of, a credit union that is  
10 insolvent or in danger of insolvency, except that prior to  
11 exercising this authority the administrator shall attempt to  
12 effect a merger with, or purchase and assumption by, another  
13 credit union as provided in paragraph a.

14           "(2) For purposes of the authority contained in this  
15 subsection, insured share and deposit accounts of the credit  
16 union, upon consummation of the purchase and assumption, may  
17 be converted to insured deposits or other comparable accounts  
18 in the acquiring institution, and the administrator and the  
19 insuring organization shall be relieved of any liability to  
20 the credit union's members with respect to those accounts.

21           "§5-17-10.

22           "At the annual meeting (the organization meeting  
23 shall be the first annual meeting), members of the credit  
24 union shall elect a board of directors of not less than five  
25 members, may elect a credit committee of not less than three  
26 members, and shall elect a supervisory committee of three  
27 members, all to hold office for such terms respectively as the

1 bylaws provide and until successors qualify. A record of the  
2 names and addresses of the members of the board and committees  
3 and the officers shall be filed with the Administrator of the  
4 Alabama Credit Union Administration ~~within 10 days of~~ not  
5 later than 10 calendar days after their election. If, however,  
6 the bylaws so provide, the board of directors shall carry out  
7 the functions and duties of the credit committee ~~and~~ or may  
8 appoint a credit committee, in which case the credit union  
9 shall not elect a credit committee.

10 "§5-17-11.

11 "(a) At the first meeting and at subsequent times  
12 prescribed in the bylaws, the directors shall elect a  
13 president. The president must be either a member of the board  
14 of directors or an employee of the credit union who is not a  
15 member of the board of directors. If the credit union elects a  
16 president who is not a member of the board of directors, the  
17 board of directors shall elect from their own number a  
18 chairman and one or more vice-chairmen of the board of  
19 directors. The board of directors shall have the power, in  
20 accordance with the bylaws, to remove any officer who is not a  
21 member of the board of directors. At the first meeting and at  
22 subsequent annual meetings prescribed in the bylaws, the  
23 directors shall elect from their own number, a secretary and  
24 treasurer, who may be the same individual. To nominate a  
25 candidate by petition, the petition should conform to the  
26 requirements as specified in the bylaws. The bylaws will state  
27 the number of members required to sign a petition which can be



1 as few as three members or more as stated in the bylaws. ~~The~~  
2 For natural person credit unions, the maximum number cannot  
3 exceed the lesser of one percent of the membership or 500  
4 members. For corporate credit unions, the maximum number  
5 cannot exceed the lesser of five percent of the membership or  
6 25 members. Candidates shall be given a minimum of 35 days  
7 from the postmark date to present a petition.

8 "(b) The duties of the officers shall be as  
9 determined in the bylaws. It shall be the duty of the  
10 directors to have general management of the affairs of the  
11 credit union, particularly:

12 "(1) To act on application for membership.

13 "(2) To determine interest rates on loans and on  
14 deposits; provided, that such loans shall be at reasonable  
15 rates of interest.

16 "(3) To fix the amount of the surety bond which  
17 shall be required of all officers and employees handling  
18 money.

19 "(4) To declare dividends, and to transmit to the  
20 members recommended amendments to the bylaws.

21 "(5) To fill vacancies in the board and in the  
22 credit committee ~~until successors are chosen and qualify in~~  
23 accordance with the bylaws of the credit union.

24 "(6) To determine the maximum individual share  
25 holdings and the maximum individual loan which can be made  
26 with and without security.

1           "(7) To have charge of investments other than loans  
2 to members.

3           "(8) To establish the par value of the share.

4           "(9) In the absence of a credit committee, and upon  
5 the written request of a member, review a loan application  
6 denied by a loan officer.

7           "(c) No member of the board or ~~either~~ any committee  
8 shall, as such, be compensated. Notwithstanding the foregoing,  
9 for their services to the credit union, providing reasonable  
10 life, accident, and similar insurance protection shall not be  
11 considered compensation. Directors, officers, and committee  
12 members may be reimbursed for necessary expenses incidental to  
13 the performance of the official business of the credit union.

14           "(d) Liability and indemnification of officers,  
15 directors, trustees, and members of the governing body of a  
16 credit union shall be the same as provided for a ~~qualified~~  
17 ~~entity~~ nonprofit corporation in Title 10A, the Alabama  
18 Business and Nonprofit Entity Code; provided, however, a  
19 credit union may not indemnify officers, directors, and  
20 members of the governing body of a credit union against  
21 actions brought in connection with willful violations of this  
22 title.

23           "§5-17-12.

24           "The credit committee shall have the general  
25 supervision of all loans to members. Applications for loans  
26 shall be on a form prepared by the credit committee and all  
27 applications shall set forth the purpose for which the loan is

1 desired, the security, if any offered, and such other data as  
2 may be required. ~~Within the meaning of this section, an~~  
3 ~~assignment of shares or deposits or the endorsement of a note~~  
4 ~~may be deemed security.~~ At least a majority of the members of  
5 the credit committee shall pass on all loans, and approval  
6 must be unanimous; except, that the credit committee may  
7 appoint one or more loan officers and delegate to ~~him or them~~  
8 the officer or officers the power to approve loans in  
9 accordance with loan policies approved by the board of  
10 directors of the credit union. ~~Each loan officer shall furnish~~  
11 ~~to the credit committee a record of each loan approved or not~~  
12 ~~approved by him within seven days of the date of the filing of~~  
13 ~~the application thereon. Upon written request of a member, the~~  
14 ~~credit committee shall review a loan application denied by a~~  
15 ~~loan officer.~~

16 "§5-17-13.

17 "(a) The supervisory committee shall make or cause  
18 to be made a comprehensive annual audit of the books and  
19 affairs of the credit union and shall submit a report of that  
20 audit to the board of directors and summary of that report to  
21 the members at the next annual meeting of the credit union. It  
22 shall make or cause to be made such supplementary audits or  
23 examinations as it deems necessary or as are required by the  
24 Administrator of the Alabama Credit Union Administration or by  
25 the board of directors and submit reports of these  
26 supplementary audits to the board of directors.

1           "(b) The supervisory committee shall cause the  
2 accounts of the members to be verified with the records of the  
3 credit union from time to time and not less frequently than  
4 every two years.

5           "(c) The administrator may define the scope of any  
6 audit and may set out what procedures must be followed for an  
7 audit to qualify as the required annual audit. He may  
8 prescribe procedures to be followed in the verification of  
9 records required not less frequently than every two years.

10           "(d) Whenever the supervisory committee shall fail  
11 to make a comprehensive annual audit or shall fail to verify  
12 the accounts of members not less frequently than every two  
13 years, the administrator by written order may direct the  
14 supervisory committee to perform these duties within a  
15 reasonable period of time. Upon failure of the committee to  
16 perform these duties as directed by the administrator, the  
17 administrator may employ, ~~an auditor~~ engage, or contract with  
18 a firm with requisite expertise to perform them, and the cost  
19 of such audit shall be borne by the credit union.

20           "(e) The supervisory committee, by a unanimous vote,  
21 may suspend any officer, director or member of ~~the credit~~ any  
22 committee and call the members together to act on such  
23 suspension within 30 days after such suspension. The members  
24 at ~~said~~ the meeting shall consider such suspension and vote to  
25 either remove such officer, director, ~~or credit committeeman~~  
26 member of the committee permanently or to reinstate ~~said the~~  
27 officer, director, or ~~credit committeeman~~ member of the

1 committee. By majority vote the supervisory committee may call  
2 a special meeting of the members to consider any matter  
3 submitted to it by such committee. The ~~said~~ committee shall  
4 fill vacancies in its own membership until the next annual  
5 meeting.

6 "§5-17-19.

7 "(a) Every credit union shall set aside such regular  
8 reserves as are required to be set aside by the credit union  
9 in order to maintain insurance of member accounts under the  
10 provisions of Title II of the Federal Credit Union Act.  
11 Additionally, any credit union may be required by the  
12 Administrator of the Alabama Credit Union Administration to  
13 maintain any special reserves which the administrator finds  
14 are necessary under the particular circumstances to protect  
15 the interests of the members.

16 "(b) Any credit union hereafter organized under this  
17 chapter shall be prohibited by the Administrator of the  
18 Alabama Credit Union Administration from beginning the active  
19 conduct of business until such time as such credit union has  
20 obtained insurance of member accounts either under the  
21 provisions of Title II of the Federal Credit Union Act or has  
22 obtained approval for private insurance under a private  
23 insurance program or carrier.

24 "(c) Any credit union which has had insurance of its  
25 accounts under Title II of the Federal Credit Union Act or a  
26 private insurance program or carrier withdrawn or cancelled  
27 must apply for such insurance within 30 days of such

1 cancellation or withdrawal. If such credit union has not  
2 obtained such insurance within 90 days after such cancellation  
3 or withdrawal, the credit union shall either dissolve or merge  
4 with another credit union which is insured under Title II of  
5 the Federal Credit Union Act or a privately insured credit  
6 union insured under a private insurance program or carrier.

7 "(d) The Administrator of the Alabama Credit Union  
8 Administration shall be vested with authority to extend the  
9 period of time within which a credit union must obtain  
10 insurance of its accounts under Title II of the Federal Credit  
11 Union Act, to permit other acceptable insurance coverage of  
12 its accounts to be utilized by a credit union and to designate  
13 into what credit union a credit union not having such  
14 insurance coverage shall be merged.

15 "(e) The Administrator of the Alabama Credit Union  
16 Administration shall make reports of condition and examination  
17 reports available to the National Credit Union Administration  
18 and, in his or her discretion, the Administrator of the  
19 Alabama Credit Union Administration may accept any report or  
20 examination made on behalf of the National Credit Union  
21 Administration or a private insurance carrier approved in  
22 writing by the administrator in lieu of an examination by the  
23 ~~Administrator of the Alabama Credit Union Administration~~  
24 administrator.

25 "§5-17-21.

26 "(a) Unless otherwise provided in the bylaws of the  
27 credit union, the membership of the credit union may elect to

1 dissolve the credit union upon an affirmative vote of two  
2 thirds of the members of the credit union who participate in  
3 the vote.

4 ~~"The process of voluntary dissolution shall be as~~  
5 ~~follows: At (b) The vote to voluntarily dissolve a credit~~  
6 ~~union shall be taken at a meeting called held for that~~  
7 ~~purpose. (notice of which purpose must be contained in the~~  
8 ~~call) two thirds of those in attendance may vote to dissolve~~  
9 ~~the credit union. Voting by mail ballot shall be permitted.~~  
10 Notice of the meeting must ~~have been~~ state that the purpose of  
11 the meeting is to vote on the voluntary dissolution of the  
12 credit union and must be mailed to the last known address of  
13 each member of the credit union at least 15 30 calendar days  
14 prior to the date of the meeting. The notice, at a minimum,  
15 shall also contain all of the following information:

16 "(1) A general description of the implications of  
17 the dissolution process on the deposit shares of members.

18 "(2) A general description of the implications of  
19 the dissolution process on members who have borrowings with  
20 the credit union.

21 "(3) A statement that, following dissolution, the  
22 credit union shall continue in existence for the purpose of  
23 discharging its debts, collecting and distributing its assets,  
24 and doing all other acts required in order to wind up its  
25 business.

26 "(c) The If the membership of a credit union  
27 approves the voluntary dissolution of the credit union, upon

1 written notice from the board of directors of the credit union  
2 that such action has been approved by the membership and that  
3 the requirements of this section have been satisfied, the  
4 Administrator of the Alabama Credit Union Administration  
5 ~~determines whether or not the credit union is solvent. If such~~  
6 ~~is the fact, he issues~~ shall issue in duplicate a certificate  
7 to the effect that this section has been complied with. The  
8 certificate ~~is~~ shall be filed with the probate judge of the  
9 county in which the credit union is located, whereupon the  
10 credit union is dissolved and shall cease to carry on business  
11 except for the purposes of liquidation and the winding up of  
12 its business.

13 "(d) ~~The~~ A credit union voluntarily dissolved  
14 pursuant to this section shall continue in existence for the  
15 purpose of discharging its debts, collecting and distributing  
16 its assets and doing all other acts required in order to wind  
17 up its business, and may sue and be sued for the purpose of  
18 enforcing such debts and obligations until its affairs are  
19 fully adjusted and wound up ~~for three years.~~

20 "§5-17-22.

21 "Any credit union ~~may~~, with the approval of the  
22 Administrator of the Alabama Credit Union Administration, may  
23 merge with another credit union, under the existing  
24 certificate of organization of the other credit union,  
25 pursuant to any plan agreed upon by the majority of each board  
26 of directors of each credit union joining in the merger. In  
27 addition to approval by the administrator and each board of



1 directors, the membership of the merging credit union must  
2 also approve the merger plan in the following manner:

3 "(1) At a meeting called for that purpose, ~~notice~~  
4 of which purpose must be contained in the call, ~~two~~ two thirds of  
5 those in attendance may vote to approve the merger plan.  
6 Notice of the meeting must have been mailed to the last known  
7 address of each member of the credit union at least 15 days  
8 prior to the date of the meeting.

9 "(2) After agreement by the directors and approval  
10 by the members of the merging credit union, the president and  
11 secretary of the credit union shall execute a certificate of  
12 merger which shall set forth all of the following:

13 "a. The time and place of the meeting of the board  
14 of directors at which the plan was agreed upon.

15 "b. The vote in favor of the adoption of the plan.

16 "c. A copy of the resolution or other action by  
17 which the plan was agreed upon.

18 "d. The time and place of the meeting of the members  
19 at which the plan agreed upon was approved.

20 "e. The vote by which the plan was approved by the  
21 members.

22 "(3) Such certificate and a copy of the plan of  
23 merger agreed upon shall be forwarded to the administrator,  
24 certified by the administrator, and returned to both credit  
25 unions within 30 days.

26 "(4) Upon return of the certificate from the  
27 administrator, all property, property rights and members'

1 interest of the deed, endorsement or other instrument of  
2 transfer, and all debts, obligations, and liabilities of the  
3 merged credit union shall be deemed to have been assumed by  
4 the surviving credit union under whose charter the merger was  
5 effected. The rights and privileges of the members of the  
6 merged credit union shall remain intact.

7 "(5) A copy of the certificate approved by the  
8 Administrator of the Alabama Credit Union Administration shall  
9 be filed with the judge of probate of the county in which each  
10 credit union's certificate of organization is recorded.

11 "(6) This section applies to credit unions organized  
12 under the laws of the State of Alabama. Federally chartered  
13 credit unions may be merged into Alabama organized credit  
14 unions, under the same conditions as Alabama credit unions;  
15 provided, that the merger plan is approved by the National  
16 Credit Union Administration or private insurance program or  
17 carrier.

18 "(7) Credit unions organized under the laws of the  
19 State of Alabama may be merged into federally chartered credit  
20 unions under the same conditions as provided in this section;  
21 provided, that the merger plan is approved by the National  
22 Credit Union Administration or private insurance program or  
23 carrier.

24 "(8) Credit unions organized under the laws of the  
25 State of Alabama may merge a state or federally chartered bank  
26 or thrift into the credit union under the same conditions as  
27 provided in this section, provided that the merger plan is

1 approved, if required, by the appropriate state or federal  
2 regulator of the bank or thrift and federal insurer, the  
3 Federal Deposit Insurance Corporation.

4 "(9) Credit unions organized under the laws of the  
5 State of Alabama may merge into a state or federally chartered  
6 bank or thrift under the same conditions as provided in this  
7 section, provided that the merger plan is approved by the  
8 resultant institution's chartering regulator and the federal  
9 insurer, the Federal Deposit Insurance Corporation.

10 ~~"(8)~~ (10) A federal credit union may be converted to  
11 a credit union chartered under the laws of Alabama and a state  
12 credit union may be converted to a federal credit union by  
13 adhering to the requirements for the conversion of a federal  
14 credit union to a state credit union as specified by the  
15 Federal Credit Union Act, presently 12 U.S.C. §1771(a) (1).

16 "§5-17-42.

17 "The administrator, before entering upon the  
18 discharge of his duties, shall take and subscribe to the oath  
19 prescribed by the constitution and laws of this state, and  
20 shall ~~give bond in the penal sum of \$25,000.00~~ cause the  
21 Division of Risk Management of the Department of Finance or  
22 its successor agency to cover the administrator by bond. The  
23 oath ~~and the bond~~ shall be filed with the Secretary of State.

24 "§5-17-45.

25 "(a) The Legislature finds as fact and determines  
26 that the credit unions having their principal place of  
27 business in Alabama must keep pace with technological and

1 other improvements constantly being made throughout the United  
2 States so as to enable Alabama credit unions to render better  
3 and more efficient services to their members. It is necessary  
4 and desirable that the administrator be given additional  
5 authority in these fields.

6 "(b) The administrator is hereby authorized to  
7 expand powers of Alabama credit unions in order to accomplish  
8 both of the following:

9 "(1) Accommodate or take advantage of changing  
10 technologies.

11 "(2) Assure the ability of Alabama credit unions to  
12 be responsive in their business to the needs and conveniences  
13 demanded by credit union members through on-premises as well  
14 as off-premises operations; provided, that nothing in this  
15 section shall enable the administrator to authorize credit  
16 unions to engage in activities which are not properly incident  
17 to the business of credit unions nor to enable the  
18 administrator to authorize credit unions to engage in the  
19 business of offering financial services which are now  
20 prohibited to them.

21 "No credit union having its principal place of  
22 business outside of Alabama may engage in credit union  
23 business in Alabama under the provisions of this section;  
24 provided that the administrator is authorized to enter into  
25 agreements with the appropriate regulatory authorities of  
26 other states; provided credit unions having their principal

1 place of business in Alabama are given and may exercise  
2 reciprocal rights.

3 "(c) The administrator is authorized to issue  
4 regulations under subsection (b) in the same manner as other  
5 regulations of the Alabama Credit Union Administration are  
6 adopted. Any Alabama credit union covered by the provisions of  
7 subsection (b) desiring to exercise any such expanded power  
8 must secure in advance written permission of the  
9 administrator. The administrator may prescribe the form or  
10 forms for such applications for ~~permits~~ permission and may  
11 impose reasonable conditions in granting such ~~permits~~  
12 permission.

13 "(d) The administrator may enter into supervisory or  
14 other agreements, some of which may be confidential in nature,  
15 with the Federal Reserve~~;~~ the FinCen Bureau of the U.S.  
16 Treasury Department ~~(FINCEN)~~~~;~~ the National Credit Union  
17 Administration; state credit union, banking, and other  
18 regulators; approved private insurance carriers; and other  
19 state or federal ~~successor~~ agencies and furnish to them for  
20 their use such reports of examination and other information in  
21 taking enforcement and other supervisory actions.

22 "§5-17-46.

23 "(a) The administrator may, with the concurrence of  
24 a majority of the members of the Credit Union Board,  
25 promulgate such reasonable regulations, consistent with the  
26 laws of this state, as may be necessary to carry out the laws  
27 over which the Alabama Credit Union Administration has

1 jurisdiction. The administrator shall, in addition, issue  
2 written interpretations of credit union laws and regulations.  
3 Any credit union and any officer or director thereof relying  
4 on any regulation or interpretation shall be fully protected  
5 even though the same regulation or interpretation shall be  
6 thereafter ruled invalid for any reason by a court of  
7 competent jurisdiction.

8 "(b) Any policy or written interpretation or credit  
9 union laws and regulations shall be reviewed for ratification  
10 by the Credit Union Board within 90 days after written request  
11 for an interpretation by any member of the Credit Union Board.  
12 The policy or written interpretation of credit union laws and  
13 regulations shall be invalidated unless a majority of the  
14 members of the Credit Union Board ratify the interpretation or  
15 policy.

16 "(c) The procedure for adopting, amending, or  
17 repealing regulations and for the review or ratification of  
18 any policy or interpretation shall be the procedure specified  
19 in Section 5-17-47.

20 "§5-17-47.

21 "(a) Prior to the adoption, amendment, or repeal of  
22 any regulation or interpretation, the administrator shall:

23 "(1) Give at least 30 days' notice of the intended  
24 action. The notice shall include a statement of either the  
25 terms or substance of the intended action or a description of  
26 the subjects and issues involved, and the time when, the place  
27 where, and the manner in which interested persons may present

1 their views thereon. The notice shall be ~~mailed to~~ made  
2 publicly available, and all credit unions chartered under the  
3 laws of this state ~~and shall be published in a newspaper of~~  
4 ~~general circulation in Montgomery County~~ shall be given notice  
5 of such intended action. A complete copy of the proposed  
6 regulation shall be filed with the Secretary of State; and

7 "(2) Afford all interested persons reasonable  
8 opportunity to submit data, views, or arguments, orally or in  
9 writing. Opportunity for oral hearing must be granted if  
10 requested by 25 persons, or by a governmental subdivision or  
11 agency, ~~or by an association having not less than 25 members.~~  
12 The administrator shall consider fully all written and oral  
13 submissions respecting the proposed regulation. Upon adoption  
14 of a regulation, the administrator, if requested to do so by  
15 an interested person either prior to adoption or within 30  
16 days thereafter, shall issue a concise statement of the  
17 principal reasons for and against its adoption, incorporating  
18 therein the reasons for overruling the considerations urged  
19 against its adoption.

20 "(b) Notwithstanding any other provision of this  
21 section to the contrary, if the administrator finds that an  
22 immediate danger to the public welfare requires adoption of a  
23 regulation upon fewer than 30 days' notice and states in  
24 writing his or her reasons for that finding, he or she may  
25 proceed without prior notice or hearing or upon any  
26 abbreviated notice and hearing that he or she finds  
27 practicable to adopt an emergency regulation. The regulation

1 shall become effective immediately, unless otherwise stated  
2 therein, upon the filing of the regulation and a copy of the  
3 written statement of the reasons therefor with the Secretary  
4 of State. The regulation may be effective for a period of not  
5 longer than 120 days and shall not be renewable. The  
6 administrator and Credit Union Board shall not adopt the same  
7 or a substantially similar emergency regulation within one  
8 calendar year from its first adoption unless the administrator  
9 clearly establishes it could not reasonably be foreseen during  
10 the initial 120-day period that such emergency would continue  
11 or would likely reoccur during the next nine months. The  
12 adoption of the same or a substantially similar regulation by  
13 normal regulation-making procedures is not precluded.

14 "(c) No regulation hereafter adopted is valid unless  
15 adopted in substantial compliance with this section. A  
16 proceeding to contest any regulation on the ground of  
17 noncompliance with the procedural requirements of this section  
18 must be commenced within ~~two years~~ 180 calendar days from the  
19 effective date of the regulation provided, however, that a  
20 proceeding to contest a regulation based on failure to provide  
21 notice as herein required or on an incorrect interpretation of  
22 the law may be commenced at any time.

23 "(d) The validity or applicability of any regulation  
24 or any interpretation of the Alabama Credit Union  
25 Administration may be determined in an action for declaratory  
26 judgment brought in the Circuit Court of Montgomery County  
27 when it is alleged that the adoption, amendment or repeal of



1 any regulation or any interpretation or the application or  
2 threatened application of any regulation or any interpretation  
3 interferes with or impairs or threatens to interfere with or  
4 impair the legal rights and privileges of the credit union or  
5 person affected thereby.

6 "§5-17-51.

7 "Neither the administrator, any member of the Credit  
8 Union Board nor any special agent or employee of the Alabama  
9 Credit Union Administration shall be personally liable for any  
10 acts done in good faith while in the performance of his or her  
11 duties as provided by law.

12 "§5-17-52.

13 ~~"Every examiner shall before~~ Before entering upon  
14 the discharge of his or her duties, every examiner shall take  
15 and file with the administrator an oath faithfully to  
16 discharge his or her duties as examiner. Each examiner shall  
17 act under the direction of the administrator and shall examine  
18 fully ~~into~~ the books, records, papers, and affairs of each  
19 credit union which ~~he~~ the examiner may be directed by the  
20 administrator to examine.

21 "§5-17-54.

22 "Before entering upon the duties of their respective  
23 offices, ~~all examiners and office assistants shall execute to~~  
24 ~~the State of Alabama~~ the administrator shall cause the  
25 Division of Risk Management of the Department of Finance or  
26 its successor agency to include each employee of the Alabama  
27 Credit Union Administration under a bond to be fixed and

1 approved by the administrator, for the faithful performance of  
2 their duties.

3 "§5-17-55.

4 "(a) There shall be a Credit Union Board of the  
5 Alabama Credit Union Administration which shall consist of the  
6 administrator, who shall be an ex officio member and chairman  
7 of the board, and seven other persons, appointed by the  
8 Governor, by and with the consent of the Senate. Four of these  
9 persons shall be appointed from a list of nominees submitted  
10 by the Credit Union Board of the Alabama Credit Union  
11 Administration, in consultation with the League of  
12 Southeastern Credit Union or its successor organization, which  
13 shall submit not less than three nominees for any vacancy.  
14 Should the Governor determine that none of the first three  
15 nominees submitted by the Credit Union Board for a vacancy on  
16 the Credit Union Board are acceptable, the Governor may reject  
17 the three nominees and the Credit Union Board shall submit an  
18 alternative list of three nominees to the Governor from which  
19 the Governor shall make the appointment. The remaining three  
20 appointments to the Credit Union Board shall be made by the  
21 Governor from a list of nominees submitted by credit unions at  
22 large. No person is eligible to be nominated or appointed to  
23 the Credit Union Board unless at the time of nomination or  
24 appointment, the person is an officer, director, or manager of  
25 a state-chartered credit union and has at least five years'  
26 experience in the 10 years next preceding appointment as an  
27 officer, director, or manager of a credit union. The position

1 of any member of the Credit Union Board shall be declared  
2 vacant by the Administrator of the Alabama Credit Union  
3 Administration if the member of the Credit Union Board ceases  
4 to serve as an officer, director, or manager of a credit union  
5 chartered under the laws of the State of Alabama.

6 "(b) The seven appointees by the Governor, with the  
7 consent of the Senate, shall serve for the terms designated by  
8 the Governor for each person upon appointment of the persons.  
9 Of the seven persons appointed by the Governor, with the  
10 consent of the Senate, three persons shall serve terms  
11 expiring on February 1 of the first year following passage  
12 hereof, two persons shall serve terms expiring on February 1  
13 of the second year following passage hereof and two persons  
14 shall serve terms expiring on February 1 of the third year  
15 following passage hereof. Successors shall be appointed by the  
16 Governor, with the consent of the Senate, for terms of three  
17 years each, so that the terms of two or three of the seven  
18 appointed members will expire on February 1 of each year. An  
19 allowance for correction of terms may be permitted from time  
20 to time or as necessary. Upon the expiration of their terms of  
21 office, members of the board shall continue to serve until  
22 their successors are appointed and have qualified.

23 "(c) If a member of the Credit Union Board of the  
24 Alabama Credit Union Administration fails to attend regular  
25 meetings of the board for three consecutive meetings, or  
26 otherwise fails to perform the duties devolving upon him or  
27 her as a member of the Credit Union Board of the Alabama

1 Credit Union Administration, is convicted of a felony or any  
2 other crime involving moral turpitude, or ceases to be an  
3 officer, director, or manager of a credit union, the office of  
4 the member shall be declared vacant by the administrator. The  
5 office of the board member shall be deemed to be vacated on  
6 the thirty-first day after mailing of a notice to the board  
7 member that his or her position is being vacated unless the  
8 board member files an appeal with the Credit Union Board prior  
9 to the thirty-first day after mailing of notice. Except that  
10 no appeal is authorized if the member's position is declared  
11 vacant by reason of conviction of a felony or a crime  
12 involving moral turpitude.

13 "Any person who is notified that his or her position  
14 on the board has been declared vacant by the administrator  
15 may, within 30 days after mailing of the notice that the  
16 position has been declared vacant, appeal to the other members  
17 of the Credit Union Board by written notice of appeal received  
18 by the administrator within the time period.

19 "Upon a finding of good cause for the failure to  
20 attend meetings or otherwise perform duties, or upon a finding  
21 that there is a compelling reason for reinstating the member,  
22 a majority of board members may reinstate the person to the  
23 position. When the member appeals to the Credit Union Board,  
24 unless reinstated by the board within 30 calendar days after  
25 appeal, the position on the board shall be deemed to be vacant  
26 on the thirty-first day after receipt by the administrator of  
27 the member's written notice of the appeal. The administrator

1 shall call a meeting to hear the appeal within 30 calendar  
2 days after receipt of the notice of appeal. The board member  
3 who has received notice that the position will be declared  
4 vacant shall have the right to present at any hearing dealing  
5 with the position being declared vacant, but shall not have  
6 the right to vote on any issue until he or she is reinstated  
7 by the Credit Union Board.

8 "(d) If by reason of death, resignation, removal  
9 from office or otherwise a vacancy occurs on the Credit Union  
10 Board, the vacancy shall be filled by appointment of the  
11 Governor and the appointee shall hold office until the Senate  
12 meets and passes on the appointment. If the appointment is  
13 disapproved by the Senate, another appointment shall be made  
14 by the Governor, and appointments must be made in like manner  
15 until an appointment is confirmed by the Senate. Any person so  
16 appointed shall serve the balance of the unexpired term for  
17 which the appointment is made. The seven appointed members of  
18 the Credit Union Board shall be persons of good character.  
19 Five of the seven shall have at least five years' experience  
20 in the 10 years next preceding appointment to the Credit Union  
21 Board either as an officer, director, or manager of a credit  
22 union organized under the laws of the State of Alabama.

23 "(e) An appeal may be taken to the Credit Union  
24 Board from any finding, ruling, order, decision or the final  
25 action of the administrator by any credit union which feels  
26 aggrieved thereby. Notice of appeal shall be filed with the  
27 administrator within 30 calendar days after the findings,

1 ruling, order, decision or other action. The notice shall  
2 contain a brief statement of the pertinent facts upon which  
3 the appeal is grounded. The Credit Union Board shall fix a  
4 date, time and place for hearing the appeal, within 60  
5 calendar days after it is filed, and shall notify the credit  
6 union or its attorney of record thereof at least 30 calendar  
7 days prior to the date of the hearing. The finding of the  
8 Credit Union Board shall be strictly advisory in nature."

9 Section 2. Sections 5-17-8.1 and 5-17-60 are added  
10 to the Code of Alabama 1975, to read as follows:

11 §5-17-8.1.

12 (a) The administrator or the administrator's  
13 designee, in consultation with the agency's legal counsel  
14 acting under the administrator, may administer oaths and may  
15 examine under oath any person whose testimony may be required  
16 on the examination of any credit union, or the examination of  
17 any affiliate of a credit union, and shall have authority and  
18 power to compel the appearance and attendance of any such  
19 person or the production of any records and documents of any  
20 credit union or any affiliate of a credit union for the  
21 purpose of any examination and attendance or production may be  
22 enforced by order of the Circuit Court, 15th Judicial  
23 District. The production of records, documents, or testimony,  
24 whether or not made under oath, by a credit union or by any of  
25 its directors, officers, employees, advisors, consultants,  
26 attorneys, or accountants made for, and at the request of, the  
27 administrator upon examination of the credit union, does not

1 constitute a waiver of any attorney-client privilege or other  
2 privilege that the credit union or any director, officer,  
3 employee, advisor, consultant, attorney, or accountant thereof  
4 is entitled to under law in any unrelated matter or  
5 proceeding.

6 (b) Any officer, director, agent, or employee of any  
7 credit union, any affiliate of a credit union, or any affected  
8 person, whether one or more, who (1) makes any false entry or  
9 omission with intent to mislead in any book, report, or  
10 statement of the credit union or affiliate of the credit  
11 union, or (2) makes a false statement, whether or not made  
12 under oath, to the administrator, an examiner or designee  
13 acting under the administrator, or to any officer of such  
14 credit union or affiliate of any credit union with intent to  
15 injure or defraud the administrator, examiner, designee,  
16 officer, credit union, or affiliate, or with the intent to  
17 influence in any way the action of the administrator or an  
18 examiner or designee acting under the administrator, shall be  
19 subject to removal and the imposition of civil money penalties  
20 by the administrator when so directed by the Credit Union  
21 Board as provided in this title. At the discretion of the  
22 administrator, an order of removal may prohibit the affected  
23 person from participating in the affairs of any state credit  
24 union. Any action of the administrator or designee acting  
25 under the administrator taken in reliance upon such false  
26 entry, omission, or statement may be rescinded and withdrawn  
27 at the discretion of the administrator. These remedies are in

1 addition to the penalties set forth in Sections 5-17-29 to  
2 5-17-32, inclusive.

3 (c) In taking an action to prohibit participation  
4 by, remove, or impose civil money penalties upon, any officer,  
5 director, or employee of any credit union or any affiliate of  
6 a credit union under this section, the administrator and  
7 Credit Union Board shall not be required to establish that the  
8 credit union or the affiliate of the credit union suffered or  
9 probably will suffer financial loss and shall not be required  
10 to establish that the administrator, examiner, or designee  
11 acting under the administrator was influenced by such false  
12 entry, omission, or statement.

13 (d) The resignation, termination of employment or  
14 participation, or separation of any director, officer, or  
15 employee of a credit union for any reason whatsoever shall not  
16 affect the jurisdiction and authority of the administrator or  
17 the Credit Union Board to issue any notice or order and  
18 proceed under this title against any such person, if the  
19 notice or order is served before the end of the six-year  
20 period beginning on the last date that the person ceased to be  
21 a director, officer, or employee of the credit union.

22 (e) If the directors or officers of any credit union  
23 unreasonably or willfully violate, or unreasonably or  
24 willfully permit any of the officers, agents, or employees of  
25 the credit union to violate any of the provisions of this  
26 title, each and every director or officer engaging in such  
27 knowing and willful violation or knowing and willful



1 permission shall be liable in his or her personal and  
2 individual capacity for all damages that the credit union or  
3 any other person sustained in consequence of the violation.  
4 The administrator may use enforcement powers to seek  
5 restitution for or on behalf of the credit union for damages  
6 resulting from such violations. Further, the administrator  
7 shall have standing to intervene in any court action arising  
8 out of or relating to such violation in order to protect the  
9 interests of the administrator, examiners, administrator's  
10 designee or designees, the agency, the credit union, or its  
11 members.

12 §5-17-60.

13 (a) Except as otherwise provided in this section,  
14 the administrator, a member of the Credit Union Board, or an  
15 examiner or other state employee may not disclose the  
16 condition and affairs of any credit union, its supervisory  
17 committee, or subsidiaries or other affiliates, ascertained by  
18 an examination of such credit union or affiliates, or report  
19 or give out nonpublic personal information of credit union  
20 members, except as authorized or required by law; provided  
21 that this section shall not be construed to prevent examiners  
22 and other employees from reporting such information to the  
23 administrator or such persons as the administrator may  
24 lawfully designate.

25 (b) Notwithstanding subsection (a), the  
26 administrator, at the administrator's discretion, may disclose  
27 any information otherwise protected under this section to the

1 members of the Credit Union Board and confer with the members  
2 of the Credit Union Board regarding the same and may disclose  
3 such information as is and to the extent necessary to the  
4 exercise of enforcement authority or the taking of other  
5 supervisory actions pursuant to this title.

6 (c) The administrator may furnish to the National  
7 Credit Union Administration, or to any other supervisory  
8 agency of the United States, or to a private share insurance  
9 carrier presently providing deposit share insurance to the  
10 subject credit union, or to other federal or state agencies  
11 with which the administrator has entered into an agreement  
12 pursuant to subsection (d) of Section 5-17-45, reports of  
13 examination and other data as the administrator deems  
14 advisable.

15 (d) No disclosure may be made by any agency or  
16 entity furnished with reports of examination or other data  
17 pursuant to subsection (c) to any third parties without the  
18 prior consent of the administrator. Any disclosure permitted  
19 by the administrator shall be subject to such conditions and  
20 restrictions as the administrator may require or as otherwise  
21 required by this title.

22 (e) The administrator may also furnish copies of his  
23 or her reports of examination and any other information to the  
24 board of directors of the credit union, its supervisory  
25 committee, subsidiary, or affiliate.

26 (f) Any reports or information furnished or  
27 disclosed under this section shall remain the property of the

1 Alabama Credit Union Administration and, except as provided in  
2 this section, may not be disclosed to any person other than  
3 the officers, directors, attorneys, and auditors of the credit  
4 union, its supervisory committee, subsidiary, affiliate,  
5 consultants, or advisors to the credit union or affiliate,  
6 and, subject to appropriate confidentiality agreements,  
7 persons considering the possible acquisition of, merger with,  
8 or investment in the credit union or affiliate. A person  
9 receiving such reports or information may not:

10 (1) Use the report or information other than in  
11 connection with the credit union or affiliate, and its  
12 business and affairs.

13 (2) Retain that report or information or copies  
14 thereof.

15 (3) Except as expressly permitted by law, disclose  
16 such report or information to any person not authorized to  
17 receive the same under this subsection.

18 (g) All reports of examination, records reflecting  
19 action of a credit union, its supervisory committee,  
20 subsidiary or affiliate, taken pursuant thereto and minutes of  
21 meetings of the Credit Union Board relating to a credit union  
22 or several credit unions, supervisory committee, subsidiary,  
23 or affiliate, shall be confidential and shall not be subject  
24 to subpoena or inspection except by subpoena from a grand jury  
25 served on the administrator.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.