

1 SB209
2 172874-1
3 By Senator Holtzclaw
4 RFD: Banking and Insurance
5 First Read: 11-FEB-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.

7
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~~ in the state.

19 "~~(8)~~ (9) To borrow money from any source not
20 prohibited by applicable law and to give its note therefor;
21 provided, ~~7~~ that the borrowing, in the aggregate, shall not at
22 any time exceed the lesser of:

23 "a. 50 percent of its assets; or

24 "b. The combination of undivided earnings, regular
25 reserves, equity acquired in a merger, net income or net loss
26 not already included in undivided earnings, and shares and
27 deposits.

1 "~~(9)~~ (10) To assess each member a recurring or
2 nonrecurring membership fee.

3 "~~(10)~~ (11) To exercise incidental powers as
4 necessary to enable it to carry on effectively the purposes
5 for which it is chartered and incorporated and other powers as
6 are expressly authorized by the Administrator of the Alabama
7 Credit Union Administration.

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

23 "(c) Notwithstanding any other provision of this
24 chapter or any other state law, a credit union may offer any
25 product or service that is authorized or permitted to any
26 federal credit union as defined in 12 U.S.C. § 1752 or any
27 product or service approved by the administrator.

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

6 "§5-17-6.

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

19 "(b) The board of directors may expel a member for
20 cause by a majority vote of a quorum of directors, pursuant to
21 a written policy adopted by the board. For the purposes of
22 this section, cause includes a loss to the credit union, a
23 violation of the membership agreement or any policy or
24 procedure adopted by the board, or inappropriate behavior such
25 as physical, sexual, or verbal abuse of credit union members
26 or staff. All members shall be ~~given~~ provided written notice
27 of such policies. Any person expelled by the board shall have

1 the right to file a written appeal to the board to reconsider
2 the expulsion.

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

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

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

19 "§5-17-7.

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

25 "(b) Except as hereinafter provided, the annual
26 operating fee set by the administrator shall not exceed the
27 fee calculated by use of the following scale or the

1 administrator may authorize payment of the schedule used by
2 federal credit unions if the administrator determines it to be
3 appropriate:

4 "(1) Credit unions having total assets of less than
5 \$500,000.00 shall pay a fee not in excess of \$.12 for each
6 \$100.00 of assets, subject to a minimum of \$200.00.

7 "(2) Credit unions with assets of \$500,000 but not
8 in excess of \$1,000,000 shall pay a fee of \$600 plus \$.05 per
9 \$100 of assets over \$500,000 but not in excess of \$1,000,000;
10 credit unions with assets of \$1,000,000 but not in excess of
11 \$5,000,000 shall pay a fee of \$850 plus \$.035 per \$100 of
12 assets of \$1,000,000 but not in excess of \$5,000,000; credit
13 unions with assets of \$5,000,000 but not in excess of
14 \$10,000,000 shall pay a fee of \$2,250 plus \$.02 per \$100 of
15 assets over \$5,000,000 but not in excess of \$10,000,000;
16 credit unions with assets of \$10,000,000 but not in excess of
17 \$20,000,000 shall pay a fee of \$3,250 plus \$.018 per \$100 on
18 assets over \$10,000,000 but not in excess of \$20,000,000;
19 credit unions with assets of \$20,000,000 but not in excess of
20 \$50,000,000 shall pay a fee of \$5,050 plus \$.016 per \$100 on
21 assets over \$20,000,000 but not in excess of \$50,000,000;
22 credit unions with assets of \$50,000,000 but not in excess of
23 \$100,000,000 shall pay a fee of \$9,850 plus \$.013 per \$100 on
24 assets over \$50,000,000 but not in excess of \$100,000,000;
25 credit unions with assets of \$100,000,000 or more shall pay a
26 fee of \$16,350 plus \$.011 per \$100 on all assets over
27 \$100,000,000.

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

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

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

19 "(e) Whenever application is made to the
20 Administrator of the Alabama Credit Union Administration for
21 permission to organize a credit union, the applicant shall at
22 the time of filing the certificate of organization with the
23 Administrator of the Alabama Credit Union Administration pay a
24 fee not to exceed one thousand dollars (\$1,000) for the
25 purpose of paying the costs incidental to the determination by
26 the Administrator of the Alabama Credit Union Administration
27 whether such certificate of organization shall be approved.

1 The Administrator of the Alabama Credit Union Administration
2 shall from time to time fix the exact charge to be made, but
3 in no event shall the charge exceed one ~~hundred thousand~~
4 dollars ~~(\$100)~~ (\$1,000). The provisions of this subsection
5 shall not apply to any existing credit union seeking charter
6 conversion.

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

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

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

14 "§5-17-8.

15 "(a) Credit unions shall report to the Administrator
16 of the Alabama Credit Union Administration at least annually
17 on or before January 31 ~~on blanks supplied~~ in such manner and
18 form as required by the administrator for that purpose.

19 Additional reports may be required. Credit unions shall be
20 examined at least annually by employees of the administrator
21 or by other persons designated by the administrator. For
22 failure to file reports when due, unless excused for cause by
23 the administrator, the credit union shall pay to the State
24 Treasurer five dollars (\$5) for each day of its delinquency.

25 "(b) If the administrator determines that the credit
26 union is violating this chapter, or is insolvent, the
27 administrator may suspend operations of the credit union by

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

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

6 "(1) Committed any violation of a law, rule, or
7 regulation.

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

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

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

16 "(5) Violated any condition imposed in writing by
17 the administrator or any written agreement made with the
18 administrator.

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

23 "Any cease and desist order shall be effective not
24 earlier than 10 calendar days after it is delivered to the
25 credit union. The credit union or any person subject to a
26 cease and desist order shall have 10 calendar days from the
27 receipt of any cease and desist order to appeal to the Credit

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

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

19 "(1) Committed any violation of a law, rule, or
20 regulation.

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

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

25 "(4) Committed any fraudulent or questionable
26 practice in the conduct of the credit union's business which

1 endangers the credit union's reputation or threatens
2 insolvency.

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

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

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

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

24 "~~(e)~~ (f) The Administrator of the Alabama Credit
25 Union Administration, with the approval of a majority of the
26 Credit Union Board of the Alabama Credit Union Administration,
27 ex parte without notice, may appoint the Alabama Credit Union

1 Administration as conservator and immediately take possession
2 and control of the business and assets of any state-chartered
3 credit union in any case in which any one of the following
4 occurs:

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

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

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

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

19 "~~(f)~~ (g) Not later than 10 calendar days after the
20 date on which the Alabama Credit Union Administration takes
21 possession and control of the business and assets of a credit
22 union pursuant to subsection ~~(e)~~ (f), officials of the credit
23 union who were terminated by the conservator may apply to the
24 circuit court for the judicial circuit in which the principal
25 office of the credit union is located for an order requiring
26 the administration to show cause why it should not be enjoined
27 from continuing possession and control. Except as provided in

1 this subsection, no court may take any action, except at the
2 request of the Credit Union Board by regulation or order, to
3 restrain or affect the exercise of powers or functions of the
4 board as conservator.

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

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

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

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

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

22 ~~"(h)~~ (i) The Alabama Credit Union Administration may
23 maintain possession and control of the business and assets of
24 the credit union and may operate the credit union until the
25 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 agents as it considers necessary in order to assist
15 the administration in carrying out its duties as a conservator
16 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 agent, attorney, or employee of the
9 Alabama Credit Union Administration shall be personally liable
10 for any acts done in good faith while in the performance of
11 his or her 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 knowingly and willfully violate, or knowingly and willfully
24 permit any of the officers, agents, or employees of the credit
25 union to violate any of the provisions of this title, each and
26 every director or officer engaging in such knowing and willful
27 violation or knowing and willful permission shall be liable in

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

11 §5-17-60.

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

24 (b) Notwithstanding subsection (a), the
25 administrator, at the administrator's discretion, may disclose
26 any information otherwise protected under this section to the
27 members of the Credit Union Board and confer with the members

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

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

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

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

25 (f) Any reports or information furnished or
26 disclosed under this section shall remain the property of the
27 Alabama Credit Union Administration and, except as provided in

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

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

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

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

17 (g) All reports of examination, records reflecting
18 action of a credit union, its supervisory committee,
19 subsidiary or affiliate, taken pursuant thereto, and records,
20 correspondence, communications, and minutes of meetings of the
21 Credit Union Board relating to a credit union or several
22 credit unions, supervisory committee, subsidiary, or
23 affiliate, shall be confidential and shall not be subject to
24 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.