

1 SB212  
2 155904-5  
3 By Senator Blackwell  
4 RFD: Banking and Insurance  
5 First Read: 16-JAN-14

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8 SYNOPSIS: Under existing law, state credit unions are  
9 organized and regulated by the Alabama Credit Union  
10 Administration in Chapter 17 of Title 5, Code of  
11 Alabama 1975.

12 This bill would revise Chapter 17 to further  
13 provide for the regulation and operation of state  
14 credit unions by the Alabama Credit Union  
15 Administration.

16 The bill would, among other things, do all  
17 of the following:

18 (1) Provide civil penalties for persons or  
19 entities using the term "credit union" in violation  
20 of law.

21 (2) Authorize the board of directors, rather  
22 than two-thirds of the members of a credit union,  
23 to expel a credit union member.

24 (3) Revise annual operating fees of credit  
25 unions and authorize the administrator to annually  
26 fix the operating assessment on credit unions to  
27 fund the Credit Union Administration.

1 (4) Further provide for orders of the Credit  
2 Union Administration to take possession and control  
3 of a state credit union.

4 (5) Further provide for deposits by minors.

5 (6) Further provide for the disposition of  
6 accounts to a surviving spouse or guardian and for  
7 adverse claims for deposits.

8 (7) Specify that insurance on accounts may  
9 be by a private insurance carrier.

10 (8) Authorize the sharing of information  
11 with federal agencies.

12  
13 A BILL

14 TO BE ENTITLED

15 AN ACT

16  
17 Relating to the Credit Union Administration and the  
18 regulation of credit unions; to amend Sections 5-17-3, 5-17-6,  
19 5-17-7, 5-17-8, 5-17-11, 5-17-15, 5-17-16, 5-17-19, 5-17-22,  
20 5-17-45, and 5-17-56, Code of Alabama 1975, and to repeal  
21 Sections 5-17-25 to 5-17-28, inclusive, 5-17-49, 5-17-53, and  
22 5-2A-100 to 5-2A-103, inclusive, Code of Alabama 1975, to  
23 further provide for the regulation of credit unions and for  
24 the operation of the Credit Union Administration.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 5-17-3, 5-17-6, 5-17-7, 5-17-8,  
2           5-17-11, 5-17-15, 5-17-16, 5-17-19, 5-17-22, 5-17-45, and  
3           5-17-56, Code of Alabama 1975, are amended to read as follows:

4           "§5-17-3.

5           "It shall be a misdemeanor for any person,  
6           association, copartnership, or corporation, except  
7           corporations organized in accordance with the provisions of  
8           this chapter, credit unions incorporated under the laws of the  
9           United States, and the Alabama Credit Union League trade  
10          associations of credit unions doing business in this state,  
11          and other organizations as approved by the administrator, to  
12          use the words "credit union" in their name or, title, or in  
13          advertising. A ~~corporation~~ credit union organized under the  
14          provisions of this chapter shall include in its corporate name  
15          or title the words "credit union." Any violation of this  
16          prohibition shall subject the party chargeable therewith to a  
17          penalty of five hundred dollars (\$500) for each day, with a  
18          maximum amount of fifty thousand dollars (\$50,000), during  
19          which the violation is committed or repeated. The penalty may  
20          be recovered by the administrator by an action instituted for  
21          that purpose, and, in addition to the penalty, the violation  
22          may be enjoined and the injunction enforced as in other cases.  
23          If the directors, officers, or those persons performing  
24          similar functions as corporate directors or officers of any  
25          entity shall knowingly and willfully violate or knowingly and  
26          willfully permit any of the officers, agents, employees, or  
27          those persons performing similar functions of the entity to

1 violate any of the provisions of this section, each director,  
2 officer, or other person engaging in the violation shall be  
3 liable in his or her personal and individual capacity for all  
4 damages which the entity or any other person shall have  
5 sustained in consequence of the violation. Provided, however,  
6 that a credit union organized in another state may conduct  
7 business as a credit union in this state with the prior  
8 approval of the Administrator of the Alabama Credit Union  
9 Administration provided all of the following criteria are met:

10 "(1) It is organized under laws similar to Alabama  
11 credit union laws~~7.~~

12 "(2) It is financially solvent~~7.~~

13 "(3) Alabama credit unions are allowed to do  
14 business in the other state under conditions similar to these  
15 provisions~~7.~~

16 "(4) It ~~has~~ maintains member account insurance  
17 comparable to that required for Alabama credit unions~~7.~~

18 "(5) It agrees to submit to the administrator an  
19 annual examination report from its supervising agency~~7.~~

20 "(6) The interest rate on loans made in Alabama does  
21 not exceed that allowed by Alabama law~~7.~~

22 "(7) It complies with the same consumer protection  
23 provisions that are applicable to Alabama credit unions ~~must~~  
24 ~~obey; and.~~

25 "(8) It designates and maintains an agent for the  
26 service of process in Alabama.

27 "§5-17-6.

1           ~~"A member may be expelled by a two-thirds vote of~~  
2 ~~the members present at a special meeting called to consider~~  
3 ~~the matter, but only after a hearing. (a) Any member may~~  
4 withdraw from the credit union at any time, but notice of  
5 withdrawal may be required. All amounts paid on shares or as  
6 deposits of an expelled or withdrawing member, with any  
7 dividends or interest accredited thereto to the date thereof  
8 shall, as funds become available and after deducting all  
9 amounts due from the member to the credit union, be paid to  
10 ~~him~~ the individual. The credit union may require 60 days'  
11 notice of intention to withdraw shares and 30 days' notice of  
12 intention to withdraw deposits. ~~Withdrawing or expelled~~  
13 ~~members shall have no further rights in the credit union but~~  
14 ~~are not, by such expulsion or withdrawal, released from any~~  
15 ~~remaining liability to the credit union.~~ A credit union may  
16 reserve in its bylaws the right to pay out not more than one  
17 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 or verbal abuse of credit union members or staff.  
26 All members shall be given written notice of such policies.

1 Any person expelled by the board shall have the right to file  
2 a written appeal to the board to reconsider 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) During 1986 and each year thereafter, all~~ All  
21 state chartered credit unions shall pay an annual operating  
22 fee and, if deemed necessary by the administrator, an  
23 assessment, the exact amount of which shall be fixed from time  
24 to time by the Administrator of the Alabama Credit Union  
25 Administration. During 1985, credit unions shall continue to  
26 be charged and be liable to the Alabama Credit Union

1 Administration for the examination fee presently fixed by the  
2 Supervisor of the Bureau of Credit Unions.

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

9 "(1) Credit unions having total assets of less than  
10 \$500,000.00 shall pay a fee not in excess of \$.12 for each  
11 \$100.00 of assets, subject to a minimum of \$200.00.

12 ~~"(2) Credit unions with assets of \$500,000.00 or~~  
13 ~~more shall pay a fee of \$600.00 plus \$.05 per \$100.00 of~~  
14 ~~assets over \$500,000.00 but not in excess of \$1,000,000.00~~  
15 ~~plus three and one-half cents per \$100.00 of assets of~~  
16 ~~\$1,000,000.00 but not in excess of \$5,000,000.00 plus \$.02 per~~  
17 ~~\$100.00 of assets over \$5,000,000 but not in excess of~~  
18 ~~\$10,000,000 plus one and eight-tenths per \$100.00 on assets~~  
19 ~~over \$10,000,000.00 but not in excess of \$20,000,000.00 plus~~  
20 ~~one and six-tenths cents per \$100.00 on assets over~~  
21 ~~\$20,000,000.00 but not in excess of \$50,000,000.00, plus one~~  
22 ~~and two-tenths cents per \$100.00 on assets over \$50,000,000.00~~  
23 ~~but not in excess of \$100,000,000.00 plus \$.01 per \$100.00 on~~  
24 ~~all assets over \$100,000,000.00.~~

25 "(2) Credit unions with assets of \$500,000 but not  
26 in excess of \$1,000,000 shall pay a fee of \$600 plus \$.05 per  
27 \$100 of assets over \$500,000 but not in excess of \$1,000,000;



1 credit unions with assets of \$1,000,000 but not in excess of  
2 \$5,000,000 shall pay a fee of \$850 plus \$.035 per \$100 of  
3 assets of \$1,000,000 but not in excess of \$5,000,000; credit  
4 unions with assets of \$5,000,000 but not in excess of  
5 \$10,000,000 shall pay a fee of \$2,250 plus \$.02 per \$100 of  
6 assets over \$5,000,000 but not in excess of \$10,000,000;  
7 credit unions with assets of \$10,000,000 but not in excess of  
8 \$20,000,000 shall pay a fee of \$3,250 plus \$.018 per \$100 on  
9 assets over \$10,000,000 but not in excess of \$20,000,000;  
10 credit unions with assets of \$20,000,000 but not in excess of  
11 \$50,000,000 shall pay a fee of \$5,050 plus \$.016 per \$100 on  
12 assets over \$20,000,000 but not in excess of \$50,000,000;  
13 credit unions with assets of \$50,000,000 but not in excess of  
14 \$100,000,000 shall pay a fee of \$9,850 plus \$.013 per \$100 on  
15 assets over \$50,000,000 but not in excess of \$100,000,000;  
16 credit unions with assets of \$100,000,000 or more shall pay a  
17 fee of \$16,350 plus \$.011 per \$100 on all assets over  
18 \$100,000,000.

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

22 "(c) ~~On one occasion~~ Annually, the administrator may  
23 fix an annual operating fee which is not more than 10 percent  
24 greater than the above fee scale if the Credit Union Board  
25 approves such fee, if said fee is not in effect for more than  
26 one year, and if the administrator establishes that such fee  
27 is necessary in order that the Alabama Credit Union

1 ~~Administration not be operated at a deficit and that the~~  
2 ~~Alabama Credit Union Administration operated at a deficit~~  
3 ~~during the preceding year~~ assessment to ensure that the  
4 Alabama Credit Union Administration does not continue to  
5 operate in a deficit for any given year. The assessment shall  
6 be approved by the Credit Union Board of the Alabama Credit  
7 Union Administration. Any credit union failing to pay the  
8 assessment within 30 days of the notice of assessment may be  
9 charged a fine not to exceed fifty dollars (\$50) for each day  
10 that the assessment remains unpaid.

11 "(d) The annual operating fee shall be paid on or  
12 before the last day of January of each year, based upon the  
13 assets of the credit union as of the end of the previous year.  
14 Any credit union failing to pay said operating fee may be  
15 charged a ~~penalty assessment~~ fine not to exceed ~~\$50.00~~ fifty  
16 dollars (\$50) for each day that said fee remains unpaid.

17 "(e) Whenever application is made to the  
18 Administrator of the Alabama Credit Union Administration for  
19 permission to organize a credit union, the applicant shall at  
20 the time of filing the certificate of organization with the  
21 Administrator of the Alabama Credit Union Administration pay a  
22 fee not to exceed ~~\$100.00~~ one thousand dollars (\$1,000) for  
23 the purpose of paying the costs incidental to the  
24 determination by the Administrator of the Alabama Credit Union  
25 Administration whether such certificate of organization shall  
26 be approved. The Administrator of the Alabama Credit Union  
27 Administration shall from time to time fix the exact charge to

1 be made, but in no event shall the charge exceed ~~\$100.00~~ one  
2 hundred dollars (\$100). The provisions of this subsection  
3 shall not apply to any existing credit union seeking charter  
4 conversion.

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

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

25 "(h) All assets primarily used by the Bureau of  
26 Credit Unions, including books, records, documents, furniture,  
27 equipment and supplies are hereby transferred to the Alabama

1 Credit Union Administration. All funds in the special fund  
2 previously maintained by the State Treasurer for the Bureau of  
3 Credit Unions are hereby transferred to the Alabama Credit  
4 Union Administration. All taxes, fees, assessments, penalties  
5 or other revenues owed to or collected by the Bureau of Credit  
6 Unions are hereby transferred to the Alabama Credit Union  
7 Administration. Any employee presently employed by the  
8 Superintendent of Banks who is presently primarily involved  
9 with the Bureau of Credit Unions shall be employed by the  
10 Alabama Credit Union Administration.

11 "§5-17-8.

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

22 "(b) If the administrator determines that the credit  
23 union is violating this chapter, or is insolvent, the  
24 administrator may suspend operations of the credit union by  
25 issuing an order requiring that the credit union cease  
26 operations pending a hearing on the revocation of the  
27 certificate of approval, or the administrator may set a date

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

24 "(c) The administrator may, with the approval of a  
25 majority of the Credit Union Board of the Alabama Credit Union  
26 Administration, issue a cease and desist order upon finding

1 that the credit union or any officer, director, committee  
2 member, or employee has done any one of the following:

3 "(1) Committed any violation of a law, rule, or  
4 regulation.

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

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

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

13 "(5) Violated any condition imposed in writing by  
14 the administrator or any written agreement made with the  
15 administrator.

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

20 "Any cease and desist order shall be effective not  
21 earlier than 10 days after it is delivered to the credit  
22 union. The credit union shall have 10 days from the receipt of  
23 any cease and desist order to appeal to the Credit Union Board  
24 of the Alabama Credit Union Administration by serving the  
25 administrator with a written notice of appeal within the  
26 10-day period. Upon receipt of a notice of appeal from the  
27 credit union, the effect of the cease and desist order will be

1 suspended pending a decision upon appeal; provided that a  
2 majority of the Credit Union Board of the Alabama Credit Union  
3 Administration may order that a cease and desist order be in  
4 force and effect pending the decision on appeal. A hearing of  
5 any appeal shall be held before the Credit Union Board of the  
6 Alabama Credit Union Administration within ~~30~~ 60 days of the  
7 notice of appeal and the decision of the Credit Union Board  
8 shall be rendered within ~~15~~ 30 days after the hearing.

9 "(d) The Administrator of the Alabama Credit Union  
10 Administration may suspend from office and prohibit further  
11 participation in any manner in the conduct of the affairs of a  
12 credit union of any director, officer, committee member, or  
13 employee who has done any one of the following:

14 "(1) Committed any violation of a law, rule or  
15 regulation.

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

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

20 "(4) Committed any fraudulent or questionable  
21 practice in the conduct of the credit union's business which  
22 endangers the credit union's reputation or threatens  
23 insolvency.

24 "(5) Violated any condition imposed in writing by  
25 the administrator or any written agreement made with the  
26 administrator.

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

5           "(7) Unless the administrator directs otherwise, the  
6           prohibition against participation in the conduct of the  
7           affairs of a credit union shall remain effective until it is  
8           rescinded by a vote of the Credit Union Board of the Alabama  
9           Credit Union Administration.

10           "(e) The Administrator of the Alabama Credit Union  
11           Administration, ~~with the concurrence of a two-thirds majority~~  
12           ~~of voting members of the Credit Union Board of the Alabama~~  
13           ~~Credit Union Administration may~~ with the approval of a  
14           majority of the Credit Union Board of the Alabama Credit Union  
15           Administration, ex parte without notice, may appoint the  
16           Alabama Credit Union Administration as conservator and  
17           immediately take possession and control of the business and  
18           assets of any state-chartered credit union in any case in  
19           which any one of the following occurs:

20           "(1) The Alabama Credit Union Administration  
21           determines that the action is necessary to conserve the assets  
22           of any state-chartered credit union or the interests of the  
23           members of the credit union.

24           "(2) A credit union, by resolution of its board of  
25           directors, consents to the action by the Alabama Credit Union  
26           Administration.



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

3           "(4) There is concealment of books, papers, records,  
4           or assets of the credit union or refusal to submit books,  
5           papers, records, or affairs of the credit union for inspection  
6           to any examiner or to any lawful agent of the Alabama Credit  
7           Union Administration.

8           "(f) Not later than 10 days after the date on which  
9           the Alabama Credit Union Administration takes possession and  
10          control of the business and assets of a credit union pursuant  
11          to subsection (e), officials of the credit union who were  
12          terminated by the conservator may apply to the circuit court  
13          for the judicial circuit in which the principal office of the  
14          credit union is located for an order requiring the  
15          administration to show cause why it should not be enjoined  
16          from continuing possession and control. Except as provided in  
17          this subsection, no court may take any action, except at the  
18          request of the Credit Union Board by regulation or order, to  
19          restrain or affect the exercise of powers or functions of the  
20          board as conservator.

21          "(g) The administrator shall report to the Credit  
22          Union Board of the Alabama Credit Union Administration at  
23          least ~~quarterly~~ semi-annually on the condition of the credit  
24          unions in which the administration serves as conservator.  
25          Reports shall contain the following:

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

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

3           "(3) A detailed report of all expenditures,  
4 reimbursements, and other financial considerations paid out of  
5 the assets of the credit union to the Alabama Credit Union  
6 Administration or its designated agents during  
7 conservatorship.

8           "(4) A business plan outlining necessary actions and  
9 timetables under which the credit union would remain under  
10 conservatorship.

11           "(h) The Alabama Credit Union Administration may  
12 maintain possession and control of the business and assets of  
13 the credit union and may operate the credit union until the  
14 time as the following occurs:

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

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

20           "(3) The Credit Union Board of the Alabama Credit  
21 Union Administration votes by a ~~two-thirds~~ majority of voting  
22 members that the Alabama Credit Union Administration shall  
23 relinquish possession and control of the credit union. Such  
24 vote shall be held on at least a ~~quarterly~~ semi-annual basis  
25 while the credit union is held in conservatorship by the  
26 Alabama Credit Union Administration.

1           "(i) The Alabama Credit Union Administration may  
2 appoint agents as it considers necessary in order to assist  
3 the administration in carrying out its duties as a conservator  
4 under this section.

5           "(j) All expenses incurred by the administration in  
6 exercising its authority under this section with respect to  
7 any credit union shall be paid out of the assets of the credit  
8 union.

9           "(k) The conservator shall have all powers of the  
10 members, the directors, the officers, and the committees of  
11 the credit union and shall be authorized to operate the credit  
12 union in its own name or to conserve its assets in the manner  
13 and extent authorized by the administration.

14           "(l) After taking possession of the property and  
15 business of a credit union through conservatorship, the  
16 conservator may terminate or adopt any executory contract to  
17 which the credit union may be a party. The termination of any  
18 contracts shall be made within six months after obtaining  
19 knowledge of the existence of the contract or lease. Any  
20 provision in the contract or lease which provides for damages  
21 or cancellation fees upon termination shall not be binding on  
22 the conservator or credit union. The directors, the  
23 conservator, and the credit union are not liable for damages.

24           "~~The credit union or any person affected by an order~~  
25 ~~may appeal by written appeal delivered to the administrator~~  
26 ~~within 10 days after the issuance of an order. In the event of~~  
27 ~~an appeal, a hearing shall be held before the Credit Union~~

1 ~~Board of the Alabama Credit Union Administration within 30~~  
2 ~~days of the filing of an appeal and the decision shall be~~  
3 ~~rendered by the Credit Union Board within 15 days after the~~  
4 ~~hearing. Unless the administrator directs otherwise, the~~  
5 ~~prohibition against participation in the conduct of the~~  
6 ~~affairs of a credit union will remain effective until the time~~  
7 ~~it is rescinded by a vote of the Credit Union Board of the~~  
8 ~~Alabama Credit Union Administration to rescind the prohibition~~  
9 ~~against participation in the affairs of a credit union.~~

10 "(m) The administrator may appoint a temporary board  
11 of directors to any credit union subject to conservatorship.

12 "§5-17-11.

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

1 requirements as specified in the bylaws. The bylaws will state  
2 the number of members required to sign a petition which can be  
3 as few as 3 members or more as stated in the bylaws. The  
4 maximum number cannot exceed the lesser of one percent of the  
5 membership or 500 members. Candidates shall be given a minimum  
6 of 35 days from the postmark date to present a petition.

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

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

12 "(2) To determine interest rates on loans and on  
13 deposits; provided, that such loans shall be at reasonable  
14 rates of interest ~~which shall not exceed one percent per month~~  
15 ~~on unpaid balances.~~

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.

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

26 "(7) To have charge of investments other than loans  
27 to members.

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

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

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

12           "(d) Liability and indemnification of officers,  
13 directors, trustees, and members of the governing body of a  
14 credit union shall be the same as provided for a qualified  
15 entity in Title 10A, the Alabama Business and Nonprofit Entity  
16 Code.

17           "§5-17-15.

18           "(a) A minor, in his or her own name, may make a  
19 general or special deposit in any credit union. The deposit  
20 shall be paid only to the minor, or upon his or her order, and  
21 not to the parents or guardians of the minor, and the payment  
22 shall be valid as against the minor child and his or her  
23 parents or guardian.

24           "~~(a)~~ (b) Shares may be issued and withdrawn and  
25 deposits received and paid out in the name of a minor or in  
26 trust in such manner as the bylaws may provide. The name of  
27 the beneficiary must be disclosed to the credit union. If no

1 other notice of the existence and terms of such trust has been  
2 given in writing to the corporation, such shares or deposits  
3 may, upon the death of the trustee, be transferred to or  
4 withdrawn by the person who was named by the trustee as the  
5 beneficiary or by his legal representative, and such transfer  
6 or withdrawal shall release the corporation from liability to  
7 any other claimant upon such shares or deposit.

8 "~~(b)~~ (c) Any deposit heretofore or hereafter made in  
9 any credit union in the names of two or more persons payable  
10 to any such persons, upon the death of either of said persons,  
11 may be paid by the credit union to the survivors jointly,  
12 irrespective of whether or not:

13 "(1) The form of the deposit or deposit contract  
14 contains any provision for survivorship;

15 "(2) The funds deposited were the property of only  
16 one said person;

17 "(3) There was at the time of making such deposits  
18 any intention on the part of the person making such deposit to  
19 vest the other with a present interest therein;

20 "(4) Only one of said persons during their joint  
21 lives had the right to withdraw such deposits;

22 "(5) There was any delivery of any passbook,  
23 certificate of deposit or other writing by the person making  
24 such deposit to the other of such persons; or

25 "(6) Any other circumstances.

26 "The credit union in which such deposit is made may  
27 pay such deposit, or any part thereof or interest thereon, to

1 either of said persons, or if one is dead, to the surviving of  
2 them, and such payment shall fully release and discharge the  
3 credit union from all liability for any payment so made.

4 "~~(c)~~ (d) The provisions of this section shall apply  
5 to share accounts, deposit accounts and certificates of  
6 deposits and shall also apply to any deposit made in the names  
7 of more than two persons where there is an expressed written  
8 provision for survivorship in the deposit contract.

9 "~~(d)~~ (e) Nothing contained in this section shall be  
10 construed to prohibit the person making such deposit from  
11 withdrawing or collecting the same during his lifetime; nor  
12 shall anything contained in this section prohibit any person  
13 or persons making a deposit in the names of more than one  
14 person from providing for disposition of such deposit and  
15 interest thereon in a manner different from that provided  
16 above in this section, provided such different manner of  
17 disposition is expressly provided for in writing in the  
18 deposit contract.

19 "§5-17-16.

20 "Whenever a person shall die leaving a share or  
21 deposit account in a credit union not exceeding ~~\$5,000.00~~ ten  
22 thousand dollars (\$10,000), the credit union having the share  
23 or deposit account may discharge itself from liability  
24 thereafter by paying the funds in the share or deposit account  
25 to the widow or surviving husband of the deceased or, if there  
26 is no widow or surviving husband, to the persons having the  
27 actual custody or control of the minor child or children of



1 the deceased; provided, that such person, if not the legal  
2 guardian, shall execute to the probate judge of the county a  
3 bond in the penal sum of double the amount of such deposit for  
4 the faithful accounting of the money so received, which shall  
5 be approved by said probate judge, or, if there is no minor  
6 child or children, to the person or persons who under the laws  
7 of Alabama are the heirs and inherit the personal property of  
8 the deceased. No such payment is to be made before the lapse  
9 of 60 days from the date of the death of the deceased, and no  
10 such payment must be made by the credit union under this  
11 section if letters testamentary or of administration have been  
12 issued to a personal representative or a proceeding is pending  
13 to probate a will of the deceased, or if a petition of letters  
14 of administration on the estate of the deceased is pending in  
15 the court in this state which would have jurisdiction of the  
16 administration of the estate. The amount or amounts of the  
17 share or deposit account, together with the other personal  
18 property of the deceased, shall not exceed the amount of  
19 exemption allowed by law, and the credit union shall be fully  
20 protected and discharged from further liability by paying such  
21 funds to the person or persons set forth above if the credit  
22 union obtains an affidavit of some reputable citizen as to  
23 such facts.

24 "§5-17-19.

25 "(a) Every credit union shall set aside such regular  
26 reserves as are required to be set aside by the credit union  
27 in order to maintain insurance of member accounts under the

1 provisions of Title II of the Federal Credit Union Act.  
2 Additionally, any credit union may be required by the  
3 Administrator of the Alabama Credit Union Administration to  
4 maintain any special reserves which the administrator finds  
5 are necessary under the particular circumstances to protect  
6 the interests of the members.

7 "(b) Any credit union hereafter organized under this  
8 chapter shall be prohibited by the Administrator of the  
9 Alabama Credit Union Administration from beginning the active  
10 conduct of business until such time as such credit union has  
11 obtained insurance of member accounts either under the  
12 provisions of Title II of the Federal Credit Union Act or has  
13 obtained approval for private insurance under a private  
14 insurance program or carrier.

15 "(c) Any credit union which has had insurance of its  
16 accounts under Title II of the Federal Credit Union Act or a  
17 private insurance program or carrier withdrawn or cancelled  
18 must apply for such insurance within 30 days of such  
19 cancellation or withdrawal. If such credit union has not  
20 obtained such insurance within 90 days after such cancellation  
21 or withdrawal, the credit union shall either dissolve or merge  
22 with another credit union which is insured under Title II of  
23 the Federal Credit Union Act or a privately insured credit  
24 union insured under a private insurance program or carrier.

25 "(d) The Administrator of the Alabama Credit Union  
26 Administration shall be vested with authority to extend the  
27 period of time within which a credit union must obtain

1 insurance of its accounts under Title II of the Federal Credit  
2 Union Act, to permit other acceptable insurance coverage of  
3 its accounts to be utilized by a credit union and to designate  
4 into what credit union a credit union not having such  
5 insurance coverage shall be merged.

6 "(e) The Administrator of the Alabama Credit Union  
7 Administration shall make reports of condition and examination  
8 reports available to the ~~Administrator of the~~ National Credit  
9 Union Administration and, in his discretion, the Administrator  
10 of the Alabama Credit Union Administration may accept any  
11 report or examination made on behalf of the ~~Administrator of~~  
12 ~~the~~ National Credit Union Administration in lieu of an  
13 examination by the Administrator of the Alabama Credit Union  
14 Administration.

15 "§5-17-22.

16 "Any credit union may, with the approval of the  
17 Administrator of the Alabama Credit Union Administration,  
18 merge with another credit union, under the existing  
19 certificate of organization of the other credit union,  
20 pursuant to any plan agreed upon by the majority of each board  
21 of directors of each credit union joining in the merger. In  
22 addition to approval by the administrator and each board of  
23 directors, the membership of the merging credit union must  
24 also approve the merger plan in the following manner:

25 "(1) At a meeting called for that purpose (notice of  
26 which purpose must be contained in the call) two thirds of  
27 those in attendance may vote to approve the merger plan.

1 Notice of the meeting must have been mailed to the last known  
2 address of each member of the credit union at least 15 days  
3 prior to the date of the meeting.

4 "(2) After agreement by the directors and approval  
5 by the members of the merging credit union, the president and  
6 secretary of the credit union shall execute a certificate of  
7 merger which shall set forth all of the following:

8 "a. The time and place of the meeting of the board  
9 of directors at which the plan was agreed upon;

10 "b. The vote in favor of the adoption of the plan;

11 "c. A copy of the resolution or other action by  
12 which the plan was agreed upon;

13 "d. The time and place of the meeting of the members  
14 at which the plan agreed upon was approved; and

15 "e. The vote by which the plan was approved by the  
16 members.

17 "(3) Such certificate and a copy of the plan of  
18 merger agreed upon shall be forwarded to the administrator,  
19 certified by him and returned to both credit unions within 30  
20 days.

21 "(4) Upon return of the certificate from the  
22 administrator, all property, property rights and members'  
23 interest of the deed, endorsement or other instrument of  
24 transfer and all debts, obligations and liabilities of the  
25 merged credit union shall be deemed to have been assumed by  
26 the surviving credit union under whose charter the merger was

1 effected. The rights and privileges of the members of the  
2 merged credit union shall remain intact.

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

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

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

20 "(8) A federal credit union may be converted to a  
21 credit union chartered under the laws of Alabama and a state  
22 credit union may be converted to a federal credit union by  
23 adhering to the requirements for the conversion of a federal  
24 credit union to a state credit union as specified by the  
25 Federal Credit Union Act, presently 12 U.S.C. §1771(a) (1).

26 "§5-17-45.

1           "(a) The Legislature finds as fact and determines  
2 that the credit unions having their principal place of  
3 business in Alabama must keep pace with technological and  
4 other improvements constantly being made throughout the United  
5 States so as to enable Alabama credit unions to render better  
6 and more efficient services to their members. It is necessary  
7 and desirable that the administrator be given additional  
8 authority in these fields.

9           "(b) The administrator is hereby authorized to  
10 expand powers of Alabama credit unions in order to:

11           "(1) Accommodate or take advantage of changing  
12 technologies; and,

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

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

1 other states ~~or of the United States~~, under the terms of which  
2 credit unions of such foreign state or subject to federal  
3 ~~regulatory jurisdiction~~; provided credit unions having their  
4 principal place of business in Alabama are given and may  
5 exercise reciprocal rights.

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

15 "(d) ~~To the extent permitted by federal law, the~~  
16 ~~provisions hereof may be utilized by federally chartered~~  
17 ~~credit unions.~~ The administrator may enter into supervisory  
18 agreements, some of which may be confidential in nature, with  
19 the Federal Reserve, the FinCen Bureau of the U.S. Treasury  
20 Department (FINCEN), the National Credit Union Administration,  
21 private insurance carriers, and other state or federal  
22 successor agencies and furnish to them for their use such  
23 reports of examination and other information in taking  
24 enforcement and other supervisory actions.

25 "§5-17-56.

26 "The administrator shall ~~give to each member of said~~  
27 ~~Credit Union Board and all state credit unions at least five~~

1 ~~days' notice of the time and place of any meeting of said~~  
2 ~~board called, and a meeting may be had on less than five days'~~  
3 ~~notice if consented to by all members of said board comply~~  
4 ~~with the provisions of the Alabama Open Meetings Law, Chapter~~  
5 ~~25A of Title 36.~~ The board shall meet not less than once every  
6 calendar year. Any meeting of said board may be held at any  
7 place in the state where it is called to meet by the  
8 administrator."

9           Section 2. Sections 5-17-25 to 5-17-28, inclusive,  
10 5-17-49, 5-17-53, and 5-2A-100 to 5-2A-103, inclusive, Code of  
11 Alabama 1975, are repealed.

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