

Committee Substitute for Senate Bill No. 1330

An act relating to financial institutions; amending s. 655.005, F.S.; redefining the terms “imminently insolvent” and “insolvent” with respect to credit unions; creating s. 655.0201, F.S.; prescribing methods of serving process, notice, or demand on financial institutions; amending s. 655.044, F.S.; requiring all financial institutions to use the calendar year as their fiscal year; amending s. 655.057, F.S.; deleting obsolete provisions; amending s. 655.411, F.S.; conforming a cross-reference; creating s. 655.4185, F.S.; authorizing emergency action in cases of failing financial entities; amending s. 657.002, F.S.; redefining terms with respect to credit unions and deleting obsolete and other terms; amending s. 657.005, F.S.; revising procedures applicable to applying for authority to organize a credit union; amending s. 657.0061, F.S.; providing for disapproval of a proposed bylaw amendment that is not in compliance with statutes or rules; amending s. 657.008, F.S.; revising provisions relating to changes of a credit union’s place of business and to establishing branch locations; amending s. 657.021, F.S.; revising duties of credit union boards of directors; amending s. 657.022, F.S.; changing the time within which the annual meeting of a credit union board of directors must be held; amending s. 657.023, F.S.; revising powers of a credit union with respect to a member’s rights and continued membership; amending s. 657.024, F.S.; deleting a requirement that distributing ballots in advance of a membership meeting must be done by mail; amending s. 657.026, F.S.; deleting obsolete provisions; revising standards for reporting by a supervisory or audit committee; amending s. 657.027, F.S.; revising duties of a credit union’s credit manager; amending s. 657.028, F.S.; prohibiting compensation of a credit union treasurer but authorizing compensation of its chief executive officer; revising prerequisites for serving as an officer, director, or committee member; amending s. 657.031, F.S.; revising powers of credit unions; amending s. 657.033, F.S.; changing standards for when an account is considered dormant, unclaimed, or abandoned; prescribing limits on persons from whom credit unions may accept deposits; allowing credit unions to participate in systems that allow for automated or electronic transfer, deposit, or withdrawal of funds; requiring credit unions to maintain certain insurance; amending s. 657.038, F.S.; revising credit unions’ loan powers, including the power to issue debit or credit cards; amending s. 657.039, F.S.; increasing the amount of credit that may be extended to a credit union’s own officers and employees; amending s. 657.042, F.S.; authorizing investment in stock of the Federal Home Loan Bank; revising other limits on investments; amending s. 657.043, F.S.; revising standards for an allowance-for-loan-losses account; deleting the definition of risk assets; providing guidelines for borrowing money; deleting provisions relating to reserves and guaranty assistance agreements; amending s. 657.062, F.S.; deleting obsolete provisions; providing guidelines for conservatorships; amending s. 657.063, F.S.; revising provisions relating to involuntary liquidation; amending s.

657.064, F.S.; deleting obsolete provisions; revising provisions relating to voluntary liquidation; amending s. 657.065, F.S.; revising provisions governing mergers of credit unions; amending s. 657.066, F.S.; revising provisions relating to conversion of credit unions from state to federal or from federal to state; repealing s. 657.0315, F.S., relating to contracts for providing goods, products, or services, s. 657.051, F.S., relating to fiscal year, s. 657.055, F.S., relating to retention and destruction of certain records, s. 657.068, F.S., relating to central credit unions, and s. 658.43(7), F.S., relating to powers with respect to failing financial entities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (k) and (l) of subsection (1) of section 655.005, Florida Statutes, are amended to read:

655.005 Definitions.—

(1) As used in the financial institutions codes, unless the context otherwise requires, the term:

(k) “Imminently insolvent” means a condition in which a financial institution has total capital accounts, or equity ~~less the allowance for loan losses~~ in the case of a credit union, of less than 2 percent of its total assets, after adjustment for apparent losses.

(l) “Insolvent” means a condition in which:

1. The capital accounts, or equity ~~less the allowance for loan losses~~ in the case of a credit union, and all assets of a financial institution are insufficient to meet liabilities;

2. The financial institution is unable to meet current obligations as they mature, even though assets may exceed liabilities; or

3. The capital accounts, or equity ~~less the allowance for loan losses~~ in the case of a credit union, of a financial institution are exhausted by losses and no immediate prospect of replacement exists.

Section 2. Section 655.0201, Florida Statutes, is created to read:

655.0201 Service of process, notice, or demand on financial institutions.—

(1) Process against any financial institution authorized by federal or state law to transact business in this state may be served in accordance with chapter 48, chapter 49, chapter 607, or chapter 608, as appropriate.

(2) Any financial institution authorized by federal or state law to transact business in this state may designate a registered agent as the financial institution’s agent for service of process, notice, or demand required or permitted by law to be served on the financial institution. If the financial institution has no registered agent, or its registered agent cannot with

reasonable diligence be served, service may be made to any executive officer of the financial institution at its principal place of business in this state.

(3) If service cannot be made in accordance with subsection (2), service may be made to any officer, director, or business agent of the financial institution at its principal place of business or at any other branch, office, or place of business in the state.

(4) This section does not prescribe the only means, or necessarily the required means, of serving notice or demand on a financial institution.

Section 3. Subsection (5) is added to section 655.044, Florida Statutes, to read:

655.044 Accounting practices; bad debts ineligible to be carried as assets.—

(5) The fiscal year of a financial institution shall end on the last day of December.

Section 4. Subsections (3) and (7) of section 655.057, Florida Statutes, are amended to read:

655.057 Records; limited restrictions upon public access.—

(3) The provisions of this section do not prevent or restrict:

(a) Publishing reports required to be submitted to the office pursuant to s. 655.045(2)(a) or required by applicable federal statutes or regulations to be published.

(b) Furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions, including Federal Home Loan Banks.

~~(c) Furnishing records or information, in the case of a credit union, to the Florida Credit Union Guaranty Corporation, Inc.~~

~~(c)(d)~~ Disclosing or publishing summaries of the condition of financial institutions and general economic and similar statistics and data, provided that the identity of a particular financial institution is not disclosed.

~~(d)(e)~~ Reporting any suspected criminal activity, with supporting documents and information, to appropriate law enforcement and prosecutorial agencies.

~~(e)(f)~~ Furnishing information upon request to the Chief Financial Officer or the Division of Treasury of the Department of Financial Services regarding the financial condition of any financial institution that is, or has applied to be, designated as a qualified public depository pursuant to chapter 280.

Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from the provisions of s. 119.07(1).

(7) Materials supplied to the office or to employees of any financial institution by other governmental agencies, federal or state, ~~or the Florida Credit Union Guaranty Corporation, Inc.,~~ shall remain the property of the submitting agency or the corporation, and any document request must be made to the appropriate agency. Any confidential documents supplied to the office or to employees of any financial institution by other governmental agencies, federal or state, ~~or by the Florida Credit Union Guaranty Corporation, Inc.,~~ shall be confidential and exempt from the provisions of s. 119.07(1). Such information shall be made public only with the consent of such agency or the corporation.

Section 5. Paragraph (b) of subsection (1) of section 655.411, Florida Statutes, is amended to read:

655.411 Conversion of charter.—

(1) Any financial entity may apply to the office for permission to convert its charter without a change of business form or convert its charter in order to do business as another type of financial entity in accordance with the following procedures:

(b) Following approval by the board of directors, the conversion plan, together with a certified copy of the authorizing resolution adopted by the board, must be submitted to the office for approval before being submitted to the members or stockholders of the financial entity. The application for conversion must be in the form prescribed by the commission, contain such additional information as the commission or office reasonably requires, and be accompanied by a filing fee in accordance with ~~s. 657.066(3)~~ ~~s. 657.066(4)~~ or s. 658.73. Additionally, the office is authorized to assess any financial entity, applying to convert pursuant to this section, a nonrefundable examination fee to cover the actual costs of any examination required as a part of the application process.

Section 6. Section 655.4185, Florida Statutes, is created to read:

655.4185 Emergency action.—

(1) Notwithstanding any other provision of the financial institutions codes or of chapter 120, if the office or the appropriate federal regulatory agency finds that immediate action is necessary in order to prevent the probable failure of one or more financial institutions, which in this subsection may be referred to as a “failing financial entity,” the office may, with the concurrence of the appropriate federal regulatory agency in the case of any financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, issue an emergency order authorizing:

(a) The merger of any such failing financial entity with an appropriate state financial entity;

(b) An appropriate state financial entity to acquire assets and assume liabilities of any such failing financial entity, including all rights, powers, and responsibilities as fiduciary in an instance in which the failing financial institution is actively engaged in the exercise of trust powers;

(c) The conversion of any such failing financial entity into a state financial entity; or

(d) The chartering of a new state financial entity to acquire assets and assume liabilities of any such failing financial entity and to assume rights, powers, and responsibilities as fiduciary in a case in which such failing financial entity is engaged in the exercise of trust powers.

(2) Any such finding by the office must be based upon reports furnished to it by a state or federal financial institution examiner or upon other evidence from which it is reasonable to conclude that such financial institution is insolvent or is threatened with imminent insolvency. The office may disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of the financial institution codes. The stockholders of a failing bank, association, or trust company that is acquired by another bank or trust company under this section are entitled to the same procedural rights and to compensation for the remaining value of their shares as is provided for dissenters in s. 658.44, except that they have no right to vote against the transaction. Any transaction authorized by this section may be accomplished through the organization of a successor institution.

Section 7. Section 657.002, Florida Statutes, is amended to read:

657.002 Definitions.—As used in this chapter:

(1) “Capital” means shares, deposits, and equity.

~~(2) “Central credit union” means a credit union the membership of which includes, but is not limited to, other credit unions, members of credit unions, credit union employees, employees of organizations serving credit unions, and the families of such members.~~

~~(2)(3)~~ “Corporate credit union” means any ~~central~~ credit union organized pursuant to any state or federal act for the purpose of serving other credit unions.

~~(4) “The corporation” means the Florida Credit Union Guaranty Corporation, Inc.~~

~~(3)(5)~~ “Correspondent” means that person designated on an application to organize a credit union as the person to whom all correspondence regarding the application should be sent.

~~(4)(6)~~ “Credit union” means any cooperative society organized pursuant to this chapter.

~~(5)(7)~~ “Deposits” means that portion of the money placed ~~capital paid~~ into the credit union by members on which a contractual rate of interest ~~may~~ will be paid.

~~(6)(8)~~ “Equity” means undivided earnings, regular reserves, and other reserves ~~allowance for loan losses~~.

~~(7)~~⁽⁹⁾ “Foreign credit union” means a credit union organized and operating under the laws of another state.

~~(8)~~⁽¹⁰⁾ “Immediate family” means parents, children, spouse, or surviving spouse of the member, or any other relative by blood, marriage, or adoption.

~~(9)~~⁽¹¹⁾ “Limited field of membership” means the defined group of persons designated as eligible for membership in the credit union who:

(a) Have a similar profession, occupation, or formal association with an identifiable purpose; ~~or~~

(b) Live or work ~~Reside~~ within an identifiable neighborhood, community, rural district, or county; ~~or~~

(c) Are employed by a common employer; or

(d) Are employed by the credit union; and

members of the immediate family of persons within such group.

~~(10)~~⁽¹²⁾ “Shares” means ~~that portion of the~~ money placed ~~capital paid~~ into the credit union by members on which dividends may be paid.

~~(13)~~ “Unimpaired capital” ~~means capital which is not impaired by losses that exceed applicable reserves.~~

Section 8. Section 657.005, Florida Statutes, is amended to read:

657.005 ~~Notice of intent to organize; investigation;~~ Application for authority to organize a credit union; investigation.—

(1) The proposed organizers of the proposed credit union shall file with the office an application ~~a notice of intent to organize~~, upon such form as the commission may, by rule, prescribe.

(2) Any five or more residents of this state who represent a limited field of membership may apply to the office for permission to organize a credit union. The fact that individuals within the proposed limited field of membership have credit union services available to them through another limited field of membership shall not preclude the granting of a certificate of authorization to engage in the business of a credit union.

(3) The application shall be submitted to the office on forms and in the manner prescribed by rules adopted by the commission and shall be accompanied by a nonrefundable filing fee of \$250. Such application shall include:

(a) The proposed name and the proposed location where the proposed credit union is to have its principal place of business and where legal service must be served.

(b) Designation of the par value of each share of the credit union.

(c) Designation of at least five persons who agree to serve on the board of directors, and at least three other persons who agree to serve on the

supervisory committee or audit committee, with a signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, executed by those who so agree.

(d) Any information required by the commission or office to be submitted to the National Credit Union Administration ~~corporation or insuring agency~~.

(e) Bylaws of the credit union, which bylaws shall be in the form and substance as required by the commission.

(4) The office shall have the power of investigation to the extent necessary to make the finding required under this section.

(5) The application shall be approved if the office determines that:

(a) There is a showing of sufficient interest on the part of the proposed limited field of membership;

(b) The qualifications of the proposed board of directors and committee members are such as to indicate a reasonable likelihood that the affairs of the proposed credit union will be administered consistently with applicable laws and sound financial and credit union practices;

(c) The organization of the credit union would benefit its members; and

(d) The limited field of membership is of sufficient financial viability to indicate reasonable promise of successful operation of the proposed credit union. In determining the financial viability of the proposed limited field of membership and chances for reasonable promise of success of the proposed credit union, the office shall consider:

1. The size of the proposed limited field of membership, excluding potential members based upon familial relationships; and

2. Any other evidence that tends to indicate the reasonable promise of success of the proposed credit union.

(6) If the organization of a proposed credit union would result in an overlapping limited field of membership, the office may disapprove the application if it finds that the formation of the proposed credit union will result in a substantial, adverse financial impact to an existing credit union having the same or substantially the same limited field of membership.

(7) Concurrently with submission of the application to the office, the applicant shall apply for insurance of accounts with the National Credit Union Administration.

(8) The applicant shall not accept any payments for credit to share or deposit accounts, or commence business operations as a credit union, until the certificate of authorization and the insurance certificate have been delivered to the credit union.

(9) The office shall perform a preopening examination to verify good faith compliance with all the requirements of law. If the office finds that such

requirements have been met, it shall issue and deliver the certificate of authorization to transact business. Any credit union which fails to open for business within 6 months after the issuance of such certificate will forfeit its existence as a credit union, and the certificate of authorization shall be revoked. For good cause shown, the office may extend the opening date for an additional 6 months on its own motion or at the request of the credit union. ~~Amounts credited on share accounts, less expenditures authorized by law, shall be returned pro rata to the respective account holders.~~

(10) All preopening costs and expenses in connection with the organization of the credit union and preparation for opening for business may be paid only from funds provided by the organizers or a sponsor ~~and may be reimbursed by the credit union only out of undivided earnings, after provision has been made for reserves and dividends.~~ However, the credit union may ~~record~~ reimburse, as an operating expense, ~~costs for forms, and supplies,~~ insurance, rent, and other expenses applicable to or consumed in the period after opening in accordance with rules adopted by the commission.

(11) The commission shall adopt and the office shall provide a form certificate of authorization and bylaws consistent with this chapter which shall be used by applicants for credit unions.

Section 9. Subsection (1) of section 657.0061, Florida Statutes, is amended to read:

657.0061 Amendments to bylaws.—

(1) All bylaw amendments must be submitted to the office. The office shall approve or disapprove bylaw amendments within 60 days after receipt. The office shall approve the proposed bylaw amendment unless it finds that the amendment:

- (a) Is not in the best interest of the membership;
- (b) Is not in accord with sound credit union practices; ~~or~~
- (c) Exposes the assets of the credit union to unnecessary risks; or;
- (d) Is not in compliance with applicable statutes or rules.

Section 10. Subsections (1), (2), (5), (6), and (7) of section 657.008, Florida Statutes, are amended to read:

657.008 Place of doing business.—

(1) Every credit union authorized to transact business pursuant to the laws of this state shall have one principal place of doing business as designated in its bylaws and where legal process may be served. ~~A credit union may change its place of business through an amendment to its bylaws.~~

(2)(a) With 30 days' prior written notification to the office or within such other time as is approved by the office, a credit union operating in a safe and sound manner may maintain branches at locations other than its main office or relocate branches previously established if the maintenance of such

branches is determined by the board of directors to be reasonably necessary to furnish service to its members.

~~(b) Investments in such branch offices shall comply with the limitations imposed by s. 657.042(5).~~

~~(b)(e)~~ If any branch is located outside this state, the cost of examining such branch shall be borne by the credit union. Such cost shall include, but shall not be limited to, examiner travel expense and per diem.

~~(5) A credit union may change its principal place of business within this state upon approval by the office.~~

~~(5)(6)(a)~~ The office may authorize foreign credit unions to establish branches in Florida if all of the following criteria are met:

1. The state in which the foreign credit union's home office is located permits Florida credit unions to do business in the state under restrictions that are no greater than those placed upon a domestic credit union doing business in that state. For this purpose, such restrictions shall include, but are not limited to, any fees, bonds, or other charges levied on domestic credit unions doing business in that state.

2. ~~The deposits of such foreign credit union and its proposed Florida branch shall have insurance of accounts with the National Credit Union Administration will be insured or guaranteed by an insurer or guarantor acceptable to the office. Insurance or guarantee of accounts comparable to that provided by the Florida Credit Union Guaranty Corporation is deemed to be acceptable; however, acceptance of insurance or guarantee of accounts by any insuring or guaranteeing agencies or companies shall be subject to a determination by the office that the insuring or guaranteeing agency or company is in sound financial condition and that its reserves with respect to its insured or guaranteed accounts are no less than those of the Florida Credit Union Guaranty Corporation.~~

3. The credit union's field of membership is so limited as to be within that meaning of that term as defined in s. 657.002.

(b) Every foreign credit union operating in Florida shall keep the office informed of every location at which it is operating.

(c) If the office has reason to believe that a foreign credit union is operating a branch in this state in an unsafe and unsound manner, it shall have the right to examine such branch. If, upon examination, the office finds that such branch is operating in an unsafe and unsound manner, it shall require the branch office to make appropriate modifications to bring such branch operations into compliance with generally accepted credit union operation in this state. Such foreign credit union shall reimburse the office for the full cost of this examination. Costs shall include examiner salaries, per diem, and travel expenses.

(d) Any foreign credit union operating in this state shall in any connection therewith be subject to suit in the courts of this state, by this state and the citizens of this state.

~~(6)(7)~~ A credit union may provide, directly or through a contract with another company, off-premises armored car services to its members. Armored car services do not constitute a branch for the purposes of this section.

Section 11. Section 657.021, Florida Statutes, is amended to read:

657.021 Board of directors; executive committee.—

(1) The credit union shall have a board of directors consisting of at least five directors to be elected from the members in the manner and for such terms as prescribed in the bylaws.

~~(2)~~ ~~Directors shall hold office for such terms as the bylaws provide.~~

~~(2)(3)~~ Each director, upon assuming office, shall acknowledge that he or she is familiar with his or her responsibilities as a director and that he or she will diligently and honestly administer the affairs of such credit union and will not knowingly violate, or willfully permit to be violated, any of the provisions of the financial institutions codes or pertinent rules of the commission. The signed copy of such oath shall be filed with the office within 30 days after election.

~~(3)(4)~~ The board of directors shall fill any vacancies on the board by appointment until successors are elected as provided in the bylaws.

~~(4)(5)~~ The board of directors and the executive committee shall meet as often as required in the bylaws.

~~(5)(6)~~ The board of directors must ensure that determine the general direction of the business affairs, ~~manage the funds, and maintain the records~~ of the credit union is managed in a manner that is consistent with safe and sound credit union practices.

~~(6)(7)~~ The board of directors shall ~~must exercise the following duties which are nondelegable:~~

(a) Obtain and maintain officer and director liability insurance and blanket bond coverage under such terms, amounts, and limitations as are established by rules adopted by the commission. ~~Require any officer or employee who has custody of or handles funds to give bond with good and sufficient surety in an amount and character determined by the board of directors in compliance with rules adopted by the commission.~~

~~(b)~~ ~~Establish the maximum amount of credit which may be extended to a member and establish written credit policies, including, without limitation, security requirements and terms of repayment.~~

~~(b)(c)~~ Establish written policies governing all areas of operations loans, investments, equity, personnel, collections, the conduct of officers, employees, and committee members, and continuing education for directors and committee members and other policies necessary for prudent credit union practices in accordance with the rules of the commission.

~~(c)(d)~~ Declare any dividends on shares.

~~(d)(e)~~ Adequately provide for reserves as required by this chapter or by rules or order of the commission or office or as otherwise determined necessary by the board.

~~(e)(f)~~ Employ a chief executive officer, ~~whose title may be either president or general manager,~~ or, in lieu thereof, designate any board member the treasurer to act as the chief executive officer and to be in active charge of the affairs of the credit union.

~~(8)~~ ~~The board of directors must exercise the following duties, which may be delegated within specific guidelines and policies established by board resolutions:~~

~~(f)(a)~~ Act on applications for membership, or appoint one or more membership officers to approve or deny applications for membership, under such conditions as are determined by policy of the board of directors ~~may be prescribed in the bylaws. A record of a membership officer's approval or denial of membership must be made available to the board for inspection.~~ A person denied membership by a membership officer may appeal the denial to the board.

~~(g)(b)~~ Determine, from time to time, the interest rate or rates which are charged on extensions of credit ~~and authorize any interest refunds to members from income earned and received in proportion to the interest paid by them on such classes of credit and~~ under such conditions as the board prescribes.

~~(h)(c)~~ Determine the interest rates which will be paid on deposits and the manner of calculating those rates under such conditions as the board prescribes.

~~(i)(d)~~ Invest funds, except that the board may designate an investment committee or any qualified individual to make investments pursuant to written policies established by the board.

~~(j)~~ Designate a depository or depositories for the funds of the credit union under such conditions as the board prescribes.

This subsection does not prohibit the board from delegating, within specific guidelines and policies established by board resolutions, those functions delineated in paragraphs (f), (g), (h), (i), and (j).

~~(7)(9)~~ The board of directors has authority, which may not be delegated, to:

(a) Limit the number of shares and the amount of deposits which may be owned by a member, which limitation must apply to all members.

~~(b)~~ ~~Designate a depository or depositories for the funds of the credit union.~~

~~(b)(e)~~ Suspend and remove any member of any of its committees for failure to perform his or her duties or for other just cause.

~~(c)(d)~~ Establish any committee determined to be necessary and appoint its membership.

~~(d)(e)~~ Call special meetings of the members.

~~(10)~~ The board of directors has authority, which may be delegated within specific guidelines and policies established by board resolutions, to:

~~(a)~~ Authorize the employment of persons necessary to carry on the business of the credit union.

~~(b)~~ Authorize the purchase, lease, rental, or sale of personal property necessary to carry on the business of the credit union.

~~(c)~~ Borrow or lend money to carry on the functions of the credit union.

~~(8)(11)~~ The board of directors may appoint an executive committee that which may be authorized to act for the board in all respects, subject to such conditions and limitations as are prescribed by the board in writing. The executive committee shall be composed of the executive officers as defined in s. 657.022.

Section 12. Subsection (1) of section 657.022, Florida Statutes, is amended to read:

657.022 Executive officers.—

(1) At the organizational meeting and within ~~31~~ 7 days following each annual meeting of the members, the directors shall hold the annual meeting of the board of directors and elect from their own number a presiding officer, who may be designated as chair of the board or president; one or more vice chairs or one or more vice presidents, as the case may be; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the organization.

Section 13. Subsection (3) of section 657.023, Florida Statutes, is amended to read:

657.023 Membership.—

(3) A credit union may ~~not restrict any member's rights, except that the credit union may~~ close the account and terminate the membership of any member whose actions have resulted in any financial loss to the credit union or for good cause.

Section 14. Subsection (2) of section 657.024, Florida Statutes, is amended to read:

657.024 Membership meetings.—

(2) Each member shall have one vote. ~~Mail~~ Ballots may be distributed in advance to the entire membership as prescribed in the bylaws. No person shall exercise the vote of any other member.

Section 15. Subsections (3) and (4) of section 657.026, Florida Statutes, are amended to read:

657.026 Supervisory or audit committee.—

(3) The supervisory or audit committee shall:

(a) Make or cause to be made a comprehensive annual audit of the credit union, in accordance with the rules of the commission.

(b) Make or cause to be made such supplementary audits or examinations as it deems necessary or as are requested by the board of directors or the office.

(c) Submit a report of every required audit or examination within a reasonable time to the board of directors with a copy to the office and, ~~depending upon which organization is applicable, a copy to the corporation or the National Credit Union Administration.~~

(d) Make a summary report, to the membership at the annual meeting, of any audits or examinations conducted during the preceding year.

(4) The supervisory or audit committee shall notify the board of directors, the office, and, ~~as applicable, either the corporation or the National Credit Union Administration~~ of any violation of this chapter, any violation of the certificate of authorization or bylaws of the credit union, or any practice of the credit union deemed by the supervisory or audit committee to materially affect, or which may potentially materially affect, the safety and soundness of the credit union ~~be unsafe, unsound, or unauthorized.~~

For the purposes of this subsection, two-thirds of the members of the supervisory or audit committee constitutes a quorum.

Section 16. Subsection (2) of section 657.027, Florida Statutes, is amended to read:

657.027 Credit committee and credit manager.—

(2) In lieu of a credit committee, the board of directors may provide for a credit manager to approve or disapprove credit under written conditions prescribed by the board and as provided in the bylaws. The board of directors may designate and empower the chief executive officer as the credit manager, or may authorize the chief executive officer to employ a credit manager, ~~as provided in the bylaws~~. In the event a credit manager is designated or employed, the procedures prescribed in subsection (1) do not apply, and no credit shall be extended unless approved by the credit manager; except that the credit manager may appoint one or more loan officers with the power to approve or disapprove credit, subject to such limitations or conditions as prescribed by the chief executive officer.

Section 17. Subsections (2) and (3) of section 657.028, Florida Statutes, are amended to read:

657.028 Activities of directors, officers, committee members, employees, and agents.—

(2) ~~An elected officer or director or any committee member, other than the treasurer or the chief executive officer serving in the capacity of treasurer, may not be compensated for her or his service as such.~~

(3) A person may not serve as an officer, director, or committee member of a credit union if she or he:

(a) ~~Has been convicted of a felony or of an offense involving dishonesty, a breach of trust, a violation of this chapter, or fraud, except with the prior approval of the office upon a showing of rehabilitation;~~

(b) Has been adjudicated bankrupt within the previous 7 years;

(c) ~~Has been removed by any regulatory agency as a director, officer, committee member, or employee of any financial institution, except with the prior approval of the office upon a showing of rehabilitation and upon showing of ability to be bondable;~~

(d) ~~Has performed acts of fraud or dishonesty, or has failed to perform duties, resulting in a loss which was subject to a paid claim under a fidelity bond, except with the prior approval of the office upon a showing of rehabilitation and upon showing of ability to be bondable; or~~

(e) ~~Has been found guilty of a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.~~

Section 18. Section 657.031, Florida Statutes, is amended to read:

657.031 Powers.—

(1) When not in direct conflict with or superseded by specific provisions of the financial institutions codes, the general powers authorized to corporations in s. 607.0302 extend to credit unions formed under this chapter. This section shall be liberally construed to accomplish the purposes stated herein. Make contracts.

(2) Except as provided in s. 607.0304 or specific provisions of the financial institutions codes, the validity of a credit union's action, including, but not limited to, any conveyance, transfer, or encumbrance of real or personal property to or by a credit union, may not be challenged on the ground that the credit union lacks or lacked power to act. Sue and be sued.

(3) A credit union formed under this chapter shall operate as a financial institution, consistent with the provisions of chapter 655 and this chapter, and may exercise such incidental powers as are necessary or required to effectively carry out the purposes for which the credit union was organized, provided the exercise of powers is approved by rule or order of the commission or office. Acquire, lease, hold, and dispose of real and personal property necessary or incidental to its operations.

- ~~(4) Incur and pay necessary and incidental operating expenses.~~
- ~~(5) Require an entrance or membership fee.~~
- ~~(6) Receive shares and deposits from its members and other credit unions; however, no credit union shall receive shares or deposits from persons, other than credit unions, who are not members of the credit union, except to a joint account in which at least one of the tenants is a member of the credit union.~~
- ~~(7) Allow withdrawal of shares and deposits, as requested by a member orally, in writing, or through any other means of communication, including, but not limited to, drafts drawn on the credit union for payment to the member or any third party.~~
- ~~(8) Charge fees for its services.~~
- ~~(9) Extend credit to its members.~~
- ~~(10) Borrow money and issue evidences of indebtedness for a loan or loans in the usual course of its business and secure such obligations by mortgage or pledge of any of its assets. Aggregate borrowings shall not exceed 50 percent of the unimpaired capital of the credit union. However, this percentage limitation shall not apply to loans from the corporation or from the National Credit Union Administration.~~
- ~~(11) Discount and sell notes and obligations.~~
- ~~(12) Sell all or any portion of its assets to another credit union or purchase all or any portion of the assets of another credit union.~~
- ~~(13) Invest funds, as provided in this chapter.~~
- ~~(14) Maintain deposits in insured financial depository institutions.~~
- ~~(15) Assess charges to its members.~~
- ~~(16) Hold membership in central credit unions or corporate credit unions organized under this chapter or under any other state or federal acts and membership in associations and organizations of credit unions.~~
- ~~(17) Declare and pay dividends on shares, contract for and pay interest on deposits, and pay refunds of interest on loans.~~
- ~~(18) Collect, receive, and disburse funds in connection with the sale of negotiable and nonnegotiable instruments and for such other purposes as may provide benefits or conveniences to its members.~~
- ~~(19) Perform tasks and render any services requested by the Federal Government or by this state or any agency, political subdivision, or municipality thereof, if approved by the office.~~
- ~~(20) Participate in, hold membership in, and pay dues to any organization the services of which will benefit the credit union or its membership.~~

~~(21) Make donations for the members' welfare or for civic, charitable, scientific, or educational purposes as authorized by the board of directors.~~

~~(22) Contract for the provision of trust services to its members with a trust company or other financial depository institution with trust powers authorized to do business in this state, with representatives of the trust company or other financial depository institution with trust powers being authorized to serve members from credit union facilities on a full-time or part-time basis.~~

~~(23) Act as trustee of funds permitted by federal law to be deposited in a credit union as a deferred compensation or tax-deferral device, including, but not limited to, Individual Retirement Accounts as defined by the Internal Revenue Code.~~

~~(24) Purchase reasonable disability insurance, including accidental death benefits, for directors and committee members through insurance companies licensed to do business in this state.~~

~~(25) Reimburse directors and committee members for reasonable and necessary expenses incurred in the performance of their duties.~~

~~(26) Participate in systems which allow the transfer, withdrawal, or deposit of funds of credit unions or credit union members by automated or electronic means and hold membership in entities established to promote and effectuate these systems, provided such participation is not inconsistent with those rules of the commission adopted to further service to the members and to protect members' funds against unreasonable risks.~~

~~(27) Issue credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit, provided such issuance is not inconsistent with the rules of the commission. The commission may, by rule, allow the use of devices similar to credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit.~~

~~(28) Perform any act necessary to obtain and maintain membership in the corporation or obtain and maintain insurance of accounts through the National Credit Union Administration.~~

~~(29) Exercise such incidental powers as are necessary or requisite to effectively carry out the purposes for which it is organized, provided such exercise is approved by rule or order of the commission or office.~~

Section 19. Subsections (5) and (6) of section 657.033, Florida Statutes, are amended, and subsections (7), (8), and (9) are added to that section, to read:

657.033 Accounts.—

(5) When there has not been any activity generated by the member on the account for 12 ~~24~~ months, such account shall be considered a dormant account and shall be placed under an accounting control system.

(6) If the owner of a dormant account, a person named on the account, or the beneficiary of the account has not had any activity with a credit union for 5 7 years and the whereabouts of those interested parties are unknown to the credit union, that account is unclaimed or abandoned property and shall be maintained pursuant to chapter 717.

(7) A credit union may receive shares and deposits from its members and other credit unions; however, a credit union may not receive shares or deposits from persons, other than credit unions, who are not members of the credit union, except to a joint account in which at least one of the tenants is a member of the credit union.

(8) A credit union may participate in systems that allow the transfer, withdrawal, or deposit of funds of credit unions or credit union members by automated or electronic means and hold membership in entities established to promote and effectuate these systems, if such participation is not inconsistent with those rules of the commission adopted to further service to the members and to protect members' funds against unreasonable risks.

(9) A credit union shall obtain and maintain insurance of accounts through the National Credit Union Administration.

Section 20. Section 657.038, Florida Statutes, is amended to read:

657.038 Loan powers.—

(1) A credit union may extend credit to members for such purpose and upon such security and terms as the credit committee, credit manager, or loan officer approves, pursuant to written loan policies established by the board of directors, or as may otherwise be provided by law.

(2) For credit unions that have been opened for 5 years or more, the total unsecured obligations outstanding from any member must not exceed the greater of \$500 or 15 percent of the equity of the credit union. However,

(3) the total obligations outstanding from any member must not exceed the greater of \$1,000 or 25 percent of the equity of the credit union. The limitations provided in this subsection do not apply to loans that ~~which~~ are fully secured by assignment of shares or deposits in the lending credit union.

(3) For credit unions that have been opened for less than 5 years, the limitation on total obligations outstanding to any member is 10 percent of the credit union's capital. The limitations provided in this subsection do not apply to loans that are fully secured by assignment of shares or deposits in the lending credit union.

~~(4) A member may receive credit in installments or in one sum and may pay the whole or any part of his or her indebtedness on any day on which the office of the credit union is open for business.~~

~~(4)~~(5) The credit committee or credit manager may approve in advance, upon request of a member, a line of credit, and disbursements may be granted to such member within the limit of such line of credit. When a line

of credit has been approved, no additional credit applications are required as long as the aggregate obligation does not exceed the limit of such line of credit; however, no additional disbursements may be made to any member whose existing extensions of credit are in default or are subject to adverse classification without receiving current financial information.

~~(5)~~(6) Loans secured by mortgages on real property must be made in accordance with written policies of the board of directors and rules of the commission.

~~(6)~~(7) As used in this section, the term “related interest” means a person’s interest in a partnership as a general partner, and any limited partnership, corporation, or other business organization controlled by that person. A limited partnership, corporation, or other business organization is controlled by a person who:

(a) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of any such business organization;

(b) Controls in any manner the election of a majority of the directors of any such business organization; or

(c) Has the power to exercise a controlling influence over the management or policies of such business organization.

~~(7)~~(8) In computing the total liabilities of any person, all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person must be included.

~~(8)~~(9) A loan may ~~not~~ be made to any corporation, ~~except to the Florida Credit Union Guaranty Corporation, Inc., or a corporation in which the credit union holds an equity interest.~~

~~(9)~~(10) The loan limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

~~(10)~~(11) Any approval of extension of credit requiring approval of the board of directors shall be recorded in the minutes of the board, including the borrower’s account number or other code, the amount of the loan, the maturity of the loan, and the general type of security.

~~(11)~~(12) The commission may adopt rules to provide for minimum documentation and safe lending procedures necessary to protect the members’ funds.

~~(12)~~(13) A credit union may participate in extensions of credit ~~to its members~~ jointly with other credit unions, corporations, or financial institutions.

~~(13)~~(14) A credit union may participate in guaranteed loan programs of the federal and state governments, provided the borrower is a member of the credit union.

~~(14)~~(15) If approved by the board of directors, a credit union may extend credit to other credit unions, ~~or to the corporation,~~ in an amount not greater than 25 percent of the ~~unimpaired~~ capital of the lending credit union.

~~(15)~~(16) A credit union may purchase the conditional sales contracts, notes, and similar instruments of its members, provided that the credit union could have originally made the loan ~~to the member~~.

(16) A credit union may issue credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit, if such issuance is not inconsistent with the rules of the commission. The commission may, by rule, allow the use of devices similar to credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit.

Section 21. Section 657.039, Florida Statutes, is amended to read:

657.039 Loan powers; extension of credit to directors, ~~officers, committee members,~~ and certain others employees.—

(1) A credit union may extend credit to its executive officers, directors, credit manager, members of its supervisory, audit, and credit committees, ~~and any other person authorized to approve extensions of credit,~~ provided:

(a) The extension of credit complies with all requirements under this chapter with respect to credit extended to other borrowers and is not on terms more favorable than those extended to other borrowers.

(b) The loan or aggregate of loans to any person or any related interest of any person covered by this section which exceeds ~~\$20,000~~ \$5,000, except for share-secured or deposit-secured credit, is approved in advance by the board of directors with any interested person abstaining from voting.

(c) Approved lines of credit, such as open-end loans, may be funded without further approval by the board, but all extensions of credit over ~~\$20,000~~ \$5,000 to such persons must be reviewed at least annually by the board of directors. Closed-end loans which have been fully funded do not require annual review.

(2) As used in this section, the term “related interest” means a person’s interest in a partnership as a general partner, and any limited partnership, corporation, or other business organization controlled by that person. A limited partnership, corporation, or other business organization is controlled by a person who:

(a) Owns, controls, or has the power to vote 25 percent or more of any class of its voting securities;

(b) Controls in any manner the election of a majority of its directors; or

(c) Has the power to exercise a controlling influence over its management or policies.

(3) In computing the total liabilities of any person, all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person must be included.

(4) The limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

Section 22. Paragraph (i) of subsection (1), subsection (4), and paragraph (b) of subsection (5) of section 657.042, Florida Statutes, are amended to read:

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATIONS.—There is no limitation with respect to the capital of the investing credit union on the following investments:

(i) Stock of the Federal National Mortgage Association, Federal Home Loan Bank, or any other similar entity designated by the office, designed to promote investment in residential mortgages, which may be purchased and retained as required in connection with mortgage transactions with the association or entity.

(4) INVESTMENT SUBJECT TO LIMITATION OF ONE PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to 1 percent of the capital of the credit union ~~or \$15,000, whichever is greater~~, may be invested in any of the following:

(a) Corporate obligations of any one corporation which is an affiliate or subsidiary of the credit union or a service corporation, except that the total investment in all such corporate obligations shall not exceed 10 percent of the capital of the credit union.

(b) Any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

(5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE CREDIT UNION.—

(b) The limitations provided by this subsection may be exceeded with the prior written approval of the office. The office shall grant such approval if it is satisfied that:

1. The proposed investment is necessary.
2. The amount thereof is commensurate with the size and needs of the credit union.
3. The investment will be beneficial to the members.
4. A reasonable plan is developed to reduce the investment to statutory limits.

Section 23. Section 657.043, Florida Statutes, is amended to read:

657.043 Reserves.—

(1) ALLOWANCE FOR LOAN LOSSES ACCOUNT.—The credit union shall maintain an account for loan and lease losses. The amount in the account should be consistent with applicable United States generally accepted accounting principles and industry guidance provided by regulatory agencies or as required by the office. The account must be provided for before paying a dividend. ~~TRANSFERS TO REGULAR RESERVE.~~—Immediately before paying each dividend, the total of all income for the period shall be determined. From this amount, there shall be set aside sums as a regular reserve in accordance with the following schedule:

(a) ~~A credit union shall set aside:~~

1. ~~Five percent of the total of all income for the period, until the regular reserve equals 6 percent of the risk assets, then,~~

2. ~~Two percent of the total of all income for the period, until the regular reserve equals 8 percent of the risk assets.~~

(b) ~~Whenever the ratio of regular reserves to risk assets falls below the stated percent, it shall be replenished by regular contributions as provided in paragraph (a).~~

(c) ~~The office may decrease the reserve requirements set forth in this subsection when in its opinion such a decrease is necessary to preserve the fiscal soundness of the credit union.~~

(2)(3) ALLOWANCE FOR LOAN LOSSES ACCOUNT.—The credit union shall maintain an account for loan losses. The amount in the account must equal the board's estimate of losses in the loan portfolio and be consistent with the rules of the commission. The account must be provided for, before paying a dividend, in the manner provided by rule. This account constitutes part of the regular reserve for the purpose of determining the ratio of regular reserves to risk assets.

(2)(3) REGULAR RESERVE.—The regular reserve shall belong to the credit union and shall be used to meet losses. ~~In the event of a decrease, the office may require additional transfers to the regular reserve above the amount required by subsection (1) until the decrease has been restored. The regular reserve may not be decreased without the prior written approval of the office or as provided by rule of the commission.~~

(4) RISK ASSETS DEFINED.—The following assets shall be considered risk assets:

(a) ~~All loans, except:~~

1. ~~Loans fully secured by a pledge of shares or deposits in the lending credit union, equal to and maintained to at least the amount of the loan outstanding.~~

~~2.—Loans which are purchased from liquidating credit unions and guaranteed by the corporation or insured by the National Credit Union Administration or other insuring agencies.~~

~~3.—Investments in or loans to the corporation.~~

~~(b) All investments that have remaining maturities greater than 3 years, unless a specific reserve has been established to mark the investment to current market value.~~

~~(c) Uninsured or nonguaranteed deposits and shares in financial depository institutions, except deposits in the Federal Reserve Bank, the Federal Home Loan Bank, the Southeast Corporate Federal Credit Union, and any other corporate credit union.~~

~~(d) All investments in commercial paper and bonds.~~

~~(e) All investments in banker's acceptances.~~

~~(f) All investments in federal funds.~~

~~(g) All investments that are authorized pursuant to subsection (6) or subsection (7).~~

~~(h) Fixed assets greater than the statutory limit imposed by this chapter, unless a specific reserve has been established for the excess.~~

~~(3)(5) ALLOWANCE FOR INVESTMENT LOSSES.—The credit union may maintain a contra asset account to provide an allowance for investment losses, which will not be included in the determination of equity. The account must be maintained consistent with the rules of the commission.~~

~~(4)(6) SPECIAL RESERVES.—In addition to such regular reserve, special reserves shall be established:~~

~~(a) To protect members against losses resulting from credit extended or from risk assets when required by rule, or when found by the office, in any special case, to be necessary for that purpose; or~~

~~(b) As authorized by the board of directors.~~

~~(5) BORROWING MONEY.—A credit union may borrow money and issue evidences of indebtedness for a loan or loans in the usual course of its business and secure such obligations by mortgage or pledge of any of its assets. Aggregate borrowings may not exceed 50 percent of the capital that is not impaired by losses of the credit union. However, this percentage limitation does not apply to loans from the National Credit Union Administration.~~

~~(7) RESERVE FOR CONTINGENCIES.—The board of directors may, after the regular reserve required by this section and rules of the commission has been set aside, transfer a portion of undivided earnings to an auxiliary reserve account to provide for additional possible losses and expenses.~~

~~(8) RESERVES.—The ratio of equity to total assets for each credit union must be maintained at not less than 5 percent. At the end of the calendar quarter when this ratio is determined to be less than 5 percent, the credit union shall, within 60 days thereafter, prepare and file with the office for approval a plan to achieve the minimum ratio within 4 years, or such longer period of time approved by the office. Once achieved, each credit union must maintain a ratio of equity to total assets of not less than 5 percent, unless otherwise authorized by the office. The commission, by rule, shall prescribe the information, types of restrictions and limitations on operations, reporting requirements, and other criteria that are required to be included in an acceptable plan. An acceptable plan must recognize the unique characteristics and risk differences for the individual credit union.~~

~~(9) GUARANTY ASSISTANCE AGREEMENT.—The amount of any liability arising out of a guaranty assistance agreement with the corporation or National Credit Union Administration must be maintained as a reserve and be included in the determination of undivided earnings of the credit union.~~

Section 24. Section 657.062, Florida Statutes, is amended to read:

657.062 Conservatorship Assumption of control by guarantor or insurer.—

(1) The office may appoint ~~direct the corporation or the National Credit Union Administration as conservator over a credit union to take possession and, whichever is applicable, to assume control of the property, assets, and business of its member credit union and to operate it subject to the directions of the office whenever:~~

(a) ~~Whenever~~ The office finds that the credit union:

1. Is engaging or has engaged in an unsafe or unsound practice;
2. Is violating or has violated any provision of this chapter; or
3. Is violating or has violated any commission rule, office order, or written agreement entered into with the office,

in such a manner that the credit union is threatened with imminent insolvency.

(b) ~~Whenever~~ A majority of the members of the board of directors of the credit union have been removed by the office or the National Credit Union Administration or shall have resigned.

(c) The credit union is significantly undercapitalized and has no reasonable prospect of becoming adequately capitalized. The commission may define by rule criteria for determining if a credit union is undercapitalized or adequately capitalized. In defining such criteria, the commission shall consider the definitions contained in s. 216, the Federal Credit Union Act, codified at 12 U.S.C. 1790d.

(2) Except when prohibited by federal or state law, in the event of conservatorship assumption of control, the conservator guarantor or insurer may appoint ~~elect~~ the board of directors and the operating committees and may, without penalty or liability, prepay any deposit accounts; terminate any contracts or agreements with employees, independent contractors, or consultants; terminate any contract or agreement with any person to provide goods, products, or services if the performance of such contract would adversely affect the safety or soundness of the credit unions ~~or if such contract was entered into in violation of s. 657.0315(1)~~; and terminate or assign any lease for property. The authority of the conservator guarantor or insurer to continue operation of a credit union shall continue for a period not to exceed 180 days, unless extended by the office for an additional period or periods, not to exceed 180 days each, at the request of the conservator guarantor or insurer, or unless involuntary liquidation proceedings have been initiated by the office. In the event that the conservator guarantor or insurer does assume control pursuant to the direction of the office, a meeting of the credit union shall be called within 180 days, or within the period of extension as approved by the office, for the specific purpose of electing a new board of directors, who shall take office when the conservator guarantor or insurer surrenders control, or considering such other recommendations as the conservator guarantor or insurer and the office may make.

Section 25. Subsections (1), (2), and (3) of section 657.063, Florida Statutes, are amended to read:

657.063 Involuntary liquidation.—

(1) If the office finds that any credit union is ~~bankrupt or insolvent or imminently insolvent~~, or is transacting its business in an unsound, unsafe, or unauthorized manner such that it is threatened with imminent insolvency, and liquidation is in the best interest of the members; or is undercapitalized and has no reasonable prospect of becoming adequately capitalized, the office may, in its discretion, order the credit union placed in involuntary liquidation and designate and appoint a liquidator to take charge of the assets and affairs of the credit union. The order shall set forth the specific findings and reasons for the action taken. The commission may define by rule criteria for determining if a credit union is undercapitalized or adequately capitalized. In defining such criteria, the commission shall consider the definitions contained in s. 216, the Federal Credit Union Act, codified at 12 U.S.C. 1790d.

(2) The liquidator must be appointed by the office. ~~The corporation or the National Credit Union Administration, whichever is applicable~~, must be given the right of first refusal. The office may appoint another entity if refused by the primary ~~guarantor or insurer~~.

(3) Upon appointment and in accordance with the directions of the office, the liquidator shall take possession and charge of all of the assets, books, and records of the credit union and shall take charge of the affairs, business, and operations of the credit union and shall have all of the powers of the board of directors, credit committee, credit manager, and supervisory committee of the credit union. The liquidator shall continue the business operation of the credit union for a period not to exceed 180 days, subject to the

direction of the office. The liquidator shall have full authority to make loans and investments and to permit deposits to or withdrawals from accounts by members, except that during the period of such operation by the liquidator, no withdrawal from any account or accounts which are not fully insured or ~~guaranteed~~ shall be permitted. Except when prohibited by federal or state law, the liquidator may, without penalty or liability, prepay any deposit accounts; terminate any contracts or agreements with employees, independent contractors, or consultants; terminate any contract or agreement with any person to provide goods, products, or services if the performance of such contract would adversely affect the safety or soundness of the credit union that was entered into in violation of s. 657.0315(1) or s. 657.062(2); and terminate or assign any lease for property. The liquidator shall proceed with a liquidation of assets by sale or transfer of assets and conversion of assets into cash or liquid investments in preparation for distribution to members on account of shares and deposits. The liquidator shall have specific authority to sell loan assets. The liquidator may enter into agreements for the sale or transfer of loans and other assets with the assumption of outstanding share and deposit accounts, which assumption constitutes full and complete distribution to members on account of shares and deposits.

Section 26. Subsections (1), (4), (5), and (7) of section 657.064, Florida Statutes, are amended to read:

657.064 Voluntary liquidation.—A credit union may elect to dissolve voluntarily and liquidate its affairs in the following manner:

(1) Before considering any resolution pertaining to voluntary liquidation by the board of directors, the credit union must inform the office and ~~the corporation or~~ the National Credit Union Administration, ~~whichever is applicable~~, of the time and place of the meeting of the board of directors. The notification must be transmitted at least 10 ~~5~~ days before the board of directors meets.

(4) Upon adoption by the board of directors of a resolution recommending that the credit union be voluntarily liquidated, the ~~office corporation or~~ the National Credit Union Administration, ~~whichever is applicable~~, may restrict control or give directions with respect to the continued business of the credit union pending consideration of the voluntary liquidation by the members. During such period, no member shall withdraw an aggregate amount in excess of the insurance or guaranty covered by the credit union. No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending the voluntary liquidation and the membership meeting called to consider the voluntary liquidation, except for loans fully secured by a pledge of shares and for the funding of outstanding loan commitments approved before the board of directors adopts the resolution.

(5) The notice required by subsection (3) shall also be mailed to the office and the National Credit Union Administration within 5 days after the action of the board of directors. Within 10 days after the meeting of the membership, the board of directors shall notify the office and ~~the corporation or~~ the National Credit Union Administration, ~~whichever is applicable~~, in writing of the action taken by the members.

(7) ~~The corporation or the National Credit Union Administration, which ever is applicable, shall have the right of first refusal to be appointed as liquidator of any liquidating credit union which it guarantees or insures. The liquidator shall have all of the powers provided in s. 657.063 regarding involuntary liquidation. If the corporation or the National Credit Union Administration declines shall decline to serve as liquidator, the board of directors shall appoint a reasonable person as liquidator and specify the extent of responsibilities and authority delegated to the liquidator.~~

Section 27. Section 657.065, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 657.065, F.S., for present text.)

657.065 Merger.—

(1) Upon the filing of an application with the office by the constituent credit unions, and upon approval by the office, credit unions may be merged with a surviving state credit union, as prescribed in this code, except that the action by a merging federal credit union must be taken in the manner prescribed by, and is subject to, any limitations or requirements imposed by federal law and regulations. The application must be accompanied by a merger plan and agreement together with a certified copy of the authorizing resolutions of the board of directors of constituent credit unions showing approval by a majority of the entire board of directors of each credit union, as provided in this section, and a nonrefundable application fee of \$500. The fee may be waived by the office for a merger under subsection (6).

(2) Nothing in the law of this state shall restrict the right of a state credit union to merge with a surviving federal credit union. In such case, the action to be taken by a merging state credit union, and its rights and liabilities and those of its members, shall be the same as those prescribed for merging federal credit unions at the time of the action by applicable federal law or regulations.

(3) If the resulting credit union will be a state credit union, the merging credit unions shall adopt a merger plan and agreement stating the method, terms, and conditions of the merger, including all agreements concerning the merger. The board of directors of each constituent credit union must, by majority vote of the entire board, approve the merger plan and agreement, which shall contain:

(a) The name and address of the merging and surviving credit unions;

(b) The date, time, and place of the meeting where the merger plan and agreement was approved by the merging and the surviving credit unions' boards of directors;

(c) The name and address of the main office of the surviving credit union and each continuing branch office;

(d) The names, terms, and board positions of the surviving credit union's board of directors;

(e) The name and title of each executive officer;

(f) A list of any needed amendments to the surviving credit union's by-laws, if applicable, and, attached to the agreement, copies of the amendments;

(g) A statement that the merger and the merger plan and agreement are subject to approval by the office and the National Credit Union Administration; and

(h) Such additional provisions not contrary to law as are agreed upon by the constituent credit unions and such other provisions as the office requires to enable it to discharge its duties with respect to the merger.

(4) The office shall approve the application and the merger plan and agreement if it finds that:

(a) The surviving credit union's net worth is adequate; and

(b) The merger will not impair the ongoing viability of the surviving credit union.

If the office disapproves a merger plan and agreement, it shall state its objections and, chapter 120 notwithstanding, give an opportunity to the merging and surviving credit unions to amend the merger plan and agreement to eliminate such objections.

(5) Approval by the office, by final order or otherwise, of the application and merger plan and agreement shall be deemed subject to approval by the membership of the merging credit union who vote on the merger at a meeting duly called for that purpose. Such approval shall be documented by the submission of a copy of:

(a) The notice of intent to merger given to the surviving credit union;

(b) The notice to the members of the merging credit union of the meeting duly called to consider the merger. Such notice must disclose the purpose of the meeting and the date, time, and place of the meeting; and

(c) The resolution adopted by the membership confirming the vote on the merger.

Unless the approval of the merging credit union has been obtained and proper evidence thereof submitted to the office within 6 months after the approval by the office, the approval by the office of the merger and merger plan and agreement shall be deemed to be revoked and terminated; however, the office on its own motion, or at the request of the merging or surviving credit unions for good cause shown, may extend the time for a period not to exceed 6 months.

(6) Notwithstanding any other provision of this chapter or of chapter 120, a credit union may merge without the vote of the membership when the office determines that the credit union is in danger of insolvency or that the

credit union is significantly undercapitalized, as defined in s. 216, the Federal Credit Union Act, codified at 12 U.S.C. 1790d and the merger will enable the credit union to avoid liquidation.

(7) A merger with a resulting state credit union may not take place or be effective unless approved by the National Credit Union Administration and the office issues a certificate of merger. Upon consummation of the merger, the certificate of authorization of the merged credit union shall be returned to the proper authority to be canceled. Also, at consummation, all property and property rights of, and members' interest in, the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union must be assumed by the surviving credit union under the certificate of authorization under which the merger was affected. All members of the surviving credit union have the same rights, privileges, and responsibilities after the merger is completed. The certificate of merger must be recorded in the public records of all counties in which the merging credit union owned any real property at the effective date of the merger.

Section 28. Section 657.066, Florida Statutes, is amended to read:

657.066 Conversion from state credit union to federal credit union and conversely.—Any credit union organized under this chapter may convert into a federal credit union and any federal credit union may convert into a credit union organized pursuant to this chapter upon approval of the authority under the supervision of which the converted credit union will operate and upon compliance with applicable laws.

~~(1) Any action by the board of directors proposing conversion shall be by resolution and shall require the affirmative vote of an absolute majority of the board of directors. Upon adoption of a resolution relating to conversion, a copy of the resolution shall be mailed to each member, together with a notice setting forth the time, location, and purpose of a meeting of the membership which shall be held not less than 10 nor more than 30 days following the mailing of the notice.~~

~~(2) A ballot allowing an affirmative or negative vote on the proposed conversion shall also be mailed to each member. Any ballot received by the credit union prior to the meeting called to consider the conversion shall be counted along with the votes cast at the meeting. Each member shall have but one vote. A majority of the votes cast by the members shall be required to approve the conversion.~~

~~(2)(3) Within 10 days after the approval of the membership, The board of directors shall cause to be transmitted to the authority under the supervision of which the converted credit union will operate a copy of the resolution adopted by the board of directors and a conversion application approved by the membership.~~

~~(3)(4) Upon the written approval of the authority under the supervision of which the converting credit union is to operate, the converting credit union shall become a credit union under this chapter or under the laws of the United States, as the case may be, and thereupon all assets shall become~~

the property of the converted credit union, subject to all existing liabilities against the credit union. All shares and deposits shall remain intact. Any federal credit union seeking to convert to a state-chartered credit union shall pay a nonrefundable filing fee of \$500. The office may conduct an examination of any converting federal credit union before approving the conversion and the converting credit union shall pay a nonrefundable examination fee as provided in s. 655.411(1)(b).

(4) Upon the approval of the authority under the supervision of which the converted credit union will operate, a copy of the resolution shall be provided to each member, together with a notice setting forth the time, location, and purpose of a meeting of the membership which shall be held not less than 10 or more than 30 days following the transmission of the notice.

(5) A ballot allowing an affirmative or negative vote on the proposed conversion shall also be provided to each member. Any ballot received by the credit union prior to the meeting called to consider the conversion shall be counted along with the votes cast at the meeting. Each member shall have one vote. A majority of the votes cast by the members is required to approve the conversion.

(6) Within 10 days after the approval by the membership, the board of directors shall cause to be transmitted to the authority under the supervision of which the converted credit union will operate a copy of the resolution adopted by the board of directors and approved by the membership with confirmation of the vote.

~~(7)~~(5) Every conversion must be completed within 90 days after the approval of the authority under the supervision of which the converted credit union will operate. Upon receiving its certificate of authorization or charter from the authority under the supervision of which the converted credit union will operate, the old certificate of authorization or charter shall be returned to the proper authority and shall be canceled.

~~(8)~~(6) In consummation of the conversion, the old credit union may execute, acknowledge, and deliver to the newly chartered credit union the instruments of transfer necessary to accomplish the transfer of any property and all right, title, and interest therein.

Section 29. Sections 657.0315, 657.051, 657.055, and 657.068 and subsection (7) of section 658.43, Florida Statutes, are repealed.

Section 30. This act shall take effect July 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.