

1 SB209  
2 172874-4  
3 By Senator Holtzclaw  
4 RFD: Banking and Insurance  
5 First Read: 11-FEB-16

ACT #2016-133



1 SB209

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3  
4 ENROLLED, An Act,

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

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 5-17-2, 5-17-4, 5-17-6, 5-17-7,  
 3 5-17-8, 5-17-10, 5-17-11, 5-17-12, 5-17-13, 5-17-19, 5-17-21,  
 4 5-17-22, 5-17-42, 5-17-45, 5-17-46, 5-17-47, 5-17-51, 5-17-52,  
 5 5-17-54, and 5-17-55, Code of Alabama 1975, are amended to  
 6 read as follows:

7 "§5-17-2.

8 "~~(a) Any seven residents of the State of Alabama~~ For  
 9 the purposes of this chapter, both a natural person credit  
 10 union and a corporate credit union are considered a "credit  
 11 union" unless otherwise indicated.

12 "(b) The following may apply to the Administrator of  
 13 the Alabama Credit Union Administration for permission to  
 14 organize a credit union:

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

17 "(2) For a corporate credit union, any seven or more  
 18 individuals each representing different natural person credit  
 19 unions.

20 "~~(b)~~ (c) A credit union is organized in the following  
 21 manner: The applicants shall execute in duplicate a  
 22 certificate of organization by the terms of which they agree  
 23 to be bound. The certificate shall state: (1) the name and  
 24 location of the proposed credit union, (2) the names and  
 25 addresses of the subscribers to the certificate and the number

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

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

19 "§5-17-4.

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

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

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

4           "(3) To make loans to members.

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

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

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

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

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

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

24          "a. 50 percent of its assets; or

1           **"b. The combination of undivided earnings, regular**  
2           **reserves, equity acquired in a merger, net income or net loss**  
3           **not already included in undivided earnings, and shares and**  
4           **deposits.**

5           "~~(9)~~ (10) To assess each member a recurring or  
6           nonrecurring membership fee.

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

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

1 federal credit union if the administrator issues a written  
2 order prohibiting a credit union from exercising that power.

3 "(c) Notwithstanding any other provision of this  
4 chapter or any other state law, a credit union may offer any  
5 product or service that is authorized or permitted to any  
6 federal credit union as defined in 12 U.S.C. § 1752.

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

12 "§5-17-6.

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

1           "(b) The board of directors may expel a member for  
2 cause by a majority vote of a quorum of directors, pursuant to  
3 a written policy adopted by the board. For the purposes of  
4 this section, cause includes a loss to the credit union, a  
5 violation of the membership agreement or any policy or  
6 procedure adopted by the board, or inappropriate behavior such  
7 as physical, sexual, or verbal abuse of credit union members  
8 or staff. All members shall be ~~given~~ provided written notice  
9 of such policies. Any person expelled by the board shall have  
10 the right to file a written appeal to the board to reconsider  
11 the expulsion.

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

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

19           "(e) A member who has been expelled may not be  
20 readmitted to membership except upon approval by a majority  
21 vote of the board after application and proof that the  
22 applicant remains within the credit union's field of  
23 membership, has adequately explained, addressed, or remedied  
24 the conditions leading to expulsion, and will abide by the  
25 terms and conditions of membership. Not more than one such

1 application for readmission may be made within any 12-month  
2 calendar period.

3 "§5-17-7.

4 "(a) All state chartered credit unions shall pay an  
5 annual operating fee and, if deemed necessary by the  
6 administrator, an assessment, the exact amount of which shall  
7 be fixed from time to time by the Administrator of the Alabama  
8 Credit Union Administration.

9 "(b) Except as hereinafter provided, the annual  
10 operating fee set by the administrator shall not exceed the  
11 fee calculated by use of the following scale or the  
12 administrator may authorize payment of the schedule used by  
13 federal credit unions if the administrator determines it to be  
14 appropriate:

15 "(1) Credit unions having total assets of less than  
16 \$500,000.00 shall pay a fee not in excess of \$.12 for each  
17 \$100.00 of assets, subject to a minimum of \$200.00.

18 "(2) Credit unions with assets of \$500,000 but not  
19 in excess of \$1,000,000 shall pay a fee of \$600 plus \$.05 per  
20 \$100 of assets over \$500,000 but not in excess of \$1,000,000;  
21 credit unions with assets of \$1,000,000 but not in excess of  
22 \$5,000,000 shall pay a fee of \$850 plus \$.035 per \$100 of  
23 assets of \$1,000,000 but not in excess of \$5,000,000; credit  
24 unions with assets of \$5,000,000 but not in excess of  
25 \$10,000,000 shall pay a fee of \$2,250 plus \$.02 per \$100 of

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

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

17 "(c) Annually, the administrator may fix an annual  
18 operating assessment to ensure that the Alabama Credit Union  
19 Administration does not continue to operate in a deficit for  
20 any given year. The assessment shall be approved by the Credit  
21 Union Board of the Alabama Credit Union Administration. Any  
22 credit union failing to pay the assessment within 30 days of  
23 the notice of assessment may be charged a fine not to exceed  
24 fifty dollars (\$50) for each day that the assessment remains  
25 unpaid.

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

7           "(e) Whenever application is made to the  
8 Administrator of the Alabama Credit Union Administration for  
9 permission to organize a credit union, the applicant shall at  
10 the time of filing the certificate of organization with the  
11 Administrator of the Alabama Credit Union Administration pay a  
12 fee not to exceed one thousand dollars (\$1,000) for the  
13 purpose of paying the costs incidental to the determination by  
14 the Administrator of the Alabama Credit Union Administration  
15 whether such certificate of organization shall be approved.  
16 The Administrator of the Alabama Credit Union Administration  
17 shall from time to time fix the exact charge to be made, but  
18 in no event shall the charge exceed one ~~hundred~~ thousand  
19 dollars ~~(\$100)~~ (\$1,000). The provisions of this subsection  
20 shall not apply to any existing credit union seeking charter  
21 conversion.

22           "(f) All fees collected under this section shall be  
23 paid into the special fund set up by the State Treasurer. This  
24 special fund shall be used to pay the salaries of the  
25 officials and employees and the expenses of the Alabama Credit

1 Union Administration including the purchase of equipment,  
2 vehicles, and supplies necessary for the examination and  
3 supervision of credit unions and may be spent by the  
4 Administrator of the Alabama Credit Union Administration for  
5 the uses and purposes specified herein. No taxes, fees,  
6 assessments, penalties, or other revenues collected by the  
7 Alabama Credit Union Administration shall be used for any  
8 purpose other than the expenses of operating the Alabama  
9 Credit Union Administration.

10 "(g) All the jurisdiction, authority, powers, and  
11 duties now conferred upon and imposed by law upon the  
12 Superintendent of Banks and the Supervisor of the Credit Union  
13 Bureau in relation to the management, control, regulation, and  
14 general supervision of credit unions are hereby transferred  
15 to, conferred upon, and imposed upon the Alabama Credit Union  
16 Administration and administrator.

17 "(h) All assets primarily used by the Bureau of  
18 Credit Unions, including books, records, documents, furniture,  
19 equipment, and supplies are hereby transferred to the Alabama  
20 Credit Union Administration. All funds in the special fund  
21 previously maintained by the State Treasurer for the Bureau of  
22 Credit Unions are hereby transferred to the Alabama Credit  
23 Union Administration. All taxes, fees, assessments, penalties,  
24 or other revenues owed to or collected by the Bureau of Credit  
25 Unions are hereby transferred to the Alabama Credit Union

1 Administration. Any employee presently employed by the  
2 Superintendent of Banks who is presently primarily involved  
3 with the Bureau of Credit Unions shall be employed by the  
4 Alabama Credit Union Administration.

5 "§5-17-8.

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

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

16 "(b) If the administrator determines that the credit  
17 union is violating this chapter, or is insolvent, the  
18 administrator may suspend operations of the credit union by  
19 issuing an order requiring that the credit union cease  
20 operations pending a hearing on the revocation of the  
21 certificate of approval, or the administrator may set a date  
22 for a hearing on the revocation of the certificate of approval  
23 without suspending operations of the credit union. If the  
24 administrator suspends operations of the credit union, a  
25 hearing on the revocation of the certificate of authority

1 shall be held by the administrator if requested within 90 days  
2 from the date of the order requiring suspension of operations.  
3 If demanded by the credit union, the hearing on revocation of  
4 the certificate of authority, whether or not the administrator  
5 has suspended operations of the credit union pending the  
6 hearing, shall be conducted on the record by the administrator  
7 who shall also make findings of fact and a written  
8 determination concerning revocation of the certificate of  
9 authority. The determination may contain an order requiring  
10 that credit union to immediately suspend operations or  
11 continue in effect a previous order requiring the suspension  
12 of operations. If the determination is that the credit union  
13 is violating this chapter, or is insolvent, and that the  
14 certificate of authority be revoked, and if, for a period of  
15 15 days after the hearing, any violation continues, the  
16 administrator may revoke the certificate and take possession  
17 of the business and property of the credit union and maintain  
18 possession until the administrator shall permit it to continue  
19 business or its affairs are finally liquidated through merger  
20 or otherwise.

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

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

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

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

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

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

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

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

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

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

16 "(1) Committed any violation of a law, rule, or  
17 regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "~~(h)~~ (i) The Alabama Credit Union Administration may  
25 maintain possession and control of the business and assets of

1 the credit union and may operate the credit union until the  
2 time as the following occurs:

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

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

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

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

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

1 by any director, officer, committee member, or employee  
2 thereof shall be paid out of the assets of the credit union.

3 "~~(k)~~ (l) The conservator shall have all powers of  
4 the members, the directors, the officers, and the committees  
5 of the credit union and shall be authorized to operate the  
6 credit union in its own name or to conserve its assets in the  
7 manner and extent authorized by the administration.

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

20 "~~(m)~~ (n) The administrator may appoint a temporary  
21 board of directors to any credit union subject to  
22 conservatorship.

23 "(o) (1) Notwithstanding any other provision of state  
24 law, if the administrator determines that an emergency  
25 requiring expeditious action exists with respect to a credit

1 union, that other alternatives are not reasonably available  
2 consistent with National Credit Union Administration  
3 precedent, and that the public interest, including the  
4 interests of the members of the credit union, would best be  
5 served by such action, the administrator may do either of the  
6 following:

7 "a. Initiate the involuntary merger of a credit  
8 union that is insolvent or is in danger of insolvency with any  
9 other credit union or may authorize a credit union to purchase  
10 any of the assets of, or assume any of the liabilities of, any  
11 other credit union that is insolvent or in danger of  
12 insolvency.

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

20 "(2) For purposes of the authority contained in this  
21 subsection, insured share and deposit accounts of the credit  
22 union, upon consummation of the purchase and assumption, may  
23 be converted to insured deposits or other comparable accounts  
24 in the acquiring institution, and the administrator and the

1 insuring organization shall be relieved of any liability to  
2 the credit union's members with respect to those accounts.

3 "§5-17-10.

4 "At the annual meeting (the organization meeting  
5 shall be the first annual meeting), members of the credit  
6 union shall elect a board of directors of not less than five  
7 members, may elect a credit committee of not less than three  
8 members, and shall elect a supervisory committee of three  
9 members, all to hold office for such terms respectively as the  
10 bylaws provide and until successors qualify. A record of the  
11 names and addresses of the members of the board and committees  
12 and the officers shall be filed with the Administrator of the  
13 Alabama Credit Union Administration ~~within 10 days of~~ not  
14 later than 10 calendar days after their election. If, however,  
15 the bylaws so provide, the board of directors shall carry out  
16 the functions and duties of the credit committee ~~and or may~~  
17 appoint a credit committee, in which case the credit union  
18 shall not elect a credit committee.

19 "§5-17-11.

20 "(a) At the first meeting and at subsequent times  
21 prescribed in the bylaws, the directors shall elect a  
22 president. The president must be either a member of the board  
23 of directors or an employee of the credit union who is not a  
24 member of the board of directors. If the credit union elects a  
25 president who is not a member of the board of directors, the

1 board of directors shall elect from their own number a  
2 chairman and one or more vice-chairmen of the board of  
3 directors. The board of directors shall have the power, in  
4 accordance with the bylaws, to remove any officer who is not a  
5 member of the board of directors. At the first meeting and at  
6 subsequent annual meetings prescribed in the bylaws, the  
7 directors shall elect from their own number, a secretary and  
8 treasurer, who may be the same individual. To nominate a  
9 candidate by petition, the petition should conform to the  
10 requirements as specified in the bylaws. The bylaws will state  
11 the number of members required to sign a petition which can be  
12 as few as three members or more as stated in the bylaws. ~~The~~  
13 For natural person credit unions, the maximum number cannot  
14 exceed the lesser of one percent of the membership or 500  
15 members. For corporate credit unions, the maximum number  
16 cannot exceed the lesser of five percent of the membership or  
17 25 members. Candidates shall be given a minimum of 35 days  
18 from the postmark date to present a petition.

19 " (b) The duties of the officers shall be as  
20 determined in the bylaws. It shall be the duty of the  
21 directors to have general management of the affairs of the  
22 credit union, particularly:

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

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

4           "(3) To fix the amount of the surety bond which  
5 shall be required of all officers and employees handling  
6 money.

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

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

12           "(6) To determine the maximum individual share  
13 holdings and the maximum individual loan which can be made  
14 with and without security.

15           "(7) To have charge of investments other than loans  
16 to members.

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

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

21           "(c) No member of the board or ~~either~~ any committee  
22 shall, as such, be compensated. Notwithstanding the foregoing,  
23 for their services to the credit union, providing reasonable  
24 life, accident, and similar insurance protection shall not be  
25 considered compensation. Directors, officers, and committee

1 members may be reimbursed for necessary expenses incidental to  
2 the performance of the official business of the credit union.

3 "(d) Liability and indemnification of officers,  
4 directors, trustees, and members of the governing body of a  
5 credit union shall be the same as provided for a ~~qualified~~  
6 ~~entity nonprofit corporation~~ in Title 10A, the Alabama  
7 Business and Nonprofit Entity Code; provided, however, a  
8 credit union may not indemnify officers, directors, and  
9 members of the governing body of a credit union against  
10 actions brought in connection with willful violations of this  
11 title.

12 "\$5-17-12.

13 "The credit committee shall have the general  
14 supervision of all loans to members. Applications for loans  
15 shall be on a form prepared by the credit committee and all  
16 applications shall set forth the purpose for which the loan is  
17 desired, the security, if any offered, and such other data as  
18 may be required. ~~Within the meaning of this section, an~~  
19 ~~assignment of shares or deposits or the endorsement of a note~~  
20 ~~may be deemed security.~~ At least a majority of the members of  
21 the credit committee shall pass on all loans, and approval  
22 must be unanimous; except, that the credit committee may  
23 appoint one or more loan officers and delegate to ~~him or them~~  
24 the officer or officers the power to approve loans in  
25 accordance with loan policies approved by the board of

1 ~~directors of the credit union. Each loan officer shall furnish~~  
2 ~~to the credit committee a record of each loan approved or not~~  
3 ~~approved by him within seven days of the date of the filing of~~  
4 ~~the application thereon. Upon written request of a member, the~~  
5 ~~credit committee shall review a loan application denied by a~~  
6 ~~loan officer.~~

7 "§5-17-13.

8 "(a) The supervisory committee shall make or cause  
9 to be made a comprehensive annual audit of the books and  
10 affairs of the credit union and shall submit a report of that  
11 audit to the board of directors and summary of that report to  
12 the members at the next annual meeting of the credit union. It  
13 shall make or cause to be made such supplementary audits or  
14 examinations as it deems necessary or as are required by the  
15 Administrator of the Alabama Credit Union Administration or by  
16 the board of directors and submit reports of these  
17 supplementary audits to the board of directors.

18 "(b) The supervisory committee shall cause the  
19 accounts of the members to be verified with the records of the  
20 credit union from time to time and not less frequently than  
21 every two years.

22 "(c) The administrator may define the scope of any  
23 audit and may set out what procedures must be followed for an  
24 audit to qualify as the required annual audit. He may

1 prescribe procedures to be followed in the verification of  
2 records required not less frequently than every two years.

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

13 "(e) The supervisory committee, by a unanimous vote,  
14 may suspend any officer, director or member of ~~the credit~~ any  
15 committee and call the members together to act on such  
16 suspension within 30 days after such suspension. The members  
17 at ~~said the~~ the meeting shall consider such suspension and vote to  
18 either remove such officer, director, ~~or credit committeeman~~  
19 member of the committee permanently or to reinstate ~~said the~~  
20 officer, director, or ~~credit committeeman~~ member of the  
21 committee. By majority vote the supervisory committee may call  
22 a special meeting of the members to consider any matter  
23 submitted to it by such committee. The ~~said~~ committee shall  
24 fill vacancies in its own membership until the next annual  
25 meeting.

1           "§5-17-19.

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

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

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

1 with another credit union which is insured under Title II of  
2 the Federal Credit Union Act or a privately insured credit  
3 union insured under a private insurance program or carrier.

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

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

22 "§5-17-21.

23 "(a) Unless otherwise provided in the bylaws of the  
24 credit union, the membership of the credit union may elect to  
25 dissolve the credit union upon an affirmative vote of two

1 thirds of the members of the credit union who participate in  
2 the vote.

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

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

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

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

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

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

22           "\$5-17-22.

23           "Any credit union ~~may~~, with the approval of the  
24 Administrator of the Alabama Credit Union Administration, may  
25 merge with another credit union, under the existing

1 certificate of organization of the other credit union,  
2 pursuant to any plan agreed upon by the majority of each board  
3 of directors of each credit union joining in the merger. In  
4 addition to approval by the administrator and each board of  
5 directors, the membership of the merging credit union must  
6 also approve the merger plan in the following manner:

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

13 " (2) After agreement by the directors and approval  
14 by the members of the merging credit union, the president and  
15 secretary of the credit union shall execute a certificate of  
16 merger which shall set forth all of the following:

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

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

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

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

24 "e. The vote by which the plan was approved by the  
25 members.

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

5           "(4) Upon return of the certificate from the  
6 administrator, all property, property rights and members'  
7 interest of the deed, endorsement or other instrument of  
8 transfer, and all debts, obligations, and liabilities of the  
9 merged credit union shall be deemed to have been assumed by  
10 the surviving credit union under whose charter the merger was  
11 effected. The rights and privileges of the members of the  
12 merged credit union shall remain intact.

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

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

24           "(7) Credit unions organized under the laws of the  
25 State of Alabama may be merged into federally chartered credit

1 unions under the same conditions as provided in this section;  
2 provided, that the merger plan is approved by the National  
3 Credit Union Administration or private insurance program or  
4 carrier.

5 "(8) Credit unions organized under the laws of the  
6 State of Alabama may merge a state or federally chartered bank  
7 or thrift into the credit union under the same conditions as  
8 provided in this section, provided that the merger plan is  
9 approved, if required, by the appropriate state or federal  
10 regulator of the bank or thrift and federal insurer, the  
11 Federal Deposit Insurance Corporation.

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

18 ~~"(8)~~ (10) A federal credit union may be converted to  
19 a credit union chartered under the laws of Alabama and a state  
20 credit union may be converted to a federal credit union by  
21 adhering to the requirements for the conversion of a federal  
22 credit union to a state credit union as specified by the  
23 Federal Credit Union Act, presently 12 U.S.C. §1771(a)(1).

24 "§5-17-42.

1           "The administrator, before entering upon the  
2 discharge of his duties, shall take and subscribe to the oath  
3 prescribed by the constitution and laws of this state, and  
4 shall ~~give bond in the penal sum of \$25,000.00~~ cause the  
5 Division of Risk Management of the Department of Finance or  
6 its successor agency to cover the administrator by bond. The  
7 oath ~~and the bond~~ shall be filed with the Secretary of State.

8           "\$5-17-45.

9           "(a) The Legislature finds as fact and determines  
10 that the credit unions having their principal place of  
11 business in Alabama must keep pace with technological and  
12 other improvements constantly being made throughout the United  
13 States so as to enable Alabama credit unions to render better  
14 and more efficient services to their members. It is necessary  
15 and desirable that the administrator be given additional  
16 authority in these fields.

17           "(b) The administrator is hereby authorized to  
18 expand powers of Alabama credit unions in order to accomplish  
19 both of the following:

20           "(1) Accommodate or take advantage of changing  
21 technologies.

22           "(2) Assure the ability of Alabama credit unions to  
23 be responsive in their business to the needs and conveniences  
24 demanded by credit union members through on-premises as well  
25 as off-premises operations; provided, that nothing in this

1 section shall enable the administrator to authorize credit  
2 unions to engage in activities which are not properly incident  
3 to the business of credit unions nor to enable the  
4 administrator to authorize credit unions to engage in the  
5 business of offering financial services which are now  
6 prohibited to them.

7 "No credit union having its principal place of  
8 business outside of Alabama may engage in credit union  
9 business in Alabama under the provisions of this section;  
10 provided that the administrator is authorized to enter into  
11 agreements with the appropriate regulatory authorities of  
12 other states; provided credit unions having their principal  
13 place of business in Alabama are given and may exercise  
14 reciprocal rights.

15 "(c) The administrator is authorized to issue  
16 regulations under subsection (b) in the same manner as other  
17 regulations of the Alabama Credit Union Administration are  
18 adopted. Any Alabama credit union covered by the provisions of  
19 subsection (b) desiring to exercise any such expanded power  
20 must secure in advance written permission of the  
21 administrator. The administrator may prescribe the form or  
22 forms for such applications for ~~permits~~ permission and may  
23 impose reasonable conditions in granting such ~~permits~~  
24 permission.

1           "(d) The administrator may enter into supervisory or  
2 other agreements, some of which may be confidential in nature,  
3 with the Federal Reserve, ~~the FinCen Bureau~~ of the U.S.  
4 Treasury Department ~~(FINCEN)~~, the National Credit Union  
5 Administration, state credit union, banking, and other  
6 regulators; approved private insurance carriers; and other  
7 state or federal ~~successor~~ agencies and furnish to them for  
8 their use such reports of examination and other information in  
9 taking enforcement and other supervisory actions.

10           "§5-17-46.

11           "(a) The administrator may, with the concurrence of  
12 a majority of the members of the Credit Union Board,  
13 promulgate such reasonable regulations, consistent with the  
14 laws of this state, as may be necessary to carry out the laws  
15 over which the Alabama Credit Union Administration has  
16 jurisdiction. The administrator shall, in addition, issue  
17 written interpretations of credit union laws and regulations.  
18 Any credit union and any officer or director thereof relying  
19 on any regulation or interpretation shall be fully protected  
20 even though the same regulation or interpretation shall be  
21 thereafter ruled invalid for any reason by a court of  
22 competent jurisdiction.

23           "(b) Any policy or written interpretation or credit  
24 union laws and regulations shall be reviewed for ratification  
25 by the Credit Union Board within 90 days after written request

1 for an interpretation by any member of the Credit Union Board.  
2 The policy or written interpretation of credit union laws and  
3 regulations shall be invalidated unless a majority of the  
4 members of the Credit Union Board ratify the interpretation or  
5 policy.

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

10 "§5-17-47.

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

13 "(1) Give at least 30 days' notice of the intended  
14 action. The notice shall include a statement of either the  
15 terms or substance of the intended action or a description of  
16 the subjects and issues involved, and the time when, the place  
17 where, and the manner in which interested persons may present  
18 their views thereon. The notice shall be ~~mailed to~~ made  
19 publicly available, and all credit unions chartered under the  
20 laws of this state ~~and shall be published in a newspaper of~~  
21 ~~general circulation in Montgomery County~~ shall be given notice  
22 of such intended action. A complete copy of the proposed  
23 regulation shall be filed with the Secretary of State; and

24 "(2) Afford all interested persons reasonable  
25 opportunity to submit data, views, or arguments, orally or in

1 writing. Opportunity for oral hearing must be granted if  
2 requested by 25 persons, or by a governmental subdivision or  
3 agency. ~~or by an association having not less than 25 members.~~  
4 The administrator shall consider fully all written and oral  
5 submissions respecting the proposed regulation. Upon adoption  
6 of a regulation, the administrator, if requested to do so by  
7 an interested person either prior to adoption or within 30  
8 days thereafter, shall issue a concise statement of the  
9 principal reasons for and against its adoption, incorporating  
10 therein the reasons for overruling the considerations urged  
11 against its adoption.

12 " (b) Notwithstanding any other provision of this  
13 section to the contrary, if the administrator finds that an  
14 immediate danger to the public welfare requires adoption of a  
15 regulation upon fewer than 30 days' notice and states in  
16 writing his or her reasons for that finding, he or she may  
17 proceed without prior notice or hearing or upon any  
18 abbreviated notice and hearing that he or she finds  
19 practicable to adopt an emergency regulation. The regulation  
20 shall become effective immediately, unless otherwise stated  
21 therein, upon the filing of the regulation and a copy of the  
22 written statement of the reasons therefor with the Secretary  
23 of State. The regulation may be effective for a period of not  
24 longer than 120 days and shall not be renewable. The  
25 administrator and Credit Union Board shall not adopt the same

1 or a substantially similar emergency regulation within one  
2 calendar year from its first adoption unless the administrator  
3 clearly establishes it could not reasonably be foreseen during  
4 the initial 120-day period that such emergency would continue  
5 or would likely reoccur during the next nine months. The  
6 adoption of the same or a substantially similar regulation by  
7 normal regulation-making procedures is not precluded.

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

17 "(d) The validity or applicability of any regulation  
18 or any interpretation of the Alabama Credit Union  
19 Administration may be determined in an action for declaratory  
20 judgment brought in the Circuit Court of Montgomery County  
21 when it is alleged that the adoption, amendment or repeal of  
22 any regulation or any interpretation or the application or  
23 threatened application of any regulation or any interpretation  
24 interferes with or impairs or threatens to interfere with or

1       impair the legal rights and privileges of the credit union or  
2       person affected thereby.

3               "\$5-17-51.

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

9               "\$5-17-52.

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

18              "\$5-17-54.

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

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

3 "§5-17-55.

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

1 experience in the 10 years next preceding appointment as an  
2 officer, director, or manager of a credit union. The position  
3 of any member of the Credit Union Board shall be declared  
4 vacant by the Administrator of the Alabama Credit Union  
5 Administration if the member of the Credit Union Board ceases  
6 to serve as an officer, director, or manager of a credit union  
7 chartered under the laws of the State of Alabama.

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

1           "(c) If a member of the Credit Union Board of the  
2 Alabama Credit Union Administration fails to attend regular  
3 meetings of the board for three consecutive meetings, or  
4 otherwise fails to perform the duties devolving upon him or  
5 her as a member of the Credit Union Board of the Alabama  
6 Credit Union Administration, is convicted of a felony or any  
7 other crime involving moral turpitude, or ceases to be an  
8 officer, director, or manager of a credit union, the office of  
9 the member shall be declared vacant by the administrator. The  
10 office of the board member shall be deemed to be vacated on  
11 the thirty-first day after mailing of a notice to the board  
12 member that his or her position is being vacated unless the  
13 board member files an appeal with the Credit Union Board prior  
14 to the thirty-first day after mailing of notice. Except that  
15 no appeal is authorized if the member's position is declared  
16 vacant by reason of conviction of a felony or a crime  
17 involving moral turpitude.

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

24           "Upon a finding of good cause for the failure to  
25 attend meetings or otherwise perform duties, or upon a finding

1 that there is a compelling reason for reinstating the member,  
2 a majority of board members may reinstate the person to the  
3 position. When the member appeals to the Credit Union Board,  
4 unless reinstated by the board within 30 calendar days after  
5 appeal, the position on the board shall be deemed to be vacant  
6 on the thirty-first day after receipt by the administrator of  
7 the member's written notice of the appeal. The administrator  
8 shall call a meeting to hear the appeal within 30 calendar  
9 days after receipt of the notice of appeal. The board member  
10 who has received notice that the position will be declared  
11 vacant shall have the right to present at any hearing dealing  
12 with the position being declared vacant, but shall not have  
13 the right to vote on any issue until he or she is reinstated  
14 by the Credit Union Board.

15 " (d) If by reason of death, resignation, removal  
16 from office or otherwise a vacancy occurs on the Credit Union  
17 Board, the vacancy shall be filled by appointment of the  
18 Governor and the appointee shall hold office until the Senate  
19 meets and passes on the appointment. If the appointment is  
20 disapproved by the Senate, another appointment shall be made  
21 by the Governor, and appointments must be made in like manner  
22 until an appointment is confirmed by the Senate. Any person so  
23 appointed shall serve the balance of the unexpired term for  
24 which the appointment is made. The seven appointed members of  
25 the Credit Union Board shall be persons of good character.

1 Five of the seven shall have at least five years' experience  
2 in the 10 years next preceding appointment to the Credit Union  
3 Board either as an officer, director, or manager of a credit  
4 union organized under the laws of the State of Alabama.

5 "(e) An appeal may be taken to the Credit Union  
6 Board from any finding, ruling, order, decision or the final  
7 action of the administrator by any credit union which feels  
8 aggrieved thereby. Notice of appeal shall be filed with the  
9 administrator within 30 calendar days after the findings,  
10 ruling, order, decision or other action. The notice shall  
11 contain a brief statement of the pertinent facts upon which  
12 the appeal is grounded. The Credit Union Board shall fix a  
13 date, time and place for hearing the appeal, within 60  
14 calendar days after it is filed, and shall notify the credit  
15 union or its attorney of record thereof at least 30 calendar  
16 days prior to the date of the hearing. The finding of the  
17 Credit Union Board shall be strictly advisory in nature."

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

20 §5-17-8.1.

21 (a) The administrator or the administrator's  
22 designee, in consultation with the agency's legal counsel  
23 acting under the administrator, may administer oaths and may  
24 examine under oath any person whose testimony may be required  
25 on the examination of any credit union, or the examination of

1 any affiliate of a credit union, and shall have authority and  
2 power to compel the appearance and attendance of any such  
3 person or the production of any records and documents of any  
4 credit union or any affiliate of a credit union for the  
5 purpose of any examination and attendance or production may be  
6 enforced by order of the Circuit Court, 15th Judicial  
7 District. The production of records, documents, or testimony,  
8 whether or not made under oath, by a credit union or by any of  
9 its directors, officers, employees, advisors, consultants,  
10 attorneys, or accountants made for, and at the request of, the  
11 administrator upon examination of the credit union, does not  
12 constitute a waiver of any attorney-client privilege or other  
13 privilege that the credit union or any director, officer,  
14 employee, advisor, consultant, attorney, or accountant thereof  
15 is entitled to under law in any unrelated matter or  
16 proceeding.

17 (b) Any officer, director, agent, or employee of any  
18 credit union, any affiliate of a credit union, or any affected  
19 person, whether one or more, who (1) makes any false entry or  
20 omission with intent to mislead in any book, report, or  
21 statement of the credit union or affiliate of the credit  
22 union, or (2) makes a false statement, whether or not made  
23 under oath, to the administrator, an examiner or designee  
24 acting under the administrator, or to any officer of such  
25 credit union or affiliate of any credit union with intent to

1 injure or defraud the administrator, examiner, designee,  
2 officer, credit union, or affiliate, or with the intent to  
3 influence in any way the action of the administrator or an  
4 examiner or designee acting under the administrator, shall be  
5 subject to removal and the imposition of civil money penalties  
6 by the administrator when so directed by the Credit Union  
7 Board as provided in this title. At the discretion of the  
8 administrator, an order of removal may prohibit the affected  
9 person from participating in the affairs of any state credit  
10 union. Any action of the administrator or designee acting  
11 under the administrator taken in reliance upon such false  
12 entry, omission, or statement may be rescinded and withdrawn  
13 at the discretion of the administrator. These remedies are in  
14 addition to the penalties set forth in Sections 5-17-29 to  
15 5-17-32, inclusive.

16 (c) In taking an action to prohibit participation  
17 by, remove, or impose civil money penalties upon, any officer,  
18 director, or employee of any credit union or any affiliate of  
19 a credit union under this section, the administrator and  
20 Credit Union Board shall not be required to establish that the  
21 credit union or the affiliate of the credit union suffered or  
22 probably will suffer financial loss and shall not be required  
23 to establish that the administrator, examiner, or designee  
24 acting under the administrator was influenced by such false  
25 entry, omission, or statement.

1           (d) The resignation, termination of employment or  
2 participation, or separation of any director, officer, or  
3 employee of a credit union for any reason whatsoever shall not  
4 affect the jurisdiction and authority of the administrator or  
5 the Credit Union Board to issue any notice or order and  
6 proceed under this title against any such person, if the  
7 notice or order is served before the end of the six-year  
8 period beginning on the last date that the person ceased to be  
9 a director, officer, or employee of the credit union.

10           (e) If the directors or officers of any credit union  
11 ~~knowingly and~~ unreasonably or willfully violate, or ~~knowingly~~  
12 ~~and~~ unreasonably or willfully permit any of the officers,  
13 agents, or employees of the credit union to violate any of the  
14 provisions of this title, each and every director or officer  
15 engaging in such knowing and willful violation or knowing and  
16 willful permission shall be liable in his or her personal and  
17 individual capacity for all damages that the credit union or  
18 any other person sustained in consequence of the violation.  
19 The administrator may use enforcement powers to seek  
20 restitution for or on behalf of the credit union for damages  
21 resulting from such violations. Further, the administrator  
22 shall have standing to intervene in any court action arising  
23 out of or relating to such violation in order to protect the  
24 interests of the administrator, examiners, administrator's

1       designee or designees, the agency, the credit union, or its  
2       members.

3               §5-17-60.

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

16              (b) Notwithstanding subsection (a), the  
17      administrator, at the administrator's discretion, may disclose  
18      any information otherwise protected under this section to the  
19      members of the Credit Union Board and confer with the members  
20      of the Credit Union Board regarding the same and may disclose  
21      such information as is and to the extent necessary to the  
22      exercise of enforcement authority or the taking of other  
23      supervisory actions pursuant to this title.

24              (c) The administrator may furnish to the National  
25      Credit Union Administration, or to any other supervisory

1 agency of the United States, or to a private share insurance  
2 carrier presently providing deposit share insurance to the  
3 subject credit union, or to other federal or state agencies  
4 with which the administrator has entered into an agreement  
5 pursuant to subsection (d) of Section 5-17-45, reports of  
6 examination and other data as the administrator deems  
7 advisable.

8 (d) No disclosure may be made by any agency or  
9 entity furnished with reports of examination or other data  
10 pursuant to subsection (c) to any third parties without the  
11 prior consent of the administrator. Any disclosure permitted  
12 by the administrator shall be subject to such conditions and  
13 restrictions as the administrator may require or as otherwise  
14 required by this title.

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

19 (f) Any reports or information furnished or  
20 disclosed under this section shall remain the property of the  
21 Alabama Credit Union Administration and, except as provided in  
22 this section, may not be disclosed to any person other than  
23 the officers, directors, attorneys, and auditors of the credit  
24 union, its supervisory committee, subsidiary, affiliate,  
25 consultants, or advisors to the credit union or affiliate,

1 and, subject to appropriate confidentiality agreements,  
2 persons considering the possible acquisition of, merger with,  
3 or investment in the credit union or affiliate. A person  
4 receiving such reports or information may not:

5 (1) Use the report or information other than in  
6 connection with the credit union or affiliate, and its  
7 business and affairs.

8 (2) Retain that report or information or copies  
9 thereof.

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

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

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

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*Kay Ivey*

President and Presiding Officer of the Senate

*Tommy Tuberville*

Speaker of the House of Representatives

SB209

Senate 03-MAR-16

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

House of Representatives  
Passed: 23-MAR-16

By: Senator Holtzclaw

**APPROVED** 4-11-16

**TIME** 3:30 PM

*Robert Bentley*  
**GOVERNOR**

Alabama Secretary Of State

Act Num....: 2016-133  
Bill Num....: S-209

Recv'd 04/12/16 09:13amSLF

SPONSOR

1 Holtzelaw

CO-SPONSORS

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SENATE ACTION

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill. SB 209

years 25 nays  abstain

**PATRICK HARRIS,**  
Secretary

I hereby certify that the notice & proof is attached to the Bill. SB \_\_\_\_\_ as required in the General Acts of Alabama, 1975 Act No. 919.

**PATRICK HARRIS,**  
Secretary

CONFERENCE COMMITTEE

Senate Conferees

HOUSE ACTION

DATE: 3/1 20

RD 1 RFD

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on financial services was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed w/amend(s) w/sub

This 10 day of MARCH 2016

Kevin Shivers Chairperson

DATE: 3-10 2016

RF

RD 2 CA

DATE: \_\_\_\_\_ 20

RE-REFERRED

RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 209

YEAS 101 NAYS 0

**JEFF WOODARD,**  
Clerk

FURTHER HOUSE ACTION (OVER)