



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 9, 1992

Sharon Bias
Acting Commissioner
Division of Banking
State of West Virginia
State Capital Complex
Building 3, Room 311
Charleston, WV 25305

Re: ~~State Legislation Requiring~~
~~State Chartered Credit Unions~~
~~to Convert to National Credit Union~~
Share Insurance Fund ("NCUSIF")
Share Insurance

Dear Ms. Bias:

This letter contains the information you requested regarding states that have enacted legislation or promulgated regulations requiring their state chartered credit unions to convert from private share insurance to NCUSIF share insurance.

Presently, twenty-three states, the District of Columbia and the U.S. Territories require their credit unions to have their shares insured by the NCUSIF. These are: Alabama (Ala. Code §5-17-19 (1990 Supp.)); Alaska (Alaska Stat. §06.45.250 (1990); Alaska Admin. Code tit. 03, §03.240 (1990)); Connecticut (Conn. Gen. Stat. §36-200(i) (1990 Supp.)); Delaware (no state credit union statutes exist); District of Columbia (no state credit union statutes exist); Florida (Fla. Stat. §657.251 (1991) (attached)); Iowa (Iowa Code Ann. §533.64 (1991) (attached)); Kansas (Kan. Stat. Ann. §17-2248 (1991) (attached)); Maine (Me. Rev. Stat. Ann. tit. 9B, §836 (1990 Supp.)); Michigan (Mich. Stat. Ann. §490.31 (1990 Supp.)); Minnesota (Minn. Stat. Ann. §52.24 (1991 Supp.)); Mississippi (Miss. Code Ann. §81-13-4 (1990 Supp.)); Missouri (Mo. Rev. Stat. §370.362 (1991) (attached)); Montana

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(Mont. Code Ann. §32-3-611 (1987)); Nebraska (Neb. Rev. Stat. §21-17,120.02 (1990 Supp.)); North Carolina (N.C. Gen. Stat. §54-109.789(a) (1990)); North Dakota (N.D. Cent. Code §6-06-02(7) (1989 Supp.)); Rhode Island (R.I. Gen. Laws §19-11-9 (1991) (attached)); South Carolina (S.C. Code Ann. §34-27-30 (1990 Supp.)); South Dakota (no state credit union statutes exist); Texas (Tex. Rev. Civ. Stat. Ann. art. 2461-11.10(e) (1991 Supp.)); Tex. Credit Union Commission Rule No. 95.3 (1991) (attached)); Vermont (Vt. Stat. Ann. tit. 8, §2087 (1990 Supp.)); Wisconsin (Wis. Stat. §186.34 (1990 Supp.)); Wyoming (no state credit union statutes exist); and U.S. Territories (American Samoa, Guam and Virgin Islands) (no local credit union statutes exist). Of these states, six have either enacted legislation or promulgated regulations last year requiring their state chartered credit unions to convert to NCUSIF share insurance: Florida, Iowa, Kansas, Missouri, Rhode Island and Texas.

You also requested information on the extent of private share insurance. The NCUA does not keep records on this information. To the best of our knowledge, seven private share insurers are currently in full operation: California Credit Union Share Guaranty Association; Georgia Credit Union Deposit Insurance Corporation; Credit Union Insurance Corporation (Maryland); Massachusetts Credit Union Share Insurance Corp.; Mutual Guaranty Corporation (Tennessee); American Share Insurance (Ohio); and Washington Credit Union Share Guaranty Association. For information regarding American Share Insurance (formerly National Deposit Insurance Corp.), we suggest you contact Clare N. Long, Attorney, Division of Credit Unions, Ohio Dept. of Commerce, 77 S. High St., Columbus, OH 43266-0544, ph. (614-466-2384).

In case you are not already aware of it, we have enclosed a copy of Section 151 of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, P.L. 102-242. Section 151 regarding non-Federal share insurers, is summarized in a portion of an NCUA memorandum, dated December 20, 1991, also enclosed. If you need to discuss the mandated rule with someone at the Federal Trade Commission, please contact Carole L. Reynolds, Senior Advisor, Bureau of Consumer Protection (ph. 202-326-3230).

Lastly, if you have questions or need information regarding NCUSIF qualification practices and standards, we would refer

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you to Daniel L. Murphy, NCUA Region II Director (ph. 202-682-1900). If we can be of further assistance to you, please call either me or Martin Conrey, Staff Attorney.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

cc: Daniel L. Murphy
Region II Director

GC/MEC:sg
SSIC 8500
91-0123AA

FLORIDA 5/17
CREDIT UNION LEAGUE, INC

Mr. Conroy

The enclosure is per your request. Thank you
for calling the League.

Debbie Williams, Esq.

Financial Management Services

Post Office Box 3108, Tallahassee, FL 32315 - 3108

5773 Commonwealth Boulevard, Tallahassee, FL 32303

(904) 576-8171 / (800) 342-1266 / FAX (904) 574-6374

effective date: April 1, 1991

1
2 An act relating to the Florida Credit Union
3 Guaranty Corporation Act; providing for the
4 conversion to federal share insurance through
5 the National Credit Union Administration or the
6 liquidation or merger of all member credit
7 unions and the dissolution of the Florida
8 Credit Union Guaranty Corporation; amending s.
9 657.251, F.S.; providing a purpose; amending s.
10 657.253, F.S.; defining member credit union;
11 amending s. 657.257, F.S.; providing for the
12 conversion of member credit unions to federal
13 share insurance and deleting certain procedural
14 requirements for such conversion; amending s.
15 657.258, F.S.; providing standards in pledging
16 or advancing funds or entering into agreements
17 with the National Credit Union Administration
18 or providing assistance to member credit unions
19 to qualify for federal share insurance;
20 providing for a determination date for
21 liquidating distributions; amending s. 657.259,
22 F.S.; providing that the plan of operation
23 provide for dissolution of the corporation;
24 amending s. 657.260, F.S.; providing authority
25 to the department to require the corporation to
26 take any required action; amending s. 657.262,
27 F.S.; permitting the department to charge the
28 corporation the actual cost of examination of
29 certain member credit unions when examination
30 is requested; amending s. 657.263, F.S.;
31 permitting the department to charge the

FLORIDA

1 corporation the actual cost of its annual
2 examination; providing for disposition of the
3 records of the corporation; creating s.
4 657.269, F.S.; providing for the orderly
5 dissolution of the Florida Credit Union
6 Guaranty Corporation; providing for retroactive
7 application; reviving and readopting various
8 sections of ch. 657, F.S., notwithstanding
9 their scheduled repeal; providing for future
10 review and repeal of specified sections of ch.
11 657, F.S., pursuant to the Regulatory Sunset
12 Act; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsection (6) is added to section 657.251,
17 Florida Statutes, to read:
18 657.251 Purposes.--The purposes of this part are to:
19 (6) Provide for the orderly conversion of member
20 credit unions to share insurance through the National Credit
21 Union Administration, or the liquidation or merger of member
22 credit unions, and the liquidation of the corporation.
23 Section 2. Subsection (6) of section 657.253, Florida
24 Statutes, is amended to read:
25 657.253 Definitions.--As used in this part:
26 (6) "Member credit union" means any credit union
27 authorized and chartered under the laws of this state which
28 has obtained and maintained membership with the corporation as
29 of the effective date of this act.
30 Section 3. Section 657.257, Florida Statutes, is
31 amended to read:

1 (a) Provisional guaranty certificates shall be issued
 2 for a period determined by the board of directors, but not
 3 less than 6 months nor more than 2 years. A provisional
 4 certificate may be renewed for an additional period not to
 5 exceed 12 months. There may be only one such renewal period.

6 (b) A regular guaranty certificate shall be issued for
 7 a continuing and indefinite period.

8 (c) The board of directors may cancel any certificate
 9 if the board of directors finds that there has been a
 10 deterioration since the issuance of the guaranty certificate
 11 in the financial condition, adequacy of reserves, application
 12 of financial and loan policies, or extent of delinquencies of
 13 the member credit union or if the department determines that
 14 the credit union is engaging in an unsafe or unsound practice,
 15 is violating any provision of chapter 655 or chapter 657, or
 16 is violating any department rule, department order, or
 17 agreement entered into with the department. In the event of
 18 cancellation of a regular guaranty certificate, the
 19 corporation shall issue to such member credit union a
 20 provisional guaranty certificate unless, at the time of such
 21 cancellation, the credit union is insolvent and, in such
 22 event, the corporation may decline to issue a provisional
 23 guaranty certificate.

24 (3)(5) If, during the term of a provisional
 25 certificate, including any renewal thereof, the member credit
 26 union fails to qualify for share insurance through the
 27 National Credit Union Administration or a regular guarantee of
 28 its accounts and full membership in the corporation, the
 29 corporation will notify the department stating, with
 30 particularity, the deficiency which prevents the qualification
 31 for such share insurance through the National Credit Union

1 Administration or issuance of the regular guaranty
 2 certificate, and, thereupon, the department shall institute
 3 proceedings to revoke the certificate of organization of such
 4 credit union.

5 (4)(6) Each A member credit union shall surrender the
 6 guaranty certificate from may-terminate-membership-in the
 7 corporation in the following manner: after-approval-by-the
 8 board-of-directors-and-the-members-of-the-credit-union-and
 9 after-a-certificate-of-insurance-through-the-National-Credit
 10 Union-Administration-has-been-obtained:

11 (a) A member credit union directed by the department
 12 must file a complete application for federal share insurance
 13 through the National Credit Union Administration not later
 14 than 30 days after the effective date of this act. The
 15 department may direct the corporation to assume control or
 16 shall order involuntary liquidation of any member credit union
 17 that fails to file a complete application within the
 18 prescribed time.

19 (b) A member credit union must obtain a certificate of
 20 insurance issued through the National Credit Union
 21 Administration within 42 months after the effective date of
 22 this act. The department may extend the period not to exceed
 23 12 months if the department finds that the credit union is
 24 making substantial effort to satisfy the conditions precedent
 25 to issuance of the certificate of insurance and the credit
 26 union is likely to satisfy such conditions within the
 27 additional 12-month period. The department may order the
 28 involuntary liquidation or merger of any member credit union
 29 that fails to timely comply with the provisions of this
 30 paragraph.

1 credit union, or to provide liquidity for payment of shares
 2 and deposits following a determination of voluntary or
 3 involuntary liquidation.
 4 (g) Upon the written request of the department, assume
 5 control of the property, assets, and business of any member
 6 credit union and operate the credit union in accordance with
 7 the recommendations of the department. The corporation shall
 8 have all the powers, duties, and authorities of the board of
 9 directors of such credit union, specifically including the
 10 power and authority to elect or designate directors, officers,
 11 and committee members, who need not be members of the member
 12 credit union, to sell assets, and to terminate and employ
 13 personnel for the credit union.
 14 (h) Assist in the merger, consolidation, or
 15 liquidation of credit unions with written notice to the
 16 department. In the event of liquidation of a member credit
 17 union that has not received a certificate of insurance through
 18 the National Credit Union Administration, whether voluntary or
 19 involuntary, the corporation must may be designated as the
 20 liquidating agent and, as such, the corporation shall have all
 21 the duties, powers, and authorities of the board of directors
 22 of such liquidating credit union, specifically including, but
 23 not limited to, the power and authority to elect and designate
 24 directors, officers, and committee members, who need not be
 25 members of the credit union; to sell assets; and to terminate
 26 and employ personnel for the liquidating credit union. The
 27 corporation shall have the right and authority to participate
 28 in negotiations for any contemplated merger, consolidation, or
 29 liquidation of a member credit union and to approve the terms
 30 of any sales of assets in order to minimize potential loss
 31

1 which might result in a covered claim to be paid by the
 2 corporation.
 3 (i) Receive money or other property from its member
 4 credit union or from any corporation, association, or person.
 5 (j) Invest its funds in bonds, notes, securities,
 6 obligations, participations, or other instruments of, issued
 7 by, or fully guaranteed as to principal and interest by, the
 8 United States Government or any agencies thereof, or in any
 9 trust or trusts established for investing directly or
 10 collectively in the same, and in such other investments, other
 11 than investments in credit unions which are members of the
 12 corporation, as are deemed prudent by the directors, but these
 13 other investments shall not exceed 25 percent of the funds of
 14 the corporation.
 15 (k) Purchase in its own name, hold, and convey
 16 property of any nature.
 17 (l) Receive by assignment or purchase from its member
 18 credit unions any property of any nature owned by those member
 19 credit unions, including securities.
 20 (m) Sell, assign, mortgage, encumber, or transfer
 21 property of any nature.
 22 (n) Adopt and amend a plan of operation and bylaws for
 23 carrying out the purposes of this part.
 24 (o) Purchase or acquire by assignment loans due and
 25 owing to credit unions, along with the right to receive
 26 payments thereon.
 27 (p) Pay dividends to member credit unions.
 28 (q) Have access to and make audit or examination of
 29 all records and information concerning the affairs of a member
 30 credit union.
 31

1 credit unions which are members of the corporation on the
 2 effective date of this act as of the time when the interest is
 3 to be determined. Such interest in the loss reserve shall not
 4 be transferable, except to another member credit union as a
 5 result of a merger approved by the department and shall be
 6 applied in the calculation of any amount of any refund to be
 7 made to each member credit union under s. 657.269.

8 (f) The total amount paid in by each member credit
 9 union as its investment in the corporation and the amount paid
 10 into the loss reserve must be determined as of the effective
 11 date of this act. The interest of each member credit union in
 12 the corporation must be proportionate according to the total
 13 amount paid in by all member credit unions as of the effective
 14 date of this act. The proportion thus determined must be
 15 applied in the calculation of the amount of any refund to be
 16 made to each member credit union under s. 657.269.

17 (g)--If a member credit union ceases to operate under a
 18 valid certificate of organization under part I, the
 19 corporation shall refund to the withdrawing member the amount
 20 of the member's investment in the corporation and the amount
 21 of the withdrawing member's interest in the loss reserve of
 22 the corporation; however, no refund shall be made to such
 23 withdrawing member unless it elects to convert and does
 24 convert to a federal credit union or unless the withdrawing
 25 member goes into voluntary liquidation and is not insolvent
 26 and the corporation is not obligated in any manner for any
 27 loss; cost; expense; or claim arising out of the voluntary
 28 liquidation or unless the withdrawing member obtains share
 29 insurance through the National Credit Union Administration and
 30 the National Credit Union Administration releases the
 31 corporation of any obligation.--In no event shall a

1 withdrawing member be entitled to a refund of any portion of
 2 its investment or its interest in the loss reserve under this
 3 section if the total assets of the corporation are less than 4
 4 percent of the aggregate of all guaranteed shares and deposits
 5 of all member credit unions; excluding those of the members
 6 requesting such refund.--The entitlement to any such refund
 7 shall be determined as of the date the withdrawing member
 8 converts to a federal credit union or the time when voluntary
 9 liquidation procedures have progressed to the point at which
 10 final distribution in payment of shares and deposits is to be
 11 made to the members or share insurance through the National
 12 Credit Union Administration has been issued:

13 (g)(h) All fees and assessments shall be paid in the
 14 manner established by the plan of operation.

15 (h)(i) In the event the assets of the corporation fall
 16 below 0.5 percent of the total aggregate guaranteed shares and
 17 deposits of all member credit unions which have not received
 18 certificates of insurance through the National Credit Union
 19 Administration, the corporation may determine the
 20 proportionate amount of the reduction of the investment of
 21 each member credit union, and this amount shall be transferred
 22 from membership fees to the loss reserve and shall be
 23 considered as the payment of a special assessment by each
 24 member credit union.

25 (i)(j) Upon written application, the corporation, for
 26 good cause shown, may exempt or defer any member credit union
 27 from an assessment if such assessment would result in such
 28 credit union being forced into insolvency, liquidation, or an
 29 unsound financial condition.

30 (i)(k) No state funds of any kind shall be allocated
 31 or paid to the corporation.

1 unions received certificates of insurance through the National
 2 Credit Union Administration or were liquidated or merged,
 3 whichever last occurs.

4 (2) The liquid assets of the corporation remaining
 5 after making provision for all amounts required to be paid or
 6 reserved to meet conditions of a liquidation, a merger, or the
 7 issuance of certificates of insurance through the National
 8 Credit Union Administration of member credit unions, and
 9 setting aside an adequate reserve to fully pay all future
 10 covered claims, losses, liabilities, and guarantees, and a
 11 provision for expenses of liquidation and dissolution of the
 12 corporation, all as determined by the corporation, with the
 13 approval of the department, shall be available for
 14 distribution to member credit unions proportionately according
 15 to the interest in the corporation of each member credit
 16 union.

17 (3) Any amount paid or committed to assist in the
 18 merger or liquidation of a member credit union or in the
 19 qualification of a member credit union for a certificate of
 20 insurance through the National Credit Union Administration
 21 must be taken into account and shall reduce the amount
 22 otherwise distributable to that member credit union or its
 23 successor. Any member credit union that is liquidated is
 24 ineligible for any portion of a liquidating dividend that is
 25 paid subsequent to liquidation of that member credit union.

26 (4) When all member credit unions have been
 27 liquidated, merged, or received certificates of insurance
 28 through the National Credit Union Administration or the
 29 financial impact on the corporation from satisfying any
 30 conditions of a liquidation, merger, or receipt of a
 31 certificate of insurance has been determined with reasonable

1 certainty, the corporation shall begin making partial
 2 liquidating distributions. After the initial partial
 3 liquidating distribution, supplemental partial liquidating
 4 distributions must be made to member credit unions from time
 5 to time as funds are available. Determination of the amount
 6 available for distribution must be made at least once during
 7 each 12-month period and must be paid within 30 days after the
 8 determination.

9 (5) Within 6 months after making final distribution to
 10 member credit unions, the corporation shall prepare and file
 11 with the department a final report and, pursuant to s.
 12 657.263(2), shall turn over to the department all remaining
 13 books, records, and accounts of the corporation and of
 14 liquidated member credit unions which are in the possession of
 15 the corporation.

16 Section 10. Any application that was submitted by a
 17 credit union to convert to share insurance through the
 18 National Credit Union Administration before the effective date
 19 of this act need not satisfy the requirements of the law in
 20 effect at the time the application was submitted, but need
 21 only comply with the conversion provisions of this act.

22 Section 11. Notwithstanding the provisions of chapters
 23 81-318, 84-216, and 85-82, Laws of Florida, sections 657.25,
 24 657.251, 657.252, 657.253, 657.254, 657.256, 657.257, 657.258,
 25 657.259, 657.260, 657.261, 657.262, 657.263, 657.264, 657.265,
 26 657.266, 657.267, and 657.268, Florida Statutes, shall not
 27 stand repealed on October 1, 1991, as scheduled by such laws,
 28 but those sections, as amended, are hereby revived and
 29 readopted.

30 Section 12. Sections 657.25, 657.251, 657.252,
 31 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260,

1991 Code of Iowa

See amendment to paragraph #1 which
will become effective 7/1/92

* 533.64 ACCOUNT INSURANCE.

Except as provided in section 533.12, subsection 2, a credit union organized under this chapter, as a condition of maintaining its privilege of organization after December 31, 1980, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the superintendent.

The superintendent may furnish to any official of an insurance plan by which the accounts of a credit union are insured, any information relating to examinations and reports of the status of that credit union for the purpose of availability of insurance to that credit union.

[C79, 81, 5533.64]
85 Acts, ch 242, §9
Referred to in § 533.51

533.12 CAPITAL.

1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares.

The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from the member or for any loan endorsed by the member. A credit union may charge an entrance fee as may be provided by the bylaws.

2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred except upon termination of membership in the credit union. At the option of the credit union, the equity share may earn a dividend and may be insured.

[C27, 31, 35, 59305.12; C39, 59305.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, 5533.12]
85 Acts, ch 242, §3
Referred to in §533.64

FAX		DATE 1/3/92	PAGES 2
TO	Merim Conroy		FROM
CO.	NCUA		CO.
FAX #	202-682-9620		FAX #
MESSAGE		515-281-7575	

IOWA

SENATE FILE 87

AN ACT

RELATING TO THE DEPOSIT INSURANCE REQUIRED OF CERTAIN
FINANCIAL INSTITUTIONS, AND PROVIDING AN EFFECTIVE
DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 524.816, subsection 1, Code 1991, is
amended to read as follows:

1. A bank organized under this chapter, as a condition of
maintaining its privilege of organization after July 1, 1984
shall become an insured bank and shall acquire and maintain
insurance to protect each depositor against loss of funds held
on account by the bank. The insurance shall be obtained from
the federal deposit insurance corporation or another insurance
plan approved by the superintendent, provided that each bank
shall acquire deposit insurance from the appropriate agency of
the federal government.

* Sec. 2. Section 533.64, unnumbered paragraph 1, Code 1991,
is amended to read as follows:

Except as provided in section 533.12, subsection 2, a
credit union organized under this chapter, as a condition of
maintaining its privilege of organization after December 31,
1980, shall acquire and maintain insurance to protect each
shareholder and each depositor against loss of funds held on
account by the credit union. The insurance shall be obtained
from the national credit union administrator or from some
other share guarantor or insurance plan approved by the Iowa
commissioner of insurance and the superintendent, provided
that each credit union shall acquire deposit insurance from
the appropriate agency of the federal government.

Sec. 3. Section 534.586, subsection 1, Code 1991, is
amended to read as follows:

1. An association organized under this chapter as a
condition of maintaining its privilege of organization after
July 1, 1984 shall acquire and maintain insurance to protect
each depositor against loss of funds held on account by the
association. The insurance shall be obtained from the federal
savings and loan insurance corporation or another insurance
plan approved by the superintendent, provided that each
association organized under this chapter shall acquire deposit
insurance from the appropriate agency of the federal
government.

Sec. 4. EFFECTIVE DATE. This Act takes effect July 1,
1991.

JOE J. WELSH
President of the Senate

ROBERT C. ARNDT
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 87, Seventy-fourth General Assembly.

JOHN P. DWYER
Secretary of the Senate

Approved _____, 1991

TERRY E. BRANSTAD
Governor

SF 87

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(b) the retailer has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it which has not been discharged within 30 days after the date of filing, or there has been a foreclosure or sale of a substantial part of the retailer's assets related to the retailer's business or there has been a commencement or dissolution or liquidation of the retailer's business;

(c) there has been a change, without the prior written approval of the supplier, in the location of retailer's principal place of business if such approval is required under the retailer's agreement with the supplier;

(d) the retailer has defaulted under any reasonable and essential term of a chattel mortgage or other security agreement between the retailer and supplier, or there has been a revocation or discontinuance of any guarantee of the retailer's present or future obligations to the supplier;

(e) the retailer has failed to operate in the normal course of business for seven consecutive days or has otherwise abandoned such retailer's business, except for reasonable and customary closures of business;

(f) the retailer has pleaded guilty to or has been convicted of a felony affecting the relationship between the retailer and supplier;

(g) the retailer has engaged in conduct which is injurious or detrimental to the retailer's customers or the public welfare; or

(h) following receipt of written notices of the supplier's requirements and of written notices of the supplier's determination of the retailer's initial and persisting failures to meet the supplier's requirements, the retailer has consistently failed to meet the supplier's requirements for reasonable market penetration based on the supplier's experience in other identified and comparable market areas.

Sec. 7. Except as otherwise provided in this section, a supplier shall provide a retailer at least 90 days' prior notice of termination, cancellation, or nonrenewal of the contract. The notice shall state all reasons constituting good cause for termination, cancellation or nonrenewal and shall provide that the dealer has 60 days in which to cure any claimed deficiency. If the deficiency is rectified within 60 days, the notice shall be void. The notice and right to cure provisions under this section shall not apply if the reason for termination, cancellation or nonrenewal is for any reason set forth in subsections (a) through (h) of section 6.

Sec. 8. If any supplier violates any provisions of section 6 or 7, a retailer may bring an action in any court of competent jurisdiction for damages sustained by the retailer as a consequence of the supplier's violation. The court may also award court costs and reasonable attorney fees to the prevailing party. The remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law including proceedings under the Kansas consumer protection act.

Sec. 9. The provisions of this act shall apply to all continuing and nonrenewable contracts, and all other contracts entered into, renewed, amended, assigned or transferred by a supplier to a transferee on or after July 1, 1991, and shall apply only to outdoor power equipment and repair parts purchased after the effective date of this act. Any contract in force and effect on July 1, 1991, which by its own terms will terminate on a date certain subsequent thereto shall be governed by the law as it existed prior to this act unless renewed, amended, assigned or transferred as described above.

Sec. 10. The provisions of this act shall be supplemental to any agreement between the retailer and the supplier. The retailer may elect to pursue either the contract remedy, the remedy provided herein, or any other remedies permitted by law, and an election by the retailer to pursue such retailer contract or other remedies shall not bar such retailer's right to any remedy provided herein as to the outdoor power equipment and repair parts not affected by the contract or other remedies.

Sec. 11. If any section of this act, or any part of any section thereof, or the application of such provision to any person or circumstance shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions thereof and the application of such provision to other persons or circumstances.

Sec. 12. This act may be cited as the Kansas outdoor power equipment dealership act.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

Published in the Kansas Register, April 25, 1991.

HOUSE BILL No. 2355

AN ACT relating to credit unions; concerning share insurance; amending K.S.A. 17-2246 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-2246 is hereby amended to read as follows. 17-2246. (a) (1) Every credit union which is organized and operating under the laws of the state of Kansas, except a central credit union located in the state of Kansas and under the supervision of the administrator in which all credit unions in the state of Kansas are eligible for membership, shall on and after June 30, 1990, insure the shares of each shareholder of such credit union.

(2) Every credit union shall insure the shares of each shareholder of such credit union with the national credit union share insurance fund, or its successor, or with an insurer approved by the state commissioner of insurance or guarantee corporation approved by the administrator, for such purpose as hereinafter provided in an amount not less than that provided by the national credit union administration, except that the administrator may grant a reasonable extension of time for compliance therewith under such rules and regulations as the state credit union council may adopt.

(3) During the period of any such extensions of time, the credit union receiving the same shall continue to give notice in the manner prescribed by K.S.A. 17-2247, and amendments thereto, that the shares of such credit union are uninsured.

(b) (1) Notwithstanding the provisions of paragraph (2) of subsection (a), every credit union which is organized and operating under the laws of the state of Kansas and not currently insured by the national credit union share insurance fund (NCUSIF), except a central credit union located in Kansas and under the supervision of the administrator, shall make application for insurance with the NCUSIF within 120 days of the effective date of this act.

(2) The application for NCUSIF insurance shall be filed with the Kansas state department of credit unions, then forwarded to the national credit union administration.

(3) Every credit union chartered after the effective date of this act shall obtain NCUSIF coverage prior to commencing business.

(4) The administrator may suspend the charter, merge, liquidate, or take possession of any credit union which fails to comply with the provisions of this section or which loses or allows such coverage to lapse.

(c) (1) Notwithstanding the provisions of paragraph (3) of subsection (a), every credit union shall obtain a certificate of insurance from the NCUSIF within 18 months of the effective date of this act.

(2) The administrator may extend, for a period up to 18 months, the date by which a credit union must obtain such certificate upon satisfactory evidence that the credit union has made and is making good faith efforts to acquire the coverage.

(3) Any credit union which is unable to comply with this subsection shall be liquidated by the administrator, unless the administrator approves the merger or consolidation of such credit union with a NCUSIF insured credit union.

(4) Every credit union shall maintain their current share insurance during the conversion process.

(5) Every credit union shall forward a copy of the NCUSIF certificate of insurance to the administrator within 30 days after the credit union receives the certificate.

(a) (1) Every credit union shall take every action legally required to maintain NCUSIF insurance coverage in full force and effect, and shall refrain or desist from taking any action that is likely to cause termination of NCUSIF insurance coverage.

(2) The administrator shall order the merger, consolidation, or liquidation of any credit union whose NCUSIF insurance is terminated.

(f) No bylaw amendment of any nonfederal insurer shall be binding upon any Kansas credit union unless and until approved by the Kansas state department of credit unions.

Sec. 2. K.S.A. 17-2246 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

health, welfare, peace and safety, and hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval or on March 4, 1991, whichever later occurs.

Approved February 28, 1991.

Effective March 4, 1991.

CREDIT UNIONS—FEES

H.B. No. 180

WEST'S NO. 2

AN ACT to repeal sections 370.071, 370.080, 370.085, 370.150, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381, and 370.382, RSMo 1986, and section 370.310, RSMo Supp.1990, relating to credit unions, and to enact in lieu thereof seven new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 370.071, 370.080, 370.085, 370.150, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381, and 370.382, RSMo 1986, and section 370.310, RSMo Supp.1990, are repealed and seven new sections enacted in lieu thereof, to be known as sections 370.071, 370.080, 370.085, 370.150, 370.310, 370.362, and 1, to read as follows:

370.071. A credit union may have the following additional powers:

(1) To contract for group insurance plans, approved by the state of Missouri, on behalf of members electing to participate in such insurance programs and to charge a fee for providing such services;

(2) To exercise such additional powers, with the approval of the director, as federally chartered credit unions may be authorized under federal statutes;

(3) To hold membership in central credit unions whose field of membership includes credit unions, and to invest funds in shares of corporations to aid the liquidity of credit unions;

(4) To act as the fiscal or transfer agent of the United States, of any state, municipality, or political subdivision and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(5) Notwithstanding any other law to the contrary, a credit union may charge an initial and/or recurring membership fees provided such fees have been approved by a majority of the membership in attendance at any regular or special meeting or by a mail ballot as provided in the credit union bylaws, after notice of the purpose thereof shall have been mailed at least seven days and no longer than sixty days prior to the date of such meeting. Such membership fees shall not be construed as reserve income but shall be used at the sole discretion of the board of directors for the benefit of the credit union.

370.080. 1. The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more general shares, or one membership share and/or membership fee when required, and have paid for the same in the whole or in part, with the entrance fee as required by the bylaws, and have complied with such other requirements as the certificate of organization may contain.

2. Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association or to groups residing within a well-defined neighborhood, community or rural district.

3. Each credit union may, at the option of the board, create one or more classes of shares which shall be known as "membership share" representing the member's owner-

MISSOURI

ship interest in the credit union on such terms and conditions as the board of directors may determine, not inconsistent with the bylaws, provided that each membership share shall have a par value of not less than twenty-five nor more than one hundred dollars. A membership share shall not be pledged as security on any loan.

4. Notwithstanding any other provisions of this chapter to the contrary, in the event of liquidation of the assets of the credit union, the membership share shall be at risk, uninsured, and shall be subordinated to the claims of all nonmembers and participate in the assets of the credit union after all creditors and holders of all other shares, and the National Credit Union Administration, and other share insurers and guarantors, as defined in section 370.377.

370.085. 1. Membership shares may, with the approval of the director of the division of credit unions, be utilized to fulfill required reserves, operating deficiencies, and satisfy the contractual arrangements of share insurers or guarantors ~~defined in section 370.377.~~ Notwithstanding the provisions of subsection 3 of section 370.340, payment for such shares, upon demand, may be delayed or withheld without notice, in whole or in part, by order of board of directors or director of division of credit unions to insure the safe and sound operations of the credit union or to fulfill contractual commitments. When the value of membership shares is impaired, the board of directors, under the direction of the director of credit unions, shall immediately revalue membership shares in proportion to the change of the aggregate value of such shares. The value of membership shares so affected shall hold constant until such subsequent time as the financial condition of the credit union causes a revaluation of membership shares to reflect further impairments or the recovery of prior devaluations as determined by the board of directors with the approval of the director of the division of credit unions.

2. A member of a credit union desiring to withdraw from the credit union or to redeem membership shares must file a written application with the credit union, in such form and manner as the board of directors may determine, and as the insurer or guarantor may impose as a condition of insurance or guarantee.

3. The share balance in the member's membership share account shall be paid to such member only as funds therefor become available and after deducting any amounts due the credit union by the member, including any fees, impaired balance, notes or obligations outstanding, whether mature or unmatured, or other indebtedness or obligation of that member to the credit union.

4. The procedures established by the board of directors of the credit union for the redemption or withdrawal of the membership share shall not be amended or varied without the written consent of the director of the division of credit unions.

5. The board of directors may authorize dividends, after provision for required reserves, to be paid on membership shares. A dividend need not be paid on membership shares, but if such a dividend is paid, it may, at the option of the board of directors, be added to the membership share held by each member, and may not be subject to withdrawal until some future time to be determined by the board of directors, or upon termination of membership.

370.150. 1. The director of the division of credit unions may, without notice, notwithstanding the provisions of section 370.140, suspend the charter or take possession and control of the assets, business, books and records and property of every description of any credit union organized under section 370.010, whenever:

- (1) He has revoked the certificate of approval of the credit union;
- (2) An examination made by the director or one of his or her deputies or examiners reveals that such credit union is insolvent, or that its continuance in business will seriously jeopardize the safety of the deposits of its members or its creditors;
- (3) It has failed to comply with any cease and desist order issued by the director under the provisions of section 370.140;
- (4) It refuses to permit the director to examine its affairs;
- (5) The credit union board of directors requests the director to take possession of the credit union. Thereafter, the director of credit unions shall make a determination as to

whether to return the credit union to the board of directors, to merge, to consolidate or to liquidate the credit union as provided in this chapter;

(6) It is conducting its business in an unsafe or unsound manner;

(7) It becomes ineligible for ~~membership in any share insurance corporation as defined in section 370.377~~ with the National Credit Union Administration.

2. The director shall retain possession until such time as he may permit it to resume business or its affairs are finally liquidated.

3. During the time the director is in possession, he shall have the power to operate the credit union through the agency of a qualified person, natural or corporate, who shall act under his supervision, and all expenses of the operation, including compensation of the agent and the employees of the agent, shall be paid from the credit union's funds.

4. While in possession, the director may exercise all of the functions and powers given to credit unions by this chapter or the general laws of this state, and may exercise them through the designated agent authorized in the preceding paragraph, and shall bring and defend actions in the name of the credit union, and do any and all acts and things as are reasonable and necessary to the conservation of the business, property and affairs of the credit union, including calling special meetings of the board of directors, the committees, the members of the credit union, all of which he may attend.

5. When the director takes possession, the credit union officers shall convey to him all books, records, and property of every description of the credit union. Failure of the officers to do so shall be a misdemeanor and upon conviction shall be punishable by a fine of five hundred dollars or by confinement in the county jail for a period of thirty days, or by both the fine and confinement.

6. The director upon taking charge of a credit union shall as soon as practical ascertain the financial condition thereof by an examination of its affairs, and in his discretion, an appraisal of its assets.

7. If it shall appear therefrom that the credit union is in a condition to safely resume business without reorganization, consolidation or merger, and if any question of alleged violation or charges of unlawful action or unauthorized conduct of business has been determined, he shall return the possession, assets and conduct of the business thereof to the directors and officers.

8. If it appears that a reorganization, merger or consolidation will be necessary before the credit union can safely resume business and that such reorganization, merger or consolidation is feasible, he shall propose a plan and attempt to implement it.

9. If it shall appear that the credit union is not in a condition to safely resume business and that reorganization, merger or consolidation is not feasible, he may issue a notice of involuntary liquidation and appoint a liquidating agent to liquidate the credit union.

10. At any time within thirty days after the director has taken possession of the business and property of any credit union under this section, such credit union, with the approval of a majority of its board of directors, may apply to the circuit court in the judicial district in which the principal office of such credit union is located, for an order requiring the director to show cause why the director should not be enjoined from continuing such possession. The court may, upon good cause shown, direct the director to refrain from further proceedings and to surrender such possession of the business and property of the credit union back to the directors and officers.

11. The powers and authority conferred on the director by this section, except in case of voluntary surrender, shall be considered as discretionary and not as mandatory, and so long as the director acts in good faith in the matter, neither he nor his employees or agents shall be held liable civilly or criminally or upon their official bonds in any action taken hereunder or for any failure to act hereunder.

370.310. 1. A credit union may lend to its members, as herein provided, for such purposes and upon such security as the bylaws provide and the credit committee or credit manager shall approve, provided that no secured or unsecured loan shall be made in excess of two thousand dollars, except that if ten percent of the assets of the credit union

exceeds two thousand dollars then the maximum amount of a loan by the credit union shall be ten percent of its assets, and unsecured loans to any one member shall not exceed the limitations found in current written policies of the board of directors.

2. A member who needs funds with which to purchase necessary supplies for growing crops may receive a loan in installments instead of one sum.

3. A borrower may repay the whole or any part of his loan on any day on which the office of the credit union is open for the transaction of business.

4. All loans to directors, credit and supervisory committee members of the credit union shall comply with all the requirements in this chapter and the credit union bylaws with respect to loans to other members and may not be on terms more favorable than those of loans extended to other member-borrowers except that such loans, other than those secured by mortgages on primary and secondary borrower-occupied residences, negotiable securities, licensed motor vehicles, or shares shall not exceed twenty-five thousand dollars for each official and such loans shall also be approved by reported at the next regular scheduled meeting of the board of directors; and further all such loans shall be reported to the director of the division of credit unions at least annually quarterly.

370.362. 1. Every credit union incorporated under this chapter and not currently insured by the National Credit Union Share Insurance Fund (NCUSIF) shall, within ninety days of the effective date of this section, make application for insurance with the NCUSIF. Such application for NCUSIF insurance shall be filed with the division of credit unions and forwarded to the National Credit Union Administration. The director may suspend the charter, merge, liquidate, or take possession of any credit union which fails to comply with this section or which loses or allows such coverage to lapse. All newly chartered credit unions shall obtain NCUSIF coverage prior to commencing business. All credit unions chartered and existing under this chapter shall maintain their current share insurance during the conversion process, but if a nonfederal insurer which is providing share insurance for a credit union in this state discontinues providing such insurance for the credit union during the period allowed in subsection 2 of this section for the conversion from nonfederal share insurance to NCUSIF insurance, the credit union cannot be forced to discontinue doing business in this state during the time period allowed for such conversion if the credit union is complying with all other provisions of chapter 370 and rules and regulations promulgated by the director of the division of credit unions and such credit union provides satisfactory evidence to the director of the division of credit unions that the credit union is making and has made good faith efforts to acquire NCUSIF share insurance.

2. Every credit union incorporated under this chapter shall obtain a certificate of insurance from the NCUSIF within twenty-four months of the effective date of this section. The director may extend, for a period not to exceed twelve months, the date by which a credit union must secure such certificate upon satisfactory evidence that the credit union has made and is making good faith efforts to acquire the coverage. Any credit union that fails to comply with this subsection shall be liquidated by the director, unless the director approves the merger or consolidation of a credit union with an NCUSIF insured credit union.

3. A credit union shall forward a copy of the certificate of insurance to the director promptly and in no event later than thirty days after receipt.

4. Every credit union organized under this chapter shall take every action legally required to maintain NCUSIF insurance coverage in full force and effect, and shall refrain or desist from taking any action that is likely to cause termination of NCUSIF insurance coverage. The director shall order the merger, consolidation or liquidation of any credit union whose NCUSIF insurance is terminated.

5. This act shall not apply to any credit union organized pursuant to section 370.365.

6. When a credit union that has been insured by a nonfederal insurer converts its share insurance to the National Credit Union Share Insurance Fund the nonfederal insurer shall immediately return to such credit union the amount of unearned premiums, paid-in capital contribution and special assessments that the credit union has paid to such

nonfederal insurer, unless the credit unions, which are members of such nonfederal insurer subsequent to the effective date of this act, agree otherwise.

7. No bylaw amendment of any nonfederal insurer shall be binding upon any Missouri credit union unless and until approved by the Missouri division of credit unions.

8. No special assessment or fee may be imposed upon any Missouri credit union by any nonfederal insurer unless and until approved by the Missouri division of credit unions.

9. Nothing in this chapter shall preclude a nonfederal insurer from issuing private share insurance in this state in amounts in excess of the basic share insurance required by NCUSIF if the credit union desiring such insurance is insured and continues to be insured for the basic share insurance required by NCUSIF.

Section 1. Notwithstanding the provisions of sections 408.233 and 408.234, RSMo, a prepayment fee may be charged on second mortgage loans, as defined in section 408.231, RSMo, under the same provisions as is allowed under section 408.036, RSMo.

370.370. Notwithstanding any provisions of this chapter, there may be organized "credit union share guaranty corporations" which shall comply with the provisions of sections 367.100, 370.005, 370.071, 370.107, 370.220, 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382.

370.371. A credit union share guaranty corporation may be organized by the duly authorized representatives of not less than twenty-five credit unions chartered and existing under this chapter or by an association of credit unions where such association is composed of a majority of the credit unions chartered and in existence under this chapter. Application to form a guaranty corporation shall be made in writing to the director of the division of credit unions. The application shall be accompanied by a certificate of organization, proposed bylaws and a fee of five hundred dollars, together with the names of the applicants who shall have agreed to subscribe to membership in the corporation. When the director finds that the application is in order and in compliance with the provisions of this section, the director shall charter the corporation which may begin operations as a not for profit corporation when the charter and bylaws have been filed with the secretary of state. In all respects, except as otherwise provided in sections 367.100, 370.005, 370.071, 370.107, 370.220, 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382, the provisions of chapter 355, RSMo, shall apply to the corporations organized hereunder.

370.372. The general purpose of the not for profit corporations organized under sections 367.100, 370.005, 370.071, 370.107, 370.220, 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382 shall be to aid and to assist member credit unions which develop financial problems such as insolvency, nonliquidity and liquidation, irrespective of the cause, and to assist member credit unions in the process of merger or consolidation, in order that the shares of each member of member credit unions shall be protected and guaranteed to the total amount of the members' shares and deposits up to a total of fifty thousand dollars in shares and deposits for each member of an insured member credit union and up to a total of fifty thousand dollars in deposits for each nonmember depositor.

370.373. A corporation may make contracts; sue and be sued; adopt, use and display a corporate seal; advance funds to aid member credit unions to operate and to meet liquidity requirements; assist in the orderly liquidation of credit unions; receive money or property from its member credit unions, or any corporation, association or person; invest its funds in the same manner as provided for credit unions in this chapter, except that such investments shall not exceed eighty percent of the outstanding capital of a corporation; borrow money from any source, upon such terms and conditions as the directors of the corporation may determine to accomplish the purposes of sections 367.100, 370.005, 370.071, 370.107, 370.220, 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382; purchase in its own name, hold and convey real and personal property; receive by assignment or purchase from its member credit unions any notes, mortgag-

~~es, real estate, securities or other assets; adopt and amend bylaws, rules and regulations for the corporation, for the purpose of carrying out the purposes of section 367.100, 370.005, 370.071, 370.107, 370.220, 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382; enter into agreements which aid the corporation in the accomplishment of its purposes with similar entities organized under federal statutes or the statutes of another state; and enter into agreements for reinsurance.~~

~~370.374. The corporation's business shall be conducted by the incorporators who shall serve until the organizational meeting of the corporation at which time not less than seven directors shall be elected by the members of the corporation in accordance with the bylaws. Each member shall have one vote in the election of directors and in all other business transacted at meetings of the corporation.~~

~~370.375. Each corporation organized under sections 370.365, 370.370, 370.371, 370.372, 370.373, 370.374, 370.375, 370.376, 370.377, 370.378, 370.379, 370.380, 370.381 and 370.382, or in any other state where the share insurance corporation has similar purposes, shall be subject to the exclusive jurisdiction, regulation, supervision of, an annual examination by, the director of credit unions, the cost of which shall be paid by the corporation. Credit unions of this state may maintain membership in association or corporations organized under federal statute or the statute of another state whose purposes include those stated in section 370.372 and such membership shall satisfy all the requirements of section 370.377.~~

~~370.376. The bylaws of a corporation and any amendments thereto shall be submitted to the director for his approval. These bylaws may be amended at any regular or special meeting of the directors or at any annual meeting of the corporation.~~

~~370.377. 1. All credit unions chartered and existing under this chapter shall become members of a credit union share insurance or guaranty corporation before beginning business operations; credit unions operating under federal charter or chartered by another state, and corporations and associations wholly owned by or composed of credit unions, may become members, upon application to and approval of the directors, of a credit union share insurance or guaranty corporation. The director of the division of credit unions shall order the merger, consolidation or liquidation of any credit union whose application for membership is not approved.~~

~~2. A state chartered credit union may, notwithstanding the foregoing requirement to become a member of a Missouri credit union share insurance or guaranty corporation, in the alternative apply to and have the shares of its members insured by the National Credit Union Administration or another credit union share insurer or guarantor approved by the director of credit unions. A state chartered credit union may convert its share protection coverages from or to the National Credit Union Share Insurance Fund or another share insurer or guarantor approved by the director.~~

~~370.378. The membership fee in a corporation for each credit union member shall be five dollars, or one-half of one percent of the outstanding shares and deposits of the member credit union, whichever is greater. The membership fee, when paid by the individual member credit union, shall be established as a prepaid asset. The membership fee shall be recomputed for each credit union annually on or before December thirty-first based on the total of the credit union's outstanding shares and deposits as of the close of the fiscal year each September thirtieth. The corporation shall collect from or refund to each credit union an amount so that on each December thirty-first the membership fee paid by the credit union to the corporation shall equal one-half of one percent of the outstanding shares and deposits of the member credit union for the fiscal year ending on September thirtieth next before such annual recomputation of the membership fee. The membership fee of each member credit union shall be refunded to each member credit union when the unencumbered funds of the corporation reach two percent of the aggregate total share and deposit capital of the member credit unions of a corporation, as determined from the corporation's annual report, which shall include a summary of member credit unions' financial statements. These refunds shall be paid to the then-existing credit unions. The directors of the corporation shall by rule determine the membership fee for noncredit union members. In computing the total~~

~~shares and deposits, corporate accounts in excess of fifty thousand dollars may be excluded.~~

~~370.379. A member credit union's membership fee in a corporation shall be considered as part of its reserves as required by section 370.320.~~

~~370.380. A regular annual assessment, not to exceed one-twelfth of one percent of the member credit union's share and deposit capital, shall be levied by the directors. In the event of potential impairment of a corporation's capital funds, special assessments may be levied by the directors with the approval of the director of the division of credit unions. The member credit union's share and deposit capital as of September thirtieth in each year shall be the basis for computing the assessment due on the first day of the calendar year next following; however, the directors may determine another date on which the annual assessment shall become due and payable. The annual assessment, and any special assessment, when paid by the member credit union, shall be a charge to its reserve fund.~~

~~370.381. The directors may reduce or waive the annual assessment, with the approval of the director of the division of credit unions, when the total funds of a corporation equal four percent of the aggregate total share capital of member credit unions.~~

~~370.382. A corporation may issue necessary rules to insure the safety of the funds and to set minimum standards to be met by insured credit unions.~~

Section B. Because of the need to insure that credit unions in this state remain solid and financially strong and that the assets of citizens of this state remain safe and secure, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved March 7, 1991.

Effective March 7, 1991.

MOTOR VEHICLES—SCHOOLS—COMMERCIAL PURPOSES

H.B. No. 251

WEST'S NO. 3

AN ACT to repeal sections 167.242, 302.010, 302.700, 307.177 and 307.400, RSMo Supp.1990, relating to the operation of certain motor vehicles, and to enact in lieu thereof four new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 167.242, 302.010, 302.700, 307.177 and 307.400, RSMo Supp.1990, are repealed and four new sections enacted in lieu thereof, to be known as sections 302.010, 302.700, 307.177 and 307.400, to read as follows:

302.010. Except where otherwise provided, when used in this chapter, the following words and phrases mean:

- (1) "Circuit court", each circuit court in the state;
- (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
- (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed under section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the

Additions in text are indicated by underline; deletions by ~~strikeout~~

CTIONS

14

use such policy contains cov-
 eptance of a title insurance
 l mortgage association or the
 on, shall be conclusive proof
 its the reasonable standards
 he borrower is applying for a
 loan.

or does not select a qualified
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 : lending institution to select
 ion violates this section, any
 in the superior court of the
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 ity shall not be in session, or
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 may be agreed upon by the
 i such lending institution a
 enforcement of this section,
 court shall have jurisdiction
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tain the landing institution
 ed violation;

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ONS

tion, nor does it constitute tortious
 ance with the insurer's contractual
 a Mortgage Guarantee & Title Co. v.
 wealth Mtg. Co., 730 F. Supp. 469
 and, 915 F.2d 1557 (1st Cir. 1990).

nts — Purchase money
 ling a purchase money first
 state containing less than
 ement of the loan proceeds
 iveness and/or mortgage
 ement shall be in the form
 overment check, teller's
 d drawn on another depos-
 Rhode Island, a cashier's
 s. The disbursement shall

15

BANK EXAMINATIONS

19-14-1

be made to the agent responsible for settlement. Should the dis-
 bursement not be made as provided in this section, no interest shall
 be charged for the first thirty (30) days following the closing date.

History of Section.

P.L. 1990, ch. 181, § 1.

CHAPTER 11

DEPOSITS

SECTION.

19-11-9. Insurance of deposits.

19-11-9. Insurance of deposits. — Any bank, savings bank,
 loan and investment company, building and loan association, credit
 union, or any other deposit-taking institution permitted by law to
 receive deposits shall acquire insurance on all deposits provided by
 the federal deposit insurance corporation, the federal savings and
 loan insurance corporation, or the national credit union
 administration. The deposit insurance required hereunder shall be
 mandatory and failure to obtain and implement the required insur-
 ance shall be deemed sufficient cause for the appropriate authority
 to revoke the noncomplying institution's charter.

The department of business regulation shall promulgate such
 rules, regulations, and guidelines which it deems necessary to imple-
 ment the provisions of this section.

History of Section.

P.L. 1977, ch. 284, § 1; P.L. 1989, ch. 542,
 § 14. P.L. 1991, ch. 44, art. 70, § 1.

19-11-14. Disclosure of bank charges.

Collateral References. Bank's liability to
 customer for imposing allegedly excessive
 service charges. 73 A.L.R.4th 1025.

CHAPTER 14

BANK EXAMINATIONS

SECTION.

19-14-1. Periodic examinations — Access
 to vaults and records.

19-14-1.1. Audits.

SECTION.

19-14-2. Records of examinations and re-
 ports.

19-14-1. Periodic examinations — Access to vaults and
 records. — The director of business regulation either personally or
 by deputy, with such assistants as the director may designate, shall,
 whenever he or she considers it advisable, but at least once in each
 year, visit and examine each bank, savings bank, and trust company
 incorporated in the state, and if it is connected with a national bank

RHODE ISLAND

95.000-3

§95.3. Share Deposit Guaranty Requirements. All credit unions in the State of Texas shall obtain federal share insurance from National Credit Union Administration (NCUA). Credit unions presently insured by the Texas Share Guaranty Credit Union shall apply for federal insurance with the NCUA no later than March 1, 1991 and obtain federal share insurance within 30 days of notification of eligibility by the NCUA. Any credit union unable to qualify for federal share insurance by December 31, 1992 may be granted one or more six-month extensions by the commissioner to qualify for federal insurance, if the commissioner finds that the credit union is making substantial progress in qualifying for federal insurance with the NCUA.

TEXAS

95.300-8

§95.307. Conversion to Federal Insurance. As provided in §95.3, of this title (relating to Share Deposit Guaranty Requirements), a member credit union shall convert from the share and deposit insurance provided by the Texas Share Guaranty Credit Union (TSGCU) to federal share insurance provided by the National Credit Union Administration (NCUA) through the National Credit Union Share Insurance Fund. The commissioner shall not approve a conversion so long as a member credit union has any outstanding special assistance obligation or commitment to TSGCU, unless approved in writing by TSGCU and NCUA. Upon the issuance of a certificate of insurance by NCUA, a member credit union will cease to be a member credit union and will be deemed to be a converted credit union as those terms are defined in §95.2 of this title (relating to Definitions. As used in this rule). TSGCU shall not be liable for any claim for insurance of accounts by a converted credit union and a converted credit union shall not be liable to TSGCU or other member credit unions for claims for any general or special assessment, for any contribution to the TSGCU reserve or capital account, for the refund or repayment of any TSGCU special assistance received by the converted credit union, or for any other liability due to or by reason of membership in TSGCU; provided, however, TSGCU may continue to hold, utilize, and/or expend all of the assets of TSGCU and accordingly reduce the membership investment share held by the TSGCU at the time of the issuance of the certificate of insurance by the NCUA. The provisions hereof shall supercede and take precedence over any conflicting rule of the commission or bylaw of TSGCU.



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

TO: Bob Fenner
FROM: Hattie Ulan *HUU*
SUBJ: New Legislation
DATE: December 20, 1991

The new legislation has several provisions that affect credit unions and the NCUA. The following is a summary and analysis of the relevant provisions and a listing of the additional major provisions affecting FDIC - insured institutions. This memo is an amalgam of several memos done by the operations attorneys. I have noted who is responsible for each section discussed. My December 5, 1991 memo serves as a summary of this more detailed memo and is attached.

1. Title I, Subtitle F, Section 151 - Federal Insurance for State Chartered Depository Institutions p. 11773
(Hattie and Martin)

There are basically five requirements in this section. They are follows:

1- Audit Requirement. Within 120 days after enactment, requirement that private insurers get an annual, independent audit. The audit shall be completed using generally accepted auditing standards and shall determine whether the insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses. A copy of the audit must be provided, within fourteen days, to each credit union insured by the private insurer, and to each state supervisor within seven days of receipt of the audit. Credit unions must provide copies of the audit to current or prospective members upon request. (Section 151(a))

2- Disclosure Requirement. Within one year after enactment, all credit unions that are not federally insured must include conspicuously on all periodic statements of account, signature cards, passbooks, CDs

and other similar instruments of deposit and in all advertising a notice that the credit union is not federally insured. Within two and one half years after enactment, the notice, except in advertising, must also include a statement that if the institution fails, the Federal Government does not guarantee that depositors will get back their money. The FTC, by regulation or order, must prescribe the manner and content of disclosure required.

3- Acknowledgment of Risk. Within two and one half years after enactment, non-federally insured credit unions shall only accept deposits from persons who have signed a written acknowledgment that the credit union is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

4- Certification of State Supervisors. Within two years after enactment, the state supervisors must determine that the nonfederally insured credit union meets all of the eligibility requirements for NCUA insurance. However, NCUA is not bound by this determination. If certification is not made, the credit union will not be permitted to use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits.

5- Business Plan. Within 240 days (six months) after enactment, all private insurers must submit a business plan to appropriate state supervisors showing that it is viable, including, at a minimum, underwriting standards; resources, including trends in and forecasts of assets, income, and expenses; risk-management program, including exam and supervision, problem case resolution, and remedies; and for the preceding five years, copies of annual audits, annual reports, and annual meeting agendas and minutes. Section 151(b)(2) [Something is off with section numbers here, there are two 151(b)s. This one is the second one found at the bottom of the middle column on p. 11774.]

The FTC is the enforcement agency for this entire section. We have no authority. The FTC has already contacted Bob Loftus, and we are scheduled to meet with them on January 6. Section 151(g)

This section amends the Federal Deposit Insurance Act. No changes are made to the FCU Act. We do not need to issue any regulations to implement this section. Our involvement will be in assisting the FTC and/or the state supervisors.

2. Title II, Subtitle B, Section 221, Study on Regulatory Burden p. 11780 (Hattie)

This section requires that the Federal Financial Institutions Examination Council (FFIEC) review policies and procedure, recordkeeping and documentation used by insured depository institutions to monitor and enforce compliance with federal banking agency laws and determine whether policies, procedure and requirements impose unnecessary burdens on depository institutions. The FFIEC must identify revisions that could reduce burdens without affecting compliance with consumer laws or endangering safety and soundness. The FFIEC must submit a report to Congress within one year of the law's enactment describing the revisions. The definitions of "insured depository institution" and "federal banking agency" to be used in this section are set forth in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c) & (g)) and do not include credit unions or the NCUA.

This section is discussed because the Chairman is a member of the FFIEC. Our involvement in this review and report should be minimal, if any at all.

3. Title II, Subtitle B, Section 223, Enforcement of Equal Credit Opportunity Act p. 11780 (Mike)

Enforcement Of The Equal Credit Opportunity Act

These changes are made to the Equal Credit Opportunity Act. The relevant changes are as follows:

1- If NCUA fails to obtain a credit union's compliance with the Equal Credit Opportunity Act (ECOA), NCUA must refer the matter to the Attorney General if NCUA believes that the credit union has engaged in a pattern or practice of discouraging or denying applications for credit in violation of ECOA. Referral to the Attorney General is discretionary if NCUA only believes that the credit union is simply violating ECOA, absent a pattern or practice.

ances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable.

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (1).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period, the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any li-

ability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership."

"(C) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following:

"(a) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act."

"(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act.

"(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

"(1) by redesignating section 13a as section 13a;

"(2) by redesignating section 25(a) as section 25A; and

"(3) by redesignating section 25(b) as section 25B.

SEC. 142. EARLY RESOLUTION.

"(A) IN GENERAL.—It is the sense of the Congress that the Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act.

"(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early

resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

"(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

"(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

"(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

"(4) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

"(5) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

"(6) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

"(7) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

"(A) the Federal Deposit Insurance Corporation—

"(i) does not acquire a significant proportion of the troubled institution's problem assets;

"(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

"(iii) limits the Corporation's assistance in term and amount; and

"(B) new investors share risk with the Corporation.

"(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER: DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE —

"(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) **AUDIT REQUIRED.—**Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and sets aside sufficient reserves for losses.

"(2) **PROVIDING COPIES OF AUDIT REPORT.—**

"(A) **PRIVATE DEPOSIT INSURER.—**The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(1) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than \$100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The appropriate supervisor of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

"(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

"(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with the proviso that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

"(C) subsection (c) shall become effective 2 years after that date of enactment; and

"(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

"(3) CORRESPONDING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1821e) is amended—

"(A) by striking subsection (h); and

"(B) by redesignating subsection (i) as subsection (h).

"(b) VIABILITY OF PRIVATE DEPOSIT INSURER.—

"(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40 (a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

"(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

"(A) describe the insurer's—

"(i) underwriting standards;

"(ii) resources, including trends in and forecasts of assets, income, and expenses;

"(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

"(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

"(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

SubTitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

"(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

"(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

"(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

"(3) in subsection (e)(3)(C)(iii), by striking "subsection (k)" and inserting "subsection (l)";

"(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (l)";

"(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (14)(1)" and inserting "subsection (d)(9)";

"(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

"(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

"(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821e(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1969.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act."

"(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 31(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

"(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

"(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(u)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(u)(3)(A)) amended by striking "The" and inserting "Notwithstanding any other provision of