

470

ACT #2018-

1 HB316  
2 189284-4  
3 By Representative Butler  
4 RFD: Financial Services  
5 First Read: 25-JAN-18



1  
2 ENROLLED, An Act,

3 To amend Sections 5-17-22, 5-17-40, 5-17-45,  
4 5-17-56, and 5-17-60, Code of Alabama 1975, relating to  
5 regulation of credit unions; to provide voting and notice  
6 requirements for board meetings; to provide for the conversion  
7 of credit unions chartered in other states to Alabama state  
8 chartered credit unions; to provide state chartered credit  
9 unions access to certain reports under certain conditions; to  
10 provide circumstances for the Credit Union Board to enter into  
11 executive session; and to provide for certain public  
12 disclosures.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 5-17-22, 5-17-40, 5-17-45,  
15 5-17-56, and 5-17-60, Code of Alabama 1975, are amended to  
16 read as follows:

17 "§5-17-22.

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

1 directors, the membership of the merging credit union must  
2 also approve the merger plan in the following manner:

3 "(1) At a meeting called for that purpose, notice of  
4 which purpose must be contained in the call, two thirds of  
5 those ~~in attendance~~ voting may vote to approve the merger  
6 plan. Voting must be conducted in accordance with the bylaws  
7 of the credit union. ~~Notice of the meeting must have been~~  
8 ~~mailed to the last known address of each member of the credit~~  
9 ~~union~~ The notice must be provided to the members at least 15  
10 days prior to the date of the meeting.

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

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

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

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

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

22 "e. The vote by which the plan was approved by the  
23 members.

24 "(3) Such certificate and a copy of the plan of  
25 merger agreed upon shall be forwarded to the administrator,

1 certified by the administrator, and returned to both credit  
 2 unions within 30 days.

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

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

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

22 "(7) Credit unions organized under the laws of the  
 23 State of Alabama may be merged into federally chartered credit  
 24 unions under the same conditions as provided in this section;  
 25 provided, that the merger plan is approved by the National

1 Credit Union Administration or private insurance program or  
 2 carrier.

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

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

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

22 "(11) A credit union chartered under the laws of  
 23 another state may be converted to an Alabama state chartered  
 24 credit union under state law and regulation. Conversion to an  
 25 Alabama state chartered credit union shall be effective upon

1       the written approval of the administrator. Notice of  
2       conversion shall be filed with the Secretary of State and the  
3       judge of probate of the county in which the credit union  
4       maintains its principal office.

5               "\$5-17-40.

6               "(a) There shall be an Alabama Credit Union  
7       Administration which shall administer the laws of this state  
8       which regulate or otherwise relate to credit unions in the  
9       state. The authority of the Alabama Credit Union  
10      Administration to perform such functions shall be exclusive  
11      and all authority regarding credit unions which was previously  
12      vested in the State Banking Department is hereby vested in the  
13      Alabama Credit Union Administration.

14              "(b) If any of the provisions of Chapter 17 of this  
15      title are inconsistent with any other general or special law,  
16      Chapter 17 of this title shall be controlling.

17              "\$5-17-45.

18              "(a) The Legislature finds as fact and determines  
19      that the credit unions having their principal place of  
20      business in Alabama must keep pace with technological and  
21      other improvements constantly being made throughout the United  
22      States so as to enable Alabama credit unions to render better  
23      and more efficient services to their members. It is necessary  
24      and desirable that the administrator be given additional  
25      authority in these fields.

1           "(b) The administrator is hereby authorized to  
2 expand powers of Alabama credit unions in order to accomplish  
3 both of the following:

4           "(1) Accommodate or take advantage of changing  
5 technologies.

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

16           "No credit union having its principal place of  
17 business outside of Alabama may engage in credit union  
18 business in Alabama under the provisions of this section;  
19 provided that the administrator is authorized to enter into  
20 agreements with the appropriate regulatory authorities of  
21 other states; provided credit unions having their principal  
22 place of business in Alabama are given and may exercise  
23 reciprocal rights.

24           "(c) The administrator is authorized to issue  
25 regulations under subsection (b) in the same manner as other

1 regulations of the Alabama Credit Union Administration are  
2 adopted. Any Alabama credit union covered by the provisions of  
3 subsection (b) desiring to exercise any such expanded power  
4 must secure in advance written permission of the  
5 administrator. The administrator may prescribe the form or  
6 forms for such applications for permission and may impose  
7 reasonable conditions in granting such permission.

8 "(d) The administrator may enter into supervisory or  
9 other agreements, some of which may be confidential in nature,  
10 with the Federal Reserve; the U.S. Treasury Department; the  
11 National Credit Union Administration; state credit union,  
12 banking, and other regulators; approved private insurance  
13 carriers; and other state or federal agencies and furnish to  
14 them for their use such reports of examination and other  
15 information in taking enforcement and other supervisory  
16 actions.

17 "(e) Upon request by a state chartered credit union  
18 or its designee, any service provider or vendor providing  
19 mission critical services to the credit union shall provide  
20 any requested reports of examination, audit reports, or other  
21 third party reports of the service provider or vendor  
22 to the credit union or its designee. The credit union shall  
23 make the reports available for review by the administration.  
24 Mission critical services shall include those services defined  
25 by regulation as mission critical, and those services that



1 involve access by the service provider or vendor to personally  
2 identifiable information as defined by the Gramm-Leach-Bliley  
3 Act, 15 U.S.C. Section 6809.

4 "§5-17-56.

5 "(a) The administrator shall comply with ~~the~~  
6 ~~provisions of~~ the Alabama Open Meetings Law, Chapter 25A of  
7 Title 36. The ~~board~~ Credit Union Board shall meet not less  
8 than once every calendar year. Any meeting of the ~~board~~ Credit  
9 Union Board may be held at any place in the state where it is  
10 called to meet by the administrator.

11 "(b) In order to comply with state and federal  
12 confidentiality requirements, at any meeting, the Credit Union  
13 Board may enter executive session to do any of the following:

14 "(1) Protect the confidentiality of reports or  
15 information under Section 5-17-60 and any other provisions of  
16 this title.

17 "(2) Review information concerning the condition and  
18 affairs of any proposed credit union, any credit union, any  
19 subsidiary or affiliate of a credit union, or several credit  
20 unions or their subsidiaries, or to review the personal or  
21 financial information of individuals or credit union members.

22 "(3) Undertake any purpose for which a governmental  
23 body is permitted to go into executive session under the  
24 Alabama Open Meetings Act.

1           "(4) Accomplish any other purpose of the Credit  
2           Union Board that requires it to receive or consider  
3           information that is confidential under this title.

4           "(5) Comply with any other state or federal law  
5           requiring confidentiality.

6           "(c) Confidential information under this title  
7           includes all information set forth in subsection (b), as well  
8           as other information designated as confidential in this title  
9           or under state or federal law, and any other information as  
10           determined by the administrator.

11           "§5-17-60.

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

24           "(b) Notwithstanding subsection (a), the  
25           administrator, at the administrator's discretion, may disclose

1 any information otherwise protected under this section to the  
2 members of the Credit Union Board and confer with the members  
3 of the Credit Union Board regarding the same and may also  
4 disclose publicly such information as is and to the extent  
5 necessary to the exercise of enforcement authority or the  
6 taking of other supervisory actions pursuant to this title.

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

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

23 "(e) The administrator may also furnish copies of  
24 his or her reports of examination and any other information to

1 the board of directors of the credit union, its supervisory  
 2 committee, subsidiary, or affiliate.

3 "(f) Any reports or information furnished or  
 4 disclosed under this section shall remain the property of the  
 5 Alabama Credit Union Administration and, except as provided in  
 6 this section, may not be disclosed to any person other than  
 7 the officers, directors, attorneys, and auditors of the credit  
 8 union, its supervisory committee, subsidiary, affiliate,  
 9 consultants, or advisors to the credit union or affiliate,  
 10 and, subject to appropriate confidentiality agreements,  
 11 persons considering the possible acquisition of, merger with,  
 12 or investment in the credit union or affiliate. A person  
 13 receiving such reports or information may not:

14 "(1) Use the report or information other than in  
 15 connection with the credit union or affiliate, and its  
 16 business and affairs.

17 "(2) Retain that report or information or copies  
 18 thereof.

19 "(3) Except as expressly permitted by law, disclose  
 20 such report or information to any person not authorized to  
 21 receive the same under this subsection.

22 "(g) All reports of examination, records reflecting  
 23 action of a credit union, its supervisory committee,  
 24 subsidiary, or affiliate, taken pursuant thereto, and records  
 25 and minutes of meetings of the Credit Union Board relating to

1 a credit union or several credit unions, supervisory  
2 committee, subsidiary, or affiliate, shall be confidential and  
3 shall not be subject to subpoena or inspection except by  
4 subpoena from a grand jury served on the administrator."

5 Section 2. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.

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*Mac McClatchey*

Speaker of the House of Representatives

*Del Mat*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 13-MAR-18.

Jeff Woodard  
Clerk

Senate

22-MAR-18

Passed

APPROVED

3/28/18

TIME

4:55pm

*Kay Ivey*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-470  
Bill Num....: H-316

Recv'd 03/29/18 10:47am

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SPONSOR

M. Butler

DIST. NO.

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SPONSORS

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Clerk GA

HOUSE ACTION

DATE: 1-25 2018

RD 1 RFD

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REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on FINANCIAL SERVICES was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) w/sub this 21 day of Feb 20 18 by Guy Johnson, Chairperson

DATE:

2-22

20 18

RF

RD 2 CAL

DATE:

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RE-REFERRED

RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 316

YEAS 94 NAYS 0

JEFF WOODARD,

DATE:

RECONSIDERED

YEAS

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RD 1 RFD

DATE:

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This Bill was referred to the Standing Committee of the Senate on GA

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) w/sub w/eng sub

by a vote of 17 nays 0 abstain 0 this 20 day of March 20 18 by Jimmy Holley Chairperson

DATE:

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RF

RD 2

CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 316

YEAS 27 NAYS 0

PATRICK HARRIS, Secretary

DATE:

3-22-18

RD 3 at length

PASSED

PASSED AS AMENDED

YEAS

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NAYS 0

And was ordered returned forthwith to the House.

PATRICK HARRIS, Secretary

DATE:

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INDEFINITELY POSTPONED

YEAS

NAYS