

Section 5-17-1

"Credit union" defined.

A credit union is a cooperative society, incorporated for the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest, particularly among groups of industrial workers and farmers, fraternal and religious organizations, and in those communities where the citizens of the state are distantly removed from convenient centers of business or easy access to financial agencies now provided for by laws of Alabama.

(Acts 1927, No. 597, p. 696, §1; Code 1940, T. 28, §282; Acts 1975, No. 561, §1; Acts 1977, No. 210, p. 282, §3; Acts 1978, No. 469, p. 492, §5.)

Section 5-17-2

Procedure for organization and incorporation generally.

(a) Any seven residents of the State of Alabama may apply to the Administrator of the Alabama Credit Union Administration for permission to organize a credit union.

(b) A credit union is organized in the following manner: The applicants shall execute in duplicate a certificate of organization by the terms of which they agree to be bound. The certificate shall state: (1) the name and location of the proposed credit union, (2) the names and addresses of the subscribers to the certificate and the number of shares subscribed by each, and (3) the par value of the shares of the credit union. They shall next prepare and adopt bylaws for the general governance of the credit union consistent with the provisions of this chapter and shall execute the same in duplicate. The certificate and bylaws, both executed in duplicate, shall be forwarded to the Administrator of the Alabama Credit Union Administration. The administrator shall, within 30 days of the receipt of said certificate and bylaws, determine whether they conform with the provisions of this chapter and whether or not the organization of the credit union in question would benefit the members of it and be consistent with the purpose of this chapter. Thereupon the Administrator of the Alabama Credit Union Administration shall notify the applicants of his decision. If it is favorable, he shall issue a certificate of approval, attached to the duplicate certificate of organization, and return the same, together with the duplicate bylaws, to the applicants. The applicants shall thereupon file the said duplicate of the certificate of organization, with the certificate of approval attached thereto, with the judge of probate of the county within which the credit union is to do business, who shall make a record of said certificate and return it, along with his certificate of record attached thereto, to the Administrator of the Alabama Credit Union Administration for permanent record. Thereupon, the applicants shall become and be a credit union, incorporated in accordance with the provisions of this chapter. In order to simplify the organization of credit unions, the Administrator of the Alabama Credit Union Administration shall cause to be prepared an approved form of certificate of organization and a form of bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance, and on written application of any seven residents of the state, shall supply them without charge a blank certificate of organization and a copy of said form of suggested bylaws.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §282; Acts 1975, No. 561, p. 1267, §1; Acts 1977, No. 210, p. 282, §3; Acts 1978, No. 469, p. 492, §6; Acts 1983, No. 83-772, p. 1407, §1; Acts 1985, No. 85-457, p. 425, §5.)

Section 5-17-3

Use of words "credit union" in name or title.

It shall be a misdemeanor for any person, association, copartnership, or corporation, except corporations organized in accordance with the provisions of this chapter, credit unions incorporated under the laws of the United States, the trade associations of credit unions doing business in this state, and other organizations as approved by the administrator, to use the words "credit union" in their name, title, or in advertising. A credit union organized under the provisions of this chapter shall include in its corporate name or title the words "credit union." Any violation of this prohibition shall subject the party chargeable therewith to a penalty of five hundred dollars (\$500) for each day, with a maximum amount of fifty thousand dollars (\$50,000), during which the violation is committed or repeated. The penalty may be recovered by the administrator by an action instituted for that purpose, and, in addition to the penalty, the violation may be enjoined and the injunction enforced as in other cases. If the directors, officers, or those persons performing similar functions as corporate directors or officers of any entity shall knowingly and willfully violate or knowingly and willfully permit any of the officers, agents, employees, or those persons performing similar functions of the entity to violate any of the provisions of this section, each director, officer, or other person engaging in the violation shall be liable in his or her personal and individual capacity for all damages which the entity or any other person shall have sustained in consequence of the violation. Provided, however, that a credit union organized in another state may conduct business as a credit union in this state with the prior approval of the Administrator of the Alabama Credit Union Administration provided all of the following criteria are met:

- (1) It is organized under laws similar to Alabama credit union laws.
- (2) It is financially solvent.
- (3) Alabama credit unions are allowed to do business in the other state under conditions similar to these provisions.
- (4) It maintains member account insurance comparable to that required for Alabama credit unions.
- (5) It agrees to submit to the administrator an annual examination report from its supervising agency.
- (6) The interest rate on loans made in Alabama does not exceed that allowed by Alabama law.
- (7) It complies with the same consumer protection provisions that are applicable to Alabama credit unions.
- (8) It designates and maintains an agent for the service of process in Alabama.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §284; Acts 1975, No. 561, p. 1267, §3; Acts 1983, No. 83-772, p. 1407, §1; Acts 1985, No. 85-457, p. 425, §6; Act 2014-317, §1.)

Section 5-17-4

Powers generally.

A credit union shall have all of the following powers:

- (1) To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs and other thrift organizations within the membership.
- (2) To accept deposits of fiduciary funds if a member is the beneficiary, trustee, or personal representative and if the funds are part of the estate of a deceased member.
- (3) To make loans to members.
- (4) To make loans to other credit unions.
- (5) To make loans to a cooperative society or other organizations having membership in the credit union.
- (6) To deposit in state and national banks, savings and loan associations, the accounts which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, and of other credit unions.
- (7) To invest in any investment legal for savings banks or for trust funds in the state.
- (8) To borrow money from any source and to give its note therefor; provided, that the borrowing shall not at any time exceed 50 percent of its assets.
- (9) To assess each member a recurring or nonrecurring membership fee.
- (10) To exercise incidental powers as necessary to enable it to carry on effectively the purposes for which it is incorporated and other powers as are expressly authorized by the Administrator of the Alabama Credit Union Administration.
- (11) In addition to any and all other powers heretofore granted to credit unions, any credit union shall have the power to engage in any activity in which the credit union could engage were the credit union operating as a federally chartered credit union, including but not by way of limitation because of enumeration, the power to do any act and own, possess, and carry as assets property of that character including stocks, bonds, or other debentures which, at the time, are authorized under federal laws or regulations for transactions by federal credit unions, notwithstanding any restrictions elsewhere contained in the statutes of the State of Alabama. No credit union can exercise any power which it claims only by virtue of the power being possessed

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

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §285; Acts 1971, No. 2300, p. 3711; Acts 1975, No. 561, p. 1267, §4; Acts 1977, No. 210, p. 282, §4; Acts 1985, No. 85-457, p. 425, §7; Acts 1995, No. 95-315, p. 667, §1.)

Section 5-17-5

Membership.

Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and who subscribe to at least one share and pay the initial installment thereon and the entrance fee. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. 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 within a well- defined neighborhood, community or rural district.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, § 286.)

Section 5-17-6

Withdrawal of members; expulsion for cause; termination of membership; readmission.

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

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

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

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

(e) A member who has been expelled may not be readmitted to membership except upon approval by a majority vote of the board after application and proof that the applicant remains within the credit union's field of membership, has adequately explained, addressed, or remedied the conditions leading to expulsion, and will abide by the terms and conditions of membership. Not more than one such application for readmission may be made within any 12-month calendar period.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §299; Act 2014-317, §1.)

Section 5-17-7

Operating fees; fee filed with certificate of organization.

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

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

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

(2) Credit unions with assets of \$500,000 but not in excess of \$1,000,000 shall pay a fee of \$600 plus \$.05 per \$100 of assets over \$500,000 but not in excess of \$1,000,000; credit unions with assets of \$1,000,000 but not in excess of \$5,000,000 shall pay a fee of \$850 plus \$.035 per \$100 of assets of \$1,000,000 but not in excess of \$5,000,000; credit unions with assets of \$5,000,000 but not in excess of \$10,000,000 shall pay a fee of \$2,250 plus \$.02 per \$100 of assets over \$5,000,000 but not in excess of \$10,000,000; credit unions with assets of \$10,000,000 but not in excess of \$20,000,000 shall pay a fee of \$3,250 plus \$.018 per \$100 on assets over \$10,000,000 but not in excess of \$20,000,000; credit unions with assets of \$20,000,000 but not in excess of \$50,000,000 shall pay a fee of \$5,050 plus \$.016 per \$100 on assets over \$20,000,000 but not in excess of \$50,000,000; credit unions with assets of \$50,000,000 but not in excess of \$100,000,000 shall pay a fee of \$9,850 plus \$.013 per \$100 on assets over \$50,000,000 but not in excess of \$100,000,000; credit unions with assets of \$100,000,000 or more shall pay a fee of \$16,350 plus \$.011 per \$100 on all assets over \$100,000,000.

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

(c) Annually, the administrator may fix an annual operating assessment to ensure that the Alabama Credit Union Administration does not continue to operate in a deficit for any given year. The assessment shall be approved by the Credit Union Board of the Alabama Credit Union Administration. Any credit union failing to pay the assessment within 30 days of the notice of

assessment may be charged a fine not to exceed fifty dollars (\$50) for each day that the assessment remains unpaid.

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

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

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

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

(h) All assets primarily used by the Bureau of Credit Unions, including books, records, documents, furniture, equipment, and supplies are hereby transferred to the Alabama Credit Union Administration. All funds in the special fund previously maintained by the State Treasurer for the Bureau of Credit Unions are hereby transferred to the Alabama Credit Union Administration. All taxes, fees, assessments, penalties, or other revenues owed to or collected by the Bureau of Credit Unions are hereby transferred to the Alabama Credit Union Administration. Any employee presently employed by the Superintendent of Banks who is presently primarily involved with the Bureau of Credit Unions shall be employed by the Alabama Credit Union Administration.

(Acts 1957, No. 603, p. 862; Acts 1967, No. 221, p. 589; Acts 1975, No. 561, p. 1267, §6; Acts 1981, No. 81-852, p. 1529, §2; Acts 1985, No. 85-457, p. 425, §8; Act 2014-317, §1.)

Section 5-17-8

Reports to Administrator of Alabama Credit Union Administration; powers of administrator.

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

(b) If the administrator determines that the credit union is violating this chapter, or is insolvent, the administrator may suspend operations of the credit union by issuing an order requiring that the credit union cease operations pending a hearing on the revocation of the certificate of approval, or the administrator may set a date for a hearing on the revocation of the certificate of approval without suspending operations of the credit union. If the administrator suspends operations of the credit union, a hearing on the revocation of the certificate of authority shall be held if requested within 90 days from the date of the order requiring suspension of operations. If demanded by the credit union, the hearing on revocation of the certificate of authority, whether or not the administrator has suspended operations of the credit union pending the hearing, shall be conducted on the record by the administrator who shall also make findings of fact and a written determination concerning revocation of the certificate of authority. The determination may contain an order requiring that credit union to immediately suspend operations or continue in effect a previous order requiring the suspension of operations. If the determination is that the credit union is violating this chapter, or is insolvent, and that the certificate of authority be revoked, and if, for a period of 15 days after the hearing, any violation continues, the administrator may revoke the certificate and take possession of the business and property of the credit union and maintain possession until the administrator shall permit it to continue business or its affairs are finally liquidated.

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

- (1) Committed any violation of a law, rule, or regulation.
- (2) Engaged or participated in any unsafe or unsound practice in connection with the credit union business.
- (3) Engaged in any act, omission, or practice which constitutes a breach of fiduciary duty to the credit union.
- (4) Committed any fraudulent or questionable practice in the conduct of the credit union's business which endangers the credit union's reputation or threatens insolvency.

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

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

Any cease and desist order shall be effective not earlier than 10 days after it is delivered to the credit union. The credit union shall have 10 days from the receipt of any cease and desist order to appeal to the Credit Union Board of the Alabama Credit Union Administration by serving the administrator with a written notice of appeal within the 10-day period. Upon receipt of a notice of appeal from the credit union, the effect of the cease and desist order will be suspended pending a decision upon appeal; provided that a majority of the Credit Union Board of the Alabama Credit Union Administration may order that a cease and desist order be in force and effect pending the decision on appeal. A hearing of any appeal shall be held before the Credit Union Board of the Alabama Credit Union Administration within 60 days of the notice of appeal and the decision of the Credit Union Board shall be rendered within 30 days after the hearing.

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

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

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

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

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

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

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

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

(e) The Administrator of the Alabama Credit Union Administration, with the approval of a majority of the Credit Union Board of the Alabama Credit Union Administration, ex parte without notice, may appoint the Alabama Credit Union Administration as conservator and

immediately take possession and control of the business and assets of any state-chartered credit union in any case in which any one of the following occurs:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §287; Acts 1975, No. 561, p. 1267, §5; Acts 1978, No. 469, p. 492, §7; Acts 1985, No. 85-457, p. 425, §9; Acts 1989, No. 89-632, p. 1241, §1; Acts 1995, No. 95-315, p. 667, §1; Act 2014-317, §1.)

Section 5-17-9

Fiscal year; meetings of members; amendment of bylaws.

The fiscal year of all credit unions shall end December 31. Special meetings may be held in the manner indicated in the bylaws. At all meetings a member shall have but a single vote whatever his share holdings. The bylaws may be amended as provided in the bylaws. Amendments to the bylaws shall be submitted to the administrator who shall approve or disapprove the amendments within 60 days provided that the administrator shall not disapprove an amendment which corresponds with the form of bylaws which the administrator furnishes for the guidance of the incorporators of a credit union. There shall be no voting by proxy, a member other than a natural person casting a single vote through a delegated agent.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §288; Acts 1985, No. 85-457, p. 425, §10.)

Section 5-17-10

Election of board of directors, credit committee and supervisory committee.

At the annual meeting (the organization meeting shall be the first annual meeting), the credit union shall elect a board of directors of not less than five members, a credit committee of not less than three members and a supervisory committee of three members, all to hold office for such terms respectively as the bylaws provide and until successors qualify. A record of the names and addresses of the members of the board and committees and the officers shall be filed with the Administrator of the Alabama Credit Union Administration within 10 days of their election. If, however, the bylaws so provide, the board of directors shall carry out the functions and duties of the credit committee and the credit union shall not elect a credit committee.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §289; Acts 1983, No. 83-772, p. 1407, §1; Acts 1985, No. 85-457, p. 425, §11.)

Section 5-17-11

Election of officers; duties of officers and directors; compensation; liability.

(a) At the first meeting and at subsequent times prescribed in the bylaws, the directors shall elect a president. The president must be either a member of the board of directors or an employee of the credit union who is not a member of the board of directors. If the credit union elects a president who is not a member of the board of directors, the board of directors shall elect from their own number a chairman and one or more vice-chairmen of the board of directors. The board of directors shall have the power, in accordance with the bylaws, to remove any officer who is not a member of the board of directors. At the first meeting and at subsequent annual meetings prescribed in the bylaws, the directors shall elect from their own number, a secretary and treasurer, who may be the same individual. To nominate a candidate by petition, the petition should conform to the requirements as specified in the bylaws. The bylaws will state the number of members required to sign a petition which can be as few as three members or more as stated in the bylaws. The maximum number cannot exceed the lesser of one percent of the membership or 500 members. Candidates shall be given a minimum of 35 days from the postmark date to present a petition.

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

(1) To act on application for membership.

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

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

- (4) To declare dividends, and to transmit to the members recommended amendments to the bylaws.
- (5) To fill vacancies in the board and in the credit committee until successors are chosen and qualify.
- (6) To determine the maximum individual share holdings and the maximum individual loan which can be made with and without security.
- (7) To have charge of investments other than loans to members.
- (8) To establish the par value of the share.
- (9) In the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer.
- (c) No member of the board or either committee shall, as such, be compensated. Notwithstanding the foregoing, for their services to the credit union, providing reasonable life, accident, and similar insurance protection shall not be considered compensation. Directors, officers, and committee members may be reimbursed for necessary expenses incidental to the performance of the official business of the credit union.
- (d) Liability and indemnification of officers, directors, trustees, and members of the governing body of a credit union shall be the same as provided for a qualified entity in Title 10A, the Alabama Business and Nonprofit Entity Code.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §290; Acts 1977, No. 210, p. 282, §1; Acts 1978, No. 469, p. 492, §8; Acts 1983, No. 83-772, p. 1407, §1; Act 2014-317, §1.)

Section 5-17-12

Powers and duties of credit committee.

The credit committee shall have the general supervision of all loans to members. Applications for loans shall be on a form prepared by the credit committee and all applications shall set forth the purpose for which the loan is desired, the security, if any offered, and such other data as may be required. Within the meaning of this section, an assignment of shares or deposits or the endorsement of a note may be deemed security. At least a majority of the members of the credit committee shall pass on all loans, and approval must be unanimous; except, that the credit committee may appoint one or more loan officers and delegate to him or them the power to approve loans. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application thereon. Upon written request of a member, the credit committee shall review a loan application denied by a loan officer.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §291; Acts 1971, No. 2294, p. 3698; Acts 1977, No. 210, p. 282, §2; Acts 1983, No. 83-772, p. 1407, §1.)

Section 5-17-13

Powers and duties of supervisory committee.

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

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

(c) The administrator may define the scope of any audit and may set out what procedures must be followed for an audit to qualify as the required annual audit. He may prescribe procedures to be followed in the verification of records required not less frequently than every two years.

(d) Whenever the supervisory committee shall fail to make a comprehensive annual audit or shall fail to verify the accounts of members not less frequently than every two years, the administrator by written order may direct the supervisory committee to perform these duties within a reasonable period of time. Upon failure of the committee to perform these duties as directed by the administrator, the administrator may employ an auditor to perform them, and the cost of such audit shall be borne by the credit union.

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

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §292; Acts 1975, No. 561, p. 1267, §7; Acts 1985, No. 85-457, p. 425, §12.)

Section 5-17-14

Capital; lien on shares and deposits of members; entrance fee.

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 said member or for any loan endorsed by him. A credit union may charge an entrance fee as may be fixed by the bylaws; provided, that such entrance fee shall not exceed \$1.00.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §293; Acts 1971, No. 2300, p. 3711.)

Section 5-17-15

Deposits for minor or trust beneficiaries; deposits in names of two persons.

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

(b) Shares may be issued and withdrawn and deposits received and paid out in the name of a minor or in trust in such manner as the bylaws may provide. The name of the beneficiary must be disclosed to the credit union. If no other notice of the existence and terms of such trust has been given in writing to the corporation, such shares or deposits may, upon the death of the trustee, be transferred to or withdrawn by the person who was named by the trustee as the beneficiary or by his or her legal representative, and such transfer or withdrawal shall release the corporation from liability to any other claimant upon such shares or deposit.

(c) Any deposit heretofore or hereafter made in any credit union in the names of two or more persons payable to any such persons, upon the death of either of such persons, may be paid by the credit union to the survivors jointly, irrespective of whether or not any of the following occur:

- (1) The form of the deposit or deposit contract contains any provision for survivorship.
- (2) The funds deposited were the property of only one person.
- (3) There was at the time of making such deposits any intention on the part of the person making such deposit to vest the other with a present interest therein.
- (4) Only one of the persons during their joint lives had the right to withdraw such deposits.
- (5) There was any delivery of any passbook, certificate of deposit, or other writing by the person making such deposit to the other of such persons.
- (6) Any other circumstances.

The credit union in which such deposit is made may pay such deposit, or any part thereof or interest thereon, to either of the persons, or if one is dead, to the surviving of them, and such payment shall fully release and discharge the credit union from all liability for any payment so made.

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

(e) Nothing contained in this section shall be construed to prohibit the person making such deposit from withdrawing or collecting the same during his or her lifetime; nor shall anything contained in this section prohibit any person or persons making a deposit in the names of more than one person from providing for disposition of such deposit and interest thereon in a manner different from that provided above in this section, provided such different manner of disposition is expressly provided for in writing in the deposit contract.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §294; Acts 1983, No. 83-772, p. 1407, §1; Act 2014-317, §1.)

Section 5-17-16

Disposition of shares or deposit account of deceased person.

Whenever a person shall die leaving a share or deposit account in a credit union not exceeding ten thousand dollars (\$10,000), the credit union having the share or deposit account may discharge itself from liability thereafter by paying the funds in the share or deposit account to the widow or surviving husband of the deceased or, if there is no widow or surviving husband, to the persons having the actual custody or control of the minor child or children of the deceased; provided, that such person, if not the legal guardian, shall execute to the probate judge of the county a bond in the penal sum of double the amount of such deposit for the faithful accounting of the money so received, which shall be approved by the probate judge, or, if there is no minor child or children, to the person or persons who under the laws of Alabama are the heirs and inherit the personal property of the deceased. No such payment is to be made before the lapse of 60 days from the date of the death of the deceased, and no such payment must be made by the credit union under this section if letters testamentary or of administration have been issued to a personal representative or a proceeding is pending to probate a will of the deceased, or if a petition of letters of administration on the estate of the deceased is pending in the court in this state which would have jurisdiction of the administration of the estate. The amount or amounts of the share or deposit account, together with the other personal property of the deceased, shall not exceed the amount of exemption allowed by law, and the credit union shall be fully protected and discharged from further liability by paying such funds to the person or persons set forth above if the credit union obtains an affidavit of some reputable citizen as to such facts.

(Acts 1967, No. 222, p. 591; Acts 1983, No. 83-772, p. 1407, §1; Act 2014-317, §1.)

Section 5-17-17

Loans to members, directors, officers, etc.

Loans are made subject to the conditions contained in the bylaws. A borrower may repay his loan in whole or in part any day the office of the credit union is open for business.

Provided that loans to directors, officers or members of a committee are not prohibited in the bylaws, it shall be the duty of the board of directors to establish a written policy concerning loans to a director, officer or member of a committee. If it is the policy of the credit union to make directors, officers and members of a committee eligible for loans, such loans will be made under the same terms, conditions and rules as similar loans to other members. In no case may the credit

committee make a loan to a director, officer or member of a committee under the terms more favorable than the terms of similar loans to other members. The credit committee shall at least monthly submit to the board of directors a listing of all loans made to directors, officers and credit committee members.

Unless it is the policy of the credit union to make loans to directors, officers and members of a committee:

(1) No such person may borrow or guarantee any loan from that credit union in an amount in excess of his shares and deposits in that credit union; and

(2) No loan or endorsement made more than 90 days prior to his election shall prohibit any person from being elected as a director, officer or member of a committee, but a new or additional loan or guaranty in excess of such person's shares and deposits shall not be made after such person's election and during his term of office; and

(3) Any person who has, less than 90 days prior to election, borrowed or guaranteed loans from the credit union in excess of his shares and deposits shall, within 15 days after his election, fully pay or secure such loans with shares and deposits, including any shares and deposits held by such person.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §295; Acts 1971, No. 2300, p. 3711; Acts 1975, No. 561, p. 1267, §8; Acts 1978, No. 469, p. 492, §9.)

Section 5-17-18

Interest rates and finance charges on loans; late charge.

State chartered credit unions may charge such rates of interest and other finance charges as are authorized for other financial institutions pursuant to the Alabama Consumer Credit Act or other applicable law and may charge a late charge in an amount authorized by the Alabama Consumer Credit Act, provided that such late charge may only be assessed on simple interest loans and simple interest open-end credit plans. As used herein, "simple interest" means charging an interest rate on the unpaid balances of the amount outstanding from time to time for the actual time such balance is outstanding.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §296; Acts 1989, No. 89-632, p. 1241, §2.)

Section 5-17-19

Insurance and reserves.

(a) Every credit union shall set aside such regular reserves as are required to be set aside by the credit union in order to maintain insurance of member accounts under the provisions of Title II of the Federal Credit Union Act. Additionally, any credit union may be required by the Administrator of the Alabama Credit Union Administration to maintain any special reserves

which the administrator finds are necessary under the particular circumstances to protect the interests of the members.

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

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

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

(e) The Administrator of the Alabama Credit Union Administration shall make reports of condition and examination reports available to the National Credit Union Administration and, in his or her discretion, the Administrator of the Alabama Credit Union Administration may accept any report or examination made on behalf of the National Credit Union Administration in lieu of an examination by the Administrator of the Alabama Credit Union Administration.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §297; Acts 1971, No. 2294, p. 3698; Acts 1975, No. 561, p. 1267, §9; Acts 1978, No. 469, p. 492, §10; Acts 1985, No. 85-457, p. 425, §13; Act 2014-317, §1.)

Section 5-17-20

Dividends.

The directors may declare a dividend from net earnings as the bylaws may provide.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §298; Acts 1971, No. 2294, p. 3698; Acts 1978, No. 469, p. 492, §11.)

Section 5-17-21

Voluntary dissolution.

The process of voluntary dissolution shall be as follows: At a meeting called for that purpose (notice of which purpose must be contained in the call) two thirds of those in attendance may

vote to dissolve the credit union. Notice of the meeting must have been mailed to the last known address of each member of the credit union at least 15 days prior to the date of the meeting. The Administrator of the Alabama Credit Union Administration determines whether or not the credit union is solvent. If such is the fact, he issues in duplicate a certificate to the effect that this section has been complied with. The certificate is filed with the probate judge of the county in which the credit union is located, whereupon the credit union is dissolved and shall cease to carry on business except for the purposes of liquidation. The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets and doing all other acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted and wound up for three years.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §300; Acts 1975, No. 561, p. 1267, §10; Acts 1985, No. 85-457, p. 425, §14.)

Section 5-17-22

Merger and conversion procedures.

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

- (1) At a meeting called for that purpose (notice of which purpose must be contained in the call) two thirds of those in attendance may vote to approve the merger plan. Notice of the meeting must have been mailed to the last known address of each member of the credit union at least 15 days prior to the date of the meeting.
- (2) After agreement by the directors and approval by the members of the merging credit union, the president and secretary of the credit union shall execute a certificate of merger which shall set forth all of the following:
 - a. The time and place of the meeting of the board of directors at which the plan was agreed upon.
 - b. The vote in favor of the adoption of the plan.
 - c. A copy of the resolution or other action by which the plan was agreed upon.
 - d. The time and place of the meeting of the members at which the plan agreed upon was approved.
 - e. The vote by which the plan was approved by the members.

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

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

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

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

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

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

(Acts 1975, No. 561, p. 1267, §10; Acts 1983, No. 83-772, p. 1407, §1; Acts 1985, No. 85-457, p. 425, §15; Act 2014-317, §1.)

Section 5-17-23

Change of place of business.

A credit union may change its place of business on written notice to the Administrator of the Alabama Credit Union Administration.

(Acts 1927, No. 597, p. 696; Code 1940, T. 28, §301; Acts 1975, No. 561, p. 1267, §11; Acts 1985, No. 85-457, p. 425, §16.)

Section 5-17-24

Taxation.

A credit union shall be deemed an institution for savings and, together with all the accumulations therein, shall not be subject to taxation except as to real estate owned, as to the franchise tax

required of other corporations and as to the excise tax required of financial institutions. The shares of a credit union shall not be subject to taxation or to a stock transfer tax when issued by the corporations or when transferred from one member to another.

(Acts 1927, No. 597, p. 696; Acts 1939, No. 48, p. 56; Code 1940, T. 28, §302.)

Section 5-17-25

Alabama Credit Union League - Advance payment of dues by member credit unions.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1963, No. 422, p. 929, §1.)

Section 5-17-26

Alabama Credit Union League - Issuance of advance dues certificates to member credit unions.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1963, No. 422, p. 929, §2.)

Section 5-17-27

Alabama Credit Union League - Amortization of credit represented by advance dues certificate.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1963, No. 422, p. 929, §3.)

Section 5-17-28

Alabama Credit Union League - Redemption and purchase of advance dues certificate upon dissolution, etc., of member credit union.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1963, No. 422, p. 929, §4.)

Section 5-17-29

Penalties - Concealment of discounts or loans.

Any officer, director, employee, or committee member of a credit union who intentionally conceals from the directors or a committee of such credit union any discount or loan made for

and in behalf of the credit union between the regular meetings of its board of directors or credit committee is guilty of a Class C misdemeanor.

(Acts 1989, No. 89-632, p. 1241, §3.)

Section 5-17-30

Penalties - Overdraws; receipt of commission, emolument, etc., for procuring loans.

Any officer, director, committee member, or employee of a credit union who willfully and knowingly overdraws his own account with such credit union and thereby obtains money or funds of any such credit union except as specifically permitted by the written loan policy of the board of directors or asks, receives, consents or agrees to receive any commission, emolument, gratuity, or reward or any promise of any commission, emolument or reward, or any money, property or thing of value or of personal advantage in procuring or endeavoring to procure for any person, firm or corporation any loan from or the purchase or discount of any paper, note, draft check or bill of exchange by any such credit union is guilty of a Class C misdemeanor.

(Acts 1989, No. 89-632, p. 1241, §4.)

Section 5-17-31

Penalties - Receipt of property other than in payment for just demand.

Any director, officer, committee member, or employee of a credit union who knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand and with intent to defraud shall be guilty of a Class C felony.

(Acts 1989, No. 89-632, p. 1241, §5.)

Section 5-17-32

Penalties - False or omitted entries.

Any director, officer, committee member or employee of a credit union who with intent to defraud makes or concurs in making any false entry, or with intent to defraud omits or concurs in omitting to make any material entry on its books and accounts, shall be guilty of a Class C felony.

(Acts 1989, No. 89-632, p. 1241, §6.)

Section 5-17-40

Alabama Credit Union Administration created; functions; transfer of authority previously vested in State Banking Department.

There shall be an Alabama Credit Union Administration which shall administer the laws of this state which regulate or otherwise relate to credit unions in the state. The authority of the

Alabama Credit Union Administration to perform such functions shall be exclusive and all authority regarding credit unions which was previously vested in the State Banking Department is hereby vested in the Alabama Credit Union Administration.

(Acts 1985, No. 85-457, p. 425, §17.)

Section 5-17-41

Administrator - Appointment; vacancy; eligibility.

(a) The Alabama Credit Union Administration shall be in the charge of the administrator who shall be the chief executive officer of the administration.

(b) The administrator shall be a person of good character.

(c) The administrator shall be appointed by the Governor by and with the consent of the Senate. The term of office of the administrator shall expire on the first day of February after the expiration of the term of office of the Governor making the appointment, but the administrator may continue to serve until a successor is appointed and has qualified. If for any reason there should be a vacancy in the office while the Senate is not in session, the Governor shall appoint an administrator and such administrator shall hold office and exercise the powers conferred by law until the Senate meets and passes on the appointment, and if the appointment is disapproved by the Senate another appointment shall be made by the Governor in like manner until an appointment is confirmed by the Senate.

(d) To be eligible for appointment as administrator, a person must have had at least five years' experience in the 10 years next preceding the appointment either as an officer or director of a federal or state credit union or an examiner or other officer in a federal or state credit union supervisory agency or credit union association, or other equivalent experience for at least five years in the 10 years next preceding the appointment.

(e) The Governor shall set the salary of the administrator within a salary range established by the Credit Union Board of the Alabama Credit Union Administration. The salary range shall not exceed the salary range set by the Banking Board for the Superintendent of the State Banking Department.

(Acts 1985, No. 85-457, p. 425, §18; Act 2006-631, p. 1724, §1.)

Section 5-17-42

Administrator - Oath; bond.

The administrator, before entering upon the discharge of his duties, shall take and subscribe to the oath prescribed by the constitution and laws of this state, and shall give bond in the penal sum of \$25,000.00. The oath and the bond shall be filed with the Secretary of State.

(Acts 1985, No. 85-457, p. 425, §19.)

Section 5-17-43

Official seal; use of sealed papers as evidence; recording.

The Secretary of State shall provide the administrator with an official seal. Every paper executed by him as such administrator, in pursuance of any authority conferred on him by law and sealed with his official seal, shall be received in evidence and may be recorded in the proper recording office in the state in the same manner and with the same effect as a deed regularly acknowledged or proven.

(Acts 1985, No. 85-457, p. 425, §20.)

Section 5-17-44

Removal from office of administrator or board member.

(a) The administrator or any member of the Credit Union Board may be removed from office by a vote of two thirds of the members of the entire Credit Union Board for:

- (1) neglect of duty;
- (2) malfeasance;
- (3) misfeasance;
- (4) extortion or corruption in office;
- (5) incompetency;
- (6) intemperance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and the importance of its duties, as to render such person unfit for the discharge of his duties; or
- (7) any offense involving moral turpitude while in office, committed under color thereof or connected therewith.

(b) The administrator may also be removed from office, without cause, upon written order of four appointed members of the Credit Union Board and the Governor.

(Acts 1985, No. 85-457, p. 425, §21.)

Section 5-17-45

Legislative findings; authority to expand powers of credit unions; out-of-state credit unions doing business in state; supervisory agreements.

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

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

(1) Accommodate or take advantage of changing technologies.

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

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

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

(d) The administrator may enter into supervisory agreements, some of which may be confidential in nature, with the Federal Reserve, the FinCen Bureau of the U.S. Treasury Department (FINCEN), the National Credit Union Administration, private insurance carriers, and other state or federal successor agencies and furnish to them for their use such reports of examination and other information in taking enforcement and other supervisory actions.

(Acts 1985, No. 85-457, p. 425, §22; Act 2014-317, §1.)

Section 5-17-46

Policies, regulations, and interpretations; review for ratification; procedure for adopting, amending or repealing.

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

(b) Any policy or written interpretation or credit union laws and regulations shall be reviewed for ratification by the Credit Union Board within 90 days after written request for an interpretation by any member of the Credit Union Board. The policy or written interpretation shall be invalidated unless a majority of the members of the Credit Union Board ratify the interpretation or policy.

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

(Acts 1985, No. 85-457, p. 425, §23; Acts 1995, No. 95-315, p. 667, §1.)

Section 5-17-47

Procedure for adopting, amending, or repealing regulations and interpretations; contesting regulation for failure to comply with procedure; action to determine validity or applicability.

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

(1) Give at least 30 days' notice of the intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all credit unions chartered under the laws of this state and shall be published in a newspaper of general circulation in Montgomery County. A complete copy of the proposed regulation shall be filed with the Secretary of State; and

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral hearing must be granted if requested by 25 persons, by a governmental subdivision or agency or by an association having not less than 25 members. The administrator shall consider fully all written and oral submissions respecting the proposed regulation. Upon adoption of a regulation, the administrator, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise

statement of the principal reasons for and against its adoption, incorporating therein the reasons for overruling the considerations urged against its adoption.

(b) Notwithstanding any other provision of this section to the contrary, if the administrator finds that an immediate danger to the public welfare requires adoption of a regulation upon fewer than 30 days' notice and states in writing his reasons for that finding, he may proceed without prior notice or hearing or upon any abbreviated notice and hearing that he finds practicable to adopt an emergency regulation. The regulation shall become effective immediately, unless otherwise stated therein, upon the filing of the regulation and a copy of the written statement of the reasons therefor with the Secretary of State. The regulation may be effective for a period of not longer than 120 days and shall not be renewable. The administrator and Credit Union Board shall not adopt the same or a substantially similar emergency regulation within one calendar year from its first adoption unless the administrator clearly establishes it could not reasonably be foreseen during the initial 120-day period that such emergency would continue or would likely reoccur during the next nine months. The adoption of the same or a substantially similar regulation by normal regulation-making procedures is not precluded.

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

(d) The validity or applicability of any regulation or any interpretation of the Alabama Credit Union Administration may be determined in an action for declaratory judgment brought in the Circuit Court of Montgomery County when it is alleged that the adoption, amendment or repeal of any regulation or any interpretation or the application or threatened application of any regulation or any interpretation interferes with or impairs or threatens to interfere with or impair the legal rights and privileges of the credit union or person affected thereby.

(Acts 1985, No. 85-457, p. 425, §24.)

Section 5-17-48

Annual report; public distribution of report and other material.

The administrator shall make from the reports of the department during the year an annual report to the Governor on the activities of the Alabama Credit Union Administration and such other information as the Governor may request and shall keep on file as a public record in the administrator's office a copy thereof. The administrator may print for public distribution such annual report and such other material as it deems suitable for the more effective administration of business.

(Acts 1985, No. 85-457, p. 425, §25.)

Section 5-17-49

Violations to be submitted to grand jury.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1985, No. 85-457, p. 425, §26.)

Section 5-17-50

Employment and compensation of necessary personnel; assistant administrator.

(a) Subject to the provisions of Section 36-26-1, et seq., the administrator may appoint or employ such assistants, employees, and attorneys as may be necessary to the efficient operation of the department. The administrator shall fix their compensation in accordance with Section 36-26-1, et seq. and the pay plan of the State Personnel Department. All such assistants, employees, and attorneys shall be subject to the provisions of the Merit System. The administrator, with the approval of the Governor, may employ and discharge special counsel as the administrator may deem necessary.

(b) The administrator may appoint an assistant administrator, with the approval of the Credit Union Board of the Alabama Credit Union Administration. The administrator shall fix the compensation of the assistant administrator in accordance with Section 36-26-1, et seq. The position of assistant administrator of the Alabama Credit Union Administration shall be subject to the State Merit System and shall be eligible for and subject to any differential travel policy established by the State Personnel Department.

(c) The assistant administrator, in the absence of the administrator, shall exercise any of the powers conferred by law on the administrator and, before entering upon the duties of the office, shall execute to the State of Alabama a bond in the amount of twenty-five thousand dollars (\$25,000) for the faithful performance of his or her duties.

(Acts 1985, No. 85-457, p. 425, §27; Act 2006-631, p. 1724, §1.)

Section 5-17-51

Immunity from personal liability.

Neither the administrator, any member of the Credit Union Board nor any employee of the Alabama Credit Union Administration shall be personally liable for any acts done in good faith while in the performance of his duties as provided by law.

(Acts 1985, No. 85-457, p. 425, §28.)

Section 5-17-51

Immunity from personal liability.

Neither the administrator, any member of the Credit Union Board nor any employee of the Alabama Credit Union Administration shall be personally liable for any acts done in good faith while in the performance of his duties as provided by law.

(Acts 1985, No. 85-457, p. 425, §28.)

Section 5-17-52

Oath and duties of examiner.

Every examiner shall before entering upon the discharge of his duties, take and file with the administrator an oath faithfully to discharge his duties as examiner. Each examiner shall act under the direction of the administrator and shall examine fully into the books, papers and affairs of each credit union which he may be directed by the administrator to examine.

(Acts 1985, No. 85-457, p. 425, §29.)

Section 5-17-53

Furnishing of commission to examiner; exhibit to credit union upon making examination.

Repealed by Act 2014-317, §2, effective May 1, 2014.

(Acts 1985, No. 85-457, p. 425, §30.)

Section 5-17-54

Bond of examiners and office assistants.

Before entering upon the duties of their respective offices, all examiners and office assistants shall execute to the State of Alabama a bond to be fixed and approved by the administrator, for the faithful performance of their duties.

(Acts 1985, No. 85-457, p. 425, §31.)

Section 5-17-55

Credit Union Board created; membership; terms of office; vacancies; appeals to board from actions of administrator.

(a) There shall be a Credit Union Board of the Alabama Credit Union Administration which shall consist of the administrator, who shall be an ex officio member and chairman of the board, and seven other persons, appointed by the Governor, by and with the consent of the Senate, four of which shall be appointed from a list of nominees submitted by the Alabama State Credit Union

Legislative Forum, which shall submit not less than three nominees for any vacancy. Should the Governor determine that none of the first three nominees submitted by the forum for a vacancy on the Credit Union Board are acceptable, the Governor may reject the three nominees and the forum shall submit an alternative list of three nominees to the Governor from which the Governor shall make the appointment. The remaining three appointments to the Credit Union Board shall be made by the Governor from a list of nominees submitted by credit unions at large. No person is eligible to be nominated or appointed to the Credit Union Board unless at the time of nomination or appointment, the person is an officer, director, or manager of a state-chartered credit union and has at least five years' experience in the 10 years next preceding appointment as an officer, director, or manager of a credit union. The position of any member of the Credit Union Board shall be declared vacant by the Administrator of the Alabama Credit Union Administration if the member of the Credit Union Board ceases to serve as an officer, director, or manager of a credit union chartered under the laws of the State of Alabama.

(b) The seven appointees by the Governor, with the consent of the Senate, shall serve for the terms designated by the Governor for each person upon appointment of the persons. Of the seven persons appointed by the Governor, with the consent of the Senate, three persons shall serve terms expiring on February 1 of the first year following passage hereof, two persons shall serve terms expiring on February 1 of the second year following passage hereof and two persons shall serve terms expiring on February 1 of the third year following passage hereof. Successors shall be appointed by the Governor, with the consent of the Senate, for terms of three years each, so that the terms of two or three of the seven appointed members will expire on February 1 of each year. Upon the expiration of their terms of office, members of the board shall continue to serve until their successors are appointed and have qualified.

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

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

Upon a finding of good cause for the failure to attend meetings or otherwise perform duties, or upon a finding that there is a compelling reason for reinstating the member, a majority of board members may reinstate the person to the position. When the member appeals to the Credit Union Board, unless reinstated by the board within 30 days after appeal, the position on the board shall

be deemed to be vacant on the thirty-first day after receipt by the administrator of the member's written notice of the appeal. The administrator shall call a meeting to hear the appeal within 30 days after receipt of the notice of appeal. The board member who has received notice that the position will be declared vacant shall have the right to present at any hearing dealing with the position being declared vacant, but shall not have the right to vote on any issue until he or she is reinstated by the Credit Union Board.

(d) If by reason of death, resignation, removal from office or otherwise a vacancy occurs on the Credit Union Board, the vacancy shall be filled by appointment of the Governor and the appointee shall hold office until the Senate meets and passes on the appointment. If the appointment is disapproved by the Senate, another appointment shall be made by the Governor, and appointments must be made in like manner until an appointment is confirmed by the Senate. Any person so appointed shall serve the balance of the unexpired term for which the appointment is made. The seven appointed members of the Credit Union Board shall be persons of good character. Five of the seven shall have at least five years' experience in the 10 years next preceding appointment to the Credit Union Board either as an officer, director, or manager of a credit union organized under the laws of the State of Alabama.

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

(Acts 1985, No. 85-457, p. 425, §32; Acts 1995, No. 95-315, p. 667, §1.)

Section 5-17-56

Meetings.

The administrator shall comply with the provisions of the Alabama Open Meetings Law, Chapter 25A of Title 36. The board shall meet not less than once every calendar year. Any meeting of the board may be held at any place in the state where it is called to meet by the administrator.

(Acts 1985, No. 85-457, p. 425, §33; Act 2014-317, §1.)

Section 5-17-57

Quorum.

A majority of the Credit Union Board shall constitute a quorum for the transaction of any business.

(Acts 1985, No. 85-457, p. 425, §34.)

Section 5-17-58

Compensation and expenses of board members.

No person appointed as member of said Credit Union Board shall receive any compensation for his services; except, that each appointed member of said Credit Union Board shall receive \$25.00 per day for each day said Credit Union Board is in session, but in no event to exceed \$100.00 for each member of said board during any one month, plus travel expenses payable pursuant to Article 2 of Chapter 7 of Title 36. The compensation going to the seven appointed members of the Credit Union Board shall be paid as earned by the Treasurer on warrants drawn by the Comptroller, in favor of each of them, which warrants are to be drawn on the certificate of the administrator of credit unions, which certificate shall certify that a meeting of said board was held, stating the time of meeting and stating the amount to which each member of the board is entitled.

(Acts 1985, No. 85-457, p. 425, §35.)

Section 5-17-59

Applicability of Alabama Business Corporation Act.

Any Alabama state chartered credit union shall be subject to the provisions of the Alabama Business Corporation Act, specifically to Sections 10-2A-260, 10-2A-261, 10-2A-283, 10-2A-284, 10-2A-25, 10-2A-26, 10-2A-27, 10-2A-28 and 10-2A-29.

(Acts 1985, No. 85-457, p. 425, §36.)