SB27
181527-2
By Senator Ross
RFD: Banking and Insurance
First Read: 07-FEB-17
PFD: 01/27/2017
ENROLLED, An Act,

Relating to credit unions; to amend Section 5-17-8, 
Code of Alabama 1975, as amended by Act 2016-133, 2016 Regular 
Session, to extend the time for how often a credit union must 
be examined by employees of the Alabama Credit Union 
Administration from every 12 months to every 18 months. 

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 5-17-8, Code of Alabama 1975, as 
amended by Act 2016-133, 2016 Regular Session, is amended to 
read as follows:

"§5-17-8.

"(a) Credit unions shall report to the Administrator 
of the Alabama Credit Union Administration at least annually 
on or before January 31 in such manner and form as required by 
the administrator for that purpose. Additional reports may be 
required. Credit unions shall be examined at least annually 
every 18 months by employees of the administrator 
administration 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 by the administrator 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 through merger or otherwise.

"(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 calendar days after it is delivered to the credit union. The credit union or any person subject to a cease and desist order shall have 10 calendar 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 calendar days of the notice of appeal and the decision of the Credit Union Board shall be rendered within 30 calendar days after the conclusion of 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, 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) A person subject to an order issued under subsection (d) may file an appeal in writing delivered to the administrator not more than 10 calendar days after the
papers, records, or affairs of the credit union for inspection
to any examiner or to any lawful agent of the Alabama Credit
Union Administration.

"(g) Not later than 10 calendar 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 (f), 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.

"(h) 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.

"(1) 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.
"(j) The Alabama Credit Union Administration may appoint special agents as it considers necessary in order to assist the administration in carrying out its duties as a conservator under this section.

"(k) All costs incurred by the administration in exercising its authority under this section and Section 5-17-8.1, including, without limitation, all expenses and legal fees incurred in exercising its authority or defending any action taken pursuant to its exercise of authority, and any appeal by any credit union or by any director, officer, committee member, or employee thereof shall be paid out of the assets of the credit union.

"(l) 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.

"(m) 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 the conservator has obtained 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 arising from or relating to such
executory contracts.

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

"(o)(1) Notwithstanding any other provision of state
law, if the administrator determines that an emergency
requiring expeditious action exists with respect to a credit
union, that other alternatives are not reasonably available
consistent with National Credit Union Administration
precedent, and that the public interest, including the
interests of the members of the credit union, would best be
served by such action, the administrator may do either of the
following:

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

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

"(2) For purposes of the authority contained in this
subsection, insured share and deposit accounts of the credit
union, upon consummation of the purchase and assumption, may
be converted to insured deposits or other comparable accounts
in the acquiring institution, and the administrator and the
insuring organization shall be relieved of any liability to
the credit union's members with respect to those accounts."

Section 2. This act shall become effective on the
first day of the third month following its passage and
approval by the Governor, or its otherwise becoming law.
SB27

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB27

Senate 23-FEB-17

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 18-APR-17

By: Senator Ross

APPROVED 4-27-2017

TIME 11:00 AM

Alabama Secretary Of State
Act Num....: 2017-190
Bill Num....: 6-27
Recvd 04/27/17 11:43amSLF
SENATE ACTION

DATE: 2-7 2017
RD 1 RFD B41

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

PATRICK HARRIS,
Secretary

This Bill was referred to the Standing Committee of the Senate on B41

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 __________

yeas 6 nays 0 abstain 0

this 21 day of Feb 2017

Slate Blackwell, Chairperson

DATE: 2-21 2017
RF FAU 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, SB 27.

yeas 20 nays 5 abstain 0

PATRICK HARRIS,
Secretary

DATE: 2-3-17 RD 3 at length

PASSED 0 PASSED AS AMENDED 0

yeas 19 nays 0 abstain 0

And was ordered sent forthwith to the House.

PATRICK HARRIS,
Secretary

FURTHER SENATE ACTION (OVER)

HOUSE ACTION

DATE: 3-9 2017
RD 1 RFD E3

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/amd(s) __________ w/sub __________

this 8 day of March, 2017

Kenneth Johnson, Chairperson

DATE: 3-9 2017
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, SB 27.

YEAS 49 NAYS 2

JEFF WOODARD,
Clerk

FURTHER HOUSE ACTION (OVER)