Act #2018-470

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

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§5-17-22.

"Any credit union, with the approval of the
Administrator of the Alabama Credit Union Administration, may
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 voting may vote to approve the merger plan. Voting must be conducted in accordance with the bylaws of the credit union. Notice of the meeting must have been mailed to the last known address of each member of the credit union. The notice must be provided to the members 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) Credit unions organized under the laws of the 
State of Alabama may merge a state or federally chartered bank 
or thrift into the credit union under the same conditions as 
provided in this section, provided that the merger plan is 
approved, if required, by the appropriate state or federal 
regulator of the bank or thrift and federal insurer, the 
Federal Deposit Insurance Corporation.

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

"(10) 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 

"(11) A credit union chartered under the laws of 
another state may be converted to an Alabama state chartered 
credit union under state law and regulation. Conversion to an 
Alabama state chartered credit union shall be effective upon
the written approval of the administrator. Notice of
conversion shall be filed with the Secretary of State and the
judge of probate of the county in which the credit union
maintains its principal office.

"§5-17-40.

"(a) 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.

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

"§5-17-45.

"(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 permission and may impose reasonable conditions in granting such permission.

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

"(e) Upon request by a state chartered credit union or its designee, any service provider or vendor providing mission critical services to the credit union shall provide any requested reports of examination, audit reports, or other third party reports of the service provider or vendor to the credit union or its designee. The credit union shall make the reports available for review by the administration. Mission critical services shall include those services defined by regulation as mission critical, and those services that
involve access by the service provider or vendor to personally identifiable information as defined by the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6809.

"§5-17-56.

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

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

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

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

"(3) Undertake any purpose for which a governmental body is permitted to go into executive session under the Alabama Open Meetings Act.
"(4) Accomplish any other purpose of the Credit Union Board that requires it to receive or consider information that is confidential under this title.

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

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

"§5-17-60.

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

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

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

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

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

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

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

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

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

"(g) All reports of examination, records reflecting
action of a credit union, its supervisory committee,
subsidiary, or affiliate, taken pursuant thereto, and records
and minutes of meetings of the Credit Union Board relating to
a credit union or several credit unions, supervisory
committee, subsidiary, or affiliate, shall be confidential and
shall not be subject to subpoena or inspection except by
subpoena from a grand jury served on the administrator."

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.
HB316

Mac McCutcheon

Speaker of the House of Representatives

Dale Malan

President and Presiding Officer of the Senate

House of Representatives

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

Jeff Woodard
Clerk

Senate 22-MAR-18 Passed

APPROVED 3/28/18
TIME 4:55pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State
Act Num.: 2018-470
Bill Num.: H-316
Recv'd 03/29/18 10:47am
This Bill was referred to the Standing Committee of the Senate on

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) w/sub w/eng sub by a vote of yeas 76 nays 0 abstain 0

This day of March 2018

Chairperson

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

YEAS 27 NAYS 0

PATRICK HARRIS,
Secretary

And was ordered returned forthwith to the House.

YEAS 44 NAYS 0

JEFF WOODARD,
Chairperson

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

YEAS 27 NAYS 0

PATRICK HARRIS,
Secretary

And was ordered returned forthwith to the House.

YEAS 16 NAYS 0

JEFF WOODARD,
Chairperson