

By Senator McKay

26-1026A-00

See HB 4007

1                                   A bill to be entitled  
2           An act relating to the Florida Statutes;  
3           repealing or deleting various statutory  
4           provisions that have become obsolete, have had  
5           their effect, have served their purpose, or  
6           have been impliedly repealed or superseded;  
7           repealing ss. 159.345(2), 159.475(2),  
8           159.7055(2), F.S., relating to reporting  
9           requirements of various governmental financing  
10          authorities; amending s. 288.99, F.S.; deleting  
11          obsolete provisions relating to applying for  
12          certification as a certified capital company  
13          and for an allocation of premium tax credits  
14          for potential investors; amending s. 494.0017,  
15          F.S.; revising a reference, to conform;  
16          amending s. 494.008, F.S.; updating an obsolete  
17          cross-reference relating to administrative  
18          penalties and fines; repealing s. 495.171,  
19          F.S., relating to the effective date of the  
20          1967 revision of ch. 495, F.S., relating to  
21          registration of trademarks and service marks,  
22          and the repeal of former provisions; amending  
23          s. 497.002, F.S.; deleting findings relating to  
24          the need to regulate funeral and cemetery  
25          services; repealing ch. 622, F.S., relating to  
26          foreign unincorporated associations; amending  
27          s. 220.03, F.S.; conforming a cross-reference;  
28          repealing s. 620.9901(1), (3), F.S., relating  
29          to the applicability of the Revised Uniform  
30          Partnership Act of 1995; repealing s. 657.067,  
31          F.S., relating to requirements for approval for

1 conversion of credit unions from federal to  
2 state charter; repealing pt. II, ch. 657, F.S.,  
3 the Florida Credit Union Guaranty Corporation  
4 Act; amending ss. 655.057, 657.001, 657.002,  
5 657.005, 657.008, 657.021, 657.026, 657.031,  
6 657.0315, 657.038, 657.039, 657.043, 657.062,  
7 657.063, 657.064, 657.065, 657.066, and  
8 657.068, F.S.; revising or deleting references,  
9 to conform; amending s. 716.02, F.S.; deleting  
10 obsolete provisions relating to escheat of  
11 funds in the possession of any federal court in  
12 and for any district within this state;  
13 repealing s. 717.137, F.S., relating to the  
14 effect and application of the 1987 revision of  
15 ch. 717, F.S., relating to disposition of  
16 unclaimed property; providing an effective  
17 date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsection (2) of section 159.345, Florida  
22 Statutes, subsection (2) of section 159.475, Florida Statutes,  
23 and subsection (2) of section 159.7055, Florida Statutes, are  
24 repealed.

25 Section 2. Subsections (4) and (7) and paragraph (c)  
26 of subsection (10) of section 288.99, Florida Statutes, are  
27 amended to read:

28 288.99 Certified Capital Company Act.--

29 (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
30 DECERTIFICATION.--

31

1 (a) To operate as a certified capital company, a  
2 corporation, partnership, or limited liability company must be  
3 certified by the department pursuant to this act and must be  
4 registered and maintain an active status with the Department  
5 of State as required by law.

6 (b) ~~An applicant for certification as a certified~~  
7 ~~capital company must file a verified application with the~~  
8 ~~department on or before December 1, 1998, in a form which the~~  
9 ~~department may prescribe by rule. The applicant shall submit~~  
10 ~~a nonrefundable application fee of \$7,500 to the department.~~  
11 ~~The applicant shall provide:~~

12 1. ~~The name of the applicant and the address of its~~  
13 ~~principal office and each office in this state.~~

14 2. ~~The applicant's form and place of organization and~~  
15 ~~the relevant organizational documents, bylaws, and amendments~~  
16 ~~or restatements of such documents, bylaws, or amendments.~~

17 3. ~~Evidence from the Department of State that the~~  
18 ~~applicant is registered with the Department of State as~~  
19 ~~required by law, maintains an active status with the~~  
20 ~~Department of State, and has not been dissolved or had its~~  
21 ~~registration revoked, canceled, or withdrawn.~~

22 4. ~~The applicant's proposed method of doing business.~~

23 5. ~~The applicant's financial condition and history,~~  
24 ~~including an audit report on the financial statements prepared~~  
25 ~~in accordance with generally accepted accounting principles~~  
26 ~~showing net capital of not less than \$500,000 within 90 days~~  
27 ~~after the date the application is submitted to the department.~~  
28 ~~If the date of the application is more than 90 days after~~  
29 ~~preparation of the applicant's fiscal year-end financial~~  
30 ~~statements, the applicant may file financial statements~~  
31 ~~reviewed by an independent certified public accountant for the~~

1 ~~period subsequent to the audit report, together with the~~  
2 ~~audited financial statement for the most recent fiscal year.~~  
3 ~~If the applicant has been in business less than 12 months, and~~  
4 ~~has not prepared an audited financial statement, the applicant~~  
5 ~~may file a financial statement reviewed by an independent~~  
6 ~~certified public accountant.~~

7 ~~(c) On December 31, 1998, the department shall grant~~  
8 ~~or deny certification as a certified capital company. If the~~  
9 ~~department denies certification within the time period~~  
10 ~~specified, the department shall inform the applicant of the~~  
11 ~~grounds for the denial. If the department has not granted or~~  
12 ~~denied certification within the time specified, the~~  
13 ~~application shall be deemed approved. The department shall~~  
14 ~~approve the application if the department finds that:~~

15 ~~1. The applicant satisfies the requirements of~~  
16 ~~paragraph (b).~~

17 ~~2. No evidence exists that the applicant has committed~~  
18 ~~any act specified in paragraph (d).~~

19 ~~3. At least two of the principals have a minimum of 5~~  
20 ~~years of experience making venture capital investments out of~~  
21 ~~private equity funds, with not less than \$20 million being~~  
22 ~~provided by third-party investors for investment in the early~~  
23 ~~stage of operating businesses. At least one full-time manager~~  
24 ~~or principal of the certified capital company who has such~~  
25 ~~experience must be primarily located in an office of the~~  
26 ~~certified capital company which is based in this state.~~

27 ~~(b)(d)~~ The department may deny certification or  
28 decertify a certified capital company if the grounds for  
29 decertification are not removed or corrected within 90 days  
30 after the notice of such grounds is received by the certified  
31 capital company. The department may deny certification or

1 decertify a certified capital company if the certified capital  
2 company fails to maintain a net worth of at least \$500,000, or  
3 if the department determines that the applicant, or any  
4 principal or director of the certified capital company, has:  
5       1. Violated any provision of this section;  
6       2. Made a material misrepresentation or false  
7 statement or concealed any essential or material fact from any  
8 person during the application process or with respect to  
9 information and reports required of certified capital  
10 companies under this section;  
11       3. Been convicted of, or entered a plea of guilty or  
12 nolo contendere to, a crime against the laws of this state or  
13 any other state or of the United States or any other country  
14 or government, including a fraudulent act in connection with  
15 the operation of a certified capital company, or in connection  
16 with the performance of fiduciary duties in another capacity;  
17       4. Been adjudicated liable in a civil action on  
18 grounds of fraud, embezzlement, misrepresentation, or deceit;  
19 or  
20       5.a. Been the subject of any decision, finding,  
21 injunction, suspension, prohibition, revocation, denial,  
22 judgment, or administrative order by any court of competent  
23 jurisdiction, administrative law judge, or any state or  
24 federal agency, national securities, commodities, or option  
25 exchange, or national securities, commodities, or option  
26 association, involving a material violation of any federal or  
27 state securities or commodities law or any rule or regulation  
28 adopted under such law, or any rule or regulation of any  
29 national securities, commodities, or options exchange, or  
30 national securities, commodities, or options association; or  
31

1           b. Been the subject of any injunction or adverse  
2 administrative order by a state or federal agency regulating  
3 banking, insurance, finance or small loan companies, real  
4 estate, mortgage brokers, or other related or similar  
5 industries.

6           ~~(e)~~ The certified capital company shall file a copy of  
7 its certification with the office by January 31, 1999.

8           (c)~~(f)~~ Any offering material involving the sale of  
9 securities of the certified capital company shall include the  
10 following statement: "By authorizing the formation of a  
11 certified capital company, the State of Florida does not  
12 endorse the quality of management or the potential for  
13 earnings of such company and is not liable for damages or  
14 losses to a certified investor in the company. Use of the  
15 word 'certified' in an offering does not constitute a  
16 recommendation or endorsement of the investment by the State  
17 of Florida. Investments in a certified capital company prior  
18 to the time such company is certified are not eligible for  
19 premium tax credits. If applicable provisions of law are  
20 violated, the state may require forfeiture of unused premium  
21 tax credits and repayment of used premium tax credits by the  
22 certified investor."

23           (d)~~(g)~~ No insurance company or any affiliate of an  
24 insurance company shall, directly or indirectly, manage or  
25 control the direction of investments of a certified capital  
26 company. This prohibition does not preclude a certified  
27 investor, insurance company, or any other party from  
28 exercising its legal rights and remedies, which may include  
29 interim management of a certified capital company, if a  
30 certified capital company is in default of its obligations  
31

1 under law or its contractual obligations to such certified  
2 investor, insurance company, or other party.

3 (e)~~(h)~~ On or before December 31 of each year, each  
4 certified capital company shall pay to the department an  
5 annual, nonrefundable renewal certification fee of \$5,000. No  
6 renewal fees shall be required within 6 months after the date  
7 of initial certification.

8 (f)~~(i)~~ The department shall administer and provide for  
9 the enforcement of certification requirements for certified  
10 capital companies as provided in this act. The department may  
11 adopt any rules necessary to carry out its duties,  
12 obligations, and powers related to certification, renewal of  
13 certification, or decertification of certified capital  
14 companies and may perform any other acts necessary for the  
15 proper administration and enforcement of such duties,  
16 obligations, and powers.

17 (g)~~(j)~~ Decertification of a certified capital company  
18 under this subsection does not affect the ability of certified  
19 investors in such certified capital company from claiming  
20 future premium tax credits earned as a result of an investment  
21 in the certified capital company during the period in which it  
22 was duly certified.

23 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
24 PROCESS.--

25 (a) The total amount of tax credits which may be  
26 allocated by the office shall not exceed \$150 million. The  
27 total amount of tax credits which may be used by certified  
28 investors under this act shall not exceed \$15 million  
29 annually.

30  
31

1           (b) The office shall be responsible for allocating  
2 premium tax credits as provided for in this act to certified  
3 capital companies.

4           ~~(c) Each certified capital company must apply to the~~  
5 ~~office for an allocation of premium tax credits for potential~~  
6 ~~certified investors by March 15, 1999, on a form developed by~~  
7 ~~the office with the cooperation of the Department of Revenue.~~  
8 ~~The form shall be accompanied by an affidavit from each~~  
9 ~~potential certified investor confirming that the potential~~  
10 ~~certified investor has agreed to make an investment of~~  
11 ~~certified capital in a certified capital company up to a~~  
12 ~~specified amount, subject only to the receipt of a premium tax~~  
13 ~~credit allocation pursuant to this subsection. No allocation~~  
14 ~~shall be made to the potential investors of a certified~~  
15 ~~capital company unless such certified capital company has~~  
16 ~~filed premium tax allocation claims that would result in an~~  
17 ~~allocation to the potential investors in such certified~~  
18 ~~capital company of not less than \$15 million in the aggregate.~~

19           ~~(d) On or before April 1, 1999, the office shall~~  
20 ~~inform each certified capital company of its share of total~~  
21 ~~premium tax credits available for allocation to each of its~~  
22 ~~potential investors.~~

23           (c)(e) If a certified capital company does not receive  
24 certified capital equaling the amount of premium tax credits  
25 allocated to a potential certified investor for which the  
26 investor filed a premium tax allocation claim within 10  
27 business days after the investor received a notice of  
28 allocation, the certified capital company shall notify the  
29 office by overnight common carrier delivery service of the  
30 company's failure to receive the capital. That portion of the  
31 premium tax credits allocated to the certified capital company



1 shall be forfeited. If the office must make a pro rata  
2 allocation under paragraph (d)~~(f)~~, the office shall  
3 reallocate such available credits among the other certified  
4 capital companies on the same pro rata basis as the initial  
5 allocation.

6 (d)~~(f)~~ If the total amount of capital committed by all  
7 certified investors to certified capital companies in premium  
8 tax allocation claims exceeds the aggregate cap on the amount  
9 of credits that may be awarded, the premium tax credits that  
10 may be allowed to any one certified investor shall be  
11 allocated using the following ratio:

$$12 \qquad \qquad \qquad A/B = X/\$150,000,000$$

14  
15 where the letter "A" represents the total amount of certified  
16 capital certified investors have agreed to invest in any one  
17 certified capital company, the letter "B" represents the  
18 aggregate amount of certified capital that all certified  
19 investors have agreed to invest in all certified capital  
20 companies, the letter "X" is the numerator and represents the  
21 total amount of premium tax credits and certified capital that  
22 may be allocated to a certified capital company in calendar  
23 year 1999, and \$150 million is the denominator and represents  
24 the total amount of premium tax credits and certified capital  
25 that may be allocated to all certified investors in calendar  
26 year 1999. Any such premium tax credits are not first  
27 available for utilization until annual filings are made in  
28 2001 for calendar year 2000, and the tax credits may be used  
29 at a rate not to exceed 10 percent annually.

30 (e)~~(g)~~ The maximum amount of certified capital for  
31 which premium tax allocation claims may be filed on behalf of

1 any certified investor and its affiliates by one or more  
2 certified companies may not exceed \$15 million.

3 (f)~~(h)~~ To the extent that less than \$150 million in  
4 certified capital is raised in connection with the procedure  
5 set forth in paragraphs (c)-(e)~~(c)~~-~~(g)~~, the department may  
6 adopt rules to allow a subsequent allocation of the remaining  
7 premium tax credits authorized under this section.

8 (10) DECERTIFICATION.--

9 (c) Any material violation of this section, or a  
10 finding that the certified capital company or any principal or  
11 director thereof has committed any act specified in paragraph  
12 (4)(b)~~(d)~~, shall be grounds for decertification of the  
13 certified capital company. If the department determines that a  
14 certified capital company is no longer in compliance with the  
15 certification requirements of this act, the department shall,  
16 by written notice, inform the officers of such company that  
17 the company may be subject to decertification 90 days after  
18 the date of mailing of the notice, unless the deficiencies are  
19 corrected and such company is again found to be in compliance  
20 with all certification requirements.

21 Section 3. Subsection (1) of section 494.0017, Florida  
22 Statutes, is amended to read:

23 494.0017 Mortgage Brokerage Guaranty Fund.--

24 (1) The department shall make transfers from the  
25 Regulatory Trust Fund to the Mortgage Brokerage Guaranty Fund  
26 to pay valid claims arising under former ss. 494.042, 494.043,  
27 and 494.044, as provided in former s. 494.00171.

28 Section 4. Subsection (7) of section 494.008, Florida  
29 Statutes, is amended to read:

30 494.008 Mortgages offered by land developers licensed  
31 pursuant to the Florida Uniform Land Sales Practices Law;

1 requirements; prohibitions.--No mortgage loan which has a face  
2 amount of \$35,000 or less and is secured by vacant land  
3 registered under the Florida Uniform Land Sales Practices Law,  
4 chapter 498, shall be sold to a mortgagee, except a financial  
5 institution, by any person unless all of the following  
6 requirements are met:

7 (7) Willful failure to comply with any of the above  
8 provisions shall subject the person to the penalties of s.  
9 494.0041 ~~494.05~~.

10 Section 5. Section 495.171, Florida Statutes, is  
11 repealed.

12 Section 6. Subsection (1) of section 497.002, Florida  
13 Statutes, is amended to read:

14 497.002 Purpose and intent.--

15 (1) ~~The Legislature recognizes that purchasers of~~  
16 ~~preneed burial rights, funeral or burial merchandise, or~~  
17 ~~funeral or burial services may suffer serious economic harm if~~  
18 ~~purchase money is not set aside for future use as intended by~~  
19 ~~the purchaser and that the failure to maintain cemetery~~  
20 ~~grounds properly may cause significant emotional stress.~~  
21 ~~Therefore,~~It is necessary in the interest of the public  
22 welfare to regulate certificateholders, licensees,  
23 registrants, and cemetery companies in this state. However,  
24 restrictions shall be imposed only to the extent necessary to  
25 protect the public from significant or discernible harm or  
26 damage and not in a manner which will unreasonably affect the  
27 competitive market.

28 Section 7. Sections 622.01, 622.02, 622.03, 622.04,  
29 622.05, 622.06, and 622.07, Florida Statutes, are repealed.

30 Section 8. Paragraph (e) of subsection (1) of section  
31 220.03, Florida Statutes, is amended to read:

1           220.03 Definitions.--

2           (1) SPECIFIC TERMS.--When used in this code, and when  
3 not otherwise distinctly expressed or manifestly incompatible  
4 with the intent thereof, the following terms shall have the  
5 following meanings:

6           (e) "Corporation" includes all domestic corporations;  
7 foreign corporations qualified to do business in this state or  
8 actually doing business in this state; joint-stock companies;  
9 limited liability companies, under chapter 608; common-law  
10 declarations of trust, under chapter 609; corporations not for  
11 profit, under chapter 617; agricultural cooperative marketing  
12 associations, under chapter 618; professional service  
13 corporations, under chapter 621; foreign unincorporated  
14 associations, ~~under chapter 622~~; private school corporations,  
15 under chapter 623; foreign corporations not for profit which  
16 are carrying on their activities in this state; and all other  
17 organizations, associations, legal entities, and artificial  
18 persons which are created by or pursuant to the statutes of  
19 this state, the United States, or any other state, territory,  
20 possession, or jurisdiction. The term "corporation" does not  
21 include proprietorships, even if using a fictitious name;  
22 partnerships of any type, as such; limited liability companies  
23 that are taxable as partnerships for federal income tax  
24 purposes; state or public fairs or expositions, under chapter  
25 616; estates of decedents or incompetents; testamentary  
26 trusts; or private trusts.

27           Section 9. Section 657.067, Florida Statutes, is  
28 repealed.

29           Section 10. Sections 657.25, 657.251, 657.252,  
30 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260,  
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1 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267,  
2 657.268, and 657.269, Florida Statutes, are repealed.

3 Section 11. Subsections (3) and (7) of section  
4 655.057, Florida Statutes, are amended to read:

5 655.057 Records; limited restrictions upon public  
6 access.--

7 (3) The provisions of this section do not prevent or  
8 restrict:

9 (a) Publishing reports required to be submitted to the  
10 department pursuant to s. 655.045(2)(a) or required by  
11 applicable federal statutes or regulations to be published.

12 (b) Furnishing records or information to any other  
13 state, federal, or foreign agency responsible for the  
14 regulation or supervision of financial institutions, including  
15 Federal Home Loan Banks.

16 ~~(c) Furnishing records or information, in the case of~~  
17 ~~a credit union, to the Florida Credit Union Guaranty~~  
18 ~~Corporation, Inc.~~

19 (c)(d) Disclosing or publishing summaries of the  
20 condition of financial institutions and general economic and  
21 similar statistics and data, provided that the identity of a  
22 particular financial institution is not disclosed.

23 (d)(e) Reporting any suspected criminal activity, with  
24 supporting documents and information, to appropriate law  
25 enforcement and prosecutorial agencies.

26 (e)(f) Furnishing information upon request to the  
27 State Treasurer regarding the financial condition of any  
28 financial institution that is, or has applied to be,  
29 designated as a qualified public depository pursuant to  
30 chapter 280.

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1 Any confidential information or records obtained from the  
2 department pursuant to this subsection shall be maintained as  
3 confidential and exempt from the provisions of s. 119.07(1).  
4 (7) Materials supplied to the department or to  
5 employees of any financial institution by other governmental  
6 agencies, federal or state, ~~or the Florida Credit Union~~  
7 ~~Guaranty Corporation, Inc.~~, shall remain the property of the  
8 submitting agency ~~or the corporation~~, and any document request  
9 must be made to the appropriate agency. Any confidential  
10 documents supplied to the department or to employees of any  
11 financial institution by other governmental agencies, federal  
12 or state, ~~or by the Florida Credit Union Guaranty Corporation,~~  
13 ~~inc.~~, shall be confidential and exempt from the provisions of  
14 s. 119.07(1). Such information shall be made public only with  
15 the consent of such agency ~~or the corporation~~.  
16 Section 12. Section 657.001, Florida Statutes, is  
17 amended to read:  
18 657.001 Short title.--This chapter part may be cited  
19 as the "Florida Credit Union Act."  
20 Section 13. Section 657.002, Florida Statutes, is  
21 amended to read:  
22 657.002 Definitions.--As used in this chapter part:  
23 (1) "Capital" means shares, deposits, and equity.  
24 (2) "Central credit union" means a credit union the  
25 membership of which includes, but is not limited to, other  
26 credit unions, members of credit unions, credit union  
27 employees, employees of organizations serving credit unions,  
28 and the families of such members.  
29 (3) "Corporate credit union" means any central credit  
30 union organized pursuant to any state or federal act for the  
31 purpose of serving other credit unions.

1           ~~(4)~~ "The corporation" means the Florida Credit Union  
2 Guaranty Corporation, Inc.

3           (4)~~(5)~~ "Correspondent" means that person designated on  
4 an application to organize a credit union as the person to  
5 whom all correspondence regarding the application should be  
6 sent.

7           (5)~~(6)~~ "Credit union" means any cooperative society  
8 organized pursuant to this chapter ~~part~~.

9           (6)~~(7)~~ "Department" means the Department of Banking  
10 and Finance.

11           (7)~~(8)~~ "Deposits" means that portion of the capital  
12 paid into the credit union by members on which a contractual  
13 rate of interest will be paid.

14           (8)~~(9)~~ "Equity" means undivided earnings, reserves,  
15 and allowance for loan losses.

16           (9)~~(10)~~ "Foreign credit union" means a credit union  
17 organized and operating under the laws of another state.

18           (10)~~(11)~~ "Immediate family" means parents, children,  
19 spouse, or surviving spouse of the member, or any other  
20 relative by blood, marriage, or adoption.

21           (11)~~(12)~~ "Limited field of membership" means the  
22 defined group of persons designated as eligible for membership  
23 in the credit union who:

24           (a) Have a similar profession, occupation, or formal  
25 association with an identifiable purpose; or

26           (b) Reside within an identifiable neighborhood,  
27 community, rural district, or county; or

28           (c) Are employed by a common employer; or

29           (d) Are employed by the credit union; and

30

31 members of the immediate family of persons within such group.

1           (12)~~(13)~~ "Shares" means that portion of the capital  
2 paid into the credit union by members on which dividends may  
3 be paid.

4           (13)~~(14)~~ "Unimpaired capital" means capital which is  
5 not impaired by losses that exceed applicable reserves.

6           Section 14. Paragraph (d) of subsection (3) of section  
7 657.005, Florida Statutes, is amended to read:

8           657.005 Notice of intent to organize; investigation by  
9 department; application for authority to organize a credit  
10 union.--

11           (3) The application shall be submitted to the  
12 department on forms and in the manner prescribed by rules  
13 adopted by the department and shall be accompanied by a  
14 nonrefundable filing fee of \$250. Such application shall  
15 include:

16           (d) Any information required by the department to be  
17 submitted to the ~~corporation or~~ insuring agency.

18           Section 15. Paragraph (a) of subsection (6) of section  
19 657.008, Florida Statutes, is amended to read:

20           657.008 Place of doing business.--

21           (6)(a) The department may authorize foreign credit  
22 unions to establish branches in Florida if all of the  
23 following criteria are met:

24           1. The state in which the foreign credit union's home  
25 office is located permits Florida credit unions to do business  
26 in the state under restrictions that are no greater than those  
27 placed upon a domestic credit union doing business in that  
28 state. For this purpose, such restrictions shall include, but  
29 are not limited to, any fees, bonds, or other charges levied  
30 on domestic credit unions doing business in that state.

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1           2. The deposits of such foreign credit union and its  
2 proposed Florida branch will be insured or guaranteed by an  
3 insurer or guarantor acceptable to the department. ~~Insurance~~  
4 ~~or guarantee of accounts comparable to that provided by the~~  
5 ~~Florida Credit Union Guaranty Corporation is deemed to be~~  
6 ~~acceptable; however, acceptance of insurance or guarantee of~~  
7 ~~accounts by any insuring or guaranteeing agencies or companies~~  
8 ~~shall be subject to a determination by the department that the~~  
9 ~~insuring or guaranteeing agency or company is in sound~~  
10 ~~financial condition and that its reserves with respect to its~~  
11 ~~insured or guaranteed accounts are no less than those of the~~  
12 ~~Florida Credit Union Guaranty Corporation.~~

13           3. The credit union's field of membership is so  
14 limited as to be within that meaning of that term as defined  
15 in s. 657.002.

16           Section 16. Paragraph (e) of subsection (7) of section  
17 657.021, Florida Statutes, is amended to read:

18           657.021 Board of directors; executive committee.--

19           (7) The board of directors must exercise the following  
20 duties which are nondelegable:

21           (e) Adequately provide for reserves as required by  
22 this chapter part or by rules or order of the department or as  
23 otherwise determined necessary by the board.

24           Section 17. Section 657.026, Florida Statutes, is  
25 amended to read:

26           657.026 Supervisory or audit committee.--

27           (1) There shall be a supervisory or audit committee of  
28 at least three members, which may be elected by the membership  
29 or appointed by the board, or the board may appoint an audit  
30 committee of directors in the manner prescribed in the bylaws.

31

1 An officer or employee may not serve on the supervisory or  
2 audit committee.

3 (2) The supervisory or audit committee may audit, or  
4 cause to be audited, the financial statements of the credit  
5 union to determine compliance with policy, to ensure that  
6 generally accepted accounting principles are consistently  
7 applied, and to ensure an adequate system of internal  
8 controls.

9 (3) The supervisory or audit committee shall:

10 (a) Make or cause to be made a comprehensive annual  
11 audit of the credit union, in accordance with the rules of the  
12 department.

13 (b) Make or cause to be made such supplementary audits  
14 or examinations as it deems necessary or as are requested by  
15 the board of directors or the department.

16 (c) Submit a report of every required audit or  
17 examination within a reasonable time to the board of directors  
18 with a copy to the department and, ~~depending upon which~~  
19 ~~organization is applicable,~~ a copy to the ~~corporation or the~~  
20 National Credit Union Administration.

21 (d) Make a summary report, to the membership at the  
22 annual meeting, of any audits or examinations conducted during  
23 the preceding year.

24 (4) The supervisory or audit committee shall notify  
25 the board of directors, the department, and, ~~as applicable,~~  
26 ~~either the corporation or~~ the National Credit Union  
27 Administration of any violation of this chapter part, any  
28 violation of the certificate of authorization or bylaws of the  
29 credit union, or any practice of the credit union deemed by  
30 the supervisory or audit committee to be unsafe, unsound, or  
31 unauthorized.

1           (5) For the purposes of this section ~~subsection~~,  
2 two-thirds of the members of the supervisory or audit  
3 committee constitutes a quorum.

4           Section 18. Subsections (10), (13), (16), and (28) of  
5 section 657.031, Florida Statutes, are amended to read:

6           657.031 Powers.--A credit union shall have the power  
7 to:

8           (10) Borrow money and issue evidences of indebtedness  
9 for a loan or loans in the usual course of its business and  
10 secure such obligations by mortgage or pledge of any of its  
11 assets. Aggregate borrowings shall not exceed 50 percent of  
12 the unimpaired capital of the credit union. However, this  
13 percentage limitation shall not apply to loans ~~from the~~  
14 ~~corporation or~~ from the National Credit Union Administration.

15           (13) Invest funds, as provided in this chapter part.

16           (16) Hold membership in central credit unions or  
17 corporate credit unions organized under this chapter part or  
18 under any other state or federal acts and membership in  
19 associations and organizations of credit unions.

20           (28) Perform any act necessary to ~~obtain and maintain~~  
21 ~~membership in the corporation or~~ obtain and maintain insurance  
22 of accounts through the National Credit Union Administration.

23           Section 19. Subsection (2) of section 657.0315,  
24 Florida Statutes, is amended to read:

25           657.0315 Contracts for providing goods, products, or  
26 services.--

27           (2) Enforcement of this section may be made only by  
28 the board of directors of the credit union, unless the  
29 contract had been authorized by specific action of the board;  
30 by the ~~corporation or~~ National Credit Union Administration if  
31 it is directed to assume control of the assets and business of

1 the credit union pursuant to s. 657.062; or by the liquidator  
2 appointed pursuant to s. 657.063 or s. 657.064.

3 Section 20. Subsections (9) and (15) of section  
4 657.038, Florida Statutes, are amended to read:

5 657.038 Loan powers.--

6 (9) A loan may not be made to any corporation, except  
7 to ~~the Florida Credit Union Guaranty Corporation, Inc.,~~ or a  
8 corporation in which the credit union holds an equity  
9 interest.

10 (15) If approved by the board of directors, a credit  
11 union may extend credit to other credit unions, ~~or to the~~  
12 ~~corporation,~~ in an amount not greater than 25 percent of the  
13 unimpaired capital of the lending credit union.

14 Section 21. Paragraph (a) of subsection (1) of section  
15 657.039, Florida Statutes, is amended to read:

16 657.039 Loan powers; extension of credit to directors,  
17 officers, committee members, and certain employees.--

18 (1) A credit union may extend credit to its officers,  
19 directors, credit manager, members of its supervisory, audit,  
20 and credit committees, and any other person authorized to  
21 approve extensions of credit, provided:

22 (a) The extension of credit complies with all  
23 requirements under this chapter ~~part~~ with respect to credit  
24 extended to other borrowers and is not on terms more favorable  
25 than those extended to other borrowers.

26 Section 22. Paragraph (a) of subsection (4) and  
27 subsection (9) of section 657.043, Florida Statutes, are  
28 amended to read:

29 657.043 Reserves.--

30 (4) RISK ASSETS DEFINED.--The following assets shall  
31 be considered risk assets:

- 1           (a) All loans, except:
- 2           1. Loans fully secured by a pledge of shares or
- 3 deposits in the lending credit union, equal to and maintained
- 4 to at least the amount of the loan outstanding.
- 5           2. Loans which are purchased from liquidating credit
- 6 unions and ~~guaranteed by the corporation or~~ insured by the
- 7 National Credit Union Administration or other insuring
- 8 agencies.
- 9           ~~3. Investments in or loans to the corporation.~~
- 10           (9) GUARANTY ASSISTANCE AGREEMENT.--The amount of any
- 11 liability arising out of a guaranty assistance agreement with
- 12 the ~~corporation or~~ National Credit Union Administration must
- 13 be maintained as a reserve and be included in the
- 14 determination of undivided earnings of the credit union.
- 15           Section 23. Subsection (1) of section 657.062, Florida
- 16 Statutes, is amended to read:
- 17           657.062 Assumption of control by guarantor or
- 18 insurer.--
- 19           (1) The department may direct ~~the corporation or the~~
- 20 National Credit Union Administration, ~~whichever is applicable,~~
- 21 to assume control of the property, assets, and business of its
- 22 member credit union and to operate it subject to the
- 23 directions of the department:
- 24           (a) Whenever the department finds that the credit
- 25 union:
- 26           1. Is engaging or has engaged in an unsafe or unsound
- 27 practice;
- 28           2. Is violating or has violated any provision of this
- 29 chapter; or
- 30
- 31

1           3. Is violating or has violated any department rule,  
2 department order, or written agreement entered into with the  
3 department,

4  
5 in such a manner that the credit union is threatened with  
6 imminent insolvency.

7           (b) Whenever a majority of the members of the board of  
8 directors of the credit union have been removed by the  
9 department or shall have resigned.

10           Section 24. Subsection (2) of section 657.063, Florida  
11 Statutes, is amended to read:

12           657.063 Involuntary liquidation.--

13           (2) The liquidator must be appointed by the  
14 department. ~~The corporation or~~ The National Credit Union  
15 Administration, ~~whichever is applicable,~~ must be given the  
16 right of first refusal. The department may appoint another  
17 entity if refused by the primary guarantor or insurer.

18           Section 25. Subsections (1), (4), (5), and (7) of  
19 section 657.064, Florida Statutes, are amended to read:

20           657.064 Voluntary liquidation.--A credit union may  
21 elect to dissolve voluntarily and liquidate its affairs in the  
22 following manner:

23           (1) Before considering any resolution pertaining to  
24 voluntary liquidation by the board of directors, the credit  
25 union must inform the department and ~~the corporation or~~ the  
26 National Credit Union Administration, ~~whichever is applicable,~~  
27 of the time and place of the meeting of the board of  
28 directors. The notification must be transmitted at least 5  
29 days before the board of directors meets.

30           (4) Upon adoption by the board of directors of a  
31 resolution recommending that the credit union be voluntarily

1 liquidated, ~~the corporation or~~ the National Credit Union  
2 Administration, ~~whichever is applicable,~~ may restrict control  
3 or give directions with respect to the continued business of  
4 the credit union pending consideration of the voluntary  
5 liquidation by the members. During such period, no member  
6 shall withdraw an aggregate amount in excess of the insurance  
7 or guaranty covered by the credit union. No new extensions of  
8 credit shall be funded during the period between the board of  
9 directors' adoption of the resolution recommending the  
10 voluntary liquidation and the membership meeting called to  
11 consider the voluntary liquidation, except for loans fully  
12 secured by a pledge of shares and for the funding of  
13 outstanding loan commitments approved before the board of  
14 directors adopts the resolution.

15 (5) The notice required by subsection (3) shall also  
16 be mailed to the department within 5 days after the action of  
17 the board of directors. Within 10 days after the meeting of  
18 the membership, the board of directors shall notify the  
19 department and ~~the corporation or~~ the National Credit Union  
20 Administration, ~~whichever is applicable,~~ in writing of the  
21 action taken by the members.

22 (7) ~~The corporation or~~ The National Credit Union  
23 Administration, ~~whichever is applicable,~~ shall have the right  
24 of first refusal to be appointed as liquidator of any  
25 liquidating credit union which it guarantees or insures. The  
26 liquidator shall have all of the powers provided in s. 657.063  
27 regarding involuntary liquidation. If ~~the corporation or~~ the  
28 National Credit Union Administration shall decline to serve as  
29 liquidator, the board of directors shall appoint a reasonable  
30 person as liquidator and specify the extent of  
31 responsibilities and authority delegated to the liquidator.

1           Section 26. Subsection (1) of section 657.065, Florida  
2 Statutes, is amended to read:

3           657.065 Merger.--

4           (1) Any state or federal credit union may merge with  
5 another state or federal credit union under the existing  
6 certificate of authorization of the other credit union,  
7 pursuant to any plan agreed upon by the majority of the board  
8 of directors of each credit union joining in the merger, if:

9           (a) The merger is approved by the affirmative vote of  
10 a majority of the members of the merging credit union who  
11 voted on the issue;

12           (b) The merger is consented to by ~~the corporation or~~  
13 ~~the National Credit Union Administration, whichever is~~  
14 applicable; and

15           (c) The merger is approved by the authority under the  
16 supervision of which the resulting credit union will operate.

17           Section 27. Section 657.066, Florida Statutes, is  
18 amended to read:

19           657.066 Conversion from state credit union to federal  
20 credit union and conversely.--Any credit union organized under  
21 this chapter part may convert into a federal credit union and  
22 any federal credit union may convert into a credit union  
23 organized pursuant to this chapter part upon approval of the  
24 authority under the supervision of which the converted credit  
25 union will operate and upon compliance with applicable laws.

26           (1) Any action by the board of directors proposing  
27 conversion shall be by resolution and shall require the  
28 affirmative vote of an absolute majority of the board of  
29 directors. Upon adoption of a resolution relating to  
30 conversion, a copy of the resolution shall be mailed to each  
31 member, together with a notice setting forth the time,



1 location, and purpose of a meeting of the membership which  
2 shall be held not less than 10 nor more than 30 days following  
3 the mailing of the notice.

4 (2) A ballot allowing an affirmative or negative vote  
5 on the proposed conversion shall also be mailed to each  
6 member. Any ballot received by the credit union prior to the  
7 meeting called to consider the conversion shall be counted  
8 along with the votes cast at the meeting. Each member shall  
9 have but one vote. A majority of the votes cast by the  
10 members shall be required to approve the conversion.

11 (3) Within 10 days after the approval of the  
12 membership, the board of directors shall cause to be  
13 transmitted to the authority under the supervision of which  
14 the converted credit union will operate a copy of the  
15 resolution adopted by the board of directors and approved by  
16 the membership.

17 (4) Upon the written approval of the authority under  
18 the supervision of which the converting credit union is to  
19 operate, the converting credit union shall become a credit  
20 union under this chapter or under the laws of the United  
21 States, as the case may be, and thereupon all assets shall  
22 become the property of the converted credit union, subject to  
23 all existing liabilities against the credit union. All shares  
24 and deposits shall remain intact. Any federal credit union  
25 seeking to convert to a state-chartered credit union shall pay  
26 a nonrefundable filing fee of \$500. The department may  
27 conduct an examination of any converting federal credit union  
28 before approving the conversion and the converting credit  
29 union shall pay a nonrefundable examination fee as provided in  
30 s. 655.411(1)(b).

31

1           (5) Every conversion must be completed within 90 days  
2 after the approval of the authority under the supervision of  
3 which the converted credit union will operate. Upon receiving  
4 its certificate of authorization or charter from the authority  
5 under the supervision of which the converted credit union will  
6 operate, the old certificate of authorization or charter shall  
7 be returned to the proper authority and shall be canceled.

8           (6) In consummation of the conversion, the old credit  
9 union may execute, acknowledge, and deliver to the newly  
10 chartered credit union the instruments of transfer necessary  
11 to accomplish the transfer of any property and all right,  
12 title, and interest therein.

13           Section 28. Subsections (2) and (4) of section  
14 657.068, Florida Statutes, are amended to read:

15           657.068 Central credit unions.--

16           (2) Membership in a central credit union shall be  
17 limited to:

18           (a) Credit unions organized and operating under this  
19 chapter part or any other credit union act;

20           (b) Officers, directors, committee members, and  
21 employees of such credit unions, and officials and employees  
22 of any association of credit unions;

23           (c) Organizations and associations of those persons or  
24 organizations set forth in paragraph (a) or paragraph (b);

25           (d) Residents of this state having a limited field of  
26 membership who have applied to the department to organize a  
27 credit union and have been denied on grounds other than those  
28 set forth in s. 657.005(6);

29           (e) Residents of this state having a limited field of  
30 membership, if their application for membership is approved by  
31

1 the board of directors of the central credit union and by the  
2 department;

3 (f) Persons in the field of membership of liquidated  
4 credit unions or of credit unions which have entered into or  
5 are about to enter into voluntary or involuntary liquidation  
6 proceedings; and

7 (g) Members of the immediate families of all members  
8 qualified above.

9 (4) A central credit union shall have all the powers  
10 of any credit union organized under this chapter ~~part~~ and  
11 shall have the following powers, notwithstanding any  
12 limitations or restrictions herein:

13 (a) A central credit union may make loans to other  
14 credit unions, purchase shares of and make deposits in other  
15 credit unions, and obtain or acquire the assets and  
16 liabilities of any credit union operating in this state which  
17 liquidates, provided such assets are otherwise eligible for  
18 investment by the acquiring credit union.

19 (b) A central credit union may invest in and grant  
20 loans to associations of credit unions, central funds of  
21 credit unions, or organizations chartered to provide services  
22 to credit unions.

23 Section 29. Section 716.02, Florida Statutes, is  
24 amended to read:

25 716.02 Escheat of funds in the possession of federal  
26 agencies.--All property within the provisions of subsections  
27 (1), (2), (3), and (4) ~~and (5)~~, are declared to have  
28 escheated, or to escheat, including all principal and interest  
29 accruing thereon, and to have become the property of the  
30 state.

31

1           (1) All money or other property which has remained in,  
2 or has been deposited in the custody of, or under the control  
3 of, any court of the United States, in and for any district  
4 within this state, or which has been deposited with and is in  
5 the custody of any depository, registry, clerk or other  
6 officer of such court, or the United States treasury, which  
7 money or other property the rightful owner or owners thereof,  
8 either:

9           (a) Has been unknown for a period of 5 or more  
10 consecutive years; or,

11           (b) Has died, without having disposed thereof, and  
12 without having left heirs, next of kin or distributees, or

13           (c) Has made no demand for such money or other  
14 property for 5 years;

15  
16 are declared to have escheated, or to escheat, together with  
17 all interest accrued thereon, and to have become the property  
18 of the state.

19           ~~(2) After June 16, 1947, all money or other property~~  
20 ~~which has remained in, or has been deposited in the custody~~  
21 ~~of, or under the control of, any court of the United States,~~  
22 ~~in and for any district within this state, for a period of 4~~  
23 ~~years, the rightful owner or owners of which, either:~~

24           ~~(a) Shall have been unknown for a period of 4 years;~~  
25 ~~or,~~

26           ~~(b) Shall have died without having disposed thereof,~~  
27 ~~and without having left or without leaving heirs, next of kin~~  
28 ~~or distributees; or,~~

29           ~~(c) Shall have failed within 4 years to demand the~~  
30 ~~payment or delivery of such funds or other property;~~

31

1 ~~is hereby declared to have escheated, or to escheat, together~~  
2 ~~with all interest accrued thereon, and to have become the~~  
3 ~~property of the state.~~

4       (2)~~(3)~~ All money or other property which has remained  
5 in, or has been deposited in the custody of, or under the  
6 control of any officer, department or agency of the United  
7 States for 5 or more consecutive years, which money or other  
8 property had its situs or source in this state, except as  
9 hereinafter provided in subsection(3)~~(4)~~, the sender of  
10 which is unknown, or who sent the money or other property for  
11 an unknown purpose, or money which is credited as "unknown,"  
12 and which said governmental agency is unable to credit to any  
13 particular account, or the sender of which has been unknown  
14 for a period of 5 or more consecutive years; or when known,  
15 has died without having disposed thereof, and without leaving  
16 heirs, next of kin or distributees, or for any reason is  
17 unclaimed from such governmental agency.

18       (3)~~(4)~~ In the event any money is due to any resident  
19 of this state as a refund, rebate or tax rebate from the  
20 United States Commissioner of Internal Revenue, the United  
21 States Treasurer, or other governmental agency or department,  
22 which said resident will, or is likely to have her or his  
23 rights to apply for and secure such refund or rebate barred by  
24 any statute of limitations or, in any event, has failed for a  
25 period of 1 year after said resident could have filed a claim  
26 for said refund or rebate, the Department of Banking and  
27 Finance is hereby appointed agent of such resident to demand,  
28 file and apply for said refund or rebate, and is hereby  
29 appointed to do any act which a natural person could do to  
30 recover said money, and it is hereby declared that when the  
31 department files said application or any other proceeding to

1 secure said refund or rebate, its agency is coupled with an  
2 interest in the money sought and money recovered.

3 (4)~~(5)~~ It is the purpose of this chapter to include  
4 all funds or other property in the possession of the  
5 government of the United States, and of its departments,  
6 officers, and agencies, which property has its situs in this  
7 state or belonged to a resident thereof, and not to limit the  
8 application of this chapter by the naming of any particular  
9 agency. This chapter shall include all funds held in the  
10 United States Department of Veterans Affairs, Comptroller of  
11 Currency, United States Treasury, Department of Internal  
12 Revenue, federal courts, registry of federal courts, and such  
13 evidences of indebtedness as adjusted service bonds, old  
14 matured debts issued prior to 1917, unclaimed and interest  
15 thereon, postal savings bonds, liberty bonds, victory notes,  
16 treasury bonds, treasury notes, certificates of indebtedness,  
17 treasury bills, treasurer's savings certificates, bonuses and  
18 adjusted compensation, allotments, and all unclaimed refunds  
19 or rebates of whatever kind or nature, which are subjects of  
20 escheat, under the terms of this chapter. Provided, however,  
21 that nothing in this chapter shall be construed to mean that  
22 any refunds due ratepayers under order of any court of the  
23 United States shall become the property of the state.

24 Section 30. Section 717.137, Florida Statutes, is  
25 repealed.

26 Section 31. This act shall take effect upon becoming a  
27 law.

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LEGISLATIVE SUMMARY

Repeals or deletes various statutory provisions that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded. Repeals or deletes obsolete provisions relating to reporting requirements of various governmental financing agencies; obsolete provisions relating to applying for certification as a certified capital company and for an allocation of premium tax credits for potential investors; the effective date of the 1967 revision of ch. 495, F.S., relating to registration of trademarks and service marks, and the repeal of former provisions; findings relating to the need to regulate funeral and cemetery services; foreign unincorporated associations; obsolete provisions relating to the applicability of the Revised Uniform Partnership Act of 1995; requirements for approval for conversion of credit unions from federal to state charter; the Florida Credit Union Guaranty Corporation Act; obsolete provisions relating to escheat of funds in the possession of any federal court in and for any district within this state; and the effect and application of the 1987 revision of ch. 717, F.S., relating to disposition of unclaimed property.