

By the Committee on Banking and Insurance; and Senator McKay

311-1755-00

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6           have been impliedly repealed or superseded;  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           amending s. 288.99, F.S.; deleting obsolete  
8           provisions relating to applying for  
9           certification as a certified capital company  
10          and for an allocation of premium tax credits  
11          for potential investors; amending s. 494.0017,  
12          F.S.; revising a reference, to conform;  
13          amending s. 494.008, F.S.; updating an obsolete  
14          cross-reference relating to administrative  
15          penalties and fines; repealing s. 495.171,  
16          F.S., relating to the effective date of the  
17          1967 revision of ch. 495, F.S., relating to  
18          registration of trademarks and service marks,  
19          and the repeal of former provisions; repealing  
20          ch. 622, F.S., relating to foreign  
21          unincorporated associations; amending s.  
22          220.03, F.S.; conforming a cross-reference;  
23          repealing s. 620.9901(1), (3), F.S., relating  
24          to the applicability of the Revised Uniform  
25          Partnership Act of 1995; repealing s. 657.067,  
26          F.S., relating to requirements for approval for  
27          conversion of credit unions from federal to  
28          state charter; repealing pt. II, ch. 657, F.S.,  
29          the Florida Credit Union Guaranty Corporation  
30          Act; amending ss. 655.057, 657.001, 657.002,  
31          657.005, 657.008, 657.021, 657.026, 657.031,

1           657.0315, 657.038, 657.039, 657.043, 657.062,  
2           657.063, 657.064, 657.065, 657.066, and  
3           657.068, F.S.; revising or deleting references,  
4           to conform; amending s. 716.02, F.S.; deleting  
5           obsolete provisions relating to escheat of  
6           funds in the possession of any federal court in  
7           and for any district within this state;  
8           repealing s. 717.137, F.S., relating to the  
9           effect and application of the 1987 revision of  
10          ch. 717, F.S., relating to disposition of  
11          unclaimed property; providing an effective  
12          date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Subsections (4) and (7) and paragraph (c)  
17 of subsection (10) of section 288.99, Florida Statutes, are  
18 amended to read:

19           288.99 Certified Capital Company Act.--

20           (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
21 DECERTIFICATION.--

22           (a) To operate as a certified capital company, a  
23 corporation, partnership, or limited liability company must be  
24 certified by the department pursuant to this act and must be  
25 registered and maintain an active status with the Department  
26 of State as required by law.

27           ~~(b) An applicant for certification as a certified~~  
28 ~~capital company must file a verified application with the~~  
29 ~~department on or before December 1, 1998, in a form which the~~  
30 ~~department may prescribe by rule. The applicant shall submit~~

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1 ~~a nonrefundable application fee of \$7,500 to the department.~~  
2 ~~The applicant shall provide:~~  
3       ~~1. The name of the applicant and the address of its~~  
4 ~~principal office and each office in this state.~~  
5       ~~2. The applicant's form and place of organization and~~  
6 ~~the relevant organizational documents, bylaws, and amendments~~  
7 ~~or restatements of such documents, bylaws, or amendments.~~  
8       ~~3. Evidence from the Department of State that the~~  
9 ~~applicant is registered with the Department of State as~~  
10 ~~required by law, maintains an active status with the~~  
11 ~~Department of State, and has not been dissolved or had its~~  
12 ~~registration revoked, canceled, or withdrawn.~~  
13       ~~4. The applicant's proposed method of doing business.~~  
14       ~~5. The applicant's financial condition and history,~~  
15 ~~including an audit report on the financial statements prepared~~  
16 ~~in accordance with generally accepted accounting principles~~  
17 ~~showing net capital of not less than \$500,000 within 90 days~~  
18 ~~after the date the application is submitted to the department.~~  
19 ~~If the date of the application is more than 90 days after~~  
20 ~~preparation of the applicant's fiscal year-end financial~~  
21 ~~statements, the applicant may file financial statements~~  
22 ~~reviewed by an independent certified public accountant for the~~  
23 ~~period subsequent to the audit report, together with the~~  
24 ~~audited financial statement for the most recent fiscal year.~~  
25 ~~If the applicant has been in business less than 12 months, and~~  
26 ~~has not prepared an audited financial statement, the applicant~~  
27 ~~may file a financial statement reviewed by an independent~~  
28 ~~certified public accountant.~~  
29       ~~(c) On December 31, 1998, the department shall grant~~  
30 ~~or deny certification as a certified capital company. If the~~  
31 ~~department denies certification within the time period~~

1 ~~specified, the department shall inform the applicant of the~~  
2 ~~grounds for the denial. If the department has not granted or~~  
3 ~~denied certification within the time specified, the~~  
4 ~~application shall be deemed approved. The department shall~~  
5 ~~approve the application if the department finds that:~~

6       1. ~~The applicant satisfies the requirements of~~  
7 ~~paragraph (b).~~

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

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

18       **(b)(d)** ~~The department may deny certification or~~  
19 ~~decertify a certified capital company if the grounds for~~  
20 ~~decertification are not removed or corrected within 90 days~~  
21 ~~after the notice of such grounds is received by the certified~~  
22 ~~capital company. The department may deny certification or~~  
23 ~~decertify a certified capital company if the certified capital~~  
24 ~~company fails to maintain a net worth of at least \$500,000, or~~  
25 ~~if the department determines that the applicant, or any~~  
26 ~~principal or director of the certified capital company, has:~~

27       1. ~~Violated any provision of this section;~~

28       2. ~~Made a material misrepresentation or false~~  
29 ~~statement or concealed any essential or material fact from any~~  
30 ~~person during the application process or with respect to~~

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1 information and reports required of certified capital  
2 companies under this section;

3 3. Been convicted of, or entered a plea of guilty or  
4 nolo contendere to, a crime against the laws of this state or  
5 any other state or of the United States or any other country  
6 or government, including a fraudulent act in connection with  
7 the operation of a certified capital company, or in connection  
8 with the performance of fiduciary duties in another capacity;

9 4. Been adjudicated liable in a civil action on  
10 grounds of fraud, embezzlement, misrepresentation, or deceit;  
11 or

12 5.a. Been the subject of any decision, finding,  
13 injunction, suspension, prohibition, revocation, denial,  
14 judgment, or administrative order by any court of competent  
15 jurisdiction, administrative law judge, or any state or  
16 federal agency, national securities, commodities, or option  
17 exchange, or national securities, commodities, or option  
18 association, involving a material violation of any federal or  
19 state securities or commodities law or any rule or regulation  
20 adopted under such law, or any rule or regulation of any  
21 national securities, commodities, or options exchange, or  
22 national securities, commodities, or options association; or

23 b. Been the subject of any injunction or adverse  
24 administrative order by a state or federal agency regulating  
25 banking, insurance, finance or small loan companies, real  
26 estate, mortgage brokers, or other related or similar  
27 industries.

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

30 (c)(f) Any offering material involving the sale of  
31 securities of the certified capital company shall include the

1 following statement: "By authorizing the formation of a  
2 certified capital company, the State of Florida does not  
3 endorse the quality of management or the potential for  
4 earnings of such company and is not liable for damages or  
5 losses to a certified investor in the company. Use of the  
6 word 'certified' in an offering does not constitute a  
7 recommendation or endorsement of the investment by the State  
8 of Florida. Investments in a certified capital company prior  
9 to the time such company is certified are not eligible for  
10 premium tax credits. If applicable provisions of law are  
11 violated, the state may require forfeiture of unused premium  
12 tax credits and repayment of used premium tax credits by the  
13 certified investor."

14 (d)~~(g)~~ No insurance company or any affiliate of an  
15 insurance company shall, directly or indirectly, manage or  
16 control the direction of investments of a certified capital  
17 company. This prohibition does not preclude a certified  
18 investor, insurance company, or any other party from  
19 exercising its legal rights and remedies, which may include  
20 interim management of a certified capital company, if a  
21 certified capital company is in default of its obligations  
22 under law or its contractual obligations to such certified  
23 investor, insurance company, or other party.

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

29 (f)~~(i)~~ The department shall administer and provide for  
30 the enforcement of certification requirements for certified  
31 capital companies as provided in this act. The department may

1 adopt any rules necessary to carry out its duties,  
2 obligations, and powers related to certification, renewal of  
3 certification, or decertification of certified capital  
4 companies and may perform any other acts necessary for the  
5 proper administration and enforcement of such duties,  
6 obligations, and powers.

7 (g)~~(j)~~ Decertification of a certified capital company  
8 under this subsection does not affect the ability of certified  
9 investors in such certified capital company from claiming  
10 future premium tax credits earned as a result of an investment  
11 in the certified capital company during the period in which it  
12 was duly certified.

13 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
14 PROCESS.--

15 (a) The total amount of tax credits which may be  
16 allocated by the office shall not exceed \$150 million. The  
17 total amount of tax credits which may be used by certified  
18 investors under this act shall not exceed \$15 million  
19 annually.

20 (b) The office shall be responsible for allocating  
21 premium tax credits as provided for in this act to certified  
22 capital companies.

23 ~~(c) Each certified capital company must apply to the  
24 office for an allocation of premium tax credits for potential  
25 certified investors by March 15, 1999, on a form developed by  
26 the office with the cooperation of the Department of Revenue.  
27 The form shall be accompanied by an affidavit from each  
28 potential certified investor confirming that the potential  
29 certified investor has agreed to make an investment of  
30 certified capital in a certified capital company up to a  
31 specified amount, subject only to the receipt of a premium tax~~

1 ~~credit allocation pursuant to this subsection. No allocation~~  
2 ~~shall be made to the potential investors of a certified~~  
3 ~~capital company unless such certified capital company has~~  
4 ~~filed premium tax allocation claims that would result in an~~  
5 ~~allocation to the potential investors in such certified~~  
6 ~~capital company of not less than \$15 million in the aggregate.~~

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

11 (c)~~(e)~~ If a certified capital company does not receive  
12 certified capital equaling the amount of premium tax credits  
13 allocated to a potential certified investor for which the  
14 investor filed a premium tax allocation claim within 10  
15 business days after the investor received a notice of  
16 allocation, the certified capital company shall notify the  
17 office by overnight common carrier delivery service of the  
18 company's failure to receive the capital. That portion of the  
19 premium tax credits allocated to the certified capital company  
20 shall be forfeited. If the office must make a pro rata  
21 allocation under paragraph(d)~~(f)~~, the office shall  
22 reallocate such available credits among the other certified  
23 capital companies on the same pro rata basis as the initial  
24 allocation.

25 (d)~~(f)~~ If the total amount of capital committed by all  
26 certified investors to certified capital companies in premium  
27 tax allocation claims exceeds the aggregate cap on the amount  
28 of credits that may be awarded, the premium tax credits that  
29 may be allowed to any one certified investor shall be  
30 allocated using the following ratio:

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1 certified capital company. If the department determines that a  
2 certified capital company is no longer in compliance with the  
3 certification requirements of this act, the department shall,  
4 by written notice, inform the officers of such company that  
5 the company may be subject to decertification 90 days after  
6 the date of mailing of the notice, unless the deficiencies are  
7 corrected and such company is again found to be in compliance  
8 with all certification requirements.

9 Section 2. Subsection (1) of section 494.0017, Florida  
10 Statutes, is amended to read:

11 494.0017 Mortgage Brokerage Guaranty Fund.--

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

16 Section 3. Subsection (7) of section 494.008, Florida  
17 Statutes, is amended to read:

18 494.008 Mortgages offered by land developers licensed  
19 pursuant to the Florida Uniform Land Sales Practices Law;  
20 requirements; prohibitions.--No mortgage loan which has a face  
21 amount of \$35,000 or less and is secured by vacant land  
22 registered under the Florida Uniform Land Sales Practices Law,  
23 chapter 498, shall be sold to a mortgagee, except a financial  
24 institution, by any person unless all of the following  
25 requirements are met:

26 (7) Willful failure to comply with any of the above  
27 provisions shall subject the person to the penalties of s.  
28 494.0041 ~~494.05~~.

29 Section 4. Section 495.171, Florida Statutes, is  
30 repealed.

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1           Section 5. Sections 622.01, 622.02, 622.03, 622.04,  
2 622.05, 622.06, and 622.07, Florida Statutes, are repealed.

3           Section 6. Paragraph (e) of subsection (1) of section  
4 220.03, Florida Statutes, is amended to read:

5           220.03 Definitions.--

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

10           (e) "Corporation" includes all domestic corporations;  
11 foreign corporations qualified to do business in this state or  
12 actually doing business in this state; joint-stock companies;  
13 limited liability companies, under chapter 608; common-law  
14 declarations of trust, under chapter 609; corporations not for  
15 profit, under chapter 617; agricultural cooperative marketing  
16 associations, under chapter 618; professional service  
17 corporations, under chapter 621; foreign unincorporated  
18 associations, ~~under chapter 622~~; private school corporations,  
19 under chapter 623; foreign corporations not for profit which  
20 are carrying on their activities in this state; and all other  
21 organizations, associations, legal entities, and artificial  
22 persons which are created by or pursuant to the statutes of  
23 this state, the United States, or any other state, territory,  
24 possession, or jurisdiction. The term "corporation" does not  
25 include proprietorships, even if using a fictitious name;  
26 partnerships of any type, as such; limited liability companies  
27 that are taxable as partnerships for federal income tax  
28 purposes; state or public fairs or expositions, under chapter  
29 616; estates of decedents or incompetents; testamentary  
30 trusts; or private trusts.

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1           Section 7. Subsections (1) and (3) of section  
2 620.9901, Florida Statutes, are repealed.

3           Section 8. Section 657.067, Florida Statutes, is  
4 repealed.

5           Section 9. Sections 657.25, 657.251, 657.252, 657.253,  
6 657.254, 657.256, 657.257, 657.258, 657.259, 657.260, 657.261,  
7 657.262, 657.263, 657.264, 657.265, 657.266, 657.267, 657.268,  
8 and 657.269, Florida Statutes, are repealed.

9           Section 10. Subsections (3) and (7) of section  
10 655.057, Florida Statutes, are amended to read:

11           655.057 Records; limited restrictions upon public  
12 access.--

13           (3) The provisions of this section do not prevent or  
14 restrict:

15           (a) Publishing reports required to be submitted to the  
16 department pursuant to s. 655.045(2)(a) or required by  
17 applicable federal statutes or regulations to be published.

18           (b) Furnishing records or information to any other  
19 state, federal, or foreign agency responsible for the  
20 regulation or supervision of financial institutions, including  
21 Federal Home Loan Banks.

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

25           (c)(d) Disclosing or publishing summaries of the  
26 condition of financial institutions and general economic and  
27 similar statistics and data, provided that the identity of a  
28 particular financial institution is not disclosed.

29           (d)(e) Reporting any suspected criminal activity, with  
30 supporting documents and information, to appropriate law  
31 enforcement and prosecutorial agencies.

1            (e)~~(f)~~ Furnishing information upon request to the  
2 State Treasurer regarding the financial condition of any  
3 financial institution that is, or has applied to be,  
4 designated as a qualified public depository pursuant to  
5 chapter 280.

6  
7 Any confidential information or records obtained from the  
8 department pursuant to this subsection shall be maintained as  
9 confidential and exempt from the provisions of s. 119.07(1).

10            (7) Materials supplied to the department or to  
11 employees of any financial institution by other governmental  
12 agencies, federal or state, ~~or the Florida Credit Union~~  
13 ~~Guaranty Corporation, Inc.~~, shall remain the property of the  
14 submitting agency ~~or the corporation~~, and any document request  
15 must be made to the appropriate agency. Any confidential  
16 documents supplied to the department or to employees of any  
17 financial institution by other governmental agencies, federal  
18 or state, ~~or by the Florida Credit Union Guaranty Corporation,~~  
19 ~~Inc.~~, shall be confidential and exempt from the provisions of  
20 s. 119.07(1). Such information shall be made public only with  
21 the consent of such agency ~~or the corporation~~.

22            Section 11. Section 657.001, Florida Statutes, is  
23 amended to read:

24            657.001 Short title.--This chapter part may be cited  
25 as the "Florida Credit Union Act."

26            Section 12. Section 657.002, Florida Statutes, is  
27 amended to read:

28            657.002 Definitions.--As used in this chapter part:

- 29            (1) "Capital" means shares, deposits, and equity.  
30            (2) "Central credit union" means a credit union the  
31 membership of which includes, but is not limited to, other

1 credit unions, members of credit unions, credit union  
2 employees, employees of organizations serving credit unions,  
3 and the families of such members.

4 (3) "Corporate credit union" means any central credit  
5 union organized pursuant to any state or federal act for the  
6 purpose of serving other credit unions.

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

9 (4)~~(5)~~ "Correspondent" means that person designated on  
10 an application to organize a credit union as the person to  
11 whom all correspondence regarding the application should be  
12 sent.

13 (5)~~(6)~~ "Credit union" means any cooperative society  
14 organized pursuant to this chapter ~~part~~.

15 (6)~~(7)~~ "Department" means the Department of Banking  
16 and Finance.

17 (7)~~(8)~~ "Deposits" means that portion of the capital  
18 paid into the credit union by members on which a contractual  
19 rate of interest will be paid.

20 (8)~~(9)~~ "Equity" means undivided earnings, reserves,  
21 and allowance for loan losses.

22 (9)~~(10)~~ "Foreign credit union" means a credit union  
23 organized and operating under the laws of another state.

24 (10)~~(11)~~ "Immediate family" means parents, children,  
25 spouse, or surviving spouse of the member, or any other  
26 relative by blood, marriage, or adoption.

27 (11)~~(12)~~ "Limited field of membership" means the  
28 defined group of persons designated as eligible for membership  
29 in the credit union who:

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

1 (b) Reside within an identifiable neighborhood,  
2 community, rural district, or county; or

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

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

5  
6 members of the immediate family of persons within such group.

7 (12)~~(13)~~ "Shares" means that portion of the capital  
8 paid into the credit union by members on which dividends may  
9 be paid.

10 (13)~~(14)~~ "Unimpaired capital" means capital which is  
11 not impaired by losses that exceed applicable reserves.

12 Section 13. Paragraph (d) of subsection (3) of section  
13 657.005, Florida Statutes, is amended to read:

14 657.005 Notice of intent to organize; investigation by  
15 department; application for authority to organize a credit  
16 union.--

17 (3) The application shall be submitted to the  
18 department on forms and in the manner prescribed by rules  
19 adopted by the department and shall be accompanied by a  
20 nonrefundable filing fee of \$250. Such application shall  
21 include:

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

24 Section 14. Paragraph (a) of subsection (6) of section  
25 657.008, Florida Statutes, is amended to read:

26 657.008 Place of doing business.--

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

30 1. The state in which the foreign credit union's home  
31 office is located permits Florida credit unions to do business

1 in the state under restrictions that are no greater than those  
2 placed upon a domestic credit union doing business in that  
3 state. For this purpose, such restrictions shall include, but  
4 are not limited to, any fees, bonds, or other charges levied  
5 on domestic credit unions doing business in that state.

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

18           3. The credit union's field of membership is so  
19 limited as to be within that meaning of that term as defined  
20 in s. 657.002.

21           Section 15. Paragraph (e) of subsection (7) of section  
22 657.021, Florida Statutes, is amended to read:

23           657.021 Board of directors; executive committee.--

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

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

29           Section 16. Section 657.026, Florida Statutes, is  
30 amended to read:

31           657.026 Supervisory or audit committee.--



1           (1) There shall be a supervisory or audit committee of  
2 at least three members, which may be elected by the membership  
3 or appointed by the board, or the board may appoint an audit  
4 committee of directors in the manner prescribed in the bylaws.  
5 An officer or employee may not serve on the supervisory or  
6 audit committee.

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

13           (3) The supervisory or audit committee shall:

14           (a) Make or cause to be made a comprehensive annual  
15 audit of the credit union, in accordance with the rules of the  
16 department.

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

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

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

28           (4) The supervisory or audit committee shall notify  
29 the board of directors, the department, and, ~~as applicable,~~  
30 ~~either the corporation or~~ the National Credit Union  
31 Administration of any violation of this chapter part, any

1 violation of the certificate of authorization or bylaws of the  
2 credit union, or any practice of the credit union deemed by  
3 the supervisory or audit committee to be unsafe, unsound, or  
4 unauthorized.

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

8 Section 17. Subsections (10), (13), (16), and (28) of  
9 section 657.031, Florida Statutes, are amended to read:

10 657.031 Powers.--A credit union shall have the power  
11 to:

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

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

20 (16) Hold membership in central credit unions or  
21 corporate credit unions organized under this chapter ~~part~~ or  
22 under any other state or federal acts and membership in  
23 associations and organizations of credit unions.

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

27 Section 18. Subsection (2) of section 657.0315,  
28 Florida Statutes, is amended to read:

29 657.0315 Contracts for providing goods, products, or  
30 services.--

31

1           (2) Enforcement of this section may be made only by  
2 the board of directors of the credit union, unless the  
3 contract had been authorized by specific action of the board;  
4 by the ~~corporation~~ or National Credit Union Administration if  
5 it is directed to assume control of the assets and business of  
6 the credit union pursuant to s. 657.062; or by the liquidator  
7 appointed pursuant to s. 657.063 or s. 657.064.

8           Section 19. Subsections (9) and (15) of section  
9 657.038, Florida Statutes, are amended to read:

10           657.038 Loan powers.--

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

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

19           Section 20. Paragraph (a) of subsection (1) of section  
20 657.039, Florida Statutes, is amended to read:

21           657.039 Loan powers; extension of credit to directors,  
22 officers, committee members, and certain employees.--

23           (1) A credit union may extend credit to its officers,  
24 directors, credit manager, members of its supervisory, audit,  
25 and credit committees, and any other person authorized to  
26 approve extensions of credit, provided:

27           (a) The extension of credit complies with all  
28 requirements under this chapter ~~part~~ with respect to credit  
29 extended to other borrowers and is not on terms more favorable  
30 than those extended to other borrowers.

31

1           Section 21. Paragraph (a) of subsection (4) and  
2 subsection (9) of section 657.043, Florida Statutes, are  
3 amended to read:

4           657.043 Reserves.--

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

7           (a) All loans, except:

8           1. Loans fully secured by a pledge of shares or  
9 deposits in the lending credit union, equal to and maintained  
10 to at least the amount of the loan outstanding.

11           2. Loans which are purchased from liquidating credit  
12 unions and ~~guaranteed by the corporation or~~ insured by the  
13 National Credit Union Administration or other insuring  
14 agencies.

15           ~~3. Investments in or loans to the corporation.~~

16           (9) GUARANTY ASSISTANCE AGREEMENT.--The amount of any  
17 liability arising out of a guaranty assistance agreement with  
18 the ~~corporation or~~ National Credit Union Administration must  
19 be maintained as a reserve and be included in the  
20 determination of undivided earnings of the credit union.

21           Section 22. Subsection (1) of section 657.062, Florida  
22 Statutes, is amended to read:

23           657.062 Assumption of control by guarantor or  
24 insurer.--

25           (1) The department may direct ~~the corporation or the~~  
26 National Credit Union Administration, ~~whichever is applicable,~~  
27 to assume control of the property, assets, and business of its  
28 member credit union and to operate it subject to the  
29 directions of the department:

30           (a) Whenever the department finds that the credit  
31 union:

- 1           1. Is engaging or has engaged in an unsafe or unsound  
2 practice;  
3           2. Is violating or has violated any provision of this  
4 chapter; or  
5           3. Is violating or has violated any department rule,  
6 department order, or written agreement entered into with the  
7 department,  
8  
9 in such a manner that the credit union is threatened with  
10 imminent insolvency.

11           (b) Whenever a majority of the members of the board of  
12 directors of the credit union have been removed by the  
13 department or shall have resigned.

14           Section 23. Subsection (2) of section 657.063, Florida  
15 Statutes, is amended to read:

16           657.063 Involuntary liquidation.--

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

22           Section 24. Subsections (1), (4), (5), and (7) of  
23 section 657.064, Florida Statutes, are amended to read:

24           657.064 Voluntary liquidation.--A credit union may  
25 elect to dissolve voluntarily and liquidate its affairs in the  
26 following manner:

27           (1) Before considering any resolution pertaining to  
28 voluntary liquidation by the board of directors, the credit  
29 union must inform the department and ~~the corporation or the~~  
30 National Credit Union Administration, ~~whichever is applicable,~~  
31 of the time and place of the meeting of the board of

1 directors. The notification must be transmitted at least 5  
2 days before the board of directors meets.

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

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

26 (7) ~~The corporation or~~ The National Credit Union  
27 Administration, ~~whichever is applicable,~~ shall have the right  
28 of first refusal to be appointed as liquidator of any  
29 liquidating credit union which it guarantees or insures. The  
30 liquidator shall have all of the powers provided in s. 657.063  
31 regarding involuntary liquidation. If ~~the corporation or~~ the

1 National Credit Union Administration shall decline to serve as  
2 liquidator, the board of directors shall appoint a reasonable  
3 person as liquidator and specify the extent of  
4 responsibilities and authority delegated to the liquidator.

5 Section 25. Subsection (1) of section 657.065, Florida  
6 Statutes, is amended to read:

7 657.065 Merger.--

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

13 (a) The merger is approved by the affirmative vote of  
14 a majority of the members of the merging credit union who  
15 voted on the issue;

16 (b) The merger is consented to by ~~the corporation or~~  
17 ~~the National Credit Union Administration, whichever is~~  
18 applicable; and

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

21 Section 26. Section 657.066, Florida Statutes, is  
22 amended to read:

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

30 (1) Any action by the board of directors proposing  
31 conversion shall be by resolution and shall require the

1 affirmative vote of an absolute majority of the board of  
2 directors. Upon adoption of a resolution relating to  
3 conversion, a copy of the resolution shall be mailed to each  
4 member, together with a notice setting forth the time,  
5 location, and purpose of a meeting of the membership which  
6 shall be held not less than 10 nor more than 30 days following  
7 the mailing of the notice.

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

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

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



1 before approving the conversion and the converting credit  
2 union shall pay a nonrefundable examination fee as provided in  
3 s. 655.411(1)(b).

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

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

16 Section 27. Subsections (2) and (4) of section  
17 657.068, Florida Statutes, are amended to read:

18 657.068 Central credit unions.--

19 (2) Membership in a central credit union shall be  
20 limited to:

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

23 (b) Officers, directors, committee members, and  
24 employees of such credit unions, and officials and employees  
25 of any association of credit unions;

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

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

1 (e) Residents of this state having a limited field of  
2 membership, if their application for membership is approved by  
3 the board of directors of the central credit union and by the  
4 department;

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

9 (g) Members of the immediate families of all members  
10 qualified above.

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

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

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

25 Section 28. Section 716.02, Florida Statutes, is  
26 amended to read:

27 716.02 Escheat of funds in the possession of federal  
28 agencies.--All property within the provisions of subsections  
29 (1), (2), (3), and (4) ~~and (5)~~, are declared to have  
30 escheated, or to escheat, including all principal and interest  
31

1 accruing thereon, and to have become the property of the  
2 state.

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

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

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

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

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

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

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

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

31

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

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

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

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

1 appointed to do any act which a natural person could do to  
2 recover said money, and it is hereby declared that when the  
3 department files said application or any other proceeding to  
4 secure said refund or rebate, its agency is coupled with an  
5 interest in the money sought and money recovered.

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

27 Section 29. Section 717.137, Florida Statutes, is  
28 repealed.

29 Section 30. This act shall take effect upon becoming a  
30 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
Committee Substitute for  
Senate Bill 1742

The Committee Substitute provides the following changes:

1. Deletes from the bill the repeal of sections of ch. 159, F.S., relating to the abolished Department of Commerce, since these sections are repealed in SB 980, a Reviser's Bill.
2. Deletes from the bill the repeal of certain legislative intent provisions in s. 497.002, F.S., relating to the need for the regulation of pre-need funeral and cemetery services.
3. Repeals s. 620.9901, F.S., relating to the applicability of the Revised Uniform Partnership Act since these sections are outdated.