

By the Committees on Financial Services, Rules & Calendar  
and Representative Bitner

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6           have been impliedly repealed or superseded;  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.; reiterating a  
8           deadline for certification as a certified  
9           capital company; deleting obsolete provisions  
10          relating to applying for certification as a  
11          certified capital company and for an allocation  
12          of premium tax credits for potential investors;  
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; amending  
20          s. 497.002, F.S.; deleting findings relating to  
21          the need to regulate funeral and cemetery  
22          services; repealing s. 606.01(1), F.S.,  
23          relating to findings on the need for the  
24          Florida Business Coordination Act; repealing s.  
25          620.9901(1) and (3), F.S., relating to  
26          applicability of the Revised Uniform  
27          Partnership Act of 1995 over a specified  
28          period; repealing ch. 622, F.S., relating to  
29          foreign unincorporated associations; amending  
30          s. 220.03, F.S.; correcting a cross reference,  
31          to conform; repealing s. 657.067, F.S.,

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

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

21  
22 Section 1. Subsections (4) and (7) and paragraph (c)  
23 of subsection (10) of section 288.99, Florida Statutes, are  
24 amended to read:

25 288.99 Certified Capital Company Act.--

26 (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
27 DECERTIFICATION.--

28 (a) To operate as a certified capital company, a  
29 corporation, partnership, or limited liability company must be  
30 certified by the department by December 31, 1998, pursuant to  
31

1 this act and must be registered and maintain an active status  
2 with the Department of State as required by law.

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

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

11 2. ~~The applicant's form and place of organization and~~  
12 ~~the relevant organizational documents, bylaws, and amendments~~  
13 ~~or restatements of such documents, bylaws, or amendments.~~

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

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

20 5. ~~The applicant's financial condition and history,~~  
21 ~~including an audit report on the financial statements prepared~~  
22 ~~in accordance with generally accepted accounting principles~~  
23 ~~showing net capital of not less than \$500,000 within 90 days~~  
24 ~~after the date the application is submitted to the department.~~  
25 ~~If the date of the application is more than 90 days after~~  
26 ~~preparation of the applicant's fiscal year-end financial~~  
27 ~~statements, the applicant may file financial statements~~  
28 ~~reviewed by an independent certified public accountant for the~~  
29 ~~period subsequent to the audit report, together with the~~  
30 ~~audited financial statement for the most recent fiscal year.~~  
31 ~~If the applicant has been in business less than 12 months, and~~

1 ~~has not prepared an audited financial statement, the applicant~~  
2 ~~may file a financial statement reviewed by an independent~~  
3 ~~certified public accountant.~~

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

12 ~~1. The applicant satisfies the requirements of~~  
13 ~~paragraph (b).~~

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

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

24 (b)(d) The department may deny certification or  
25 decertify a certified capital company if the grounds for  
26 decertification are not removed or corrected within 90 days  
27 after the notice of such grounds is received by the certified  
28 capital company. The department may deny certification or  
29 decertify a certified capital company if the certified capital  
30 company fails to maintain a net worth of at least \$500,000, or  
31

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

1 estate, mortgage brokers, or other related or similar  
2 industries.

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

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

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

30 (e)~~(h)~~ On or before December 31 of each year, each  
31 certified capital company shall pay to the department an

1 annual, nonrefundable renewal certification fee of \$5,000. No  
2 renewal fees shall be required within 6 months after the date  
3 of initial certification.

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

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

19 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
20 PROCESS.--

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

26 (b) The office shall be responsible for allocating  
27 premium tax credits as provided for in this act to certified  
28 capital companies.

29 ~~(c) Each certified capital company must apply to the~~  
30 ~~office for an allocation of premium tax credits for potential~~  
31 ~~certified investors by March 15, 1999, on a form developed by~~

1 ~~the office with the cooperation of the Department of Revenue.~~  
2 ~~The form shall be accompanied by an affidavit from each~~  
3 ~~potential certified investor confirming that the potential~~  
4 ~~certified investor has agreed to make an investment of~~  
5 ~~certified capital in a certified capital company up to a~~  
6 ~~specified amount, subject only to the receipt of a premium tax~~  
7 ~~credit allocation pursuant to this subsection. No allocation~~  
8 ~~shall be made to the potential investors of a certified~~  
9 ~~capital company unless such certified capital company has~~  
10 ~~filed premium tax allocation claims that would result in an~~  
11 ~~allocation to the potential investors in such certified~~  
12 ~~capital company of not less than \$15 million in the aggregate.~~

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

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

31



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

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

7  
8  
9  
10 where the letter "A" represents the total amount of certified  
11 capital certified investors have agreed to invest in any one  
12 certified capital company, the letter "B" represents the  
13 aggregate amount of certified capital that all certified  
14 investors have agreed to invest in all certified capital  
15 companies, the letter "X" is the numerator and represents the  
16 total amount of premium tax credits and certified capital that  
17 may be allocated to a certified capital company in calendar  
18 year 1999, and \$150 million is the denominator and represents  
19 the total amount of premium tax credits and certified capital  
20 that may be allocated to all certified investors in calendar  
21 year 1999. Any such premium tax credits are not first  
22 available for utilization until annual filings are made in  
23 2001 for calendar year 2000, and the tax credits may be used  
24 at a rate not to exceed 10 percent annually.

25        (e)~~(g)~~ The maximum amount of certified capital for  
26 which premium tax allocation claims may be filed on behalf of  
27 any certified investor and its affiliates by one or more  
28 certified companies may not exceed \$15 million.

29        (f)~~(h)~~ To the extent that less than \$150 million in  
30 certified capital is raised in connection with the procedure  
31 set forth in paragraphs (c)-~~(e)~~~~(c)~~~~(g)~~, the department may

1 adopt rules to allow a subsequent allocation of the remaining  
2 premium tax credits authorized under this section.

3 (10) DECERTIFICATION.--

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

16 Section 2. 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 3. Section 495.171, Florida Statutes, is  
30 repealed.

31

1           Section 4. Subsection (1) of section 497.002, Florida  
2 Statutes, is amended to read:

3           497.002 Purpose and intent.--

4           (1) ~~The Legislature recognizes that purchasers of~~  
5 ~~preneed burial rights, funeral or burial merchandise, or~~  
6 ~~funeral or burial services may suffer serious economic harm if~~  
7 ~~purchase money is not set aside for future use as intended by~~  
8 ~~the purchaser and that the failure to maintain cemetery~~  
9 ~~grounds properly may cause significant emotional stress.~~

10 ~~Therefore,~~It is necessary in the interest of the public  
11 welfare to regulate certificateholders, licensees,  
12 registrants, and cemetery companies in this state. However,  
13 restrictions shall be imposed only to the extent necessary to  
14 protect the public from significant or discernible harm or  
15 damage and not in a manner which will unreasonably affect the  
16 competitive market.

17           Section 5. Subsection (1) of section 606.01, Florida  
18 Statutes, is repealed.

19           Section 6. Subsections (1) and (3) of section  
20 620.9901, Florida Statutes, are repealed.

21           Section 7. Sections 622.01, 622.02, 622.03, 622.04,  
22 622.05, 622.06, and 622.07, Florida Statutes, are repealed.

23           Section 8. Paragraph (e) of subsection (1) of section  
24 220.03, Florida Statutes, is amended to read:

25           220.03 Definitions.--

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

30           (e) "Corporation" includes all domestic corporations;  
31 foreign corporations qualified to do business in this state or

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

20 Section 9. Section 657.067, Florida Statutes, is  
21 repealed.

22 Section 10. Sections 657.25, 657.251, 657.252,  
23 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260,  
24 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267,  
25 657.268, and 657.269, Florida Statutes, are repealed.

26 Section 11. Subsections (3) and (7) of section  
27 655.057, Florida Statutes, are amended to read:

28 655.057 Records; limited restrictions upon public  
29 access.--

30 (3) The provisions of this section do not prevent or  
31 restrict:

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

4 (b) Furnishing records or information to any other  
5 state, federal, or foreign agency responsible for the  
6 regulation or supervision of financial institutions, including  
7 Federal Home Loan Banks.

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

11 (d)~~(d)~~ Disclosing or publishing summaries of the  
12 condition of financial institutions and general economic and  
13 similar statistics and data, provided that the identity of a  
14 particular financial institution is not disclosed.

15 (d)~~(e)~~ Reporting any suspected criminal activity, with  
16 supporting documents and information, to appropriate law  
17 enforcement and prosecutorial agencies.

18 (e)~~(f)~~ Furnishing information upon request to the  
19 State Treasurer regarding the financial condition of any  
20 financial institution that is, or has applied to be,  
21 designated as a qualified public depository pursuant to  
22 chapter 280.

23  
24 Any confidential information or records obtained from the  
25 department pursuant to this subsection shall be maintained as  
26 confidential and exempt from the provisions of s. 119.07(1).

27 (7) Materials supplied to the department or to  
28 employees of any financial institution by other governmental  
29 agencies, federal or state, ~~or the Florida Credit Union~~  
30 ~~Guaranty Corporation, Inc.,~~ shall remain the property of the  
31 submitting agency ~~or the corporation,~~ and any document request

1 must be made to the appropriate agency. Any confidential  
2 documents supplied to the department or to employees of any  
3 financial institution by other governmental agencies, federal  
4 or state, ~~or by the Florida Credit Union Guaranty Corporation,~~  
5 ~~Inc.~~, shall be confidential and exempt from the provisions of  
6 s. 119.07(1). Such information shall be made public only with  
7 the consent of such agency ~~or the corporation.~~

8 Section 12. Section 657.001, Florida Statutes, is  
9 amended to read:

10 657.001 Short title.--This chapter part may be cited  
11 as the "Florida Credit Union Act."

12 Section 13. Section 657.002, Florida Statutes, is  
13 amended to read:

14 657.002 Definitions.--As used in this chapter part:

15 (1) "Capital" means shares, deposits, and equity.

16 (2) "Central credit union" means a credit union the  
17 membership of which includes, but is not limited to, other  
18 credit unions, members of credit unions, credit union  
19 employees, employees of organizations serving credit unions,  
20 and the families of such members.

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

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

26 (4)~~(5)~~ "Correspondent" means that person designated on  
27 an application to organize a credit union as the person to  
28 whom all correspondence regarding the application should be  
29 sent.

30 (5)~~(6)~~ "Credit union" means any cooperative society  
31 organized pursuant to this chapter part.

1           ~~(6)(7)~~ "Department" means the Department of Banking  
2 and Finance.  
3           ~~(7)(8)~~ "Deposits" means that portion of the capital  
4 paid into the credit union by members on which a contractual  
5 rate of interest will be paid.  
6           ~~(8)(9)~~ "Equity" means undivided earnings, reserves,  
7 and allowance for loan losses.  
8           ~~(9)(10)~~ "Foreign credit union" means a credit union  
9 organized and operating under the laws of another state.  
10          ~~(10)(11)~~ "Immediate family" means parents, children,  
11 spouse, or surviving spouse of the member, or any other  
12 relative by blood, marriage, or adoption.  
13          ~~(11)(12)~~ "Limited field of membership" means the  
14 defined group of persons designated as eligible for membership  
15 in the credit union who:  
16           (a) Have a similar profession, occupation, or formal  
17 association with an identifiable purpose; or  
18           (b) Reside within an identifiable neighborhood,  
19 community, rural district, or county; or  
20           (c) Are employed by a common employer; or  
21           (d) Are employed by the credit union; and  
22  
23 members of the immediate family of persons within such group.  
24          ~~(12)(13)~~ "Shares" means that portion of the capital  
25 paid into the credit union by members on which dividends may  
26 be paid.  
27          ~~(13)(14)~~ "Unimpaired capital" means capital which is  
28 not impaired by losses that exceed applicable reserves.  
29          Section 14. Paragraph (d) of subsection (3) of section  
30 657.005, Florida Statutes, is amended to read:  
31

1           657.005 Notice of intent to organize; investigation by  
2 department; application for authority to organize a credit  
3 union.--

4           (3) The application shall be submitted to the  
5 department on forms and in the manner prescribed by rules  
6 adopted by the department and shall be accompanied by a  
7 nonrefundable filing fee of \$250. Such application shall  
8 include:

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

11           Section 15. Paragraph (a) of subsection (6) of section  
12 657.008, Florida Statutes, is amended to read:

13           657.008 Place of doing business.--

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

17           1. The state in which the foreign credit union's home  
18 office is located permits Florida credit unions to do business  
19 in the state under restrictions that are no greater than those  
20 placed upon a domestic credit union doing business in that  
21 state. For this purpose, such restrictions shall include, but  
22 are not limited to, any fees, bonds, or other charges levied  
23 on domestic credit unions doing business in that state.

24           2. The deposits of such foreign credit union and its  
25 proposed Florida branch will be insured or guaranteed by an  
26 insurer or guarantor acceptable to the department. ~~Insurance~~  
27 ~~or guarantee of accounts comparable to that provided by the~~  
28 ~~Florida Credit Union Guaranty Corporation is deemed to be~~  
29 ~~acceptable; however, acceptance of insurance or guarantee of~~  
30 ~~accounts by any insuring or guaranteeing agencies or companies~~  
31 ~~shall be subject to a determination by the department that the~~



1 ~~insuring or guaranteeing agency or company is in sound~~  
2 ~~financial condition and that its reserves with respect to its~~  
3 ~~insured or guaranteed accounts are no less than those of the~~  
4 ~~Florida Credit Union Guaranty Corporation.~~

5           3. The credit union's field of membership is so  
6 limited as to be within that meaning of that term as defined  
7 in s. 657.002.

8           Section 16. Paragraph (e) of subsection (7) of section  
9 657.021, Florida Statutes, is amended to read:

10           657.021 Board of directors; executive committee.--

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

13           (e) Adequately provide for reserves as required by  
14 this chapter ~~part~~ or by rules or order of the department or as  
15 otherwise determined necessary by the board.

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

18           657.026 Supervisory or audit committee.--

19           (1) There shall be a supervisory or audit committee of  
20 at least three members, which may be elected by the membership  
21 or appointed by the board, or the board may appoint an audit  
22 committee of directors in the manner prescribed in the bylaws.  
23 An officer or employee may not serve on the supervisory or  
24 audit committee.

25           (2) The supervisory or audit committee may audit, or  
26 cause to be audited, the financial statements of the credit  
27 union to determine compliance with policy, to ensure that  
28 generally accepted accounting principles are consistently  
29 applied, and to ensure an adequate system of internal  
30 controls.

31           (3) The supervisory or audit committee shall:

1 (a) Make or cause to be made a comprehensive annual  
2 audit of the credit union, in accordance with the rules of the  
3 department.

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

7 (c) Submit a report of every required audit or  
8 examination within a reasonable time to the board of directors  
9 with a copy to the department and, ~~depending upon which~~  
10 ~~organization is applicable,~~ a copy to the corporation or the  
11 National Credit Union Administration.

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

15 (4) The supervisory or audit committee shall notify  
16 the board of directors, the department, and, ~~as applicable,~~  
17 ~~either the corporation or~~ the National Credit Union  
18 Administration of any violation of this chapter part, any  
19 violation of the certificate of authorization or bylaws of the  
20 credit union, or any practice of the credit union deemed by  
21 the supervisory or audit committee to be unsafe, unsound, or  
22 unauthorized.

23 (5) For the purposes of this section subsection,  
24 two-thirds of the members of the supervisory or audit  
25 committee constitutes a quorum.

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

28 657.031 Powers.--A credit union shall have the power  
29 to:

30 (10) Borrow money and issue evidences of indebtedness  
31 for a loan or loans in the usual course of its business and

1 secure such obligations by mortgage or pledge of any of its  
2 assets. Aggregate borrowings shall not exceed 50 percent of  
3 the unimpaired capital of the credit union. However, this  
4 percentage limitation shall not apply to loans ~~from the~~  
5 ~~corporation or~~ from the National Credit Union Administration.

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

7 (16) Hold membership in central credit unions or  
8 corporate credit unions organized under this chapter part or  
9 under any other state or federal acts and membership in  
10 associations and organizations of credit unions.

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

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

16 657.0315 Contracts for providing goods, products, or  
17 services.--

18 (2) Enforcement of this section may be made only by  
19 the board of directors of the credit union, unless the  
20 contract had been authorized by specific action of the board;  
21 by the ~~corporation or~~ National Credit Union Administration if  
22 it is directed to assume control of the assets and business of  
23 the credit union pursuant to s. 657.062; or by the liquidator  
24 appointed pursuant to s. 657.063 or s. 657.064.

25 Section 20. Subsections (9) and (15) of section  
26 657.038, Florida Statutes, are amended to read:

27 657.038 Loan powers.--

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

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

5           Section 21. Paragraph (a) of subsection (1) of section  
6 657.039, Florida Statutes, is amended to read:

7           657.039 Loan powers; extension of credit to directors,  
8 officers, committee members, and certain employees.--

9           (1) A credit union may extend credit to its officers,  
10 directors, credit manager, members of its supervisory, audit,  
11 and credit committees, and any other person authorized to  
12 approve extensions of credit, provided:

13           (a) The extension of credit complies with all  
14 requirements under this chapter ~~part~~ with respect to credit  
15 extended to other borrowers and is not on terms more favorable  
16 than those extended to other borrowers.

17           Section 22. Paragraph (a) of subsection (4) and  
18 subsection (9) of section 657.043, Florida Statutes, are  
19 amended to read:

20           657.043 Reserves.--

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

23           (a) All loans, except:

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

27           2. Loans which are purchased from liquidating credit  
28 unions and ~~guaranteed by the corporation~~ or insured by the  
29 National Credit Union Administration or other insuring  
30 agencies.

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

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

6           Section 23. Subsection (1) of section 657.062, Florida  
7 Statutes, is amended to read:

8           657.062 Assumption of control by guarantor or  
9 insurer.--

10           (1) The department may direct ~~the corporation or the~~  
11 National Credit Union Administration, ~~whichever is applicable,~~  
12 to assume control of the property, assets, and business of its  
13 member credit union and to operate it subject to the  
14 directions of the department:

15           (a) Whenever the department finds that the credit  
16 union:

17           1. Is engaging or has engaged in an unsafe or unsound  
18 practice;

19           2. Is violating or has violated any provision of this  
20 chapter; or

21           3. Is violating or has violated any department rule,  
22 department order, or written agreement entered into with the  
23 department,

24  
25 in such a manner that the credit union is threatened with  
26 imminent insolvency.

27           (b) Whenever a majority of the members of the board of  
28 directors of the credit union have been removed by the  
29 department or shall have resigned.

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

1           657.063 Involuntary liquidation.--

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

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

9           657.064 Voluntary liquidation.--A credit union may  
10 elect to dissolve voluntarily and liquidate its affairs in the  
11 following manner:

12           (1) Before considering any resolution pertaining to  
13 voluntary liquidation by the board of directors, the credit  
14 union must inform the department and ~~the corporation or the~~  
15 National Credit Union Administration, ~~whichever is applicable,~~  
16 of the time and place of the meeting of the board of  
17 directors. The notification must be transmitted at least 5  
18 days before the board of directors meets.

19           (4) Upon adoption by the board of directors of a  
20 resolution recommending that the credit union be voluntarily  
21 liquidated, ~~the corporation or~~ the National Credit Union  
22 Administration, ~~whichever is applicable,~~ may restrict control  
23 or give directions with respect to the continued business of  
24 the credit union pending consideration of the voluntary  
25 liquidation by the members. During such period, no member  
26 shall withdraw an aggregate amount in excess of the insurance  
27 or guaranty covered by the credit union. No new extensions of  
28 credit shall be funded during the period between the board of  
29 directors' adoption of the resolution recommending the  
30 voluntary liquidation and the membership meeting called to  
31 consider the voluntary liquidation, except for loans fully

1 secured by a pledge of shares and for the funding of  
2 outstanding loan commitments approved before the board of  
3 directors adopts the resolution.

4 (5) The notice required by subsection (3) shall also  
5 be mailed to the department within 5 days after the action of  
6 the board of directors. Within 10 days after the meeting of  
7 the membership, the board of directors shall notify the  
8 department and ~~the corporation or~~ the National Credit Union  
9 Administration, ~~whichever is applicable,~~ in writing of the  
10 action taken by the members.

11 (7) ~~The corporation or~~ The National Credit Union  
12 Administration, ~~whichever is applicable,~~ shall have the right  
13 of first refusal to be appointed as liquidator of any  
14 liquidating credit union which it guarantees or insures. The  
15 liquidator shall have all of the powers provided in s. 657.063  
16 regarding involuntary liquidation. If ~~the corporation or~~ the  
17 National Credit Union Administration shall decline to serve as  
18 liquidator, the board of directors shall appoint a reasonable  
19 person as liquidator and specify the extent of  
20 responsibilities and authority delegated to the liquidator.

21 Section 26. Paragraph (b) of subsection (1) of section  
22 657.065, Florida Statutes, is amended to read:

23 657.065 Merger.--

24 (1) Any state or federal credit union may merge with  
25 another state or federal credit union under the existing  
26 certificate of authorization of the other credit union,  
27 pursuant to any plan agreed upon by the majority of the board  
28 of directors of each credit union joining in the merger, if:

29 (b) The merger is consented to by ~~the corporation or~~  
30 the National Credit Union Administration, ~~whichever is~~  
31 ~~applicable;~~ and

1           Section 27. Section 657.066, Florida Statutes, is  
2 amended to read:

3           657.066 Conversion from state credit union to federal  
4 credit union and conversely.--Any credit union organized under  
5 this chapter part may convert into a federal credit union and  
6 any federal credit union may convert into a credit union  
7 organized pursuant to this chapter part upon approval of the  
8 authority under the supervision of which the converted credit  
9 union will operate and upon compliance with applicable laws.

10           (1) Any action by the board of directors proposing  
11 conversion shall be by resolution and shall require the  
12 affirmative vote of an absolute majority of the board of  
13 directors. Upon adoption of a resolution relating to  
14 conversion, a copy of the resolution shall be mailed to each  
15 member, together with a notice setting forth the time,  
16 location, and purpose of a meeting of the membership which  
17 shall be held not less than 10 nor more than 30 days following  
18 the mailing of the notice.

19           (2) A ballot allowing an affirmative or negative vote  
20 on the proposed conversion shall also be mailed to each  
21 member. Any ballot received by the credit union prior to the  
22 meeting called to consider the conversion shall be counted  
23 along with the votes cast at the meeting. Each member shall  
24 have but one vote. A majority of the votes cast by the  
25 members shall be required to approve the conversion.

26           (3) Within 10 days after the approval of the  
27 membership, the board of directors shall cause to be  
28 transmitted to the authority under the supervision of which  
29 the converted credit union will operate a copy of the  
30 resolution adopted by the board of directors and approved by  
31 the membership.



1           (4) Upon the written approval of the authority under  
2 the supervision of which the converting credit union is to  
3 operate, the converting credit union shall become a credit  
4 union under this chapter or under the laws of the United  
5 States, as the case may be, and thereupon all assets shall  
6 become the property of the converted credit union, subject to  
7 all existing liabilities against the credit union. All shares  
8 and deposits shall remain intact. Any federal credit union  
9 seeking to convert to a state-chartered credit union shall pay  
10 a nonrefundable filing fee of \$500. The department may  
11 conduct an examination of any converting federal credit union  
12 before approving the conversion and the converting credit  
13 union shall pay a nonrefundable examination fee as provided in  
14 s. 655.411(1)(b).

15           (5) Every conversion must be completed within 90 days  
16 after the approval of the authority under the supervision of  
17 which the converted credit union will operate. Upon receiving  
18 its certificate of authorization or charter from the authority  
19 under the supervision of which the converted credit union will  
20 operate, the old certificate of authorization or charter shall  
21 be returned to the proper authority and shall be canceled.

22           (6) In consummation of the conversion, the old credit  
23 union may execute, acknowledge, and deliver to the newly  
24 chartered credit union the instruments of transfer necessary  
25 to accomplish the transfer of any property and all right,  
26 title, and interest therein.

27           Section 28. Paragraph (a) of subsection (2) and  
28 subsection (4) of section 657.068, Florida Statutes, are  
29 amended to read:

30           657.068 Central credit unions.--

31

1           (2) Membership in a central credit union shall be  
2 limited to:  
3           (a) Credit unions organized and operating under this  
4 chapter part or any other credit union act;  
5           (4) A central credit union shall have all the powers  
6 of any credit union organized under this chapter part and  
7 shall have the following powers, notwithstanding any  
8 limitations or restrictions herein:  
9           (a) A central credit union may make loans to other  
10 credit unions, purchase shares of and make deposits in other  
11 credit unions, and obtain or acquire the assets and  
12 liabilities of any credit union operating in this state which  
13 liquidates, provided such assets are otherwise eligible for  
14 investment by the acquiring credit union.  
15           (b) A central credit union may invest in and grant  
16 loans to associations of credit unions, central funds of  
17 credit unions, or organizations chartered to provide services  
18 to credit unions.  
19           Section 29. Section 716.02, Florida Statutes, is  
20 amended to read:  
21           716.02 Escheat of funds in the possession of federal  
22 agencies.--All property within the provisions of subsections  
23 (1), (2), (3), and (4) ~~and (5)~~, are declared to have  
24 escheated, or to escheat, including all principal and interest  
25 accruing thereon, and to have become the property of the  
26 state.  
27           (1) All money or other property which has remained in,  
28 or has been deposited in the custody of, or under the control  
29 of, any court of the United States, in and for any district  
30 within this state, or which has been deposited with and is in  
31 the custody of any depository, registry, clerk or other

1 officer of such court, or the United States treasury, which  
2 money or other property the rightful owner or owners thereof,  
3 either:

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

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

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

10

11 are declared to have escheated, or to escheat, together with  
12 all interest accrued thereon, and to have become the property  
13 of the state.

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

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

21 ~~(b) Shall have died without having disposed thereof,~~  
22 ~~and without having left or without leaving heirs, next of kin~~  
23 ~~or distributees; or,~~

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

26

27 ~~is hereby declared to have escheated, or to escheat, together~~  
28 ~~with all interest accrued thereon, and to have become the~~  
29 ~~property of the state.~~

30 (2)(3) All money or other property which has remained  
31 in, or has been deposited in the custody of, or under the

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

13 (3)~~(4)~~ In the event any money is due to any resident  
14 of this state as a refund, rebate or tax rebate from the  
15 United States Commissioner of Internal Revenue, the United  
16 States Treasurer, or other governmental agency or department,  
17 which said resident will, or is likely to have her or his  
18 rights to apply for and secure such refund or rebate barred by  
19 any statute of limitations or, in any event, has failed for a  
20 period of 1 year after said resident could have filed a claim  
21 for said refund or rebate, the Department of Banking and  
22 Finance is hereby appointed agent of such resident to demand,  
23 file and apply for said refund or rebate, and is hereby  
24 appointed to do any act which a natural person could do to  
25 recover said money, and it is hereby declared that when the  
26 department files said application or any other proceeding to  
27 secure said refund or rebate, its agency is coupled with an  
28 interest in the money sought and money recovered.

29 (4)~~(5)~~ It is the purpose of this chapter to include  
30 all funds or other property in the possession of the  
31 government of the United States, and of its departments,

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

19 Section 30. Section 717.137, Florida Statutes, is  
20 repealed.

21 Section 31. This act shall take effect upon becoming a  
22 law.

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