

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to financial institutions and  
7 transactions; amending s. 655.005, F.S.; revising  
8 definitions; creating s. 655.0201, F.S.; providing  
9 requirements and procedures for service of process,  
10 notice, or demand on financial institutions; amending s.  
11 655.044, F.S.; establishing the fiscal year end for  
12 financial institutions; amending s. 655.057, F.S.;  
13 removing references to the Florida Credit Union Guaranty  
14 Corporation, Inc.; amending s. 655.411, F.S.; correcting a  
15 cross reference; creating s. 655.4185, F.S.; authorizing  
16 the Office of Financial Regulation to issue certain  
17 emergency orders authorizing certain actions that may be  
18 taken against a failing financial entity; specifying  
19 findings necessary for such orders; authorizing the office  
20 to take certain enforcement actions; protecting  
21 stockholder procedural rights and compensation  
22 entitlements; amending s. 657.002, F.S.; revising  
23 definitions; amending s. 657.005, F.S.; revising

24 application procedures for authority to organize a credit  
25 union; amending s. 657.0061, F.S.; providing an additional  
26 ground for disapproval of a bylaw amendment; amending s.  
27 657.008, F.S.; revising provisions relating to principal  
28 place of doing business; revising notification dates and  
29 conditions for maintaining branches; requiring deposits of  
30 a foreign credit union to be insured by the National  
31 Credit Union Administration; amending s. 657.021, F.S.;  
32 revising provisions relating to a credit union's board of  
33 directors; clarifying terms of board of directors members;  
34 requiring a board of directors to manage a credit union in  
35 a safe and sound manner; revising requirements and  
36 authority of a board of directors; requiring officer and  
37 director liability insurance and bond coverage;  
38 authorizing delegation of certain functions; requiring  
39 that policies on operations of a credit union accord with  
40 commission rules; amending s. 657.022, F.S.; modifying the  
41 time period for the annual meeting of the board of  
42 directors; amending s. 657.023, F.S.; revising a credit  
43 union's authority to close accounts and terminate  
44 membership; amending s. 657.024, F.S.; revising procedures  
45 for distribution of ballots; amending s. 657.026, F.S.;  
46 deleting reference to the Florida Credit Union Guaranty  
47 Corporation, Inc.; clarifying notification required to  
48 board of directors and the office of any unsafe or unsound  
49 practice; amending s. 657.027, F.S.; clarifying the  
50 authority of a credit manager; amending s. 657.028, F.S.;  
51 clarifying which persons may not be compensated for

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52 service; revising the prohibition on persons who may not  
53 serve as officer, director, or committee member; amending  
54 s. 657.031, F.S.; specifying the powers of a credit union;  
55 prohibiting challenges to the validity of certain actions  
56 of a credit union under certain circumstances; requiring  
57 the exercise of credit union powers to be approved by rule  
58 of the Financial Services Commission or order of the  
59 Office of Financial Regulation; amending s. 657.033, F.S.;  
60 revising criteria for dormant accounts; revising a time  
61 period for characterizing a dormant account as unclaimed  
62 or abandoned property; specifying what shares and deposits  
63 may be received by a credit union; authorizing credit  
64 unions to participate in electronic fund transfer,  
65 withdrawal, and deposit systems; requiring a credit union  
66 to maintain account insurance; amending s. 657.038, F.S.;  
67 revising limitations on total unsecured obligations;  
68 providing an exception; revising loan and credit authority  
69 of a credit union; authorizing a credit union to issue  
70 credit cards and debit cards for certain purposes;  
71 authorizing the commission to allow by rule for the use of  
72 devices similar to credit card and debit cards; amending  
73 s. 657.039, F.S.; revising a credit union's authority to  
74 extend credit to its directors; revising credit  
75 limitations; amending s. 657.042, F.S.; amending the  
76 investment authority of a credit union; revising  
77 limitations; amending s. 657.043, F.S.; revising  
78 requirements for regular reserves, loan losses accounts,  
79 investment losses, and special reserves; authorizing a

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 credit union to borrow money and issue evidence of  
 81 indebtedness; providing limitations; deleting provisions  
 82 relating to transfers to regular reserve, risk assets,  
 83 reserve for contingencies, equity to asset ratio  
 84 requirements, and guaranty assistance agreements; amending  
 85 s. 657.062, F.S.; providing requirements for appointment  
 86 of the National Credit Union Administration as conservator  
 87 of a credit union under certain circumstances; providing  
 88 criteria; amending s. 657.063, F.S.; revising requirements  
 89 for the involuntarily liquidation of a credit union;  
 90 authorizing the commission to define by rule criteria for  
 91 determining the adequacy of capitalization of a credit  
 92 union; amending s. 657.064, F.S.; revising requirements  
 93 and criteria for voluntary liquidation of a credit union;  
 94 removing references to the Florida Credit Union Guaranty  
 95 Corporation; amending s. 657.065, F.S.; revising  
 96 requirements, procedures, criteria, and limitations for  
 97 the merger of credit unions; providing requirements for  
 98 merger plans and agreements; providing authority and  
 99 requirements for the office to approve merger applications  
 100 and merger plans and agreements; providing for revocation  
 101 and termination of merger plans and agreements under  
 102 certain circumstances; providing for mergers without a  
 103 vote of membership under certain circumstances; requiring  
 104 approval of a merger by the National Credit Union  
 105 Administration and issuance by the office of a certificate  
 106 of merger; specifying consequences of mergers; preserving  
 107 rights of members; amending s. 657.066, F.S.; revising

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108 requirements for conversion of a credit union from state  
 109 to federal and conversely; amending s. 658.43, F.S., to  
 110 conform; repealing s. 657.0315, F.S., relating to  
 111 contracts for providing goods, products, or services;  
 112 repealing s. 657.051, F.S., relating to the fiscal year of  
 113 a credit union; repealing s. 657.055, F.S., relating to  
 114 retention and destruction of records; repealing s.  
 115 657.068, F.S., relating to central credit unions;  
 116 providing an effective date.

117

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

119

120 Section 1. Paragraphs (k) and (l) of subsection (1) of  
 121 section 655.005, Florida Statutes, are amended to read:

122 655.005 Definitions.--

123 (1) As used in the financial institutions codes, unless  
 124 the context otherwise requires, the term:

125 (k) "Imminently insolvent" means a condition in which a  
 126 financial institution has total capital accounts, or equity ~~less~~  
 127 ~~the allowance for loan losses~~ in the case of a credit union, of  
 128 less than 2 percent of its total assets, after adjustment for  
 129 apparent losses.

130 (l) "Insolvent" means a condition in which:

131 1. The capital accounts, or equity ~~less the allowance for~~  
 132 ~~loan losses~~ in the case of a credit union, and all assets of a  
 133 financial institution are insufficient to meet liabilities;

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134           2. The financial institution is unable to meet current  
135 obligations as they mature, even though assets may exceed  
136 liabilities; or

137           3. The capital accounts, or equity ~~less the allowance for~~  
138 ~~loan losses~~ in the case of a credit union, of a financial  
139 institution are exhausted by losses and no immediate prospect of  
140 replacement exists.

141           Section 2. Section 655.0201, Florida Statutes, is created  
142 to read:

143           655.0201 Service of process, notice, or demand on  
144 financial institutions.--

145           (1) Process against any financial institution authorized  
146 by federal or state law to transact business in this state may  
147 be served in accordance with chapter 48, chapter 49, chapter  
148 607, or chapter 608, as appropriate.

149           (2) Any financial institution authorized by federal or  
150 state law to transact business in this state may designate a  
151 registered agent as the financial institution's agent for  
152 service of process, notice, or demand required or permitted by  
153 law to be served on the financial institution. If the financial  
154 institution has no registered agent, or its registered agent  
155 cannot with reasonable diligence be served, service may be made  
156 on any executive officer of the financial institution at its  
157 principal place of business in this state.

158           (3) If service cannot be made in accordance with  
159 subsection (2), service may be made on any officer, director, or  
160 business agent of the financial institution at either its

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161 principal place of business or any other branch, office, or  
 162 place of business in this state.

163 (4) This section does not prescribe the only means, or  
 164 necessarily the required means, of serving notice or demand on a  
 165 financial institution.

166 Section 3. Subsection (5) is added to section 655.044,  
 167 Florida Statutes, to read:

168 655.044 Accounting practices; bad debts ineligible to be  
 169 carried as assets.--

170 (5) The fiscal year of a financial institution shall end  
 171 December 31.

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

174 655.057 Records; limited restrictions upon public  
 175 access.--

176 (3) The provisions of this section do not prevent or  
 177 restrict:

178 (a) Publishing reports required to be submitted to the  
 179 office pursuant to s. 655.045(2)(a) or required by applicable  
 180 federal statutes or regulations to be published.

181 (b) Furnishing records or information to any other state,  
 182 federal, or foreign agency responsible for the regulation or  
 183 supervision of financial institutions, including Federal Home  
 184 Loan Banks.

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

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188        (c)~~(d)~~ Disclosing or publishing summaries of the condition  
 189 of financial institutions and general economic and similar  
 190 statistics and data, provided that the identity of a particular  
 191 financial institution is not disclosed.

192        (d)~~(e)~~ Reporting any suspected criminal activity, with  
 193 supporting documents and information, to appropriate law  
 194 enforcement and prosecutorial agencies.

195        (e)~~(f)~~ Furnishing information upon request to the Chief  
 196 Financial Officer or the Division of Treasury of the Department  
 197 of Financial Services regarding the financial condition of any  
 198 financial institution that is, or has applied to be, designated  
 199 as a qualified public depository pursuant to chapter 280.

200  
 201 Any confidential information or records obtained from the office  
 202 pursuant to this subsection shall be maintained as confidential  
 203 and exempt from the provisions of s. 119.07(1).

204        (7) Materials supplied to the office or to employees of  
 205 any financial institution by other governmental agencies,  
 206 federal or state, ~~or the Florida Credit Union Guaranty~~  
 207 ~~Corporation, Inc.,~~ shall remain the property of the submitting  
 208 agency or the corporation, and any document request must be made  
 209 to the appropriate agency. Any confidential documents supplied  
 210 to the office or to employees of any financial institution by  
 211 other governmental agencies, federal or state, ~~or by the Florida~~  
 212 ~~Credit Union Guaranty Corporation, Inc.,~~ shall be confidential  
 213 and exempt from the provisions of s. 119.07(1). Such information  
 214 shall be made public only with the consent of such agency or the  
 215 corporation.



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216 Section 5. Paragraph (b) of subsection (1) of section  
217 655.411, Florida Statutes, is amended to read:

218 655.411 Conversion of charter.--

219 (1) Any financial entity may apply to the office for  
220 permission to convert its charter without a change of business  
221 form or convert its charter in order to do business as another  
222 type of financial entity in accordance with the following  
223 procedures:

224 (b) Following approval by the board of directors, the  
225 conversion plan, together with a certified copy of the  
226 authorizing resolution adopted by the board, must be submitted  
227 to the office for approval before being submitted to the members  
228 or stockholders of the financial entity. The application for  
229 conversion must be in the form prescribed by the commission,  
230 contain such additional information as the commission or office  
231 reasonably requires, and be accompanied by a filing fee in  
232 accordance with s. 657.066~~(3)(4)~~ or s. 658.73. Additionally, the  
233 office is authorized to assess any financial entity, applying to  
234 convert pursuant to this section, a nonrefundable examination  
235 fee to cover the actual costs of any examination required as a  
236 part of the application process.

237 Section 6. Section 655.4185, Florida Statutes, is created  
238 to read:

239 655.4185 Emergency action.--

240 (1) Notwithstanding any other provisions of the financial  
241 institutions codes or of chapter 120, if the office or the  
242 appropriate federal regulatory agency finds that immediate  
243 action is necessary in order to prevent the probable failure of

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244 one or more financial institutions, which in this subsection may  
 245 be referred to as a "failing financial entity," the office may,  
 246 with the concurrence of the appropriate federal regulatory  
 247 agency in the case of any financial institution the deposits of  
 248 which are insured by the Federal Deposit Insurance Corporation  
 249 or the National Credit Union Administration, issue an emergency  
 250 order authorizing:

251 (a) The merger of any such failing financial entity with  
 252 an appropriate state financial entity;

253 (b) An appropriate state financial entity to acquire the  
 254 assets and assume the liabilities of any such failing financial  
 255 entity, including all rights, powers, and responsibilities as  
 256 fiduciary in instances in which the failing financial  
 257 institution is actively engaged in the exercise of trust powers;

258 (c) The conversion of any such failing financial entity  
 259 into a state financial entity; or

260 (d) The chartering of a new state financial entity to  
 261 acquire the assets and assume the liabilities of any such  
 262 failing financial entity and to assume rights, powers, and  
 263 responsibilities as fiduciary in cases in which such failing  
 264 financial entity is engaged in the exercise of trust powers.

265 (2) Any such finding by the office shall be based upon  
 266 reports furnished to the office by a state or federal financial  
 267 institution examiner or upon other evidence from which it is  
 268 reasonable to conclude that any such financial institution is  
 269 insolvent or is threatened with imminent insolvency. The office  
 270 may disallow illegally obtained currency, monetary instruments,  
 271 funds, or other financial resources from the capitalization

272 requirements of the financial institution codes. The  
 273 stockholders of a failing bank, association, or trust company  
 274 that is acquired by another bank or trust company pursuant to  
 275 this section shall be entitled to the same procedural rights and  
 276 to compensation for the remaining value of their shares as is  
 277 provided for dissenters in s. 658.44, except that they shall  
 278 have no right to vote against the transaction. Any transaction  
 279 authorized by this section may be accomplished through the  
 280 organization of a successor institution.

281 Section 7. Section 657.002, Florida Statutes, is amended  
 282 to read:

283 657.002 Definitions.--As used in this chapter:

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

285 ~~(2) "Central credit union" means a credit union the~~  
 286 ~~membership of which includes, but is not limited to, other~~  
 287 ~~credit unions, members of credit unions, credit union employees,~~  
 288 ~~employees of organizations serving credit unions, and the~~  
 289 ~~families of such members.~~

290 (2)(3) "Corporate credit union" means any central credit  
 291 union organized pursuant to any state or federal act for the  
 292 purpose of serving other credit unions.

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

295 (3)(5) "Correspondent" means that person designated on an  
 296 application to organize a credit union as the person to whom all  
 297 correspondence regarding the application should be sent.

298 (4)(6) "Credit union" means any cooperative society  
 299 organized pursuant to this chapter.

300        ~~(5)(7)~~ "Deposits" means that portion of the money placed  
 301 ~~capital paid~~ into the credit union by members on which a  
 302 ~~contractual rate of interest may~~ will be paid.

303        ~~(6)(8)~~ "Equity" means undivided earnings, regular  
 304 reserves, and other reserves ~~allowance for loan losses~~.

305        ~~(7)(9)~~ "Foreign credit union" means a credit union  
 306 organized and operating under the laws of another state.

307        ~~(8)(10)~~ "Immediate family" means parents, children,  
 308 spouse, or surviving spouse of the member, or any other relative  
 309 by blood, marriage, or adoption.

310        ~~(9)(11)~~ "Limited field of membership" means the defined  
 311 group of persons designated as eligible for membership in the  
 312 credit union who:

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

315            (b) Live or work ~~Reside~~ within an identifiable  
 316 neighborhood, community, rural district, or county; or

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

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

319  
 320 members of the immediate family of persons within such group.

321        ~~(10)(12)~~ "Shares" means ~~that portion of the~~ money capital  
 322 paid into the credit union by members on which dividends may be  
 323 paid.

324        ~~(13)~~ ~~"Unimpaired capital" means capital which is not~~  
 325 ~~impaired by losses that exceed applicable reserves.~~

326        Section 8. Subsection (1), paragraphs (a) and (d) of  
 327 subsection (3), paragraph (b) of subsection (5), and subsections

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328 (9) and (10) of section 657.005, Florida Statutes, are amended  
329 to read:

330 657.005 Application for authority ~~Notice of intent to~~  
331 ~~organize a credit union; investigation; application for~~  
332 ~~authority to organize a credit union.--~~

333 (1) The proposed organizers of the proposed credit union  
334 shall file with the office an application ~~a notice of intent to~~  
335 ~~organize,~~ upon such form as the commission may, by rule,  
336 prescribe.

337 (3) The application shall be submitted to the office on  
338 forms and in the manner prescribed by rules adopted by the  
339 commission and shall be accompanied by a nonrefundable filing  
340 fee of \$250. Such application shall include:

341 (a) The proposed name and the proposed location where the  
342 proposed credit union is to have its principal place of business  
343 and where legal service must be served.

344 (d) Any information required by the commission or office  
345 to be submitted to the National Credit Union Administration  
346 ~~corporation or insuring agency.~~

347 (5) The application shall be approved if the office  
348 determines that:

349 (b) The qualifications of the proposed board of directors  
350 and committee members are such as to indicate a reasonable  
351 likelihood that the affairs of the proposed credit union will be  
352 administered consistently with applicable laws and sound  
353 financial and credit union practices;

354 (9) The office shall perform a preopening examination to  
355 verify good faith compliance with all the requirements of law.

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356 | If the office finds that such requirements have been met, it  
 357 | shall issue and deliver the certificate of authorization to  
 358 | transact business. Any credit union which fails to open for  
 359 | business within 6 months after the issuance of such certificate  
 360 | will forfeit its existence as a credit union, and the  
 361 | certificate of authorization shall be revoked. For good cause  
 362 | shown, the office may extend the opening date for an additional  
 363 | 6 months on its own motion or at the request of the credit  
 364 | union. ~~Amounts credited on share accounts, less expenditures~~  
 365 | ~~authorized by law, shall be returned pro rata to the respective~~  
 366 | ~~account holders.~~

367 |       (10) All preopening costs and expenses in connection with  
 368 | the organization of the credit union and preparation for opening  
 369 | for business may be paid only from funds provided by the  
 370 | organizers or a sponsor ~~and may be reimbursed by the credit~~  
 371 | ~~union only out of undivided earnings, after provision has been~~  
 372 | ~~made for reserves and dividends.~~ However, the credit union may  
 373 | record reimburse, as an operating expense, costs for forms, and  
 374 | supplies, insurance, rent, and other expenses applicable to or  
 375 | consumed in the period after opening in accordance with rules  
 376 | adopted by the commission.

377 |       Section 9. Subsection (1) of section 657.0061, Florida  
 378 | Statutes, is amended to read:

379 |       657.0061 Amendments to bylaws.--

380 |       (1) All bylaw amendments must be submitted to the office.  
 381 | The office shall approve or disapprove bylaw amendments within  
 382 | 60 days after receipt. The office shall approve the proposed  
 383 | bylaw amendment unless it finds that the amendment:

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- 384 (a) Is not in the best interest of the membership;
- 385 (b) Is not in accord with sound credit union practices; ~~or~~
- 386 (c) Exposes the assets of the credit union to unnecessary
- 387 risks; or—
- 388 (d) Is not in compliance with applicable laws or rules.

389 Section 10. Subsections (1), (2), (5), (6), and (7) of  
390 section 657.008, Florida Statutes, are amended to read:

391 657.008 Place of doing business.--

392 (1) Every credit union authorized to transact business  
393 pursuant to the laws of this state shall have one principal  
394 place of doing business as designated in its bylaws and where  
395 legal process shall be served. A credit union may change its  
396 place of business through an amendment to its bylaws.

397 (2)(a) With 30 days' prior written notification to the  
398 office, or within such other time as may be approved by the  
399 office, a credit union operating in a safe and sound manner may  
400 maintain branches at locations other than its main office or  
401 relocate branches previously established if the maintenance of  
402 such branches is determined by the board of directors to be  
403 reasonably necessary to furnish service to its members.

404 ~~(b) Investments in such branch offices shall comply with~~  
405 ~~the limitations imposed by s. 657.042(5).~~

406 (b)(e) If any branch is located outside this state, the  
407 cost of examining such branch shall be borne by the credit  
408 union. Such cost shall include, but shall not be limited to,  
409 examiner travel expense and per diem.

410 ~~(5) A credit union may change its principal place of~~  
411 ~~business within this state upon approval by the office.~~

412            (5)~~(6)~~(a) The office may authorize foreign credit unions  
413 to establish branches in Florida if all of the following  
414 criteria are met:

415            1. The state in which the foreign credit union's home  
416 office is located permits Florida credit unions to do business  
417 in the state under restrictions that are no greater than those  
418 placed upon a domestic credit union doing business in that  
419 state. For this purpose, such restrictions shall include, but  
420 are not limited to, any fees, bonds, or other charges levied on  
421 domestic credit unions doing business in that state.

422            2. The deposits of such foreign credit union and its  
423 proposed Florida branch shall have insurance of accounts with  
424 the National Credit Union Administration ~~will be insured or~~  
425 ~~guaranteed by an insurer or guarantor acceptable to the office.~~  
426 ~~Insurance or guarantee of accounts comparable to that provided~~  
427 ~~by the Florida Credit Union Guaranty Corporation is deemed to be~~  
428 ~~acceptable; however, acceptance of insurance or guarantee of~~  
429 ~~accounts by any insuring or guaranteeing agencies or companies~~  
430 ~~shall be subject to a determination by the office that the~~  
431 ~~insuring or guaranteeing agency or company is in sound financial~~  
432 ~~condition and that its reserves with respect to its insured or~~  
433 ~~guaranteed accounts are no less than those of the Florida Credit~~  
434 ~~Union Guaranty Corporation.~~

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

437            (b) Every foreign credit union operating in Florida shall  
438 keep the office informed of every location at which it is  
439 operating.



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440 (c) If the office has reason to believe that a foreign  
 441 credit union is operating a branch in this state in an unsafe  
 442 and unsound manner, it shall have the right to examine such  
 443 branch. If, upon examination, the office finds that such branch  
 444 is operating in an unsafe and unsound manner, it shall require  
 445 the branch office to make appropriate modifications to bring  
 446 such branch operations into compliance with generally accepted  
 447 credit union operation in this state. Such foreign credit union  
 448 shall reimburse the office for the full cost of this  
 449 examination. Costs shall include examiner salaries, per diem,  
 450 and travel expenses.

451 (d) Any foreign credit union operating in this state shall  
 452 in any connection therewith be subject to suit in the courts of  
 453 this state, by this state and the citizens of this state.

454 ~~(6)~~(7) A credit union may provide, directly or through a  
 455 contract with another company, off-premises armored car services  
 456 to its members. Armored car services do not constitute a branch  
 457 for the purposes of this section.

458 Section 11. Section 657.021, Florida Statutes, is amended  
 459 to read:

460 657.021 Board of directors; executive committee.--

461 (1) The credit union shall have a board of directors  
 462 consisting of at least five directors to be elected from the  
 463 members in the manner and for such terms as prescribed in the  
 464 bylaws.

465 ~~(2) Directors shall hold office for such terms as the~~  
 466 ~~bylaws provide.~~

467        ~~(2)~~(3) Each director, upon assuming office, shall  
 468 acknowledge that he or she is familiar with his or her  
 469 responsibilities as a director and that he or she will  
 470 diligently and honestly administer the affairs of such credit  
 471 union and will not knowingly violate, or willfully permit to be  
 472 violated, any of the provisions of the financial institutions  
 473 codes or pertinent rules of the commission. The signed copy of  
 474 such oath shall be filed with the office within 30 days after  
 475 election.

476        ~~(3)~~(4) The board of directors shall fill any vacancies on  
 477 the board by appointment until successors are elected as  
 478 provided in the bylaws.

479        ~~(4)~~(5) The board of directors and the executive committee  
 480 shall meet as often as required in the bylaws.

481        ~~(5)~~(6) The board of directors must ensure that ~~determine~~  
 482 the general direction of the business affairs, ~~manage the funds,~~  
 483 ~~and maintain the records~~ of the credit union is managed in a  
 484 manner that is consistent with safe and sound credit union  
 485 practices.

486        ~~(6)~~(7) The board of directors shall ~~must exercise the~~  
 487 ~~following duties which are nondelegable:~~

488        (a) Obtain and maintain officer and director liability  
 489 insurance and blanket bond coverage under such terms, amounts,  
 490 and limitations established by rules adopted by the commission  
 491 ~~Require any officer or employee who has custody of or handles~~  
 492 ~~funds to give bond with good and sufficient surety in an amount~~  
 493 ~~and character determined by the board of directors in compliance~~  
 494 ~~with rules adopted by the commission.~~

495 ~~(b) Establish the maximum amount of credit which may be~~  
 496 ~~extended to a member and establish written credit policies,~~  
 497 ~~including, without limitation, security requirements and terms~~  
 498 ~~of repayment.~~

499 (b)(e) Establish written policies governing all areas of  
 500 operations ~~loans, investments, equity, personnel, collections,~~  
 501 ~~the conduct of officers, employees, and committee members, and~~  
 502 ~~continuing education for directors and committee members and~~  
 503 ~~other policies~~ necessary for prudent credit union practices in  
 504 accordance with the rules of the commission.

505 (c)(d) Declare any dividends on shares.

506 (d)(e) Adequately provide for reserves as required by this  
 507 chapter or by rules or order of the commission or office or as  
 508 otherwise determined necessary by the board.

509 (e)(f) Employ a chief executive officer, ~~whose title may~~  
 510 ~~be either president or general manager,~~ or, in lieu thereof,  
 511 designate any board member ~~the treasurer~~ to act as the chief  
 512 executive officer and to be in active charge of the affairs of  
 513 the credit union.

514 ~~(8) The board of directors must exercise the following~~  
 515 ~~duties, which may be delegated within specific guidelines and~~  
 516 ~~policies established by board resolutions:~~

517 (f)(a) Act on applications for membership, or appoint one  
 518 or more membership officers to approve or deny applications for  
 519 membership, under such conditions as may be determined by policy  
 520 of the board of directors ~~prescribed in the bylaws. A record of~~  
 521 ~~a membership officer's approval or denial of membership must be~~  
 522 ~~made available to the board for inspection. A person denied~~

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523 membership by a membership officer may appeal the denial to the  
524 board.

525 ~~(g)(b)~~ Determine, from time to time, the interest rate or  
526 rates which are charged on extensions of credit ~~and authorize~~  
527 ~~any interest refunds to members from income earned and received~~  
528 ~~in proportion to the interest paid by them on such classes of~~  
529 ~~credit and~~ under such conditions as the board prescribes.

530 ~~(h)(e)~~ Determine the interest rates which will be paid on  
531 deposits and the manner of calculating those rates.

532 ~~(i)(d)~~ Invest funds, except that the board may designate  
533 an investment committee or any qualified individual to make  
534 investments pursuant to written policies established by the  
535 board.

536 (j) Designate a depository or depositories for the funds  
537 of the credit union under such conditions as the board  
538 prescribes.

539  
540 Nothing in this subsection shall prohibit the board from  
541 delegating, within specific guidelines and policies established  
542 by board resolutions, those functions delineated in paragraph  
543 (f), paragraph (g), paragraph (h), paragraph (i), or paragraph  
544 (j).

545 ~~(7)(9)~~ The board of directors has authority, which may not  
546 be delegated, to:

547 (a) Limit the number of shares and the amount of deposits  
548 which may be owned by a member, which limitation must apply to  
549 all members.

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550 ~~(b) Designate a depository or depositories for the funds~~  
551 ~~of the credit union.~~

552 (b)(e) Suspend and remove any member of any of its  
553 committees for failure to perform his or her duties or for other  
554 just cause.

555 (c)(d) Establish any committee determined to be necessary  
556 and appoint its membership.

557 (d)(e) Call special meetings of the members.

558 ~~(10) The board of directors has authority, which may be~~  
559 ~~delegated within specific guidelines and policies established by~~  
560 ~~board resolutions, to:~~

561 ~~(a) Authorize the employment of persons necessary to carry~~  
562 ~~on the business of the credit union.~~

563 ~~(b) Authorize the purchase, lease, rental, or sale of~~  
564 ~~personal property necessary to carry on the business of the~~  
565 ~~credit union.~~

566 ~~(c) Borrow or lend money to carry on the functions of the~~  
567 ~~credit union.~~

568 (8)(11) The board of directors may appoint an executive  
569 committee that ~~which~~ may be authorized to act for the board in  
570 all respects, subject to such conditions and limitations as are  
571 prescribed by the board in writing. The executive committee  
572 shall be composed of the executive officers as defined in s.  
573 657.022.

574 Section 12. Subsection (1) of section 657.022, Florida  
575 Statutes, is amended to read:

576 657.022 Executive officers.--

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577 (1) At the organizational meeting and within 31 7 days  
 578 following each annual meeting of the members, the directors  
 579 shall hold the annual meeting of the board of directors and  
 580 elect from their own number a presiding officer, who may be  
 581 designated as chair of the board or president; one or more vice  
 582 chairs or one or more vice presidents, as the case may be; a  
 583 treasurer; and a secretary. The treasurer and the secretary may  
 584 be the same individual. The persons so elected shall be the  
 585 executive officers of the organization.

586 Section 13. Subsection (3) of section 657.023, Florida  
 587 Statutes, is amended to read:

588 657.023 Membership.--

589 (3) A credit union may ~~not restrict any member's rights,~~  
 590 ~~except that the credit union may~~ close the account and terminate  
 591 the membership of any member whose actions have resulted in any  
 592 financial loss to the credit union, or for good cause.

593 Section 14. Subsection (2) of section 657.024, Florida  
 594 Statutes, is amended to read:

595 657.024 Membership meetings.--

596 (2) Each member shall have one vote. ~~Mail~~ Ballots may be  
 597 distributed in advance to the entire membership as prescribed in  
 598 the bylaws. No person shall exercise the vote of any other  
 599 member.

600 Section 15. Paragraph (c) of subsection (3) and subsection  
 601 (4) of section 657.026, Florida Statutes, are amended to read:

602 657.026 Supervisory or audit committee.--

603 (3) The supervisory or audit committee shall:

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604 (c) Submit a report of every required audit or examination  
 605 within a reasonable time to the board of directors with a copy  
 606 to the office and, ~~depending upon which organization is~~  
 607 ~~applicable, a copy to the corporation or~~ the National Credit  
 608 Union Administration.

609 (4) The supervisory or audit committee shall notify the  
 610 board of directors, the office, and, ~~as applicable, either the~~  
 611 ~~corporation or~~ the National Credit Union Administration of any  
 612 violation of this chapter, any violation of the certificate of  
 613 authorization or bylaws of the credit union, or any practice of  
 614 the credit union deemed by the supervisory or audit committee to  
 615 materially affect or that may potentially materially affect the  
 616 safety and soundness of the credit union ~~be unsafe, unsound, or~~  
 617 ~~unauthorized.~~

618  
 619 For the purposes of this subsection, two-thirds of the members  
 620 of the supervisory or audit committee constitutes a quorum.

621 Section 16. Subsection (2) of section 657.027, Florida  
 622 Statutes, is amended to read:

623 657.027 Credit committee and credit manager.--

624 (2) In lieu of a credit committee, the board of directors  
 625 may provide for a credit manager to approve or disapprove credit  
 626 under written conditions prescribed by the board and as provided  
 627 in the bylaws. The board of directors may designate and empower  
 628 the chief executive officer as the credit manager, or may  
 629 authorize the chief executive officer to employ a credit  
 630 manager, ~~as provided in the bylaws~~. In the event a credit  
 631 manager is designated or employed, the procedures prescribed in

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632 subsection (1) do not apply, and no credit shall be extended  
 633 unless approved by the credit manager; except that the credit  
 634 manager may appoint one or more loan officers with the power to  
 635 approve or disapprove credit, subject to such limitations or  
 636 conditions as prescribed by the chief executive officer.

637 Section 17. Subsections (2) and (3) of section 657.028,  
 638 Florida Statutes, are amended to read:

639 657.028 Activities of directors, officers, committee  
 640 members, employees, and agents.--

641 (2) An elected officer or director or any committee  
 642 member, other than ~~the treasurer or~~ the chief executive officer  
 643 ~~serving in the capacity of treasurer,~~ may not be compensated for  
 644 her or his service as such.

645 (3) A person may not serve as an officer, director, or  
 646 committee member of a credit union if she or he:

647 (a) Has been convicted of a felony or of an offense  
 648 involving dishonesty, a breach of trust, a violation of this  
 649 chapter, or fraud, except with the prior approval of the office  
 650 ~~upon a showing of rehabilitation;~~

651 (b) Has been adjudicated bankrupt within the previous 7  
 652 years;

653 (c) Has been removed by any regulatory agency as a  
 654 director, officer, committee member, or employee of any  
 655 financial institution, except with the prior approval of the  
 656 office ~~upon a showing of rehabilitation and upon showing of~~  
 657 ~~ability to be bondable;~~

658 (d) Has performed acts of fraud or dishonesty, or has  
 659 failed to perform duties, resulting in a loss which was subject



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660 to a paid claim under a fidelity bond, except with the prior  
 661 approval of the office ~~upon a showing of rehabilitation and upon~~  
 662 ~~showing of ability to be bondable; or~~

663 (e) Has been found guilty of a violation of s. 655.50,  
 664 relating to the Florida Control of Money Laundering in Financial  
 665 Institutions Act; chapter 896, relating to offenses related to  
 666 financial transactions; or any similar state or federal law.

667 Section 18. Section 657.031, Florida Statutes, is amended  
 668 to read:

669 (Substantial rewording of section. See  
 670 s. 657.031, F.S., for current text.)

671 657.031 Powers of a credit union.--

672 (1) When not in direct conflict with or superseded by  
 673 specific provisions of the financial institutions codes, the  
 674 general powers granted to corporations in s. 607.0302 shall  
 675 extend to credit unions formed under this chapter. This section  
 676 shall be liberally construed to accomplish the purposes stated  
 677 herein.

678 (2) Except as provided in s. 607.0304 or specific  
 679 provisions of the financial institutions codes, the validity of  
 680 a credit union's action, including, but not limited to, any  
 681 conveyance, transfer, or encumbrance of real or personal  
 682 property to or by a credit union, may not be challenged on the  
 683 ground that the credit union lacks or lacked power to act.

684 (3) A credit union formed under this chapter shall operate  
 685 as a financial institution, consistent with the provisions of  
 686 chapter 655 and this chapter, and may exercise such incidental  
 687 powers as are necessary or requisite to effectively carry out

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688 the purposes for which it is organized, provided such exercise  
689 is approved by rule or order of the commission or office.

690 Section 19. Subsections (5) and (6) of section 657.033,  
691 Florida Statutes, are amended, and subsections (7), (8), and (9)  
692 are added to said section, to read:

693 657.033 Accounts.--

694 (5) When there has not been any activity generated by the  
695 member on the account for 12 ~~24~~ months, such account shall be  
696 considered a dormant account and shall be placed under an  
697 accounting control system.

698 (6) If the owner of a dormant account, a person named on  
699 the account, or the beneficiary of the account has not had any  
700 activity with a credit union for 5 ~~7~~ years and the whereabouts  
701 of those interested parties are unknown to the credit union,  
702 that account is unclaimed or abandoned property and shall be  
703 maintained pursuant to chapter 717.

704 (7) A credit union may receive shares and deposits from  
705 its members and other credit unions. However, a credit union may  
706 not receive shares or deposits from persons, other than credit  
707 unions, who are not members of the credit union, except to a  
708 joint account for which at least one of the account holders is a  
709 member of the credit union.

710 (8) A credit union may participate in systems which allow  
711 the transfer, withdrawal, or deposit of funds of credit unions  
712 or credit union members by automated or electronic means and  
713 hold membership in entities established to promote and  
714 effectuate such systems, provided such participation is not  
715 inconsistent with rules of the commission adopted to improve

716 service to the members and protect members' funds against  
 717 unreasonable risks.

718 (9) A credit union shall obtain and maintain insurance of  
 719 accounts through the National Credit Union Administration.

720 Section 20. Section 657.038, Florida Statutes, is amended  
 721 to read:

722 657.038 Loan powers.--

723 (1) A credit union may extend credit to members for such  
 724 purpose and upon such security and terms as the credit  
 725 committee, credit manager, or loan officer approves, pursuant to  
 726 written loan policies established by the board of directors, or  
 727 as may otherwise be provided by law.

728 (2)(a) For credit unions that have been opened for 5 years  
 729 or more, the total unsecured obligations outstanding from any  
 730 member must not exceed the greater of \$500 or 15 percent of the  
 731 equity of the credit union. However,

732 ~~(3)~~ the total obligations outstanding from any member must  
 733 not exceed the greater of \$1,000 or 25 percent of the equity of  
 734 the credit union. The limitations provided in this subsection do  
 735 not apply to loans which are fully secured by assignment of  
 736 shares or deposits in the lending credit union.

737 (b) For credit unions that have been opened for less than  
 738 5 years, the limitation on total obligations outstanding to any  
 739 member is 10 percent of the credit union's capital.

740  
 741 The limitations provided in this subsection do not apply to  
 742 loans which are fully secured by assignment of shares or  
 743 deposits in the lending credit union.

744       ~~(4) A member may receive credit in installments or in one~~  
 745 ~~sum and may pay the whole or any part of his or her indebtedness~~  
 746 ~~on any day on which the office of the credit union is open for~~  
 747 ~~business.~~

748       (3)~~(5)~~ The credit committee or credit manager may approve  
 749 in advance, upon request of a member, a line of credit, and  
 750 disbursements may be granted to such member within the limit of  
 751 such line of credit. When a line of credit has been approved, no  
 752 additional credit applications are required as long as the  
 753 aggregate obligation does not exceed the limit of such line of  
 754 credit; however, no additional disbursements may be made to any  
 755 member whose existing extensions of credit are in default or are  
 756 subject to adverse classification without receiving current  
 757 financial information.

758       (4)~~(6)~~ Loans secured by mortgages on real property must be  
 759 made in accordance with written policies of the board of  
 760 directors and rules of the commission.

761       (5)~~(7)~~ As used in this section, the term "related  
 762 interest" means a person's interest in a partnership as a  
 763 general partner, and any limited partnership, corporation, or  
 764 other business organization controlled by that person. A limited  
 765 partnership, corporation, or other business organization is  
 766 controlled by a person who:

767       (a) Owns, controls, or has the power to vote 25 percent or  
 768 more of any class of voting securities of any such business  
 769 organization;

770       (b) Controls in any manner the election of a majority of  
 771 the directors of any such business organization; or

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772 (c) Has the power to exercise a controlling influence over  
773 the management or policies of such business organization.

774 (6)~~(8)~~ In computing the total liabilities of any person,  
775 all loans endorsed or guaranteed as to repayment by such person  
776 and by any related interest of such person must be included.

777 (7)~~(9)~~ A loan may ~~not~~ be made to any corporation, ~~except~~  
778 ~~to the Florida Credit Union Guaranty Corporation, Inc., or a~~  
779 ~~corporation~~ in which the credit union holds an equity interest.

780 (8)~~(10)~~ The loan limitations stated in this section shall  
781 not be enlarged by the provision of any other section of this  
782 chapter.

783 (9)~~(11)~~ Any approval of extension of credit requiring  
784 approval of the board of directors shall be recorded in the  
785 minutes of the board, including the borrower's account number or  
786 other code, the amount of the loan, the maturity of the loan,  
787 and the general type of security.

788 (10)~~(12)~~ The commission may adopt rules to provide for  
789 minimum documentation and safe lending procedures necessary to  
790 protect the members' funds.

791 (11)~~(13)~~ A credit union may participate in extensions of  
792 credit ~~to its members~~ jointly with other credit unions,  
793 corporations, or financial institutions.

794 (12)~~(14)~~ A credit union may participate in guaranteed loan  
795 programs of the federal and state governments, provided the  
796 borrower is a member of the credit union.

797 (13)~~(15)~~ If approved by the board of directors, a credit  
798 union may extend credit to other credit unions, ~~or to the~~

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799 ~~corporation,~~ in an amount not greater than 25 percent of the  
800 ~~unimpaired~~ capital of the lending credit union.

801 (14)~~(16)~~ A credit union may purchase the conditional sales  
802 contracts, notes, and similar instruments of its members,  
803 provided that the credit union could have originally made the  
804 loan ~~to the member~~.

805 (15) A credit union may issue credit cards and debit cards  
806 to allow members to obtain access to their shares, deposits, and  
807 extensions of credit, provided such issuance is not inconsistent  
808 with the rules of the commission. The commission, by rule, may  
809 allow the use of devices similar to credit cards and debit cards  
810 to allow members to obtain access to their shares, deposits, and  
811 extensions of credit.

812 Section 21. Subsection (1) of section 657.039, Florida  
813 Statutes, is amended to read:

814 657.039 Loan powers; extension of credit to directors,  
815 ~~officers, committee members,~~ and certain other persons  
816 ~~employees.~~--

817 (1) A credit union may extend credit to its executive  
818 officers, directors, credit manager, members of its supervisory,  
819 audit, and credit committees, ~~and any other person authorized to~~  
820 ~~approve extensions of credit,~~ provided:

821 (a) The extension of credit complies with all requirements  
822 under this chapter with respect to credit extended to other  
823 borrowers and is not on terms more favorable than those extended  
824 to other borrowers.

825 (b) The loan or aggregate of loans to any person or any  
826 related interest of any person covered by this section which

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827 exceeds \$20,000 ~~\$5,000~~, except for share-secured or deposit-  
 828 secured credit, is approved in advance by the board of directors  
 829 with any interested person abstaining from voting.

830 (c) Approved lines of credit, such as open-end loans, may  
 831 be funded without further approval by the board, but all  
 832 extensions of credit over \$20,000 ~~\$5,000~~ to such persons must be  
 833 reviewed at least annually by the board of directors. Closed-end  
 834 loans which have been fully funded do not require annual review.

835 Section 22. Paragraph (i) of subsection (1), subsection  
 836 (4), and paragraph (b) of subsection (5) of section 657.042,  
 837 Florida Statutes, are amended to read:

838 657.042 Investment powers and limitations.--A credit union  
 839 may invest its funds subject to the following definitions,  
 840 restrictions, and limitations:

841 (1) INVESTMENTS NOT SUBJECT TO LIMITATIONS.--There is no  
 842 limitation with respect to the capital of the investing credit  
 843 union on the following investments:

844 (i) Stock of the Federal National Mortgage Association,  
 845 Federal Home Loan Bank, or any other similar entity designated  
 846 by the office, designed to promote investment in residential  
 847 mortgages, which may be purchased and retained as required in  
 848 connection with mortgage transactions with the association or  
 849 entity.

850 (4) INVESTMENT SUBJECT TO LIMITATION OF ONE PERCENT OF  
 851 CAPITAL OF THE CREDIT UNION.--Up to 1 percent of the capital of  
 852 the credit union ~~or \$15,000, whichever is greater~~, may be  
 853 invested in any of the following:

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854 (a) Corporate obligations of any one corporation which is  
855 an affiliate or subsidiary of the credit union or a service  
856 corporation, except that the total investment in all such  
857 corporate obligations shall not exceed 10 percent of the capital  
858 of the credit union.

859 (b) Any capital participation instrument or evidence of  
860 indebtedness issued by the Florida Black Business Investment  
861 Board pursuant to the Florida Small and Minority Business  
862 Assistance Act of 1985.

863 (5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE  
864 CREDIT UNION.--

865 (b) The limitations provided by this subsection may be  
866 exceeded with the prior written approval of the office. The  
867 office shall grant such approval if it is satisfied that:

- 868 1. The proposed investment is necessary.
- 869 2. The amount thereof is commensurate with the size and  
870 needs of the credit union.
- 871 3. The investment will be beneficial to the members.
- 872 4. A reasonable plan is developed to reduce the investment  
873 to limits provided by law.

874 Section 23. Section 657.043, Florida Statutes, is amended  
875 to read:

876 657.043 Reserves.--

877 ~~(1) TRANSFERS TO REGULAR RESERVE.--Immediately before~~  
878 ~~paying each dividend, the total of all income for the period~~  
879 ~~shall be determined. From this amount, there shall be set aside~~  
880 ~~sums as a regular reserve in accordance with the following~~  
881 ~~schedule:~~



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882           ~~(a) A credit union shall set aside:~~

883           ~~1. Five percent of the total of all income for the period,~~

884 ~~until the regular reserve equals 6 percent of the risk assets,~~

885 ~~then,~~

886           ~~2. Two percent of the total of all income for the period,~~

887 ~~until the regular reserve equals 8 percent of the risk assets.~~

888           ~~(b) Whenever the ratio of regular reserves to risk assets~~

889 ~~falls below the stated percent, it shall be replenished by~~

890 ~~regular contributions as provided in paragraph (a).~~

891           ~~(c) The office may decrease the reserve requirements set~~

892 ~~forth in this subsection when in its opinion such a decrease is~~

893 ~~necessary to preserve the fiscal soundness of the credit union.~~

894           ~~(1)(2) ALLOWANCE FOR LOAN LOSSES ACCOUNT.--The credit~~

895 ~~union shall maintain an account for loan and lease losses. The~~

896 ~~amount in the account must equal the board's estimate of losses~~

897 ~~in the loan portfolio and be consistent with applicable United~~

898 ~~States generally accepted accounting principles and industry~~

899 ~~guidance provided by regulatory agencies or as required by the~~

900 ~~office rules of the commission. The account must be provided~~

901 ~~for, before paying a dividend, in the manner provided by rule.~~

902 ~~This account constitutes part of the regular reserve for the~~

903 ~~purpose of determining the ratio of regular reserves to risk~~

904 ~~assets.~~

905           ~~(2)(3) USE OF REGULAR RESERVE.--The regular reserve shall~~

906 ~~belong to the credit union and shall be used to meet losses. In~~

907 ~~the event of a decrease, the office may require additional~~

908 ~~transfers to the regular reserve above the amount required by~~

909 ~~subsection (1) until the decrease has been restored. The regular~~

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910 reserve may not be decreased without the prior written approval  
911 of the office or as provided by rule of the commission.

912 ~~(4) RISK ASSETS DEFINED.—The following assets shall be~~  
913 ~~considered risk assets:~~

914 ~~(a) All loans, except:~~

915 ~~1. Loans fully secured by a pledge of shares or deposits~~  
916 ~~in the lending credit union, equal to and maintained to at least~~  
917 ~~the amount of the loan outstanding.~~

918 ~~2. Loans which are purchased from liquidating credit~~  
919 ~~unions and guaranteed by the corporation or insured by the~~  
920 ~~National Credit Union Administration or other insuring agencies.~~

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

922 ~~(b) All investments that have remaining maturities greater~~  
923 ~~than 3 years, unless a specific reserve has been established to~~  
924 ~~mark the investment to current market value.~~

925 ~~(c) Uninsured or nonguaranteed deposits and shares in~~  
926 ~~financial depository institutions, except deposits in the~~  
927 ~~Federal Reserve Bank, the Federal Home Loan Bank, the Southeast~~  
928 ~~Corporate Federal Credit Union, and any other corporate credit~~  
929 ~~union.~~

930 ~~(d) All investments in commercial paper and bonds.~~

931 ~~(e) All investments in banker's acceptances.~~

932 ~~(f) All investments in federal funds.~~

933 ~~(g) All investments that are authorized pursuant to~~  
934 ~~subsection (6) or subsection (7).~~

935 ~~(h) Fixed assets greater than the statutory limit imposed~~  
936 ~~by this chapter, unless a specific reserve has been established~~  
937 ~~for the excess.~~

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938        ~~(3)(5)~~ ALLOWANCE FOR INVESTMENT LOSSES.--The credit union  
 939 may maintain a contra asset account to provide an allowance for  
 940 investment losses, which will not be included in the  
 941 determination of equity. The account must be maintained  
 942 consistent with the rules of the commission.

943        ~~(4)(6)~~ SPECIAL RESERVES.--In addition to such regular  
 944 reserve, special reserves shall be established:

945            (a) To protect members against losses resulting from  
 946 credit extended or from risk assets when required by rule, or  
 947 when found by the office, in any special case, to be necessary  
 948 for that purpose; or

949            (b) As authorized by the board of directors.

950        (5) BORROWING MONEY.--A credit union may borrow money and  
 951 issue evidences of indebtedness for any loan in the usual course  
 952 of its business and secure such obligations by mortgage or  
 953 pledge of any of its assets. Aggregate borrowings shall not  
 954 exceed 50 percent of the capital that is not impaired by losses  
 955 of the credit union. However, this percentage limitation shall  
 956 not apply to loans from the National Credit Union  
 957 Administration.

958        ~~(7) RESERVE FOR CONTINGENCIES.--The board of directors~~  
 959 ~~may, after the regular reserve required by this section and~~  
 960 ~~rules of the commission has been set aside, transfer a portion~~  
 961 ~~of undivided earnings to an auxiliary reserve account to provide~~  
 962 ~~for additional possible losses and expenses.~~

963        ~~(8) RESERVES.--The ratio of equity to total assets for~~  
 964 ~~each credit union must be maintained at not less than 5 percent.~~  
 965 ~~At the end of the calendar quarter when this ratio is determined~~

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966 | ~~to be less than 5 percent, the credit union shall, within 60~~  
 967 | ~~days thereafter, prepare and file with the office for approval a~~  
 968 | ~~plan to achieve the minimum ratio within 4 years, or such longer~~  
 969 | ~~period of time approved by the office. Once achieved, each~~  
 970 | ~~credit union must maintain a ratio of equity to total assets of~~  
 971 | ~~not less than 5 percent, unless otherwise authorized by the~~  
 972 | ~~office. The commission, by rule, shall prescribe the~~  
 973 | ~~information, types of restrictions and limitations on~~  
 974 | ~~operations, reporting requirements, and other criteria that are~~  
 975 | ~~required to be included in an acceptable plan. An acceptable~~  
 976 | ~~plan must recognize the unique characteristics and risk~~  
 977 | ~~differences for the individual credit union.~~

978 | ~~(9) GUARANTY ASSISTANCE AGREEMENT. The amount of any~~  
 979 | ~~liability arising out of a guaranty assistance agreement with~~  
 980 | ~~the corporation or National Credit Union Administration must be~~  
 981 | ~~maintained as a reserve and be included in the determination of~~  
 982 | ~~undivided earnings of the credit union.~~

983 | Section 24. Section 657.062, Florida Statutes, is amended  
 984 | to read:

985 | 657.062 Conservatorship Assumption of control by guarantor  
 986 | ~~or insurer.--~~

987 | (1) The office may appoint ~~direct the corporation or the~~  
 988 | National Credit Union Administration as conservator of a credit  
 989 | union to take possession and, whichever is applicable, to assume  
 990 | control of the property, assets, and business of its member  
 991 | credit union and to operate it subject to the directions of the  
 992 | office whenever:

993 | (a) ~~Whenever~~ The office finds that the credit union:

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994           1. Is engaging or has engaged in an unsafe or unsound  
 995 practice;

996           2. Is violating or has violated any provision of this  
 997 chapter; or

998           3. Is violating or has violated any commission rule,  
 999 office order, or written agreement entered into with the office,  
 1000  
 1001 in such a manner that the credit union is threatened with  
 1002 imminent insolvency;~~;~~

1003           (b) ~~Whenever~~ A majority of the members of the board of  
 1004 directors of the credit union have been removed by the office or  
 1005 the National Credit Union Administration or ~~shall~~ have resigned;  
 1006 or

1007           (c) The credit union is significantly undercapitalized and  
 1008 has no reasonable prospect of becoming adequately capitalized.  
 1009 The commission may define by rule criteria for determining if a  
 1010 credit union is undercapitalized or adequately capitalized. In  
 1011 defining such criteria, the commission shall consider the  
 1012 definitions contained in Section 216 of The Federal Credit Union  
 1013 Act, 12 U.S.C. s. 1790d.

1014           (2) Except when prohibited by federal or state law, in the  
 1015 event of conservatorship ~~assumption of control~~, the conservator  
 1016 ~~guarantor or insurer~~ may appoint ~~elect~~ the board of directors  
 1017 and the operating committees and may, without penalty or  
 1018 liability, prepay any deposit accounts; terminate any contracts  
 1019 or agreements with employees, independent contractors, or  
 1020 consultants; terminate any contract or agreement with any person  
 1021 to provide goods, products, or services if the performance of

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1022 such contract would adversely affect the safety or soundness of  
 1023 the credit unions ~~or if such contract was entered into in~~  
 1024 ~~violation of s. 657.0315(1)~~; and terminate or assign any lease  
 1025 for property. The authority of the conservator ~~guarantor or~~  
 1026 ~~insurer~~ to continue operation of a credit union shall continue  
 1027 for a period not to exceed 180 days, unless extended by the  
 1028 office for an additional period or periods not to exceed 180  
 1029 days each at the request of the conservator ~~guarantor or~~  
 1030 ~~insurer~~, or unless involuntary liquidation proceedings have been  
 1031 initiated by the office. In the event that the conservator  
 1032 ~~guarantor or insurer~~ does assume control pursuant to the  
 1033 direction of the office, a meeting of the credit union shall be  
 1034 called within 180 days, or within the period of extension as  
 1035 approved by the office, for the specific purpose of electing a  
 1036 new board of directors, who shall take office when the  
 1037 conservator ~~guarantor or insurer~~ surrenders control, or  
 1038 considering such other recommendations as the conservator  
 1039 ~~guarantor or insurer~~ and the office may make.

1040 Section 25. Subsections (1), (2), and (3) of section  
 1041 657.063, Florida Statutes, are amended to read:

1042 657.063 Involuntary liquidation.--

1043 (1) If the office finds that any credit union is ~~bankrupt~~  
 1044 ~~or~~ insolvent or imminently insolvent; ~~or~~ is transacting its  
 1045 business in an unsound, unsafe, or unauthorized manner such that  
 1046 it is threatened with imminent insolvency, and liquidation is in  
 1047 the best interest of the members; or is undercapitalized and has  
 1048 no reasonable prospect of becoming adequately capitalized, the  
 1049 office may, in its discretion, order the credit union placed in

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1050 involuntary liquidation and designate and appoint a liquidator  
 1051 to take charge of the assets and affairs of the credit union.  
 1052 The order shall set forth the specific findings and reasons for  
 1053 the action taken. The commission may define by rule criteria for  
 1054 determining if a credit union is undercapitalized or adequately  
 1055 capitalized. In defining such criteria, the commission shall  
 1056 consider the definitions contained in Section 216 of The Federal  
 1057 Credit Union Act, 12 U.S.C. s. 1790d.

1058 (2) The liquidator must be appointed by the office. The  
 1059 ~~corporation or the National Credit Union Administration,~~  
 1060 ~~whichever is applicable,~~ must be given the right of first  
 1061 refusal. The office may appoint another entity if refused by the  
 1062 primary ~~guarantor or~~ insurer.

1063 (3) Upon appointment and in accordance with the directions  
 1064 of the office, the liquidator shall take possession and charge  
 1065 of all of the assets, books, and records of the credit union and  
 1066 shall take charge of the affairs, business, and operations of  
 1067 the credit union and shall have all of the powers of the board  
 1068 of directors, credit committee, credit manager, and supervisory  
 1069 committee of the credit union. The liquidator shall continue the  
 1070 business operation of the credit union for a period not to  
 1071 exceed 180 days, subject to the direction of the office. The  
 1072 liquidator shall have full authority to make loans and  
 1073 investments and to permit deposits to or withdrawals from  
 1074 accounts by members, except that during the period of such  
 1075 operation by the liquidator, no withdrawal from any account or  
 1076 accounts which are not fully insured ~~or guaranteed~~ shall be  
 1077 permitted. Except when prohibited by federal or state law, the

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1078 liquidator may, without penalty or liability, prepay any deposit  
 1079 accounts; terminate any contracts or agreements with employees,  
 1080 independent contractors, or consultants; terminate any contract  
 1081 or agreement with any person to provide goods, products, or  
 1082 services if the performance of such contract would adversely  
 1083 affect the safety or soundness of the credit union ~~that was~~  
 1084 ~~entered into in violation of s. 657.0315(1) or s. 657.062(2);~~  
 1085 and terminate or assign any lease for property. The liquidator  
 1086 shall proceed with a liquidation of assets by sale or transfer  
 1087 of assets and conversion of assets into cash or liquid  
 1088 investments in preparation for distribution to members on  
 1089 account of shares and deposits. The liquidator shall have  
 1090 specific authority to sell loan assets. The liquidator may enter  
 1091 into agreements for the sale or transfer of loans and other  
 1092 assets with the assumption of outstanding share and deposit  
 1093 accounts, which assumption constitutes full and complete  
 1094 distribution to members on account of shares and deposits.

1095 Section 26. Subsections (1), (4), (5), and (7) of section  
 1096 657.064, Florida Statutes, are amended to read:

1097 657.064 Voluntary liquidation.--A credit union may elect  
 1098 to dissolve voluntarily and liquidate its affairs in the  
 1099 following manner:

1100 (1) Before considering any resolution pertaining to  
 1101 voluntary liquidation by the board of directors, the credit  
 1102 union must inform the office and ~~the corporation or~~ the National  
 1103 Credit Union Administration, ~~whichever is applicable,~~ of the  
 1104 time and place of the meeting of the board of directors. The



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1105 notification must be transmitted at least 10 5 days before the  
1106 board of directors meets.

1107 (4) Upon adoption by the board of directors of a  
1108 resolution recommending that the credit union be voluntarily  
1109 liquidated, the office ~~corporation~~ or the National Credit Union  
1110 Administration, ~~whichever is applicable~~, may restrict control or  
1111 give directions with respect to the continued business of the  
1112 credit union pending consideration of the voluntary liquidation  
1113 by the members. During such period, no member shall withdraw an  
1114 aggregate amount in excess of the insurance or guaranty covered  
1115 by the credit union. No new extensions of credit shall be funded  
1116 during the period between the board of directors' adoption of  
1117 the resolution recommending the voluntary liquidation and the  
1118 membership meeting called to consider the voluntary liquidation,  
1119 except for loans fully secured by a pledge of shares and for the  
1120 funding of outstanding loan commitments approved before the  
1121 board of directors adopts the resolution.

1122 (5) The notice required by subsection (3) shall also be  
1123 mailed to the office and the National Credit Union  
1124 Administration within 5 days after the action of the board of  
1125 directors. Within 10 days after the meeting of the membership,  
1126 the board of directors shall notify the office and ~~the~~  
1127 ~~corporation~~ ~~or~~ the National Credit Union Administration, ~~7~~  
1128 ~~whichever is applicable~~, in writing of the action taken by the  
1129 members.

1130 (7) The ~~corporation~~ ~~or~~ the National Credit Union  
1131 Administration, ~~whichever is applicable~~, shall have the right of  
1132 first refusal to be appointed as liquidator of any liquidating

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1133 credit union which it ~~guarantees or~~ insures. The liquidator  
 1134 shall have all of the powers provided in s. 657.063 regarding  
 1135 involuntary liquidation. If ~~the corporation or~~ the National  
 1136 Credit Union Administration declines ~~shall decline~~ to serve as  
 1137 liquidator, the board of directors shall appoint a reasonable  
 1138 person as liquidator and specify the extent of responsibilities  
 1139 and authority delegated to the liquidator.

1140 Section 27. Section 657.065, Florida Statutes, is amended  
 1141 to read:

1142 (Substantial rewording of section. See  
 1143 s. 657.065, F.S., for current text.)

1144 657.065 Merger.--

1145 (1) Upon filing of an application with the office by  
 1146 constituent credit unions and upon approval by the office,  
 1147 credit unions may be merged with a surviving state credit union,  
 1148 as prescribed in this code, except the action by a merging  
 1149 federal credit union shall be taken in the manner prescribed by,  
 1150 and shall be subject to, any limitations or requirements imposed  
 1151 by federal laws and regulations. The application shall be  
 1152 accompanied by a merger plan and agreement together with a  
 1153 certified copy of the authorizing resolutions of the board of  
 1154 directors of the constituent credit unions showing approval by a  
 1155 majority of the entire board of directors of each credit union,  
 1156 as provided in this section, and a nonrefundable application fee  
 1157 of \$500. The fee may be waived by the office for a merger  
 1158 pursuant to subsection (6).

1159 (2) Nothing in the laws of this state restricts the right  
 1160 of a state credit union to merge with a surviving federal credit

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1161 union. In such case, the action to be taken by a merging state  
 1162 credit union, and its rights and liabilities and those of its  
 1163 members, shall be the same as those prescribed by the applicable  
 1164 federal laws or regulations for merging federal credit unions at  
 1165 the time of the action.

1166 (3) If the resulting credit union will be a state credit  
 1167 union, the constituent merging credit unions shall adopt a  
 1168 merger plan and agreement stating the method, terms, and  
 1169 conditions of the merger, including all agreements concerning  
 1170 the merger. The board of directors of each constituent credit  
 1171 union shall, by majority vote of the entire board, approve the  
 1172 merger plan and agreement, which shall contain:

1173 (a) The name and address of the merging and surviving  
 1174 credit union.

1175 (b) The date, time, and place of the meeting at which the  
 1176 merger plan and agreement were approved by the merging and the  
 1177 surviving credit union's boards of directors.

1178 (c) The name and address of the main office of the  
 1179 surviving credit union and each continuing branch office.

1180 (d) The names, terms, and board positions of the surviving  
 1181 credit union's board of directors.

1182 (e) The names and title of each executive officer.

1183 (f) A list of any amendments needed to the surviving  
 1184 credit union's bylaws, if applicable, and attached to the  
 1185 agreement copies of such amendments.

1186 (g) A statement that the merger and the merger plan and  
 1187 agreement are subject to approval by office and the National  
 1188 Credit Union Administration.

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1189        (h) Such additional provisions not contrary to law as may  
 1190 be agreed upon by the constituent credit unions and such other  
 1191 provisions as the office requires to enable the office to  
 1192 discharge its duties with respect to the merger.

1193        (4) The office shall approve the application and the  
 1194 merger plan and agreement if the office finds that:

1195            (a) The surviving credit union's net worth is adequate.

1196            (b) The merger will not impair the ongoing viability of  
 1197 the surviving credit union.

1198  
 1199 If the office disapproves a merger plan and agreement, the  
 1200 office shall state its objections and, the provisions of chapter  
 1201 120 notwithstanding, give an opportunity to the merging and  
 1202 surviving credit unions to amend the merger plan and agreement  
 1203 to eliminate such objections.

1204        (5) Approval by the office, by final order or otherwise,  
 1205 of the application and merger plan and agreement shall be deemed  
 1206 subject to approval by the members of the merging credit union  
 1207 who vote on the merger at a meeting duly called for that  
 1208 purpose. Such approval shall be documented by the submission of  
 1209 a copy of:

1210            (a) The notice of intent to merge given to the surviving  
 1211 credit union.

1212            (b) The notice of the meeting duly called to consider the  
 1213 merger to the members of the merging credit union. Such notice  
 1214 shall disclose the purpose of the meeting and the date, time,  
 1215 and place of the meeting.

1216 (c) The resolution adopted by the membership confirming  
 1217 the vote on the merger.

1218  
 1219 Unless the approval of the merging credit union has been  
 1220 obtained and proper evidence thereof submitted to the office  
 1221 within 6 months after the approval by the office, the approval  
 1222 by the office of the merger and merger plan and agreement shall  
 1223 be deemed to be revoked and terminated; however, the office on  
 1224 its own motion, or at the request of the merging or surviving  
 1225 credit unions for good cause shown, may extend the time for a  
 1226 period not to exceed 6 months.

1227 (6) Notwithstanding any other provisions of this chapter  
 1228 or of chapter 120, a credit union may merge without the vote of  
 1229 the membership when the office determines that the credit union  
 1230 is in danger of insolvency or that the credit union is  
 1231 significantly undercapitalized, as defined in Section 216 of The  
 1232 Federal Credit Union Act, 12 U.S.C. s. 1790d, and the merger  
 1233 will enable the credit union to avoid liquidation.

1234 (7) A merger with a resulting state credit union may not  
 1235 take place or be effective unless approved by the National  
 1236 Credit Union Administration and the office issues a certificate  
 1237 of merger. Upon consummation of the merger, the certificate of  
 1238 authorization of the merged credit union shall be returned to  
 1239 the proper authority to be canceled. Also, at consummation, all  
 1240 property and property rights of, and members' interest in, the  
 1241 merged credit union shall vest in the surviving credit union  
 1242 without deed, endorsement, or other instrument of transfer and  
 1243 all debts, obligations, and liabilities of the merged credit

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1244 union shall be assumed by the surviving credit union under the  
 1245 certificate of authorization under which the merger was  
 1246 effected. All members of the surviving credit union have the  
 1247 same rights, privileges, and responsibilities after the merger  
 1248 is completed. The certificate of merger must be recorded in the  
 1249 public records of all counties in which the merging credit union  
 1250 owned any real property at the effective date of the merger.

1251 Section 28. Section 657.066, Florida Statutes, is amended  
 1252 to read:

1253 657.066 Conversion from state credit union to federal  
 1254 credit union and conversely.--Any credit union organized under  
 1255 this chapter may convert into a federal credit union and any  
 1256 federal credit union may convert into a credit union organized  
 1257 pursuant to this chapter upon approval of the authority under  
 1258 the supervision of which the converted credit union will operate  
 1259 and upon compliance with applicable laws.

1260 (1) Any action by the board of directors proposing  
 1261 conversion shall be by resolution and shall require the  
 1262 affirmative vote of an absolute majority of the board of  
 1263 directors. ~~Upon adoption of a resolution relating to conversion,~~  
 1264 ~~a copy of the resolution shall be mailed to each member,~~  
 1265 ~~together with a notice setting forth the time, location, and~~  
 1266 ~~purpose of a meeting of the membership which shall be held not~~  
 1267 ~~less than 10 nor more than 30 days following the mailing of the~~  
 1268 ~~notice.~~

1269 ~~(2) A ballot allowing an affirmative or negative vote on~~  
 1270 ~~the proposed conversion shall also be mailed to each member. Any~~  
 1271 ~~ballot received by the credit union prior to the meeting called~~

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1272 ~~to consider the conversion shall be counted along with the votes~~  
 1273 ~~east at the meeting. Each member shall have but one vote. A~~  
 1274 ~~majority of the votes cast by the members shall be required to~~  
 1275 ~~approve the conversion.~~

1276 ~~(2)(3) Within 10 days after the approval of the~~  
 1277 ~~membership,~~ The board of directors shall cause to be transmitted  
 1278 to the authority under the supervision of which the converted  
 1279 credit union will operate a copy of the resolution adopted by  
 1280 the board of directors and a conversion application ~~approved by~~  
 1281 ~~the membership.~~

1282 ~~(3)(4)~~ Upon the written approval of the authority under  
 1283 the supervision of which the converting credit union is to  
 1284 operate, the converting credit union shall become a credit union  
 1285 under this chapter or under the laws of the United States, as  
 1286 the case may be, and thereupon all assets shall become the  
 1287 property of the converted credit union, subject to all existing  
 1288 liabilities against the credit union. All shares and deposits  
 1289 shall remain intact. Any federal credit union seeking to convert  
 1290 to a state-chartered credit union shall pay a nonrefundable  
 1291 filing fee of \$500. The office may conduct an examination of any  
 1292 converting federal credit union before approving the conversion  
 1293 and the converting credit union shall pay a nonrefundable  
 1294 examination fee as provided in s. 655.411(1)(b).

1295 (4) Upon the approval of the authority under the  
 1296 supervision of which the converted credit union will operate, a  
 1297 copy of the resolution shall be provided to each member,  
 1298 together with a notice setting forth the time, location, and  
 1299 purpose of a meeting of the membership which shall be held not

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1300 less than 10 or more that 30 days following the transmission of  
1301 the notice.

1302 (5) A ballot allowing an affirmative or negative vote on  
1303 the proposed conversion shall also be provided to each member.  
1304 Any ballot received by the credit union prior to the meeting  
1305 called to consider the conversion shall be counted along with  
1306 the votes cast at the meeting. Each member shall have only a  
1307 single vote. A majority of the votes cast by the members shall  
1308 be required to approve the conversion.

1309 (6) Within 10 days after the approval by the membership,  
1310 the board of directors shall cause to be transmitted to the  
1311 authority under the supervision of which the converted credit  
1312 union will operate a copy of the resolution adopted by the board  
1313 of directors and approved by the membership with confirmation of  
1314 the vote.

1315 (7)~~(5)~~ Every conversion must be completed within 90 days  
1316 after the approval of the authority under the supervision of  
1317 which the converted credit union will operate. Upon receiving  
1318 its certificate of authorization or charter from the authority  
1319 under the supervision of which the converted credit union will  
1320 operate, the old certificate of authorization or charter shall  
1321 be returned to the proper authority and shall be canceled.

1322 (8)~~(6)~~ In consummation of the conversion, the old credit  
1323 union may execute, acknowledge, and deliver to the newly  
1324 chartered credit union the instruments of transfer necessary to  
1325 accomplish the transfer of any property and all right, title,  
1326 and interest therein.



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1327 Section 29. Subsection (7) of section 658.43, Florida  
1328 Statutes, is amended to read:

1329 658.43 Approval by office; valuation of assets; emergency  
1330 action.--

1331 ~~(7) Notwithstanding any other provisions of the financial~~  
1332 ~~institutions codes or of chapter 120, if the office or the~~  
1333 ~~appropriate federal regulatory agency finds that immediate~~  
1334 ~~action is necessary in order to prevent the probable failure of~~  
1335 ~~one or more banks, associations, or trust companies, which in~~  
1336 ~~this subsection may be referred to as a "failing financial~~  
1337 ~~entity," the office shall have the power, with the concurrence~~  
1338 ~~of the appropriate federal regulatory agency in the case of any~~  
1339 ~~bank or association the deposits of which are insured by the~~  
1340 ~~Federal Deposit Insurance Corporation, to issue an emergency~~  
1341 ~~order authorizing:~~

1342 ~~(a) The merger of any such failing financial entity with a~~  
1343 ~~state bank;~~

1344 ~~(b) The merger of any such failing financial entity with a~~  
1345 ~~state trust company;~~

1346 ~~(c) Any state bank to acquire assets and assume~~  
1347 ~~liabilities of any such failing financial entity, including all~~  
1348 ~~rights, powers, and responsibilities as fiduciary in instances~~  
1349 ~~where the failing financial institution is actively engaged in~~  
1350 ~~the exercise of trust powers;~~

1351 ~~(d) Any state trust company to acquire assets and assume~~  
1352 ~~liabilities of any such failing trust company and rights,~~  
1353 ~~powers, and responsibilities as fiduciary of such failing trust~~  
1354 ~~company;~~

1355 ~~(e) The conversion of any such failing financial entity~~  
 1356 ~~into a state bank or trust company;~~

1357 ~~(f) The chartering of a new state bank or state~~  
 1358 ~~association to acquire assets and assume liabilities of any such~~  
 1359 ~~failing financial entity and to assume rights, powers, and~~  
 1360 ~~responsibilities as fiduciary in cases where such failing~~  
 1361 ~~financial entity is engaged in the exercise of trust powers; or~~

1362 ~~(g) The chartering of a new state trust company to acquire~~  
 1363 ~~assets and assume liabilities and rights, powers, and~~  
 1364 ~~responsibilities as fiduciary of such failing trust company.~~

1365  
 1366 ~~Any such finding by the office shall be based upon reports~~  
 1367 ~~furnished to it by a state bank, association, or trust company~~  
 1368 ~~examiner or by a federal bank or association examiner or upon~~  
 1369 ~~other evidence from which it is reasonable to conclude that any~~  
 1370 ~~such bank, association, or trust company is insolvent or is~~  
 1371 ~~threatened with imminent insolvency. The office may disallow~~  
 1372 ~~illegally obtained currency, monetary instruments, funds, or~~  
 1373 ~~other financial resources from the capitalization requirements~~  
 1374 ~~of this section. The stockholders of a failing bank,~~  
 1375 ~~association, or trust company that is acquired by another bank~~  
 1376 ~~or trust company pursuant to this subsection shall be entitled~~  
 1377 ~~to the same procedural rights and to compensation for the~~  
 1378 ~~remaining value of their shares as is provided for dissenters in~~  
 1379 ~~s. 658.44, except that they shall have no right to vote against~~  
 1380 ~~the transaction. Any transaction authorized by this subsection~~  
 1381 ~~may be accomplished through the organization of a successor~~  
 1382 ~~institution.~~

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1383 |           Section 30. Sections 657.0315, 657.051, 657.055, and  
1384 | 657.068, Florida Statutes, are repealed.  
1385 |           Section 31. This act shall take effect July 1, 2005.