

Introduced by Senator Brulte

January 27, 1998

An act to amend Sections 14157, 14250, 14254.5, 14256, 14400, 14407, 14408, 14409, 14410, 14450, 14553, 14601, 14602, 14653, 14700, 14703, 14766, 14800, 14803, 14806, 14858, 14903, 14951, 14959, 15001, 15050, 15201, 15250, and 15251 of, to add Section 14353.5 to, to repeal Sections 14254, 14859, 15000, and 15307 of, to repeal Chapter 11 (commencing with Section 16100) of Division 5 of, and to repeal and add Sections 14252, 14350, 14351, 14352, 14353, and 15203 of, the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1439, as introduced, Brulte. Financial institutions: credit unions.

Existing law provides for the regulation of credit unions by the Commissioner of Financial Institutions. Existing law, among other things, prescribes certain requirements with respect to financial examinations of credit unions, charges and assessments imposed on credit unions to defray certain administrative costs, and the operation and management of credit unions. Existing law also establishes the California Credit Union Share Guaranty Corporation to, among other things, guaranty payment of all shares issued by participating credit unions, subject to certain limitations.

This bill would revise and recast certain of those requirements and would repeal the California Credit Union Share Guaranty Corporation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14157 of the Financial Code is
2 amended to read:
3 14157. (a) A credit union organized and duly
4 qualified as a credit union in another state of the United
5 States shall become a credit union organized and
6 operating pursuant to this division if in compliance with
7 each of the following requirements:
8 (1) The credit union has filed a statement with the
9 Secretary of State pursuant to Section 2105 of the
10 Corporations Code.
11 (2) The commissioner has approved an application
12 filed by the credit union—~~which~~ *that* has not been
13 suspended or revoked.
14 (3) The interest rate of—~~such~~ *the* credit union on loans
15 made to members residing in this state does not exceed
16 the maximum interest rate permitted by the jurisdiction
17 under whose laws it is organized.
18 (4) The credit union has obtained bond or insurance
19 coverage as prescribed in Section 14409.
20 (5) The credit union has obtained insurance or
21 guaranty for its members’ share accounts as prescribed in
22 Section 14858.
23 (6) The credit union submits an annual audit report to
24 the commissioner as prescribed in Article 2
25 (commencing with Section 14250) of Chapter 3—~~of this~~
26 ~~division~~.
27 (7) The credit union pays the cost of examination or
28 services performed in accordance with Section 14353.
29 (8) The credit union pays to the commissioner, in
30 accordance with Section 14351, an annual fee fixed by rule
31 of the commissioner in an amount not to exceed two
32 hundred fifty dollars (\$250). *The credit union is not*
33 *subject to Section 14350, 14351, or 14352.*
34 (b) For the purpose of implementing the provisions of
35 this section, the commissioner may cooperate with the



1 administrators of the credit union laws of other states and
2 the commissioner may share with them information
3 received in the ~~administation~~ *administration* of this
4 division.

5 (c) The commissioner may disapprove an application
6 filed pursuant to this section, or upon reasonable notice
7 and opportunity for hearing suspend or revoke approval
8 of an application, if the commissioner finds that the
9 standards of organization, operation and regulation of the
10 credit union, including, but not limited to, the laws and
11 ~~regulation~~ *regulations* of the jurisdiction in which it is
12 organized, do not reasonably conform to the standards of
13 organization, operation and regulation established
14 pursuant to this division, or that 50 percent or more of the
15 members of the credit union are, or are reasonably
16 expected to be, residents of this state.

17 SEC. 2. Section 14250 of the Financial Code is
18 amended to read:

19 14250. (a) ~~For the purpose of discovering violations~~
20 ~~of this division or securing information required by him,~~
21 ~~the~~ *(1) The commissioner may at any time investigate*
22 *into the affairs and examine the books, accounts, records,*
23 *and files used in the business of every credit union,*
24 *whether it acts or claims to act under or without authority*
25 *of this division.* ~~For the purposes of examination and~~
26 ~~investigation the~~

27 *(2) The commissioner and his the commissioner's* duly
28 *designated representatives shall have free access to the*
29 *offices and places of business, books, accounts, papers,*
30 *records, files, safes, and vaults of all such every credit*
31 ~~unions~~ *union referred to in paragraph (1).*

32 (b) ~~If during any calendar year the commissioner has~~
33 ~~not examined a credit union pursuant to subdivision (a)~~
34 ~~or requested an audit report pursuant to subdivision (a)~~
35 ~~of Section 14252, he shall perform such an examination or~~
36 ~~request such an audit report, as authorized by this~~
37 ~~division~~ *(1) The commissioner shall examine every*
38 *credit union organized under the laws of this state to the*
39 *extent and whenever and as often as the commissioner*



1 shall deem it advisable, but in no case less than once every
2 two years.

3 (2) For purposes of this subdivision, an examination
4 made by the commissioner in conjunction with or with
5 assistance from the National Credit Union Administration
6 or a credit union regulatory agency of another state of the
7 United States is deemed to be an examination made by
8 the commissioner.

9 (3) No provision of this subdivision shall be deemed to
10 require that the commissioner make an examination
11 onsite at the offices of a credit union.

12 SEC. 3. Section 14252 of the Financial Code is
13 repealed.

14 ~~14252. (a) In lieu of an annual examination of a credit
15 union, the commissioner may request and the credit
16 union may submit, or the commissioner may approve the
17 request of a credit union to submit, at such credit union's
18 own expense in either case, an audit report containing
19 audited financial statements prepared in accordance
20 with generally accepted accounting principles covering
21 the calendar year or, if such credit union has an
22 established fiscal year, then for such fiscal year, within 105
23 days after the close of such calendar or fiscal year,
24 together with such other relevant information as the
25 commissioner may require. The audited financial
26 statements shall include at least a balance sheet and a
27 statement of income for the year ended on the balance
28 sheet date.~~

29 ~~(b) The report and audited financial statements
30 referred to in subdivision (a) shall be accompanied by a
31 report, certificate or opinion of an independent certified
32 public accountant or independent public accountant and
33 shall contain such relevant information as the
34 commissioner may require. The audit shall be conducted
35 in accordance with generally accepted auditing
36 standards and the rules and regulations of the
37 commissioner.~~

38 ~~(c) If the report, certificate or opinion of the
39 independent accountant referred to in subdivision (a) is
40 in any way qualified, the commissioner may require the~~



1 ~~credit union to take such action as he deems appropriate~~
2 ~~to permit an independent accountant to remove such~~
3 ~~qualification from the report, certificate, or opinion.~~

4 ~~(d) The commissioner may reject any financial~~
5 ~~statement, report, certificate, or opinion filed pursuant to~~
6 ~~this section by notifying the credit union of its rejection~~
7 ~~and the cause thereof. Within 30 days after the receipt of~~
8 ~~such notice, the credit union shall correct such deficiency;~~
9 ~~and the failure to do so shall be deemed a violation of this~~
10 ~~division. The commissioner shall retain a copy of all filings~~
11 ~~so rejected.~~

12 ~~(e) The commissioner may by rule or regulation~~
13 ~~specify the form and content of the reports and financial~~
14 ~~statements required to be filed pursuant to this section~~
15 ~~and may require that such reports be verified by the~~
16 ~~credit union in such manner as he may prescribe.~~

17 SEC. 4. Section 14252 is added to the Financial Code,
18 to read:

19 14252. (a) The commissioner may, by order or
20 regulation, either unconditionally or upon specified
21 terms and conditions, grant an exemption from this
22 section in any case where the commissioner finds that the
23 requirements of this section are not necessary or
24 advisable.

25 (b) Each credit union shall, within 90 days after the
26 end of each fiscal year or within any extended time that
27 the commissioner may specify, file with the commissioner
28 an audit report for the fiscal year.

29 (c) The audit report called for in subdivision (b) shall
30 comply with all of the following provisions:

31 (1) The audit report shall contain the audited financial
32 statements of the credit union for, or as of the end of, the
33 fiscal year, prepared in accordance with generally
34 accepted accounting principles that the commissioner
35 may specify and any other information that the
36 commissioner may specify.

37 (2) The audit report shall be based upon an audit of the
38 credit union conducted in accordance with generally
39 accepted auditing standards and any other requirements
40 that the commissioner may specify.



1 (3) The audit report shall be prepared by an
2 independent certified public accountant or independent
3 public accountant who is satisfactory to the
4 commissioner.

5 (4) The audit report shall include or be accompanied
6 by a certificate or opinion of the independent certified
7 public accountant or independent public accountant that
8 is satisfactory in form and content to the commissioner.
9 If the certificate or opinion is qualified, the commissioner
10 may order the credit union to take any action that the
11 commissioner may find necessary or advisable to enable
12 the independent certified public accountant or
13 independent public accountant to remove the
14 qualification.

15 SEC. 5. Section 14254 of the Financial Code is
16 repealed.

17 ~~14254. On or before 45 days after the 31st day of~~
18 ~~December of each year every credit union shall make a~~
19 ~~written report to the commissioner which shall contain a~~
20 ~~statement of its condition as of December 31st of that~~
21 ~~year. The report shall be in the form and contain the~~
22 ~~matters prescribed by the commissioner. Every such~~
23 ~~report shall be verified by the oath of the president and~~
24 ~~secretary of the credit union. The verification shall state~~
25 ~~that the report is true and correct in all respects to the~~
26 ~~best of the knowledge and belief of the persons verifying~~
27 ~~it.~~

28 SEC. 6. Section 14254.5 of the Financial Code is
29 amended to read:

30 14254.5. (a) Within 10 business days of opening,
31 closing, or relocating a branch office, a credit union shall
32 notify the commissioner in writing of the location,
33 including the mailing address, of the branch office.

34 (b) ~~On or before March 1, 1989, every credit union~~
35 ~~shall notify the commissioner in writing of the location,~~
36 ~~including the mailing address, of existing branch offices.~~

37 SEC. 7. Section 14256 of the Financial Code is
38 amended to read:

39 14256. (a) If any credit union fails to make any report
40 required by this division on or before the day designated



1 for the making—~~thereof~~ of that report, or fails to include
2 ~~therein~~ in the report any matter required by the
3 commissioner,—~~such~~ that failure is grounds for the
4 suspension or revocation of the certificate authorizing
5 ~~such~~ the credit union to act as a credit union, unless the
6 time for filing the report is extended by the
7 commissioner.

8 (b) *If any credit union fails to make any report*
9 *required by this division or by any order or regulation of*
10 *the commissioner, on or before the day designated for the*
11 *making of the report, or fails to include in the report any*
12 *matter required by the commissioner, the commissioner*
13 *may, after notice and hearing, order the credit union to*
14 *pay to the commissioner a civil penalty in an amount not*
15 *to exceed one thousand dollars (\$1,000) for each day that*
16 *the report is delinquent or deficient.*

17 SEC. 8. Section 14350 of the Financial Code is
18 repealed.

19 ~~14350. To defray the costs of administration of this~~
20 ~~division and other laws relating to credit unions or the~~
21 ~~credit union business, including investigations and~~
22 ~~supervision, but not including the costs of examination~~
23 ~~referred to in Section 14353, except as otherwise provided~~
24 ~~therein, the commissioner shall require every credit~~
25 ~~union licensed by him or her or coming under his or her~~
26 ~~supervision to pay in advance to the commissioner for the~~
27 ~~ensuing year charges and assessments in accordance with~~
28 ~~the following schedule:~~
29



1	Total assets of credit union	Amount of assessment
2	Assets of \$1,000 or less	\$20.00
3	Over \$1,000, but not more than	\$20.00 plus \$2.00 per \$1,000 of
4	\$50,000	assets in excess of \$1,000
5	Over \$50,000, but not more	\$118.00 plus \$1.75 per \$1,000 of
6	than \$150,000	assets in excess of \$50,000
7	Over \$150,000, but not more	\$293.00 plus \$1.50 per \$1,000 of
8	than \$300,000	assets in excess of \$150,000
9	Over \$300,000, but not more	\$518.00 plus \$1.00 per \$1,000 of
10	than \$500,000	assets in excess of \$300,000
11	Over \$500,000, but not more	\$718.00 plus \$0.50 per \$1,000 of
12	than \$750,000	assets in excess of \$500,000
13	Over \$750,000	\$843.00 plus \$0.25 per \$1,000 of
14		assets in excess of \$750,000

15
 16 SEC. 9. Section 14350 is added to the Financial Code,
 17 to read:

18 14350. The commissioner shall annually levy on and
 19 collect from credit unions holding certificates
 20 authorizing them to act as credit unions, pro rata on the
 21 basis of total assets, an assessment in a total amount that
 22 is sufficient in the commissioner's opinion to (a) meet the
 23 expenses of the department in administering this division
 24 and other laws relating to credit unions or the credit
 25 union business that are not otherwise provided for and
 26 (b) provide a reasonable reserve for contingencies.

27 SEC. 10. Section 14351 of the Financial Code is
 28 repealed.

29 ~~14351. On or before the 30th day of November of each~~
 30 ~~year the commissioner shall notify each credit union by~~
 31 ~~mail of the amount assessed and levied against it and that~~
 32 ~~amount shall be paid on or before the 31st day of~~
 33 ~~December of that year. If payment is not made to the~~
 34 ~~commissioner by that time, the certificate then in effect~~
 35 ~~authorizing such credit union to act as a credit union may~~
 36 ~~by order be summarily suspended or revoked by the~~
 37 ~~commissioner 10 days after the giving of notice by the~~
 38 ~~commissioner that such amount is due and unpaid. If,~~
 39 ~~after such an order is made, a request for hearing is filed~~



1 ~~in writing and a hearing is not held within 60 days~~
2 ~~thereafter, the order is rescinded as of its effective date.~~

3 SEC. 11. Section 14351 is added to the Financial Code,
4 to read:

5 14351. (a) The amount of the annual assessment on
6 any credit union holding a certificate authorizing it to act
7 as a credit union shall be the greater of (1) one thousand
8 five hundred dollars (\$1,500) or (2) the sum of the
9 products determined by multiplying (A) increments of
10 the credit union's total assets by (B) percentages of the
11 base assessment rate, according to the following table:

13 Total Assets 14 (In millions)	Percentage of Base Assessment Rate
15 First \$3	85.0%
16 Next \$3	30.0%
17 Next \$4	12.5%
18 Excess over \$10	11.0%

19
20 (b) The base assessment rate for each annual
21 assessment shall be fixed by the commissioner but shall
22 not exceed two dollars and twenty cents (\$2.20) per one
23 thousand dollars (\$1,000) of total assets.

24 SEC. 12. Section 14352 of the Financial Code is
25 repealed.

26 ~~14352. If the commissioner determines that the~~
27 ~~charges and assessments set forth in this division for any~~
28 ~~year are in excess of the amount necessary, or are~~
29 ~~insufficient, to meet the expenses of administration of this~~
30 ~~division and other laws relating to credit unions or the~~
31 ~~credit union business, including examinations and~~
32 ~~supervision, for that year, the assessments and charges for~~
33 ~~the following year shall be adjusted on a pro rata basis in~~
34 ~~accordance with the percentage of such excess or~~
35 ~~insufficiency as related to the actual charges and~~
36 ~~assessments for the year for which such excess or~~
37 ~~insufficiency occurred, in order to recover the actual~~
38 ~~costs of administration.~~

39 SEC. 13. Section 14352 is added to the Financial Code,
40 to read:



1 14352. For purposes of the annual assessment, the
2 total assets of a credit union holding a certificate
3 authorizing it to act as a credit union shall be determined
4 as of a date fixed by the commissioner. However, if a
5 credit union does not hold a certificate authorizing it to
6 act as a credit union as of that date but does so as of the
7 date when the annual assessment is levied, its total assets
8 for purposes of the annual assessment shall be determined
9 as of the date of the levy.

10 SEC. 14. Section 14353 of the Financial Code is
11 repealed.

12 ~~14353. If an examination is made or services~~
13 ~~performed, the credit union examined or to which~~
14 ~~services are rendered shall pay to the commissioner the~~
15 ~~cost thereof, including the salary or other compensation~~
16 ~~paid to the persons making the examination or rendering~~
17 ~~special services and overhead costs in connection~~
18 ~~therewith as fixed by the commissioner. In determining~~
19 ~~the cost of services or examinations, the commissioner~~
20 ~~may use the estimated average hourly cost for all persons~~
21 ~~performing services for or examinations of credit unions~~
22 ~~for the fiscal year. If recovery of these costs cannot be~~
23 ~~made from the credit union, these costs may be added to~~
24 ~~the assessment provided for in Section 14350.~~

25 SEC. 15. Section 14353 is added to the Financial Code,
26 to read:

27 14353. (a) Whenever the commissioner levies an
28 annual assessment on credit unions holding certificates
29 authorizing them to act as credit unions, the
30 commissioner shall promptly mail or otherwise deliver to
31 each credit union assessed an invoice that shows (1) the
32 amount of the credit union's annual assessment and (2)
33 the date when the annual assessment is due and payable.

34 (b) The annual assessment on a credit union holding
35 a certificate authorizing it to act as a credit union
36 becomes a liability of the credit union on the date on
37 which the commissioner levies the annual assessment.

38 (c) If the annual assessment on a credit union holding
39 a certificate authorizing it to act as a credit union is not
40 paid on time, the commissioner shall be entitled to and



1 shall collect, in addition to the amount of the annual
2 assessment, a penalty of 5 percent of the amount of the
3 unpaid annual assessment for each month or part of a
4 month that the payment is delinquent.

5 SEC. 16. Section 14353.5 is added to the Financial
6 Code, to read:

7 14353.5. Whenever the commissioner finds it
8 necessary or advisable to make an extra examination of a
9 credit union, the commissioner may charge the credit
10 union a fee of seventy-five dollars (\$75) per hour for each
11 examiner engaged in the extra examination, and the
12 credit union shall, within 10 days after the mailing or
13 other delivery of a statement by the commissioner, pay
14 the fee charged by the commissioner.

15 SEC. 17. Section 14400 of the Financial Code is
16 amended to read:

17 14400. (a) The savings capital of a credit union shall
18 consist of the payments made by members on shares as set
19 forth in the credit union's written savings capital
20 structure policy pursuant to Section 14862.

21 (b) ~~The equity capital of the credit union shall consist~~
22 ~~of all consideration paid for memberships in the credit~~
23 ~~union, all entrance fees paid to become a member of a~~
24 ~~credit union, all moneys held in the credit union's regular~~
25 ~~reserve account, all dues, fees, and assessments paid by~~
26 ~~credit union members, other than fees charged in~~
27 ~~connection with member share accounts or loans, and~~
28 ~~held in any contingency reserve account established by~~
29 ~~the credit union's board of directors or at the direction of~~
30 ~~the commissioner, and all retained earnings in the credit~~
31 ~~union's undivided profits account less all losses in excess~~
32 ~~of the credit union's regular reserve account~~ *the*
33 *undivided earnings account, and any appropriated*
34 *undivided earnings accounts.*

35 SEC. 18. Section 14407 of the Financial Code is
36 amended to read:

37 14407. (a) Whenever the losses of any credit union
38 resulting from a depreciation in the value of its securities
39 or otherwise exceed its undivided earnings and reserve
40 fund so that the estimated value of its assets is less than the



1 total amount due its shareholders, the credit union may,
2 ~~by a three-fourths vote of the entire membership if~~
3 *approved by a majority of all members* at a meeting called
4 to consider the matter, order a reduction of the liability
5 to each of its shareholders, so as to divide the loss
6 equitably among ~~such~~ *the* shareholders. If thereafter the
7 credit union ~~shall realize~~ *realizes* from ~~such~~ *those* assets
8 a greater amount than was fixed in the order of reduction,
9 ~~such~~ *the* excess shall be divided among the shareholders
10 whose assets were reduced, but to the extent of ~~such~~ *the*
11 reduction only.

12 (b) The commissioner may approve a reduction in the
13 liability on shares approved by less than ~~three-fourths of~~
14 ~~the entire membership~~ *a majority of all members* as
15 provided in subdivision (a) if ~~he~~ *the commissioner* finds,
16 upon the written and verified application filed by the
17 board of directors, that (1) notice of the meeting called
18 to consider the question was mailed to each member
19 entitled to vote upon ~~such~~ *the* question, (2) ~~such~~ *the*
20 notice disclosed the purpose of the meeting and properly
21 informed the membership that approval of ~~such~~ *the*
22 reduction in liability might be sought pursuant to this
23 subdivision, and (3) that a majority of the votes cast upon
24 the question were in favor of ~~such~~ *the* reduction in
25 liability.

26 SEC. 19. Section 14408 of the Financial Code is
27 amended to read:

28 14408. No credit union shall make any gift or donation
29 having a value in excess of one ~~hundred thousand~~ dollars
30 ~~(\$100)~~ *(\$1,000)* unless ~~such~~ *the* gift or donation is in the
31 best interest of the credit union, is approved by a
32 resolution of the board of directors and is in conformance
33 with provisions of the rules and regulations of the
34 commissioner.

35 SEC. 20. Section 14409 of the Financial Code is
36 amended to read:

37 14409. (a) Every credit union shall obtain adequate
38 bond or insurance coverage, for each *director, officer,*
39 *supervisory committee member, and credit committee*
40 *member, for the credit manager, and for each employee*



1 having control of or access to funds or securities owned
2 by or pledged with a credit union commensurate with
3 risks involved.

4 (b) The commissioner may adopt regulations setting
5 forth guidelines with respect to the minimum amount of
6 the bond or insurance coverage deemed adequate. ~~These~~
7 *The* regulations may be based upon the gross assets of the
8 credit union and may contain a formula or schedule for
9 the calculation of minimum bond or insurance coverage.

10 SEC. 21. Section 14410 of the Financial Code is
11 amended to read:

12 14410. (a) No member of the board of directors,
13 supervisory committee, or credit committee shall receive
14 any compensation for his or her services as ~~such a~~
15 *member*, but he or she may be provided with reasonable
16 health, accident, and similar insurance ~~under such terms~~
17 ~~and conditions as specified by the commissioner in the~~
18 ~~credit union regulations, provided that insurance~~
19 ~~protection shall exclude life insurance, shall be limited to~~
20 ~~areas of risk, including accidental death and~~
21 ~~dismemberment, to which the official is exposed by virtue~~
22 ~~of carrying out the duties or responsibilities of his or her~~
23 ~~credit union position and shall cease immediately when~~
24 ~~the insured person leaves office without providing~~
25 ~~residual benefits other than from pending claims, if any.~~

26 (b) Notwithstanding subdivision (a), a director or
27 committee member may be reimbursed for actual
28 expenses incurred in the performance of his or her duties
29 if reimbursement is made pursuant to the requirements
30 of the commissioner's regulations controlling expense
31 reimbursement by the credit union. Reimbursement for
32 actual expenses may include, among other things, travel
33 expenses incurred on or relating to credit union business,
34 and any other matters, categories, or items of expense
35 that the commissioner may establish by regulation.

36 (c) Nothing in this section shall prevent any person
37 from receiving compensation for actual services as a
38 general manager, credit manager, loan officer, or other
39 position as an employee of the credit union.



1 SEC. 22. Section 14450 of the Financial Code is
2 amended to read:

3 14450. The credit union shall be directed by a board
4 consisting of an odd number of directors, at least five in
5 number, each of whom shall be a member of the credit
6 union in his *or her* own right, ~~to~~ *and shall, except as*
7 *otherwise provided in Section 7224 of the Corporations*
8 *Code*, be elected by the members at their annual
9 meeting.

10 SEC. 23. Section 14553 of the Financial Code is
11 amended to read:

12 14553. (a) The supervisory committee shall at least
13 once each year make or cause to be made an audit of the
14 books and records and an examination of the business and
15 affairs of the credit union. The supervisory committee
16 shall make a full report of the assets and liabilities,
17 receipts and disbursements of the credit union to the
18 board of directors. Those reports shall be ~~read~~ *presented*
19 at the annual meeting of members and filed with the
20 records of the credit union.

21 (b) The supervisory committee may make or cause to
22 be made any supplementary inspections of the securities,
23 cash, and accounts of the credit union or audits as it deems
24 necessary, and submit reports of those audits to the board
25 of directors.

26 SEC. 24. Section 14601 of the Financial Code is
27 amended to read:

28 14601. No member of the credit committee or the
29 credit manager or any loan officer shall serve as a
30 member of the supervisory committee. ~~Neither a credit~~
31 ~~manager nor any loan officer shall be a member of the~~
32 ~~board of directors.~~

33 SEC. 25. Section 14602 of the Financial Code is
34 amended to read:

35 14602. (a) (1) No credit union shall create any
36 obligation with a credit union member, without the
37 written approval of a majority of *all* the members of the
38 credit committee ~~or~~ the credit manager, or ~~of~~ a loan
39 officer appointed as provided in this section.



1 (2) *If the approval by the credit manager or a loan*
2 *officer of the creation of an obligation is based on a credit*
3 *scoring program, a preapproval program, or similar*
4 *program, the program shall be approved by vote of a*
5 *majority of all members of the board of directors or credit*
6 *committee. The credit manager or loan officer who*
7 *approves the creation of an obligation based on the credit*
8 *scoring program, preapproval program, or similar*
9 *program shall comply with the program as approved by*
10 *the board or credit committee.*

11 (b) The credit committee or the credit manager may,
12 with the approval of the board of directors, appoint one
13 or more loan officers who shall be authorized to approve
14 obligations with credit union members. Unless the credit
15 union bylaws provide for the position of credit manager,
16 any loan officer appointed pursuant to *this* subdivision
17 ~~(b)~~ shall be a member of the credit union and may, but
18 need not be, a member of the credit committee.

19 (c) A credit committee, a credit manager, and any
20 loan officer shall not have the power to approve
21 membership applications.

22 (d) No loan officers shall be permitted to approve any
23 extension agreement of any delinquent obligation or the
24 refinancing of any delinquent obligation except as
25 prescribed in regulations promulgated by the
26 commissioner.

27 (e) The credit committee, or in the alternative, the
28 credit manager shall be provided with a record of each
29 obligation approved or not approved by any loan officer,
30 within 30 days of the approval or disapproval.

31 SEC. 26. Section 14653 of the Financial Code is
32 amended to read:

33 14653. ~~With the written approval of the~~
34 ~~commissioner, credit~~ *Credit unions may invest in trusts a*
35 *trust organized solely for the purpose of investing in*
36 *United States government securities and United States*
37 *government agency securities; provided—such the trust is*
38 *formed by an organization composed of credit unions or*
39 *an organization of credit union associations.*



1 SEC. 27. Section 14700 of the Financial Code is
2 amended to read:

3 14700. Every credit union shall create and maintain a
4 regular reserve as follows:

5 ~~(a) All entrance fees remaining after the payment of
6 organization expenses shall be set aside to the reserve.~~

7 ~~(b) At the close of each accounting period, 10 percent
8 of the gross income of the credit union shall be
9 transferred to the reserve until it equals or exceeds 20
10 percent of the credit union's gross assets. When the
11 regular reserve falls below 20 percent of the credit union's
12 gross assets, it shall be replenished by contributions of 10
13 percent of the gross income of the credit union or in lesser
14 amounts as may be needed to maintain a level of 20
15 percent of gross assets, except that any credit union
16 participating in a program of share insurance or guaranty
17 approved by the commissioner may, in lieu of compliance
18 with this section, maintain a regular reserve as may be
19 specified by the commissioner.~~

20 ~~(c) Any sums recovered on obligations previously
21 charged to it shall be used as an offset against any
22 increases in the allowance for loan losses account
23 required pursuant to Section 14703 or, in the absence of
24 any increases in the allowance for loan losses account,
25 these recovered sums shall be credited to the regular
26 reserve specified by the commissioner.~~

27 SEC. 28. Section 14703 of the Financial Code is
28 amended to read:

29 14703. (a) A credit union shall establish *and maintain*
30 an allowance for loan losses account ~~based upon the credit
31 union's previous loss experience, or based upon its
32 foreseeable losses. The allowance for loan losses account
33 shall initially be established by charging the regular
34 reserve account, and thereafter, any increases or
35 decreases in the balance shall be charged or credited to
36 a provision for loan losses expense account in accordance
37 with generally accepted accounting principles. The
38 commissioner may order the credit union to increase the
39 amount of its allowance for loan losses account if the~~



1 commissioner finds that the amount of the account is not
2 adequate.

3 (b) At the close of an accounting period, an
4 adjustment shall be made in an amount equal to the
5 balance in the provision for loan losses expense account.
6 If the balance is a debit, regular reserves shall be charged,
7 and undivided profits shall be credited, and, if the balance
8 is a credit, undivided profits shall be charged and regular
9 reserves shall be credited.

10 ~~(e) For the purpose of calculating required transfers~~
11 ~~of income to regular reserves pursuant to Section 14700,~~
12 ~~any balances in the allowance for loan losses account may~~
13 ~~be included with the balance in the regular reserve~~
14 ~~account.~~

15 SEC. 29. Section 14766 of the Financial Code is
16 amended to read:

17 14766. No officer, director, or employee of a credit
18 union, directly or indirectly, shall purchase or be
19 interested in the purchase of, any of the credit union's
20 obligations or assets for an amount less than the book
21 value thereof, unless all the directors of the credit union
22 previously approve the purchase by resolution and a copy
23 of the resolution is delivered to the commissioner
24 immediately after adoption. Every person violating this
25 section shall be liable to the people of this state for each
26 offense in the amount of twice the ~~face~~ book value of the
27 assets so purchased.

28 SEC. 30. Section 14800 of the Financial Code is
29 amended to read:

30 14800. (a) Every credit union may admit to
31 membership those persons qualified for membership
32 *upon the occurrence of either of the following:* ~~(1) upon~~

33 *(1) Upon the purchase of a membership in the credit*
34 *union as provided in the credit-union union's bylaws;* ~~or~~
35 ~~(2) upon.~~

36 *(2) Upon the payment of an entrance fee established*
37 *from time to time by the board of directors;* ~~or (3) upon.~~

38 *(3) Upon the purchase of one or more shares in the*
39 *credit union as provided in the credit union's bylaws.*

40 *(4) As otherwise provided in the credit union's bylaws.*



1 (b) No officer, director, committee member, or
2 employee of any credit union shall approve a person for
3 admission to membership or admit an applicant for
4 membership in the credit union or extend any benefit or
5 service of the credit union to any person, unless that
6 person is admitted to membership in the credit union
7 pursuant to subdivision (a).

8 (c) Nothing in subdivisions (a) and (b) shall be
9 construed to limit the powers of a credit union to engage
10 in joint service programs or business relationships for the
11 benefit of their members where some incidental benefit
12 may flow to third parties to the transaction or the
13 authority for a credit union to engage in joint loan
14 programs pursuant to Section 14959.

15 (d) *Nothing in this section prohibits a credit union*
16 *from admitting to membership a corporation in which*
17 *the credit union holds shares pursuant to Section 14650 or*
18 *14651.*

19 SEC. 31. Section 14803 of the Financial Code is
20 amended to read:

21 14803. (a) No credit union shall pay any commission
22 or compensation *to any person* for securing ~~members,~~
23 ~~provided that this provision shall not limit any credit~~
24 ~~union from using growth in the number of memberships~~
25 ~~in the credit union as a part of its compensation program~~
26 ~~for its employees a new member or for getting an existing~~
27 ~~member to make an additional deposit.~~

28 (b) Notwithstanding subdivision (a), ~~pursuant to~~
29 ~~regulations adopted by the commissioner,~~ a credit union
30 may, *pursuant to an incentive policy approved by the*
31 *board of directors,* offer ~~an~~ and pay a reasonable incentive
32 or inducement to ~~individuals who wish to become~~
33 ~~members~~ (1) *a nonmember for becoming a member of*
34 *the credit union,* ~~or to its employees or members who~~
35 ~~assist in adding~~ (2) *an existing member for depositing*
36 *additional funds,* and (3) *an employee or member who*
37 *assists in getting a nonmember to become a new member*
38 ~~to~~ *of the credit union or who assists in getting an existing*
39 *member to make an additional deposit.*



1 (c) Nothing in subdivision (a) limits a credit union
2 from using growth in the number of members in the
3 credit union as part of its compensation program for its
4 employees.

5 SEC. 32. Section 14806 of the Financial Code is
6 amended to read:

7 14806. In credit unions formed on or after September
8 15, 1945, no member shall have more than one vote
9 irrespective of the number of shares held by ~~him~~ the
10 member.

11 SEC. 33. Section 14858 of the Financial Code is
12 amended to read:

13 14858. Every credit union shall apply for and obtain
14 insurance as provided for by Title II of the Federal Credit
15 Union Act (~~Title 12 (12 U.S.C., Sec. 1781 and following),~~
16 ~~or alternatively, a guaranty of shares provided by the~~
17 ~~California Credit Union Share Guaranty Corporation~~
18 ~~pursuant to Chapter 11 (commencing with Section~~
19 ~~16100) or a form of comparable other insurance or~~
20 ~~guaranty of shares acceptable to that is approved by the~~
21 ~~commissioner, for the purpose of insuring or~~
22 ~~guaranteeing its members' share accounts, by March 31,~~
23 ~~1981. In seeking and retaining such this insurance or~~
24 ~~guaranty, a credit union may do all things and assume and~~
25 ~~discharge all obligations required of it when not in~~
26 ~~conflict with the laws of this state. Credit unions which~~
27 ~~have not obtained such share insurance or guaranty by~~
28 ~~March 31, 1981, or have ceased to maintain such share~~
29 ~~insurance or guaranty after that date, shall commence~~
30 ~~with orderly liquidation or merger proceedings, subject~~
31 ~~to the provisions of this division.~~

32 SEC. 34. Section 14859 of the Financial Code is
33 repealed.

34 ~~14859. No credit union shall pay any commission or~~
35 ~~compensation for the sale of its shares, provided that this~~
36 ~~provision shall not limit any credit union from using~~
37 ~~growth in the number of or amount of credit union shares~~
38 ~~as a part of its compensation program for its employees.~~

39 SEC. 35. Section 14903 of the Financial Code is
40 amended to read:



1 14903. To determine the undivided profits, the credit
2 union may credit the profit and loss account with the
3 earnings from all sources during the dividend period. The
4 credit union shall then deduct the following amounts for
5 the dividend period:

6 (a) All expenses ~~paid or incurred~~ *accrued, incurred, or*
7 *paid* of whatever nature in the management of its affairs,
8 the collection of its debts, or the transaction of its business.

9 (b) The interest paid, or accrued and unpaid, on debts
10 owing by it.

11 (c) All provisions for losses sustained by it in excess of
12 its regular reserve.

13 SEC. 36. Section 14951 of the Financial Code is
14 amended to read:

15 14951. ~~Applications—Any application~~ *for any loan or*
16 *extension or guarantee of credit, except an application for*
17 *an extension of a loan, shall be in writing—and, shall state*
18 *the purpose for which the loan or extension or guarantee*
19 *of credit is desired, and—the security offered,—except*
20 *obligations created pursuant to an unsecured extension of*
21 *credit in accordance with policies established by the*
22 *board of directors pursuant to Section 15100, if applicable,*
23 *shall describe the property that is proposed to secure the*
24 *loan or extension or guarantee of credit.*

25 SEC. 37. Section 14959 of the Financial Code is
26 amended to read:

27 14959. (a) A credit union may participate in loans
28 *made to—credit union* *its* members jointly with other
29 credit unions, corporations or financial organizations.

30 (b) *A credit union may participate in a loan originated*
31 *by another credit union which is made to a member of the*
32 *originating credit union even though the member is not*
33 *also a member of the credit union participating in the*
34 *loan. A loan participation that is authorized by this*
35 *subdivision shall not be deemed to be an obligation or a*
36 *participation in an obligation with a nonmember within*
37 *the meaning of Section 14750.*

38 SEC. 38. Section 15000 of the Financial Code is
39 repealed.



1 ~~15000. The interest rate on obligations from the~~
2 ~~members of the credit union shall be determined by the~~
3 ~~board of directors from time to time. Any interest rate~~
4 ~~established pursuant to this section and applied to any~~
5 ~~obligation may be decreased, but shall not be increased~~
6 ~~during the term of the obligation or pursuant to an~~
7 ~~open-end loan agreement, until a further advance is~~
8 ~~made, unless otherwise provided in the obligation. Any~~
9 ~~interest rate established pursuant to this section does not~~
10 ~~include the cost of any insurance or any cost of~~
11 ~~acknowledgment, certification, registration, recordation~~
12 ~~or filing, independent appraisals, separate escrows, and~~
13 ~~other fees actually paid by a credit union to third parties~~
14 ~~in connection with the creation of obligations with its~~
15 ~~members. A charge for special services applied to a share~~
16 ~~account shall not be included in computing the interest~~
17 ~~rate permitted pursuant to this section, whether or not an~~
18 ~~overdraft results in an extension of credit, provided that~~
19 ~~the same charge is applied to the share account whether~~
20 ~~or not an extension of credit occurs.~~

21 SEC. 39. Section 15001 of the Financial Code is
22 amended to read:

23 15001. Every credit union may assess charges *as*
24 *approved by the board of directors* for failure to meet
25 punctually obligations to ~~such~~ *the* credit union. ~~Late~~
26 ~~charges in case of failure to make payments when due,~~
27 ~~when a periodic percentage rate is applied to a loan~~
28 ~~balance as of the date of payment, may not exceed 3~~
29 ~~percent of the payment due, or five dollars (\$5),~~
30 ~~whichever is greater. When a loan is secured by real~~
31 ~~property or has a balance at the time of creation of at least~~
32 ~~fifteen thousand dollars (\$15,000) and a periodic~~
33 ~~percentage rate is applied to the loan balance as of the~~
34 ~~payment due date, the charges may not exceed 6 percent~~
35 ~~of the payment due or ten dollars (\$10), whichever is~~
36 ~~greater. Pursuant to this section, any~~ *Any* late charge shall
37 be made only once for each delinquent payment.

38 SEC. 40. Section 15050 of the Financial Code is
39 amended to read:

40 15050. No credit union shall do any of the following:



1 (a) Enter into any obligation with any director, officer,
2 member of the credit committee, or member of the
3 supervisory committee, directly or indirectly, unless the
4 obligation complies with all lawful requirements of this
5 division with respect to obligations permitted for other
6 members and is not on terms more favorable than those
7 extended to other members, and the obligation is entered
8 into in accordance with written policy adopted by the
9 directors establishing that all directors, officers, members
10 of the credit committee, and members of the supervisory
11 committee shall have an equal opportunity to enter into
12 obligations with the credit union.

13 (b) Enter into any obligation with any director,
14 officer, member of the credit committee, or member of
15 the supervisory committee, directly or indirectly, not
16 fully secured by shares or certificates for funds unless all
17 of the following requirements are satisfied:

18 (1) Upon the making of the obligation, the aggregate
19 amount of obligations outstanding, except obligations
20 fully secured by shares, to directors, officers, members of
21 the credit committee and their alternates, or members of
22 the supervisory committee will not exceed 10 percent of
23 the aggregate dollar amount of all savings capital of the
24 credit union, except that in credit unions whose
25 aggregate savings capital is five million dollars
26 (\$5,000,000) or more but less than ten million dollars
27 (\$10,000,000), the ~~aggregate~~ *aggregate* amount of
28 obligations outstanding, except obligations fully secured
29 by shares, to directors, officers, members of the credit
30 committee and their alternates, or members of the
31 supervisory committee shall not exceed 15 percent of the
32 aggregate dollar amount of all savings capital of the credit
33 union, and in credit unions whose aggregate savings
34 capital is less than five million dollars (\$5,000,000), the
35 aggregate amount of obligations outstanding, except
36 obligations fully secured by shares, to directors, officers,
37 members of the credit committee and their alternates, or
38 members of the supervisory committee shall not exceed
39 20 percent of the aggregate dollar amount of all savings
40 capital of the credit union.



1 (2) The obligation, except any portion of an obligation
2 fully secured by shares, does not exceed 1 percent of the
3 aggregate dollar amount of all savings capital of the credit
4 union, or the maximum obligation to the credit union
5 prescribed by subdivisions (b) and (c) of Section 15100,
6 whichever is less, except that in credit unions whose
7 aggregate savings capital is five million dollars
8 (\$5,000,000) or more but less than ten million dollars
9 (\$10,000,000), the obligation, except any portion of an
10 obligation fully secured by shares, shall not exceed 2 3
11 percent of the aggregate dollar amount of all savings
12 capital of the credit union, or the maximum obligation to
13 the credit union prescribed by subdivisions (b) and (c)
14 of Section 15100, whichever is less, and in credit unions
15 whose aggregate savings capital is less than five million
16 dollars (\$5,000,000), the obligation, except any portion of
17 an obligation fully secured by shares, shall not exceed 3 5
18 percent of the aggregate dollar amount of all savings
19 capital of the credit union, or the maximum obligation to
20 the credit union prescribed by subdivisions (b) and (c)
21 of Section 15100, whichever is less.

22 (3) The obligation is approved by the credit
23 committee, or in the alternative the credit manager, and
24 by the board of directors, except that the credit manager
25 shall not take part in any credit decision directly or
26 indirectly for his or her benefit. The board of directors
27 may select a loan officer to prepare a report and
28 recommendation as to any extension of credit or other
29 obligation requested by the credit manager.

30 (4) The credit union member entering into the
31 obligation takes no part in the consideration of his or her
32 application and does not attend any committee or board
33 meeting while his or her application is under
34 consideration.

35 (5) The names of members of the credit committee, or
36 in the alternative, the credit manager, and board of
37 directors who voted to authorize or ratify the obligation
38 shall be entered in their respective minutes.

39 (c) Permit any director, officer, member of the credit
40 committee, or in the alternative, the credit manager, or



1 member of the supervisory committee to become surety
2 for any obligation created by the credit union for anyone
3 other than a member of their immediate family.

4 (d) Enter into any obligation with any credit manager
5 or any officer employed by the credit union, directly or
6 indirectly, unless the obligation is in compliance with all
7 requirements of this division with respect to obligations
8 permitted for other members, and not on terms more
9 favorable than those extended to other employees, and
10 approved by the board of directors.

11 SEC. 41. Section 15201 of the Financial Code is
12 amended to read:

13 15201. (a) The merger shall be made pursuant to any
14 plan agreed upon by the majority of the board of directors
15 of each credit union joining in the merger, and approved
16 by the affirmative vote of at least a majority of the
17 members of the disappearing credit union, in person or
18 by proxy, at a meeting of the members called for that
19 purpose or by written consent of a majority of the
20 members of the disappearing credit union.

21 (b) The commissioner may approve a merger
22 according to the plan agreed upon by the majority of the
23 board of directors of each credit union, as set forth in
24 subdivision (a), if the plan of merger is approved by less
25 than a majority of the membership as provided in
26 subdivision (a) if the commissioner finds, upon the
27 written and verified application filed by the board of
28 directors, that (1) notice of the meeting called to consider
29 the merger or the ballot for written vote on the merger
30 was mailed to each member entitled to vote upon the
31 question, (2)—~~such~~ *the* notice or ballot disclosed the
32 purpose of the meeting or the written vote, (3)—~~such~~ *the*
33 notice or ballot informed the membership that approval
34 of the merger might be sought pursuant to this section,
35 and (4) a majority of the votes cast upon the question
36 were in favor of the merger.

37 (c) Notwithstanding subdivisions (a) and (b), the
38 commissioner may approve a merger without a vote of
39 the membership of the disappearing credit union if a
40 majority of the members of the board of directors of the



1 surviving credit union approves the merger, the
2 disappearing credit union is in danger of insolvency and
3 the merger would reduce the risk or avoid a threatened
4 loss to the ~~California Credit Union Share Guaranty~~
5 ~~Corporation, National Credit Union Administration~~
6 ~~Insurance Fund~~ or other form of share guaranty or
7 insurance approved by the commissioner. For purposes
8 of this chapter, a credit union is insolvent when, from the
9 most recent available financial statements, it can be
10 shown that the total amount of its shares exceeds the
11 present cash value of its assets after providing for
12 liabilities unless *all of the following occur*:

13 (1) It is determined by the commissioner that the facts
14 that caused the deficient share-asset ratio no longer exist;
15 ~~and~~.

16 (2) The likelihood of further depreciation of the
17 share-asset ratio is not probable; ~~and~~.

18 (3) The return of the share-asset ratio to its normal
19 limits within a reasonable time for the credit union
20 concerned is probable; ~~and~~.

21 (4) The probability of a further potential loss is
22 negligible to the ~~California Credit Union Share Guaranty~~
23 ~~Corporation, National Credit Union Administration~~
24 ~~Insurance Fund~~ or other form of share guaranty or
25 insurance approved by the commissioner.

26 SEC. 42. Section 15203 of the Financial Code is
27 repealed.

28 ~~15203. The certificate of merger shall be filed in the~~
29 ~~office of the Secretary of State, and copies, certified by~~
30 ~~him, shall be filed in the office of the commissioner.~~

31 SEC. 43. Section 15203 is added to the Financial Code,
32 to read:

33 15203. (a) After an application for approval of a
34 merger has been approved by the commissioner and all
35 conditions precedent to the merger have been fulfilled,
36 the commissioner shall approve the agreement of merger
37 and endorse the approval on the agreement of merger.

38 (b) After the agreement of merger has been filed with
39 the Secretary of State, the surviving credit union shall file
40 with the commissioner a copy of the agreement of merger



1 certified by the Secretary of State, and at that time the
2 merger shall become effective for all purposes.

3 SEC. 44. Section 15250 of the Financial Code is
4 amended to read:

5 15250. (a) Whenever the ~~members of the~~ board of
6 directors ~~by a three-fourths majority vote recommend~~ of
7 *a credit union recommends by a vote of a majority of all*
8 *its members* the dissolution of ~~any~~*the* credit union, the
9 members of the credit union, at any meeting specially
10 called to consider the subject, may elect to dissolve the
11 credit union, by the vote or written consent of a majority
12 of *all members of the credit union*.

13 (b) The commissioner may approve ~~a~~ *the* dissolution
14 ~~according to the recommendation of a three-fourths~~
15 ~~majority vote by the board of directors of a credit union~~
16 *which is recommended by the vote of a majority of the*
17 *board members of any* the credit union, even if *the*
18 *dissolution is* approved by less than a majority of ~~the~~
19 ~~entire membership as provided in this section~~ *all*
20 *members of the credit union*, if the commissioner finds,
21 upon the written and verified application filed by the
22 board of directors, that (1) notice of the meeting called
23 to consider the dissolution or the written ballot for
24 written vote on the dissolution was mailed to each
25 member entitled to vote upon the question, (2) ~~such~~ *the*
26 notice or ~~such~~ *the* written ballot disclosed the purpose of
27 the meeting or the written vote and informed the
28 membership that approval of the dissolution might be
29 sought pursuant to this section, and (3) a majority of the
30 votes cast upon the question were in favor of the
31 dissolution.

32 (c) Whenever the members of the board of directors
33 vote to recommend the dissolution of any credit union,
34 the credit union shall not make any loans, withdrawal of
35 shares, or withdrawal of certificates for funds until the
36 members approve or disapprove the recommendation of
37 the board of directors.

38 SEC. 45. Section 15251 of the Financial Code is
39 amended to read:



1 15251. If the dissolution of the credit union is voted
2 *upon and approved*, the board of directors of the credit
3 union shall elect a committee of three members or may
4 by resolution appoint a liquidating agent to liquidate the
5 assets of the credit union. If the commissioner is
6 appointed liquidating agent, the commissioner may act as
7 liquidating agent or appoint ~~either the National Credit~~
8 ~~Union Administration or the California Credit Union~~
9 ~~Share Guaranty Corporation~~ as liquidating agent.
10 Whenever the commissioner is appointed liquidating
11 agent, the credit union shall surrender its certificate to act
12 as a credit union.

13 SEC. 46. Section 15307 of the Financial Code is
14 repealed.

15 ~~15307. Notwithstanding any provision to the contrary,~~
16 ~~the commissioner shall ratably return to the credit union~~
17 ~~converting to a federal charter pursuant to this article,~~
18 ~~any charges and assessments collected pursuant to~~
19 ~~Section 14350. The portion of the charges and assessments~~
20 ~~collected pursuant to Section 14350 shall be ratably~~
21 ~~returned on a monthly basis for the months after the~~
22 ~~month in which the conversion to a federal charter is~~
23 ~~effective.~~

24 SEC. 47. Chapter 11 (commencing with Section
25 16100) of Division 5 of the Financial Code is repealed.

