

CERTIFICATION OF ENROLLMENT

SENATE BILL 5300

64th Legislature
2015 Regular Session

Passed by the Senate March 9, 2015
Yeas 49 Nays 0

President of the Senate

Passed by the House April 9, 2015
Yeas 77 Nays 19

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5300** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5300

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Senators Benton, Mullet, Fain, Darneille, Hobbs, and Angel; by request of Department of Financial Institutions

Read first time 01/19/15. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to updating the department of financial
2 institutions' regulatory enforcement powers regarding credit unions
3 and organizations providing services to credit unions; amending RCW
4 31.12.005, 31.12.195, 31.12.225, 31.12.285, 31.12.326, 31.12.345,
5 31.12.367, 31.12.372, 31.12.404, 31.12.413, 31.12.436, 31.12.461,
6 31.12.464, 31.12.471, 31.12.516, 31.12.545, 31.12.575, 31.12.585,
7 31.12.595, and 31.12.674; and adding a new section to chapter 31.12
8 RCW.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **Sec. 1.** RCW 31.12.005 and 2013 c 34 s 1 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, as used in this
13 chapter:

14 (1) "Board" means the board of directors of a credit union.

15 (2) "Board officer" means an officer of the board elected under
16 RCW 31.12.265(1).

17 (3) "Branch" of a credit union, out-of-state credit union, or
18 foreign credit union means any facility that meets all of the
19 following criteria:

20 (a) The facility is a staffed physical facility;

1 (b) The facility is owned or leased in whole or part by the
2 credit union or its credit union service organization; and

3 (c) Deposits and withdrawals may be made, or shares purchased,
4 through staff at the facility.

5 (4) "Capital" means a credit union's reserves, undivided
6 earnings, and allowance for loan and lease losses, and other items
7 that may be included under RCW 31.12.413 or by rule or order of the
8 director.

9 (5) "Credit union" means a credit union organized and operating
10 under this chapter.

11 (6) "Credit union service organization" means an organization
12 that a credit union has invested in pursuant to RCW 31.12.436(1)(h),
13 or a credit union service organization invested in by an out-of-
14 state, federal, or foreign credit union.

15 (7) "Department" means the department of financial institutions.

16 (8) "Director" means the director of financial institutions.

17 (9) "Federal credit union" means a credit union organized and
18 operating under the laws of the United States.

19 (10) "Financial institution" means any commercial bank, trust
20 company, savings bank, or savings and loan association, whether state
21 or federally chartered, and any credit union, out-of-state credit
22 union, or federal credit union.

23 (11) "Foreign credit union" means a credit union organized and
24 operating under the laws of another country or other foreign
25 jurisdiction.

26 (12) "Insolvency" means:

27 (a) If, under United States generally accepted accounting
28 principles, the recorded value of the credit union's assets are less
29 than its obligations to its share account holders, depositors,
30 creditors, and others; or

31 (b) If it is likely that the credit union will be unable to pay
32 its obligations or meet its share account holders' and depositors'
33 demands in the normal course of business.

34 (13) "Loan" means any loan, overdraft line of credit, extension
35 of credit, or lease, in whole or in part.

36 (14) "Material violation of law" means:

37 (a) If the credit union or person has violated a material
38 provision of:

39 (i) Law;

40 (ii) Any cease and desist order issued by the director;

1 (iii) Any condition imposed in writing by the director in
2 connection with the approval of any application or other request of
3 the credit union; or

4 (iv) Any supervisory agreement, or any other written agreement
5 entered into with the director;

6 (b) If the credit union or person has concealed any of the credit
7 union's books, papers, records, or assets, or refused to submit the
8 credit union's books, papers, records, or affairs for inspection to
9 any examiner of the state or, as appropriate, to any examiner of the
10 national credit union administration; or

11 (c) If a member of a credit union board of directors or
12 supervisory committee, or an officer of a credit union, has breached
13 his or her fiduciary duty to the credit union.

14 (15) "Membership share" means an initial share that a credit
15 union may require a person to purchase in order to establish and
16 maintain membership in a credit union.

17 (16) "Net worth" means a credit union's capital, less the
18 allowance for loan and lease losses.

19 (17) "Operating officer" means an employee of a credit union
20 designated as an officer pursuant to RCW 31.12.265(2).

21 (18) "Organization" means a corporation, partnership,
22 association, limited liability company, trust, or other organization
23 or entity.

24 (19) "Out-of-state credit union" means a credit union organized
25 and operating under the laws of another state or United States
26 territory or possession.

27 (20) "Person" means an organization or a natural person
28 including, but not limited to, a sole proprietorship.

29 (21) "Principally" or "primarily" means more than one-half.

30 (22) "Senior operating officer" includes:

31 (a) An operating officer who is a vice president or above; and

32 (b) Any employee who has policy-making authority.

33 (23) "Significantly undercapitalized" means a net worth to total
34 assets ratio of less than four percent.

35 (24) "Small credit union" means a credit union with up to ten
36 million dollars in total assets.

37 (25) "Unsafe or unsound condition" means, but is not limited to:

38 (a) If the credit union is insolvent;

39 (b) If the credit union has incurred or is likely to incur losses
40 that will deplete all or substantially all of its net worth;

1 (c) If the credit union is in imminent danger of losing its share
2 and deposit insurance or guarantee; or

3 (d) If the credit union is significantly undercapitalized.

4 (26) "Unsafe or unsound practice" means any action, or lack of
5 action, which is contrary to generally accepted standards of prudent
6 operation, the likely consequences of which, if continued, would be
7 abnormal risk of loss or danger to a credit union, its members, or an
8 organization insuring or guaranteeing its shares and deposits.

9 (27) "Low-income member" means a member whose family income is
10 not more than eighty percent of the median family income for the
11 metropolitan statistical area where the member lives or for the
12 national metropolitan area where the member lives, whichever is
13 greater, or a member or potential member who earns not more than
14 eighty percent of the total median earnings for individuals for the
15 metropolitan statistical area where the member lives or for the
16 national metropolitan area where the member lives, whichever is
17 greater. For members living outside of a metropolitan statistical
18 area, the department must apply the statewide or national
19 nonmetropolitan area median family income or total median earnings
20 for individuals.

21 **Sec. 2.** RCW 31.12.195 and 2013 c 34 s 2 are each amended to read
22 as follows:

23 (1) Unless a unanimous vote by a supervisory committee is
24 required for a suspension pursuant to RCW 31.12.345, a special
25 membership meeting of a credit union may be called by a majority of
26 the board, a majority vote of the supervisory committee, or upon
27 written application of at least ten percent or two thousand of the
28 members of a credit union, whichever is less.

29 (2) A request for a special membership meeting of a credit union
30 shall be in writing and shall state specifically the purpose or
31 purposes for which the meeting is called. At this meeting, only those
32 agenda items detailed in the written request may be considered. If
33 the special membership meeting is being called for the removal of one
34 or more directors, the request shall state the name of the director
35 or directors whose removal is sought.

36 (3)(a) Upon receipt of a request for a special membership
37 meeting, the secretary of the credit union shall designate the time
38 and place at which the special membership meeting will be held. The
39 designated place of the meeting must be a reasonable location within

1 the county in which the principal place of business of the credit
2 union is located, unless provided otherwise by the bylaws. The
3 designated time of the membership meeting must be no later than
4 ninety days after the request is received by the secretary.

5 (b) The secretary shall give notice of the meeting at least
6 thirty days before the special membership meeting, or within such
7 other reasonable time period as may be provided by the bylaws. The
8 notice must include the purpose or purposes for which the meeting is
9 called, and, if the special membership meeting is being called for
10 the removal of one or more directors, or members of a supervisory
11 committee, the notice must state the name of the director or
12 directors, or member or members of the supervisory committee, whose
13 removal is sought.

14 (4) Except as provided in this subsection, the chairperson of the
15 board shall preside over special membership meetings. If the purpose
16 of the special meeting includes the proposed removal of the
17 chairperson, the next highest ranking board officer whose removal is
18 not sought shall preside over the special meeting. If the removal of
19 all board officers is sought, the chairperson of the supervisory
20 committee shall preside over the special meeting.

21 (5) Special membership meetings shall be conducted according to
22 the rules of procedure approved by the board.

23 **Sec. 3.** RCW 31.12.225 and 2013 c 34 s 3 are each amended to read
24 as follows:

25 (1) The business and affairs of a credit union shall be managed
26 by a board of not less than five and not greater than fifteen
27 directors.

28 (2) The directors must be elected at the credit union's annual
29 membership meeting. They shall hold their offices until their
30 successors are qualified and elected or appointed.

31 (3) Directors shall be elected to terms of between one and three
32 years, as provided in the bylaws. If the terms are longer than one
33 year, the directors must be divided into classes, and an equal number
34 of directors, as nearly as possible, must be elected each year.

35 (4) Except as provided in subsection (5) of this section, any
36 vacancy on the board must be filled by an interim director appointed
37 by the board, unless the interim director would serve a term of fewer
38 than ninety days. Interim directors appointed to fill vacancies
39 created by expansion of the board will serve until the next annual

1 meeting of members. Other interim directors will serve out the
2 unexpired term of the former director, unless provided otherwise in
3 the credit union's bylaws.

4 (5) In the case of a merger between two credit unions pursuant to
5 RCW 31.12.461, a board member of the merging credit union may
6 continue to serve as a board member of the continuing credit union
7 for a period not to exceed the equivalent of the duration of his or
8 her unexpired term on the board of the merging credit union, provided
9 that the approved plan of merger or other agreement approved by the
10 director provides for such service on the continuing credit union's
11 board with a corresponding expansion in the size of the continuing
12 credit union's board not to exceed the limits under subsection (1) of
13 this section.

14 (6) The board will have at least six regular meetings each year,
15 with at least one of these meetings held in each calendar quarter.
16 The director may require the board to meet more frequently than six
17 times per year if the director finds it necessary in order to address
18 matters noted in any examination.

19 (7) The director may adopt rules to interpret this section.

20 **Sec. 4.** RCW 31.12.285 and 2013 c 34 s 5 are each amended to read
21 as follows:

22 The board may, for cause, suspend a member of the board or a
23 member of the supervisory committee until a special membership
24 meeting, called for that purpose, is held under RCW 31.12.195. The
25 membership meeting must be held within (~~sixty~~)ninety days after the
26 suspension. The members attending the meeting shall vote whether to
27 remove a suspended party. For purposes of this section, "cause"
28 includes demonstrated financial irresponsibility, a breach of
29 fiduciary duty to the credit union, or activities which, in the
30 judgment of the board, threaten the safety and soundness of the
31 credit union.

32 **Sec. 5.** RCW 31.12.326 and 2001 c 83 s 10 are each amended to
33 read as follows:

34 (1) A supervisory committee of at least three members must be
35 elected at the annual membership meeting of the credit union. Members
36 of the supervisory committee shall serve a term of three years,
37 unless sooner removed under this chapter or until their successors
38 are qualified and elected or appointed. The members of the

1 supervisory committee shall be divided into classes so that as equal
2 a number as is possible is elected each year.

3 (2)(a) If a supervisory committee member is absent from more than
4 one-third of the committee meetings in any twelve-month period in a
5 term without being reasonably excused by the committee, the member
6 shall no longer serve as a member of the committee for the period
7 remaining in the term.

8 (b) The supervisory committee shall promptly notify the member
9 that he or she shall no longer serve as a committee member. Failure
10 to provide notice does not affect the termination of the member's
11 service under (a) of this subsection.

12 (3) A supervisory committee member must be a natural person and a
13 member of the credit union. If a member of the supervisory committee
14 ceases to be a member of the credit union, the member shall no longer
15 serve as a committee member. The chairperson of the supervisory
16 committee may not serve as a board officer.

17 (4) Except as provided in subsection (5) of this section, any
18 vacancy on the committee must be filled by an interim member
19 appointed by the committee, unless the interim member would serve a
20 term of fewer than ninety days. Interim members appointed to fill
21 vacancies created by expansion of the committee will serve until the
22 next annual meeting of members. Other interim members may serve out
23 the unexpired term of the former member, unless provided otherwise by
24 the credit union's bylaws. However, if all positions on the committee
25 are vacant at the same time, the board may appoint interim members to
26 serve until the next annual membership meeting.

27 (5) In the case of a merger between two credit unions pursuant to
28 RCW 31.12.461, a supervisory committee member of the merging credit
29 union may continue to serve as a supervisory committee member of the
30 continuing credit union for a period not to exceed the equivalent of
31 the duration of his or her unexpired term on the supervisory
32 committee of the merging credit union, provided that the approved
33 plan of merger or other agreement approved by the director provides
34 for such service on the continuing credit union's supervisory
35 committee with a corresponding expansion in the size of the
36 continuing credit union's supervisory committee.

37 (6) No operating officer or employee of a credit union may serve
38 on the credit union's supervisory committee. No more than one
39 director may be a member of the supervisory committee at the same
40 time, unless provided otherwise by the credit union's bylaws. No

1 member of the supervisory committee may serve on the credit committee
2 or investment committee of the credit union while serving on the
3 supervisory committee.

4 **Sec. 6.** RCW 31.12.345 and 1997 c 397 s 24 are each amended to
5 read as follows:

6 (1) The supervisory committee may, by unanimous vote, for cause,
7 suspend a member of the board, until a special membership meeting
8 called for that purpose is held in accordance with the requirements
9 of RCW 31.12.195. The membership meeting must be held within
10 ~~((thirty))~~ninety days after the suspension. The members
11 ~~((attending))~~participating in that meeting shall vote whether to
12 remove the suspended ~~((party or parties))~~person or persons. ~~((The~~
13 ~~supervisory committee may, by unanimous vote, for cause, suspend~~
14 ~~members of other committees until a membership meeting is held. The~~
15 ~~meeting must be held within thirty days after the suspension. The~~
16 ~~members attending that meeting shall vote whether to remove the~~
17 ~~suspended party or parties.))~~

18 (2) For purposes of this section, "cause" includes demonstrated
19 financial irresponsibility, a breach of fiduciary duty to the credit
20 union, or activities which, in the judgment of the supervisory
21 committee, threaten the safety and soundness of the credit union.

22 **Sec. 7.** RCW 31.12.367 and 2001 c 83 s 13 are each amended to
23 read as follows:

24 (1) Each credit union must be adequately insured against risk. In
25 addition, each director, officer, committee member, and employee of a
26 credit union must be adequately bonded.

27 (2) When a credit union receives notice that its fidelity bond
28 coverage will be suspended or terminated, the credit union shall
29 notify the director in writing not less than thirty-five days prior
30 to the effective date of the ~~((notice of))~~ suspension or termination.

31 **Sec. 8.** RCW 31.12.372 and 2010 c 87 s 17 are each amended to
32 read as follows:

33 (1) The director may issue and serve ~~((an—order~~
34 ~~suspending))~~written notice of charges under RCW 31.12.575 to suspend
35 a person from further participation in any manner in the conduct of
36 the affairs of a credit union if the director determines that such an

1 action is necessary for the protection of the credit union or the
2 interests of the credit union's members.

3 (2) Any suspension ((~~order~~))notice issued by the director is
4 effective upon service and, unless the superior court of the county
5 in which the primary place of business of the credit union is located
6 issues a stay of the ((~~order~~))notice, remains in effect and
7 enforceable until ((~~completion of the administrative proceedings~~
8 ~~under RCW 31.12.575~~)):

9 (a) The director dismisses the charges contained in the notice
10 served on the person; or

11 (b) The effective date of a final order for removal of the person
12 pursuant to administrative proceedings under RCW 31.12.625.

13 ((~~+2~~))(3) With the suspension ((~~order~~))notice, the director
14 shall serve a notice of intent to remove or prohibit under RCW
15 31.12.575.

16 ((~~+3~~))(4) Within ten days after the person has been served with
17 the suspension ((~~order~~))notice, the person may apply to the superior
18 court of the county in which the primary place of business of the
19 credit union is located for an injunction setting aside, limiting, or
20 ((~~suspending~~))holding in abeyance the ((~~order~~))suspension notice
21 pending the completion of the administrative proceedings under the
22 notice issued under subsection ((~~+2~~))(3) of this section.

23 ((~~+4~~))(5) In the case of a violation or threatened violation of
24 a suspension ((~~order~~))notice, the director may apply to the superior
25 court of the county in which the primary place of business of the
26 credit union is located for an injunction to enforce the
27 ((~~order~~))notice, and the court shall issue an injunction if it
28 determines that there has been a violation or threatened violation.

29 ((~~+5~~))(6) For the purposes of this section, the principal place
30 of business of a foreign or out-of-state credit union is Thurston
31 county.

32 **Sec. 9.** RCW 31.12.404 and 2001 c 83 s 15 are each amended to
33 read as follows:

34 (1) Notwithstanding any other provision of law, and in addition
35 to all powers and authorities, express or implied, that a credit
36 union has under the laws of this state, a credit union has the powers
37 and authorities that a federal credit union had on December 31, 1993,
38 or a subsequent date not later than ((~~July 22, 2001~~))the effective
39 date of this section.

1 (2) Notwithstanding any other provision of law, and in addition
2 to the powers and authorities, express or implied, that a credit
3 union has under subsection (1) of this section, a credit union has
4 the powers and authorities that a federal credit union has, and an
5 out-of-state credit union operating a branch in Washington has,
6 subsequent to ~~((July 22, 2001))~~ the effective date of this section, if
7 the director finds that the exercise of the power and authority
8 serves the convenience and advantage of members of credit unions, and
9 maintains the fairness of competition and parity between credit
10 unions and federal or out-of-state credit unions. However, a credit
11 union:

12 (a) Must still comply with RCW 31.12.408; and

13 (b) Is not granted the field of membership powers or authorities
14 of any out-of-state credit union operating a branch in Washington.

15 (3) The restrictions, limitations, and requirements applicable to
16 specific powers or authorities of federal or out-of-state credit
17 unions apply to credit unions exercising those powers or authorities
18 permitted under this section but only insofar as the restrictions,
19 limitations, and requirements relate to the specific exercise of the
20 powers or authorities granted credit unions solely under this
21 section.

22 (4) As used in this section, "powers and authorities" include,
23 but are not limited to, powers and authorities in corporate
24 governance matters.

25 **Sec. 10.** RCW 31.12.413 and 2001 c 83 s 16 are each amended to
26 read as follows:

27 (1) A credit union may apply in writing to the director for
28 designation as a low-income credit union. The criteria for approval
29 of this designation are as follows:

30 (a) At least fifty percent of a substantial and well-defined
31 segment of the credit union's members or potential primary members
32 ~~((earn no more than eighty percent of the state or national median
33 income, whichever is higher))~~ are low-income members;

34 (b) The credit union must submit an acceptable written plan on
35 marketing to and serving the well-defined segment;

36 (c) The credit union must agree to submit annual reports to the
37 director on its service to the well-defined segment; and

38 (d) The credit union must submit other information and satisfy
39 other criteria as may be required by the director.

1 (2)(a) Among other powers and authorities, a low-income credit
2 union may:

3 (i) Issue secondary capital accounts approved in advance by the
4 director upon application of the credit union; and

5 (ii) Accept shares and deposits from nonmembers.

6 (b) A secondary capital account is:

7 (i) Over one hundred thousand dollars, or a higher amount as
8 established by the director;

9 (ii) Nontransactional;

10 (iii) Owned by a nonnatural person; and

11 (iv) Subordinate to other creditors.

12 (3) The director may adopt rules for the organization and
13 operation of low-income credit unions including, but not limited to,
14 rules concerning secondary capital accounts and requiring disclosures
15 to the purchasers of the accounts.

16 **Sec. 11.** RCW 31.12.436 and 2013 c 34 s 8 are each amended to
17 read as follows:

18 (1) A credit union may invest its funds in any of the following,
19 as long as the investments are deemed prudent by the board:

20 (a) Loans held by credit unions, out-of-state credit unions, or
21 federal credit unions; loans to members held by other lenders; and
22 loans to nonmembers held by other lenders, with the approval of the
23 director;

24 (b) Bonds, securities, or other investments that are fully
25 guaranteed as to principal and interest by the United States
26 government, and general obligations of this state and its political
27 subdivisions;

28 (c) Obligations issued by corporations designated under 31 U.S.C.
29 Sec. 9101, or obligations, participations or other instruments issued
30 and guaranteed by the federal national mortgage association, federal
31 home loan mortgage corporation, government national mortgage
32 association, or other government-sponsored enterprise;

33 (d) Participations or obligations which have been subjected by
34 one or more government agencies to a trust or trusts for which an
35 executive department, agency, or instrumentality of the United States
36 has been named to act as trustee;

37 (e) Share or deposit accounts of other financial institutions,
38 the accounts of which are federally insured or insured or guaranteed
39 by another insurer or guarantor approved by the director. The shares

1 and deposits made by a credit union under this subsection (1)(e) may
2 exceed the insurance or guarantee limits established by the
3 organization insuring or guaranteeing the institution into which the
4 shares or deposits are made;

5 (f) Common trust or mutual funds whose investment portfolios
6 consist of securities issued or guaranteed by the federal government
7 or an agency of the government;

8 (g) Up to five percent of the capital of the credit union, in
9 debt or equity issued by an organization owned by the (~~Washington~~
10 ~~credit union league~~) Northwest credit union association or its
11 successor credit union association;

12 (h) Shares, stocks, loans, or other obligations of organizations
13 whose primary purpose is to strengthen, advance, or provide services
14 to the credit union industry or credit union members. A credit union
15 may in the aggregate invest an amount not to exceed one percent of
16 its assets in organizations under this subsection (1)(h). In
17 addition, a credit union may in the aggregate lend an amount not to
18 exceed one percent of its assets to organizations under this
19 subsection (1)(h). These limits do not apply to investments in, and
20 loans to, an organization:

21 (i) That is wholly owned by one or more credit unions or federal
22 or out-of-state credit unions; and

23 (ii) Whose activities are limited exclusively to those authorized
24 by this chapter for a credit union;

25 (i) Loans to credit unions, out-of-state credit unions, or
26 federal credit unions(~~(-)~~), provided that the aggregate of such loans
27 issued under this subsection (1)(i) is limited to twenty-five percent
28 of the total shares and deposits of the (~~(lending)~~) credit union
29 making the loans;

30 (j) Key person insurance policies and investment products related
31 to employee benefits, the proceeds of which inure exclusively to the
32 benefit of the credit union;

33 (k) A registered investment company or collective investment
34 fund, as long as the prospectus of the company or fund restricts the
35 investment portfolio to investments and investment transactions that
36 are permissible for credit unions; or

37 (1) Other investments approved by the director upon written
38 application.

39 (2) If a credit union has lawfully made an investment that later
40 becomes impermissible because of a change in circumstances or law,

1 and the director finds that this investment will have an adverse
2 effect on the safety and soundness of the credit union, then the
3 director may require that the credit union develop a reasonable plan
4 for the divestiture of the investment.

5 **Sec. 12.** RCW 31.12.461 and 2014 c 8 s 1 are each amended to read
6 as follows:

7 (1) For purposes of this section, ~~((the))~~a "merging credit union"
8 is ~~((the))~~a credit union whose charter ceases to exist upon merger
9 with the continuing credit union~~((The))~~, and a "continuing credit
10 union" is ~~((the))~~a credit union whose charter continues upon merger
11 with the merging credit union.

12 (2) A credit union may be merged with another credit union with
13 the approval ~~((of))~~by the director ~~((and))~~of a plan of merger or in
14 accordance with requirements the director may otherwise prescribe.
15 The merger must be approved by a majority vote of the board of each
16 credit union and a majority vote of those members of the merging
17 credit union voting on the merger at a membership meeting. The
18 requirement of approval by the members of the merging credit union
19 may be waived by the director if the merging credit union is in
20 imminent danger of insolvency.

21 (3) The property, rights, and interests of the merging credit
22 union transfer to and vest in the continuing credit union without
23 deed, endorsement, or instrument of transfer, although instruments of
24 transfer may be used if their use is deemed appropriate. The debts
25 and obligations of the merging credit union that are known or
26 reasonably should be known are assumed by the continuing credit
27 union.

28 (4) The continuing credit union shall cause to be published
29 notice of merger once a week for three consecutive weeks in a
30 newspaper of general circulation in the county in which the principal
31 place of business of the merging credit union is located.

32 (5) The notice of merger must also inform creditors of the
33 merging credit union how to make a claim on the continuing credit
34 union, and that if a claim is not made upon the continuing credit
35 union within thirty days of the last date of publication, creditors'
36 claims that are not known by the continuing credit union ~~((may~~
37 ~~be))~~are thereafter barred.

38 (6) Except for claims filed as requested by the notice, or debts
39 or obligations that are known or reasonably should be known by the

1 continuing credit union, the debts and obligations of the merging
2 credit union are discharged.

3 (7) Upon merger, the charter of the merging credit union ceases
4 to exist.

5 ((4)) (8) Mergers are effective after the thirty-day notice
6 period to creditors and all regulatory waiting periods have expired,
7 and upon filing of the credit union's articles of merger by the
8 secretary of state, or a later date stated in the articles, which in
9 no event may be later than ninety days after the articles are filed.

10 **Sec. 13.** RCW 31.12.464 and 2001 c 83 s 22 are each amended to
11 read as follows:

12 (1) A credit union may merge or convert into a federal credit
13 union as authorized by the federal credit union act. The merger or
14 conversion must be approved by a ((two-thirds)) majority vote of
15 those credit union members voting at a membership meeting, unless the
16 credit union prescribes in its bylaws a higher percentage approval
17 vote than a simple majority.

18 (2) If the merger or conversion is approved by the members, a
19 copy of the resolution certified by the secretary must be filed with
20 the director within ten days of approval. The board may effect the
21 merger or conversion upon terms agreed by the board and the federal
22 regulator.

23 (3) A certified copy of the federal credit union charter or
24 authorization issued by the federal regulator must be filed with the
25 director and thereupon the credit union ceases to exist except for
26 the purpose of winding up its affairs and prosecuting or defending
27 any litigation by or against the credit union. For all other
28 purposes, the credit union is merged or converted into a federal
29 credit union and the credit union may execute, acknowledge, and
30 deliver to the successor federal credit union the instruments of
31 transfer, conveyance, and assignment that are necessary or desirable
32 to complete the merger or conversion, and the property, tangible or
33 intangible, and all rights, titles, and interests that are agreed to
34 by the board and the federal regulator.

35 (4) Mergers and conversions are effective after all applicable
36 regulatory waiting periods have expired and upon filing of the credit
37 union's articles of merger or articles of conversion, as appropriate,
38 by the secretary of state, or a later date stated in the articles,

1 which in no event may be later than ninety days after the articles
2 are filed.

3 (5) Procedures, similar to those contained in subsections (1)
4 through (4) of this section, prescribed by the director must be
5 followed when a credit union merges or converts into an out-of-state
6 or foreign credit union, or other type of financial institution.

7 **Sec. 14.** RCW 31.12.471 and 2001 c 83 s 24 are each amended to
8 read as follows:

9 (1) An out-of-state or foreign credit union may not operate a
10 branch in Washington unless:

11 (a) The director has approved its application in accordance with
12 this section;

13 (b) A credit union organized and operating under this chapter is
14 permitted to do business in the state or foreign jurisdiction in
15 which the credit union is organized;

16 (c) The interest rate charged by the credit union on loans made
17 to members residing in this state does not exceed the maximum
18 interest rate permitted in the state or jurisdiction in which the
19 credit union is organized, or exceed the maximum interest rate that a
20 credit union organized and operating under this chapter is permitted
21 to charge on similar loans, whichever is lower;

22 (d) The credit union has secured surety bond and fidelity bond
23 coverages satisfactory to the director;

24 (e) The credit union's share and deposit accounts are insured
25 under the federal share insurance program or an equivalent share
26 insurance program in compliance with RCW 31.12.408;

27 (f) The credit union submits to the director an annual
28 examination report of its most recently completed fiscal year;

29 (g) The credit union has not had its authority to do business in
30 another state or foreign jurisdiction suspended or revoked;

31 (h) The credit union complies with:

32 (i) The provisions concerning field of membership in this chapter
33 and rules adopted by the director; and

34 (ii) Such other provisions of this chapter and rules adopted by
35 the director, as determined by the director; and

36 (i) In addition, if the credit union is a foreign credit union:

37 (i) A treaty or agreement between the United States and the
38 jurisdiction where the credit union is organized requires the

1 director to permit the credit union to operate a branch in
2 Washington; and

3 (ii) The director determines that the credit union has
4 substantially the same characteristics as a credit union organized
5 and operating under this chapter.

6 (2) The director shall deny an application filed under this
7 section or, upon notice and an opportunity for hearing, suspend or
8 revoke the approval of an application, if the director finds that the
9 standards of organization, operation, and regulation of the applicant
10 do not reasonably conform with the standards under this chapter. In
11 considering the standards of organization, operation, and regulation
12 of the applicant, the director may consider the laws of the state or
13 foreign jurisdiction in which the applicant is organized. A decision
14 under this subsection may be appealed under chapter 34.05 RCW.

15 (3) In implementing this section, the director may cooperate with
16 credit union regulators in other states or jurisdictions and may
17 share with the regulators the information received in the
18 administration of this chapter.

19 (4) The director may enter into supervisory agreements with
20 out-of-state and foreign credit unions and their regulators to
21 prescribe the applicable laws governing the powers and authorities of
22 Washington branches of the out-of-state or foreign credit unions. The
23 director may also enter into supervisory agreements with the credit
24 union regulators in other states or foreign jurisdictions to
25 prescribe the applicable laws governing the powers and authorities of
26 out-of-state or foreign branches and other facilities of credit
27 unions. The agreements may address, but are not limited to, corporate
28 governance and operational matters. The agreements may resolve any
29 conflict of laws, and specify the manner in which the examination,
30 supervision, and application processes must be coordinated with the
31 regulators.

32 (5) A person, other than a credit union, out-of-state credit
33 union, or foreign credit union, may not hold itself out in this state
34 as engaging in the business of a credit union unless it is a credit
35 union under this chapter, a federal credit union, an out-of-state
36 credit union, or a foreign credit union.

37 (6) A person, wherever domiciled and regardless of the location
38 or mode of its business, may not designate itself as or use the term
39 "credit union" to refer to itself in any communication for purpose of
40 conducting credit union business with a resident of the state of

1 Washington, unless such person is a credit union under this chapter,
2 federal credit union, out-of-state credit union, or foreign credit
3 union.

4 (7) The director may adopt rules for the periodic examination and
5 investigation of the affairs of an out-of-state credit union or
6 foreign credit union operating a branch in this state.

7 **Sec. 15.** RCW 31.12.516 and 2010 c 87 s 4 are each amended to
8 read as follows:

9 (1) The powers of supervision and examination of credit unions
10 and other persons subject to this chapter and chapter 31.13 RCW are
11 vested in the director.

12 (2) The director shall require each credit union to conduct
13 business in compliance with this chapter and may require each credit
14 union to conduct business in compliance with other state and federal
15 laws that apply to credit unions.

16 (3) The director has the power to commence and prosecute actions
17 and proceedings ~~((, to))~~ against and enjoin violations ~~((, and to))~~ of
18 this chapter and chapter 31.13 RCW by any person holding itself out
19 to be a credit union, federal credit union, out-of-state credit
20 union, foreign credit union, or corporate credit union. The director
21 may, in connection with such enforcement of this chapter and chapter
22 31.13 RCW, collect sums, including fines, ((due the state of
23 Washington from a credit union)) costs, and reasonable attorneys' fees
24 for actions commenced or prosecuted on its behalf.

25 (4) Upon a written finding, the director may temporarily suspend
26 or restrict withdrawal of deposits in a credit union.

27 ~~((+2))~~ (5) The director may adopt such rules as are reasonable or
28 necessary to carry out the purposes of this chapter and chapter 31.13
29 RCW.

30 (6) Chapter 34.05 RCW ~~((will))~~, whenever applicable, governs the
31 rights, remedies, and procedures respecting the administration of
32 this chapter.

33 ~~((+3))~~ (7) The director may by rule provide appropriate relief
34 for small credit unions from requirements under this chapter or rules
35 of the director. However, small credit unions must still comply with
36 RCW 31.12.408.

37 ~~((+4))~~ (8) The director shall have the power and broad
38 administrative discretion to administer and interpret the provisions

1 of this chapter and chapter 31.13 RCW, to facilitate the delivery of
2 financial services to the members of a credit union.

3 ~~((+5))~~(9) Nonfederally insured credit unions, nonfederally
4 insured out-of-state credit unions, and nonfederally insured foreign
5 credit unions operating in this state as permitted by RCW 31.12.408
6 and 31.12.471, as applicable, must comply with safety and soundness
7 requirements established by the director.

8 ~~((+6))~~(10) The director may charge fees to credit unions and
9 other persons subject to examination and investigation under this
10 chapter and chapter 31.13 RCW, and to other parties where the
11 division contracts out its services, in order to cover the costs of
12 the operation of the division of credit unions, and to establish a
13 reasonable reserve for the division. The director may waive all or a
14 portion of the fees.

15 **Sec. 16.** RCW 31.12.545 and 2010 c 87 s 5 are each amended to
16 read as follows:

17 (1) The director shall make an examination and investigation into
18 the affairs of each credit union at least once every eighteen months,
19 unless the director determines with respect to a credit union, that a
20 less frequent examination schedule will satisfactorily protect the
21 financial stability of the credit union and will satisfactorily
22 assure compliance with the provisions of this chapter.

23 (2) In regard to credit unions, and out-of-state and foreign
24 credit unions permitted to operate a branch in Washington pursuant to
25 RCW 31.12.471, the director:

26 (a) Shall have full access to the credit union's books and
27 records and files, including but not limited to computer files;

28 (b) May appraise and revalue the credit union's investments; and

29 (c) May require the credit union to charge off or set up a
30 special reserve for loans and investments.

31 (3) The director may make an examination and investigation into
32 the affairs of:

33 (a) An out-of-state or foreign credit union permitted to operate
34 a branch in Washington pursuant to RCW 31.12.471;

35 (b) A nonpublicly held organization, or its subsidiary, in which
36 a credit union has a material investment;

37 (c) A publicly held organization the capital stock or equity of
38 which is controlled by a credit union;

1 (d) A credit union service organization, or any tier subsidiary
2 of a credit union service organization, in which a credit union has
3 an interest;

4 (e) An organization that is not a credit union, out-of-state
5 credit union, federal credit union, or foreign credit union, and that
6 has a majority interest in a credit union service organization in
7 which a credit union has an interest;

8 (f) A sole proprietorship or organization primarily in the
9 business of managing one or more credit unions;

10 (g) A person providing electronic data processing services to a
11 credit union or to a credit union service organization; (~~and~~)or

12 (h) A corporation or other business entity that provides
13 alternative share insurance in accordance with RCW 31.12.408.

14 The director shall have full access to the books, records,
15 personnel, and files, including but not limited to computer files, of
16 persons described in this subsection.

17 (4) In connection with examinations and investigations, the
18 director may:

19 (a) Administer oaths and examine under oath any person concerning
20 the affairs of any credit union or of any person described in
21 subsection (3) of this section; and

22 (b) Issue subpoenas to and require the attendance and testimony
23 of any person at any place within this state, and require witnesses
24 to produce any books and records and files, including but not limited
25 to computer files, that are material to an examination or
26 investigation.

27 (5) The director may accept in lieu of an examination under this
28 section:

29 (a) The report of an examiner authorized to examine a credit
30 union or an out-of-state, federal, or foreign credit union, or other
31 financial institution; or

32 (b) The report of an accountant, satisfactory to the director,
33 who has made and submitted a report of the condition of the affairs
34 of a credit union or an out-of-state, federal, or foreign credit
35 union, or other financial institution. The director may accept all or
36 part of such a report in lieu of all or part of an examination. The
37 accepted report or accepted part of the report has the same force and
38 effect as an examination under this section.

1 **Sec. 17.** RCW 31.12.575 and 2010 c 87 s 8 are each amended to
2 read as follows:

3 The director may issue and serve a credit union director,
4 supervisory committee member, officer, or employee with written
5 notice of intent to remove the person from office or employment or to
6 prohibit the person from participating in the conduct of the affairs
7 of the credit union or any (~~credit union~~)other depository
8 institution, trust company, bank holding company, thrift holding
9 company, or financial holding company doing business in Washington
10 state in accordance with RCW 31.12.625 whenever, in the opinion of
11 the director:

12 (1)(a) The person has committed a material violation of law or an
13 unsafe or unsound practice; or

14 (b) The person has committed a violation or practice involving
15 personal dishonesty, recklessness, or incompetence; and

16 (2)(a) The credit union has suffered or is likely to suffer
17 substantial financial loss or other damage; or

18 (b) The interests of the credit union's share account holders and
19 depositors could be seriously prejudiced by reason of the violation
20 or practice.

21 NEW SECTION. **Sec. 18.** A new section is added to chapter 31.12
22 RCW to read as follows:

23 (1) A notice under RCW 31.12.575 must contain a statement of the
24 facts that constitute grounds for removal or prohibition and must fix
25 a time and place at which a hearing will be held. If the notice under
26 RCW 31.12.575 is accompanied by a notice of suspension under RCW
27 31.12.372, the notice of suspension must reference the statement of
28 facts in the notice under RCW 31.12.575 as the basis for its
29 issuance.

30 (2) The hearing must be set not earlier than ten days after the
31 date of service of the notice or later than thirty days after the
32 date of service of the notice unless an earlier or later date is set
33 by the director at the request of the credit union director,
34 supervisory committee member, officer, or employee for good cause
35 shown or of the attorney general of the state.

36 (3) Unless the credit union director, supervisory committee
37 member, officer, or employee, after being served with the notice,
38 appears at the hearing personally or by a duly authorized
39 representative, the person is deemed to have consented to the

1 issuance of an order of removal or prohibition or both. In the event
2 of such consent or if upon the record made at the hearing the
3 director finds that any of the grounds specified in the notice have
4 been established, the director may issue such orders of removal from
5 office or prohibition from participation in the conduct of the
6 affairs of the credit union or any other depository institution,
7 trust company, bank holding company, thrift holding company, or
8 financial holding company doing business in Washington state as the
9 director may consider appropriate.

10 (4) An order becomes effective at the expiration of ten days
11 after service upon the credit union and the credit union director,
12 supervisory committee member, officer, or employee concerned, except
13 that an order issued upon consent becomes effective at the time
14 specified in the order.

15 (5) An order remains effective except to the extent it is stayed,
16 modified, terminated, or set aside by the director or a reviewing
17 court.

18 **Sec. 19.** RCW 31.12.585 and 2010 c 87 s 9 are each amended to
19 read as follows:

20 (1) The director may issue and serve any ~~((entity))~~person
21 regulated by this chapter with a written notice of charges and intent
22 to issue a cease and desist order if, in the opinion of the director,
23 the ~~((regulated entity))~~person has committed or is about to commit:

24 ~~((+1))~~(a) A material violation of law; or

25 ~~((+2))~~(b) An unsafe or unsound practice.

26 (2) Upon taking effect, the order may require the ~~((regulated~~
27 ~~entity))~~person and its directors, supervisory committee members,
28 officers, employees, and agents to cease and desist from the
29 violation or practice and may require them to take affirmative action
30 to correct the conditions resulting from the violation or practice.

31 **Sec. 20.** RCW 31.12.595 and 2010 c 87 s 10 are each amended to
32 read as follows:

33 (1) If the director determines that the violation or practice
34 specified in RCW 31.12.585 is likely to cause an unsafe or unsound
35 condition at ~~((the))~~a credit union or a credit union service
36 organization, or the public is likely to be substantially injured by
37 delay in issuing a cease and desist order, the director may
38 immediately issue and serve a temporary cease and desist order upon

1 the credit union, credit union service organization, or other
2 applicable person identified in RCW 31.12.545(3). The order may
3 require the credit union, credit union service organization, or other
4 applicable person under RCW 31.12.545(3), and its directors,
5 supervisory committee members, officers, employees, and agents, to
6 cease and desist from the violation or practice and may require them
7 to take affirmative action to correct the conditions resulting from
8 the violation or practice.

9 (2) With the temporary order, the director shall serve a notice
10 of charges and intent to issue a cease and desist order under RCW
11 31.12.585 in the matter.

12 (3) The temporary order becomes effective upon service on the
13 ~~((credit union))~~person and remains effective until completion of the
14 administrative proceedings under the notice issued under subsection
15 (2) of this section.

16 (4) Within ten days after a ~~((credit union))~~person has been
17 served with a temporary order, the credit union may apply to the
18 superior court in the county of its principal place of business for
19 an injunction setting aside, limiting, or suspending the order
20 pending the completion of the administrative proceedings under the
21 notice issued under subsection (2) of this section.

22 (5) In the case of a violation or threatened violation of a
23 temporary order, the director may apply to the superior court of the
24 county of the principal place of business of the ~~((credit~~
25 ~~union))~~person for an injunction to enforce the order, and the court
26 shall issue an injunction if it determines that there has been a
27 violation or threatened violation.

28 (6) For the purposes of this section, the principal place of
29 business of a foreign or out-of-state credit union, out-of-state
30 credit union service organization, or other out-of-state person under
31 RCW 31.12.545(3) is Thurston county.

32 **Sec. 21.** RCW 31.12.674 and 2010 c 87 s 14 are each amended to
33 read as follows:

34 (1) Within ten days after the ~~((receiver takes possession of a~~
35 credit union's assets))director issues an order of involuntary
36 liquidation of a credit union pursuant to RCW 31.12.664(2) or order
37 appointing a receiver for a credit union pursuant to RCW 31.12.671,
38 the credit union may serve a notice upon the ~~((receiver))~~director to
39 appear at a hearing before the superior court of the county in which

1 the principal place of business of the credit union is located and at
2 a time to be fixed by the court, which may not be less than five or
3 more than fifteen days from the date of the service of the
4 notice((7)). At the hearing, the credit union has the burden to show
5 cause why the ((credit union should not be restored to the possession
6 of its assets. For the purposes of this section, the principal place
7 of business of a foreign or out-of-state credit union is Thurston
8 county))director's action ordering involuntary liquidation or
9 appointing a receiver should not be affirmed.

10 (2) The court shall summarily hear and dismiss the complaint if
11 it finds that the ((receiver was appointed))order of involuntary
12 liquidation or order appointing receiver was issued for cause.
13 However, if the court finds that no cause existed for ((appointment
14 of the receiver))the order of involuntary liquidation or order
15 appointing receiver, the court shall require the ((receiver))director
16 to restore the credit union to possession of its assets and enjoin
17 the director from involuntary liquidation of the credit union or
18 further appointment of a receiver for the credit union without cause.

19 (3) Failure of the credit union to serve notice of show cause
20 hearing on the director as required under subsection (1) of this
21 section bars a credit union from any judicial review of a director's
22 order of involuntary liquidation under RCW 31.12.664(2) or of a
23 director's appointment of receiver under RCW 31.12.671.

24 (4) For the purposes of this section, the principal place of
25 business of a foreign or out-of-state credit union is Thurston
26 county.

27 NEW SECTION. Sec. 22. If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

--- END ---