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** | 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.  **Chief Clerk** |
| Approved |  |
| **Governor of the State of Washington** | **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

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

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

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

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

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

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

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

(a) The facility is a staffed physical facility;

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

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

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

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

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

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

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

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

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

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

(12) "Insolvency" means:

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

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

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

(14) "Material violation of law" means:

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

(i) Law;

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

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

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

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

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

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

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

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

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

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

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

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

(22) "Senior operating officer" includes:

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

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

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

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

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

(a) If the credit union is insolvent;

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

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

(d) If the credit union is significantly undercapitalized.

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

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

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

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

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

(3)(a) Upon receipt of a request for a special membership meeting, the secretary of the credit union shall designate the time and place at which the special membership meeting will be held. The designated place of the meeting must be a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws. The designated time of the membership meeting must be no later than ninety days after the request is received by the secretary.

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

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

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

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

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

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

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

(4) Except as provided in subsection (5) of this section, any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

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

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

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

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

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

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

(1) A supervisory committee of at least three members must be elected at the annual membership meeting of the credit union. Members of the supervisory committee shall serve a term of three years, unless sooner removed under this chapter or until their successors are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is elected each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The director may issue and serve ((~~an order suspending~~))written notice of charges under RCW 31.12.575 to suspend a person from further participation in any manner in the conduct of the affairs of a credit union if the director determines that such an action is necessary for the protection of the credit union or the interests of the credit union's members.

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

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

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

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

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

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

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

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

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

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

(a) Must still comply with RCW 31.12.408; and

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

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

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

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

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

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

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

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

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

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

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

(ii) Accept shares and deposits from nonmembers.

(b) A secondary capital account is:

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

(ii) Nontransactional;

(iii) Owned by a nonnatural person; and

(iv) Subordinate to other creditors.

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

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

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

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

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

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

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

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

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

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

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

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

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

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

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

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

(l) Other investments approved by the director upon written application.

(2) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

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

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

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

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

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

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

(6) Except for claims filed as requested by the notice, or debts or obligations that are known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged.

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

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

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

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

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

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

(4) Mergers and conversions are effective after all applicable regulatory waiting periods have expired and upon filing of the credit union's articles of merger or articles of conversion, as appropriate, by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

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

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

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

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

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

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

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

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

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

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

(h) The credit union complies with:

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

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

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

(i) A treaty or agreement between the United States and the jurisdiction where the credit union is organized requires the director to permit the credit union to operate a branch in Washington; and

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

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

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

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

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

(6) A person, wherever domiciled and regardless of the location or mode of its business, may not designate itself as or use the term "credit union" to refer to itself in any communication for purpose of conducting credit union business with a resident of the state of Washington, unless such person is a credit union under this chapter, federal credit union, out-of-state credit union, or foreign credit union.

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

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

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

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

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

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

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

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

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

((~~(4)~~))(8) The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter and chapter 31.13 RCW, to facilitate the delivery of financial services to the members of a credit union.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Unless the credit union director, supervisory committee member, officer, or employee, after being served with the notice, appears at the hearing personally or by a duly authorized representative, the person is deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established, the director may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the credit union or any other depositary institution, trust company, bank holding company, thrift holding company, or financial holding company doing business in Washington state as the director may consider appropriate.

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

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

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

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

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

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

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

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

(1) If the director determines that the violation or practice specified in RCW 31.12.585 is likely to cause an unsafe or unsound condition at ((~~the~~))a credit union or a credit union service organization, or the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue and serve a temporary cease and desist order upon the credit union, credit union service organization, or other applicable person identified in RCW 31.12.545(3). The order may require the credit union, credit union service organization, or other applicable person under RCW 31.12.545(3), and its directors, supervisory committee members, officers, employees, and agents, to cease and desist from the violation or practice and may require them to take affirmative action to correct the conditions resulting from the violation or practice.

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

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

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

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

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

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

(1) Within ten days after the ((~~receiver takes possession of a credit union's assets~~))director issues an order of involuntary liquidation of a credit union pursuant to RCW 31.12.664(2) or order appointing a receiver for a credit union pursuant to RCW 31.12.671, the credit union may serve a notice upon the ((~~receiver~~))director to appear at a hearing before the superior court of the county in which the principal place of business of the credit union is located and at a time to be fixed by the court, which may not be less than five or more than fifteen days from the date of the service of the notice((~~,~~)). At the hearing, the credit union has the burden to show cause why the ((~~credit union should not be restored to the possession of its assets. For the purposes of this section, the principal place of business of a foreign or out-of-state credit union is Thurston county~~))director's action ordering involuntary liquidation or appointing a receiver should not be affirmed.

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

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

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

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

**--- END ---**