
HOUSE BILL 2830

State of Washington 61st Legislature 2010 Regular Session

By Representatives Simpson, Bailey, Kirby, Kelley, Rodne, and Nelson;
by request of Department of Financial Institutions

Read first time 01/14/10. Referred to Committee on Financial
Institutions & Insurance.

1 AN ACT Relating to credit union regulatory enforcement powers;
2 amending RCW 31.12.005, 31.12.085, 31.12.267, 31.12.516, 31.12.545,
3 31.12.565, 31.12.569, 31.12.575, 31.12.585, 31.12.595, 31.12.625,
4 31.12.651, 31.12.671, 31.12.674, and 31.12.850; adding new sections to
5 chapter 31.12 RCW; prescribing penalties; and declaring an emergency.

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

7 **Sec. 1.** RCW 31.12.005 and 2001 c 83 s 1 are each amended to read
8 as follows:

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

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

12 (2) "Board officer" means an officer of the board elected under RCW
13 31.12.265(1).

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

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

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

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

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

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

8 (6) "Credit union service organization" means an organization that
9 a credit union has invested in pursuant to RCW 31.12.436(8), or a
10 credit union service organization invested in by an out-of-state,
11 federal, or foreign credit union.

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

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

14 ~~((+8))~~ (9) "Federal credit union" means a credit union organized
15 and operating under the laws of the United States.

16 ~~((+9))~~ (10) "Financial institution" means any commercial bank,
17 trust company, savings bank, or savings and loan association, whether
18 state or federally chartered, and any credit union, out-of-state credit
19 union, or federal credit union.

20 ~~((+10))~~ (11) "Foreign credit union" means a credit union organized
21 and operating under the laws of another country or other foreign
22 jurisdiction.

23 ~~((+11))~~ (12) "Insolvency" means:

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

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

31 ~~((+12))~~ (13) "Loan" means any loan, overdraft line of credit,
32 extension of credit, or lease, in whole or in part.

33 ~~((+13))~~ (14) "Material violation of law" means:

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

36 (i) Law;

37 (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 the
3 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 any
9 examiner of the state or, as appropriate, to any examiner of the
10 national credit union administration; or

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

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

17 (~~(15)~~) (16) "Net worth" means a credit union's capital, less the
18 allowance for loan and lease losses.

19 (~~(16)~~) (17) "Operating officer" means an employee of a credit
20 union designated as an officer pursuant to RCW 31.12.265(2).

21 (~~(17)~~) (18) "Organization" means a corporation, partnership,
22 association, limited liability company, trust, or other organization or
23 entity.

24 (~~(18)~~) (19) "Out-of-state credit union" means a credit union
25 organized and operating under the laws of another state or United
26 States territory or possession.

27 (~~(19)~~) (20) "Person" means an organization or a natural person
28 including, but not limited to, a sole proprietorship.

29 (~~(20)~~) (21) "Principally" or "primarily" means more than one-
30 half.

31 (~~(21)~~) (22) "Senior operating officer" includes:

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

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

34 (~~(22)~~) (23) "Significantly undercapitalized" means a net worth to
35 total assets ratio of less than four percent.

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

1 (~~(+23)~~) (25) "Unsafe or unsound condition" means, but is not
2 limited to:

- 3 (a) If the credit union is insolvent;
- 4 (b) If the credit union has incurred or is likely to incur losses
5 that will deplete all or substantially all of its net worth; (~~(or)~~)
- 6 (c) If the credit union is in imminent danger of losing its share
7 and deposit insurance or guarantee; or
- 8 (d) If the credit union is significantly undercapitalized.

9 (~~(+24)~~) (26) "Unsafe or unsound practice" means any action, or
10 lack of action, which is contrary to generally accepted standards of
11 prudent operation, the likely consequences of which, if continued,
12 would be abnormal risk of loss or danger to a credit union, its
13 members, or an organization insuring or guaranteeing its shares and
14 deposits.

15 **Sec. 2.** RCW 31.12.085 and 2001 c 83 s 3 are each amended to read
16 as follows:

17 (1) Upon approval under RCW 31.12.075(2), the director shall
18 deliver a copy of the articles of incorporation to the secretary of
19 state for filing. Upon receipt of the approved articles of
20 incorporation (~~(and a twenty dollar filing fee)~~) provided by the
21 applicants, and the secretary of state filing fee paid by the
22 department, the secretary of state shall file the articles of
23 incorporation.

24 (2) Upon filing of the approved articles of incorporation by the
25 secretary of state, the persons named in the articles of incorporation
26 and their successors may conduct business as a credit union, having the
27 powers, duties, and obligations set forth in this chapter. A credit
28 union may not conduct business until the articles have been filed by
29 the secretary of state.

30 (3) A credit union shall organize and begin conducting business
31 within six months of the date that its articles of incorporation are
32 filed by the secretary of state or its charter is void. However, the
33 director may grant extensions of the six-month period.

34 **Sec. 3.** RCW 31.12.267 and 2001 c 83 s 9 are each amended to read
35 as follows:

36 (1) Directors, board officers, supervisory committee members, and

1 senior operating officers (~~(are deemed to stand in)~~) owe a fiduciary
2 (~~(relationship)~~) duty to the credit union, and must discharge the
3 duties of their respective positions:

4 ~~((+1))~~ (a) In good faith;

5 ~~((+2))~~ (b) With the care an ordinarily prudent person in a like
6 position would exercise under similar circumstances; and

7 ~~((+3))~~ (c) In a manner the director or officer reasonably believes
8 to be in the best interests of the credit union.

9 (2) In discharging the duties of a director, a director is entitled
10 to rely on information, opinions, reports, or statements, including
11 financial statements and other financial data, if prepared or presented
12 by:

13 (a) One or more officers or employees of the credit union whom the
14 director reasonably believes to be reliable and competent in the
15 matters presented;

16 (b) Legal counsel, public accountants, or other persons as to
17 matters the director reasonably believes are within the person's
18 professional or expert competence; or

19 (c) A committee of the board of directors of which the director is
20 not a member if the director reasonably believes the committee merits
21 confidence.

22 (3) A director is not acting in good faith if the director has
23 knowledge concerning the matter in question that makes reliance
24 otherwise permitted by subsection (2) of this section unwarranted.

25 (4) A director is not liable for any action taken as a director, or
26 any failure to take any action, if the director performed the duties of
27 the director's office in compliance with this section.

28 **Sec. 4.** RCW 31.12.516 and 2001 c 83 s 26 are each amended to read
29 as follows:

30 (1) The powers of supervision and examination of credit unions and
31 other persons subject to this chapter and chapter 31.13 RCW are vested
32 in the director. The director shall require each credit union to
33 conduct business in compliance with this chapter and may require each
34 credit union to conduct business in compliance with other state and
35 federal laws that apply to credit unions. The director has the power
36 to commence and prosecute actions and proceedings, to enjoin

1 violations, and to collect sums, including fines, due the state of
2 Washington from a credit union.

3 (2) The director may adopt such rules as are reasonable or
4 necessary to carry out the purposes of this chapter and chapter 31.13
5 RCW. Chapter 34.05 RCW will, whenever applicable, govern the rights,
6 remedies, and procedures respecting the administration of this chapter.

7 (3) The director may by rule provide appropriate relief for small
8 credit unions from requirements under this chapter or rules of the
9 director. However, small credit unions must still comply with RCW
10 31.12.408.

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

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

20 (6) The director may charge fees to credit unions and other persons
21 subject to examination and investigation under this chapter and chapter
22 31.13 RCW, and to other parties where the division contracts out its
23 services, in order to cover the costs of the operation of the division
24 of credit unions, and to establish a reasonable reserve for the
25 division. The director may waive all or a portion of the fees.

26 **Sec. 5.** RCW 31.12.545 and 2001 c 83 s 27 are each amended to read
27 as follows:

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

34 (2) In regard to credit unions, and out-of-state and foreign credit
35 unions permitted to operate a branch in Washington pursuant to RCW
36 31.12.471, the director:

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

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

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

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

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

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

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

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

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

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

23 (g) A person providing electronic data processing services to a
24 credit union; and

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

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

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

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

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

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

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

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

13 **Sec. 6.** RCW 31.12.565 and 2005 c 274 s 254 are each amended to
14 read as follows:

15 (1) The following are confidential and privileged and not subject
16 to public disclosure under chapter 42.56 RCW:

17 (a) Examination reports and information obtained by the director in
18 conducting examinations and investigations under this chapter and
19 chapter 31.13 RCW;

20 (b) Examination reports and related information from other
21 financial institution regulators obtained by the director;

22 (c) Reports or parts of reports accepted in lieu of an examination
23 under RCW 31.12.545; (~~and~~)

24 (d) Business plans and other proprietary information obtained by
25 the director in connection with a credit union's application or notice
26 to the director; and

27 (e) Regulatory enforcement actions, including without limitation
28 any consent order or temporary or final order.

29 (2) Notwithstanding subsection (1) of this section, the director
30 may furnish examination reports workpapers, final orders, or other
31 information obtained in the conduct of an examination or investigation
32 prepared by the director to:

33 (a) Federal agencies empowered to examine credit unions or other
34 financial institutions;

35 (b) Officials empowered to investigate criminal charges. The
36 director may furnish only that part of the report which is necessary
37 and pertinent to the investigation, and only after notifying the

1 affected credit union and members of the credit union who are named in
2 that part of the examination report, or other person examined, that the
3 report is being furnished to the officials, unless the officials
4 requesting the report obtain a waiver of the notice requirement for
5 good cause from a court of competent jurisdiction;

6 (c) The examined credit union or other person examined, solely for
7 its confidential use;

8 (d) The attorney general in his or her role as legal advisor to the
9 director;

10 (e) Prospective merger partners or conservators, receivers, or
11 liquidating agents of a distressed credit union;

12 (f) Credit union regulators in other states or foreign
13 jurisdictions regarding an out-of-state or foreign credit union
14 conducting business in this state under this chapter, or regarding a
15 credit union conducting business in the other state or jurisdiction;

16 (g) A person officially connected with the credit union or other
17 person examined, as officer, director, supervisory committee member,
18 attorney, auditor, accountant, independent attorney, independent
19 auditor, or independent accountant;

20 (h) Organizations that have bonded the credit union to the extent
21 that information is relevant to the renewal of the bond coverage or to
22 a claim under the bond coverage;

23 (i) Organizations insuring or guaranteeing the shares of, or
24 deposits in, the credit union; or

25 (j) Other persons as the director may determine necessary to
26 protect the public interest and confidence.

27 (3) Examination reports, work papers, temporary and final orders,
28 consent orders, and other information obtained in the conduct of an
29 examination or investigation furnished under subsection (2) of this
30 section remain the property of the director and no person to whom
31 reports are furnished or any officer, director, or employee thereof may
32 disclose or make public the reports or information contained in the
33 reports except in published statistical information that does not
34 disclose the affairs of a person, except that nothing prevents the use
35 in a criminal prosecution of reports furnished under subsection (2)(b)
36 of this section.

37 (4) In a civil action in which the reports or information are
38 sought to be discovered or used as evidence, a party may, upon notice

1 to the director, petition the court for an in-camera review of the
2 reports or information. The court may permit discovery and
3 introduction of only those portions of the report or information which
4 are relevant and otherwise unobtainable by the requesting party. This
5 subsection does not apply to an action brought or defended by the
6 director.

7 (5) This section does not apply to investigation reports prepared
8 by the director concerning an application for a new credit union or a
9 notice of intent to establish a branch of a credit union, except that
10 the director may adopt rules making portions of the reports
11 confidential, if in the director's opinion the public disclosure of
12 that portion of the report would impair the ability to obtain
13 information the director considers necessary to fully evaluate the
14 application.

15 (6) Any person who knowingly violates a provision of this section
16 is guilty of a gross misdemeanor.

17 **Sec. 7.** RCW 31.12.569 and 2001 c 83 s 30 are each amended to read
18 as follows:

19 Credit unions will comply with the provisions of United States
20 generally accepted accounting principles as required by federal law or
21 rule of the director. In adopting rules to implement this section, the
22 director shall consider, among other relevant factors, whether to
23 transition small credit unions to generally accepted accounting
24 principles over a period of time.

25 **Sec. 8.** RCW 31.12.575 and 2001 c 83 s 32 are each amended to read
26 as follows:

27 The director may issue and serve a credit union director,
28 supervisory committee member, officer, or employee with written notice
29 of intent to remove the person from office or employment or to prohibit
30 the person from participating in the conduct of the affairs of the
31 credit union or any credit union doing business in Washington state in
32 accordance with RCW 31.12.625 whenever, in the opinion of the director:

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

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

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

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

6 ~~(3) The violation or practice involves personal dishonesty,~~
7 ~~recklessness, or incompetence)).~~

8 **Sec. 9.** RCW 31.12.585 and 2001 c 83 s 33 are each amended to read
9 as follows:

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

15 (1) A material violation of law; or

16 (2) An unsafe or unsound practice.

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

22 **Sec. 10.** RCW 31.12.595 and 2001 c 83 s 34 are each amended to read
23 as follows:

24 (1) If the director determines that the violation or practice
25 specified in RCW 31.12.585 is likely to cause an unsafe or unsound
26 condition at the credit union, the director may issue and serve a
27 temporary cease and desist order. The order may require the credit
28 union and its directors, supervisory committee members, officers,
29 employees, and agents to cease and desist from the violation or
30 practice and may require them to take affirmative action to correct the
31 conditions resulting from the violation or practice.

32 (2) With the temporary order, the director shall serve a notice of
33 charges and intent to issue a cease and desist order under RCW
34 31.12.585 in the matter.

35 (3) The temporary order becomes effective upon service on the

1 credit union and remains effective until completion of the
2 administrative proceedings under the notice issued under subsection (2)
3 of this section.

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

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

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

18 **Sec. 11.** RCW 31.12.625 and 2001 c 83 s 35 are each amended to read
19 as follows:

20 An administrative hearing on the notice provided for in RCW
21 31.12.575 and 31.12.585 must be conducted in accordance with chapter
22 34.05 RCW(~~provided that~~), and may be conducted by the director or
23 the director's designee. To the extent the requirements of this
24 chapter are inconsistent with chapter 34.05 RCW, this chapter will
25 govern. The hearing may be held at such place as is designated by the
26 director. The hearing shall be private unless the director determines
27 that a public hearing is necessary to protect the public interest after
28 fully considering the views of the party afforded the hearing.

29 **Sec. 12.** RCW 31.12.651 and 1997 c 397 s 64 are each amended to
30 read as follows:

31 (1) As authorized by RCW 31.12.637, the director may, upon due
32 notice and hearing conducted by the director or the director's
33 designee, appoint a conservator for a credit union. The director may
34 appoint himself or herself or another qualified party as conservator of
35 the credit union. The conservator shall immediately take charge of the
36 credit union and all of its property, books, records, and effects.

1 (2) The conservator shall conduct the business of the credit union
2 and take such steps toward the removal of the causes and conditions
3 that have necessitated the appointment of a conservator, as the
4 director may direct. The conservator is authorized to, without
5 limitation:

6 (a) Take all necessary measures to preserve, protect, and recover
7 any assets or property of the credit union, including any claim or
8 cause of action belonging to or which may be asserted by the credit
9 union, and administer the same in his or her own name as conservator;
10 and

11 (b) File, prosecute, and defend any suit that has been filed or may
12 be filed by or against the credit union that is deemed by the
13 conservator to be necessary to protect all of the interested parties or
14 a property affected thereby.

15 The conservator shall make such reports to the director from time
16 to time as may be required by the director.

17 (3) All costs incident to conservatorship will be a charge against
18 the assets of the credit union to be allowed and paid as the director
19 may determine.

20 (4) If at any time the director determines that the credit union is
21 not in condition to continue business under the conservator in the
22 interest of its share account holders, depositors, or creditors, and
23 grounds exist under RCW 31.12.637, the director may proceed with
24 appointment of a liquidating agent or receiver in accordance with this
25 chapter.

26 (5) The director, the department and its employees, and third
27 parties acting as conservators are not subject to liability for actions
28 under this section, and no departmental funds may be required to be
29 expended on behalf of the credit union, or its creditors, employees,
30 members, or any other party or entity.

31 **Sec. 13.** RCW 31.12.671 and 1997 c 397 s 70 are each amended to
32 read as follows:

33 (1) As authorized by RCW 31.12.637, the director may without prior
34 notice appoint a receiver to take possession of a credit union. The
35 director may appoint the national credit union administration or other
36 qualified party as receiver. Upon appointment, the receiver is
37 authorized to act without bond. Upon acceptance of the appointment,

1 the receiver shall have and possess all the powers and privileges
2 provided by the laws of this state with respect to the receivership of
3 a credit union, and be subject to all the duties of and restrictions
4 applicable to such a receiver, except insofar as such powers,
5 privileges, duties, or restrictions are in conflict with any applicable
6 provision of the federal credit union act.

7 Upon taking possession of the credit union, the receiver shall give
8 written notice to the directors of the credit union and to all persons
9 having possession of any assets of the credit union. No person with
10 knowledge of the taking of possession by the receiver shall have a lien
11 or charge for any payment advanced, clearance made, or liability
12 incurred against any of the assets of the credit union, after the
13 receiver takes possession, unless approved by the receiver.

14 (2) The director, the department and its employees, and any third-
15 party receiver acting on behalf of the department are not subject to
16 liability for actions taken pursuant to appointment of a receiver under
17 this section. Funds of the department may not be required to be
18 expended on behalf of the credit union or its members, directors,
19 officers, employees, or any other person.

20 **Sec. 14.** RCW 31.12.674 and 1997 c 397 s 71 are each amended to
21 read as follows:

22 Within ten days after the receiver takes possession of a credit
23 union's assets, the credit union may serve notice upon the receiver to
24 appear before the superior court of the county in which the principal
25 place of business of the credit union is located and at a time to be
26 fixed by the court, which may not be less than five or more than
27 fifteen days from the date of the service of the notice, to show cause
28 why the credit union should not be restored to the possession of its
29 assets. For the purposes of this section, the principal place of
30 business of a foreign or out-of-state credit union is Thurston county.

31 The court shall summarily hear and dismiss the complaint if it
32 finds that the receiver was appointed for cause. However, if the court
33 finds that no cause existed for appointment of the receiver, the court
34 shall require the receiver to restore the credit union to possession of
35 its assets and enjoin the director from further appointment of a
36 receiver for the credit union without cause.

1 **Sec. 15.** RCW 31.12.850 and 2003 c 53 s 193 are each amended to
2 read as follows:

3 (1)(a) It is unlawful for a director, supervisory committee member,
4 officer, employee, or agent of a credit union to knowingly violate or
5 consent to a violation of this chapter.

6 (b) It is unlawful for any person to knowingly make or disseminate
7 a false report or other misrepresentation about the financial condition
8 of any credit union.

9 (c) Unless otherwise provided by law, a violation of this
10 subsection is a misdemeanor under chapter 9A.20 RCW.

11 (2)(a) It is unlawful for a person to perform any of the following
12 acts:

13 (i) To knowingly subscribe to, make, or cause to be made a false
14 statement or entry in the books of a credit union;

15 (ii) To knowingly make a false statement or entry in a report
16 required to be made to the director; or

17 (iii) To knowingly exhibit a false or fictitious paper, instrument,
18 or security to a person authorized to examine a credit union.

19 (b) A violation of this subsection is a class C felony under
20 chapter 9A.20 RCW.

21 NEW SECTION. **Sec. 16.** A new section is added to chapter 31.12 RCW
22 to read as follows:

23 (1) The department is authorized to assess civil fines to the
24 credit union for violation of any of the following:

25 (a) Any material provision of this chapter or related rules;

26 (b) Any final or temporary order, including a cease and desist,
27 suspension, removal, or prohibition order;

28 (c) Any supervisory agreement;

29 (d) Any condition imposed in writing in connection with the grant
30 of any application or other request; or

31 (e) Any other written agreement entered into with the director.

32 (2) At the option of the director, a violation of this section
33 subjects the violator to a fine of up to ten thousand dollars per
34 violation. A continuing violation shall be considered a single
35 violation for this purpose. The fine is payable upon issuance of any
36 order or directive of the director, and may be recovered by the
37 attorney general in a civil action in the name of the department.

1 (3) The department is authorized to adopt rules for the
2 implementation of this section.

3 NEW SECTION. **Sec. 17.** A new section is added to chapter 31.12 RCW
4 to read as follows:

5 (1) The director may issue and serve an order suspending a person
6 from further participation in any manner in the conduct of the affairs
7 of a credit union if the director determines that such an action is
8 necessary for the protection of the credit union or the interests of
9 the credit union members. Any suspension order issued by the director
10 is effective upon service and, unless the superior court of the county
11 in which the primary place of business of the credit union is located
12 issues a stay of the order, remains in effect and enforceable until
13 completion of the administrative proceedings under RCW 31.12.575.

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

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

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

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

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

32 After the taking of possession of the property and business of a
33 credit union, through conservatorship or receivership, the conservator
34 or receiver may terminate or adopt any executory contract to which the
35 credit union may be a party, including leases of real or personal
36 property. The termination or adoption shall be made within six months

1 after obtaining knowledge of the existence of the contract or lease.
2 Any provision in the contract or lease which provides for damages or
3 cancellation fees upon termination shall not be binding on the
4 conservator, receiver, or credit union. The director, conservator, or
5 receiver, and credit union are not liable for damages.

6 NEW SECTION. **Sec. 19.** A new section is added to chapter 31.12 RCW
7 to read as follows:

8 If at any time because of the removal of one or more credit union
9 directors under this chapter, the board of directors of a credit union
10 has less than a quorum of directors, all powers and functions vested in
11 or exercisable by the board vest in and are exercisable by the director
12 or directors remaining until such a time as there is a quorum on the
13 board of directors. If all of the directors of a credit union are
14 removed under this chapter, the director of the department of financial
15 institutions shall appoint persons to serve temporarily as directors of
16 the credit union until such a time as their respective successors take
17 office.

18 NEW SECTION. **Sec. 20.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.

--- END ---