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HOUSE BILL 1062

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Stanford, Kirby, Gregerson, Vick, and Ryu; by request of Department of Financial Institutions

Prefiled 12/31/14. Read first time 01/12/15. Referred to Committee on Business & Financial Services.

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  
26 the suspension. The members attending the meeting shall vote whether  
27 to 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 suspending))~~  
34 written notice of charges under RCW 31.12.575 to suspend a person  
35 from further participation in any manner in the conduct of the  
36 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 (~~(order)~~)  
27 notice, and the court shall issue an injunction if it determines that  
28 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,  
7 if 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  
8 union" is ~~((the))~~ a credit union whose charter ceases to exist upon  
9 merger with the continuing credit union~~((The))~~, and a "continuing  
10 credit union" is ~~((the))~~ a credit union whose charter continues upon  
11 merger 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 be))~~  
37 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'  
24 fees 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  
28 or necessary to carry out the purposes of this chapter and chapter  
29 31.13 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 union))~~  
25 person for an injunction to enforce the order, and the court shall  
26 issue an injunction if it determines that there has been a violation  
27 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))  
16 director to restore the credit union to possession of its assets and  
17 enjoin the director from involuntary liquidation of the credit union  
18 or further appointment of a receiver for the credit union without  
19 cause.

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

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

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

--- END ---