

In the Senate of the United States,

July 28, 1998.

Resolved, That the bill from the House of Representatives (H.R. 1151) entitled “An Act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
3 *“Credit Union Membership Access Act”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents for*
5 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—CREDIT UNION MEMBERSHIP

Sec. 101. Fields of membership.

- Sec. 102. *Criteria for approval of expansion of membership of multiple common-bond credit unions.*
 Sec. 103. *Geographical guidelines for community credit unions.*

TITLE II—REGULATION OF CREDIT UNIONS

- Sec. 201. *Financial statement and audit requirements.*
 Sec. 202. *Conversion of insured credit unions.*
 Sec. 203. *Limitation on member business loans.*
 Sec. 204. *National Credit Union Administration Board membership.*
 Sec. 205. *Report and congressional review requirement for certain regulations.*

TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS

- Sec. 301. *Prompt corrective action.*
 Sec. 302. *National credit union share insurance fund equity ratio, available assets ratio, and standby premium charge.*
 Sec. 303. *Access to liquidity.*

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. *Study and report on differing regulatory treatment.*
 Sec. 402. *Update on review of regulations and paperwork reductions.*
 Sec. 403. *Treasury report on reduced taxation and viability of small banks.*

1 SEC. 2. FINDINGS.

2 *The Congress finds the following:*

3 (1) *The American credit union movement began*
 4 *as a cooperative effort to serve the productive and*
 5 *provident credit needs of individuals of modest*
 6 *means.*

7 (2) *Credit unions continue to fulfill this public*
 8 *purpose, and current members and membership*
 9 *groups should not face divestiture from the financial*
 10 *services institution of their choice as a result of recent*
 11 *court action.*

12 (3) *To promote thrift and credit extension, a*
 13 *meaningful affinity and bond among members, mani-*
 14 *fested by a commonality of routine interaction, shared*
 15 *and related work experiences, interests, or activities,*

1 *or the maintenance of an otherwise well-understood*
2 *sense of cohesion or identity is essential to the fulfill-*
3 *ment of the public mission of credit unions.*

4 *(4) Credit unions, unlike many other partici-*
5 *pants in the financial services market, are exempt*
6 *from Federal and most State taxes because they are*
7 *member-owned, democratically operated, not-for-profit*
8 *organizations generally managed by volunteer boards*
9 *of directors and because they have the specified mis-*
10 *sion of meeting the credit and savings needs of con-*
11 *sumers, especially persons of modest means.*

12 *(5) Improved credit union safety and soundness*
13 *provisions will enhance the public benefit that citizens*
14 *receive from these cooperative financial services insti-*
15 *tutions.*

16 **SEC. 3. DEFINITIONS.**

17 *As used in this Act—*

18 *(1) the term “Administration” means the Na-*
19 *tional Credit Union Administration;*

20 *(2) the term “Board” means the National Credit*
21 *Union Administration Board;*

22 *(3) the term “Federal banking agencies” has the*
23 *same meaning as in section 3 of the Federal Deposit*
24 *Insurance Act;*

1 (4) the terms “insured credit union” and “State-
2 chartered insured credit union” have the same mean-
3 ings as in section 101 of the Federal Credit Union
4 Act; and

5 (5) the term “Secretary” means the Secretary of
6 the Treasury.

7 **TITLE I—CREDIT UNION**
8 **MEMBERSHIP**

9 **SEC. 101. FIELDS OF MEMBERSHIP.**

10 Section 109 of the Federal Credit Union Act (12
11 U.S.C. 1759) is amended—

12 (1) in the first sentence—

13 (A) by striking “Federal credit union mem-
14 bership shall consist of” and inserting “(a) IN
15 GENERAL.—Subject to subsection (b), Federal
16 credit union membership shall consist of”; and

17 (B) by striking “, except that” and all that
18 follows through “rural district”; and

19 (2) by adding at the end the following new sub-
20 sections:

21 “(b) **MEMBERSHIP FIELD.**—Subject to the other provi-
22 sions of this section, the membership of any Federal credit
23 union shall be limited to the membership described in 1 of
24 the following categories:

1 “(1) *SINGLE COMMON-BOND CREDIT UNION.*—1
2 *group that has a common bond of occupation or asso-*
3 *ciation.*

4 “(2) *MULTIPLE COMMON-BOND CREDIT UNION.*—
5 *More than 1 group—*

6 “(A) *each of which has (within the group)*
7 *a common bond of occupation or association;*
8 *and*

9 “(B) *the number of members of each of*
10 *which (at the time the group is first included*
11 *within the field of membership of a credit union*
12 *described in this paragraph) does not exceed any*
13 *numerical limitation applicable under subsection*
14 *(d).*

15 “(3) *COMMUNITY CREDIT UNION.*—*Persons or or-*
16 *ganizations within a well-defined local community,*
17 *neighborhood, or rural district.*

18 “(c) *EXCEPTIONS.*—

19 “(1) *GRANDFATHERED MEMBERS AND*
20 *GROUPS.*—

21 “(A) *IN GENERAL.*—*Notwithstanding sub-*
22 *section (b)—*

23 “(i) *any person or organization that is*
24 *a member of any Federal credit union as of*
25 *the date of enactment of the Credit Union*

1 *Membership Access Act may remain a mem-*
2 *ber of the credit union after that date of en-*
3 *actment; and*

4 “(ii) a member of any group whose
5 members constituted a portion of the mem-
6 bership of any Federal credit union as of
7 that date of enactment shall continue to be
8 eligible to become a member of that credit
9 union, by virtue of membership in that
10 group, after that date of enactment.

11 “(B) *SUCCESSORS.*—If the common bond of
12 any group referred to in subparagraph (A) is de-
13 fined by any particular organization or business
14 entity, subparagraph (A) shall continue to apply
15 with respect to any successor to the organization
16 or entity.

17 “(2) *EXCEPTION FOR UNDERSERVED AREAS.*—
18 Notwithstanding subsection (b), in the case of a Fed-
19 eral credit union, the field of membership category of
20 which is described in subsection (b)(2), the Board
21 may allow the membership of the credit union to in-
22 clude any person or organization within a local com-
23 munity, neighborhood, or rural district if—

24 “(A) the Board determines that the local
25 community, neighborhood, or rural district—

1 “(i) is an ‘investment area’, as defined
2 in section 103(16) of the Community Devel-
3 opment Banking and Financial Institutions
4 Act of 1994 (12 U.S.C. 4703(16)), and
5 meets such additional requirements as the
6 Board may impose; and

7 “(ii) is underserved, based on data of
8 the Board and the Federal banking agencies
9 (as defined in section 3 of the Federal De-
10 posit Insurance Act), by other depository
11 institutions (as defined in section
12 19(b)(1)(A) of the Federal Reserve Act); and

13 “(B) the credit union establishes and main-
14 tains an office or facility in the local commu-
15 nity, neighborhood, or rural district at which
16 credit union services are available.

17 “(d) *MULTIPLE COMMON-BOND CREDIT UNION GROUP*
18 *REQUIREMENTS.*—

19 “(1) *NUMERICAL LIMITATION.*—Except as pro-
20 vided in paragraph (2), only a group with fewer than
21 3,000 members shall be eligible to be included in the
22 field of membership category of a credit union de-
23 scribed in subsection (b)(2).

24 “(2) *EXCEPTIONS.*—In the case of any Federal
25 credit union, the field of membership category of

1 *which is described in subsection (b)(2), the numerical*
2 *limitation in paragraph (1) of this subsection shall*
3 *not apply with respect to—*

4 “(A) *any group that the Board determines,*
5 *in writing and in accordance with the guidelines*
6 *and regulations issued under paragraph (3),*
7 *could not feasibly or reasonably establish a new*
8 *single common-bond credit union, the field of*
9 *membership category of which is described in*
10 *subsection (b)(1) because—*

11 “(i) *the group lacks sufficient volunteer*
12 *and other resources to support the efficient*
13 *and effective operation of a credit union;*

14 “(ii) *the group does not meet the cri-*
15 *teria that the Board has determined to be*
16 *important for the likelihood of success in es-*
17 *tablishing and managing a new credit*
18 *union, including demographic characteris-*
19 *tics such as geographical location of mem-*
20 *bers, diversity of ages and income levels,*
21 *and other factors that may affect the finan-*
22 *cial viability and stability of a credit*
23 *union; or*

24 “(iii) *the group would be unlikely to*
25 *operate a safe and sound credit union;*

1 “(B) any group transferred from another
2 credit union—

3 “(i) in connection with a merger or
4 consolidation recommended by the Board or
5 any appropriate State credit union super-
6 visor based on safety and soundness con-
7 cerns with respect to that other credit
8 union; or

9 “(ii) by the Board in the Board’s ca-
10 pacity as conservator or liquidating agent
11 with respect to that other credit union; or

12 “(C) any group transferred in connection
13 with a voluntary merger, having received condi-
14 tional approval by the Administration of the
15 merger application prior to October 25, 1996,
16 but not having consummated the merger prior to
17 October 25, 1996, if the merger is consummated
18 not later than 180 days after the date of enact-
19 ment of the Credit Union Membership Access
20 Act.

21 “(3) REGULATIONS AND GUIDELINES.—The
22 Board shall issue guidelines or regulations, after no-
23 tice and opportunity for comment, setting forth the
24 criteria that the Board will apply in determining
25 under this subsection whether or not an additional

1 *group may be included within the field of membership*
2 *category of an existing credit union described in sub-*
3 *section (b)(2).*

4 “(e) *ADDITIONAL MEMBERSHIP ELIGIBILITY PROVI-*
5 *SIONS.—*

6 “(1) *MEMBERSHIP ELIGIBILITY LIMITED TO IM-*
7 *MEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No in-*
8 *dividual shall be eligible for membership in a credit*
9 *union on the basis of the relationship of the individ-*
10 *ual to another person who is eligible for membership*
11 *in the credit union, unless the individual is a member*
12 *of the immediate family or household (as those terms*
13 *are defined by the Board, by regulation) of the other*
14 *person.*

15 “(2) *RETENTION OF MEMBERSHIP.—Except as*
16 *provided in section 118, once a person becomes a*
17 *member of a credit union in accordance with this*
18 *title, that person or organization may remain a mem-*
19 *ber of that credit union until the person or organiza-*
20 *tion chooses to withdraw from the membership of the*
21 *credit union.”.*

1 **SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEM-**
2 **BERSHIP OF MULTIPLE COMMON-BOND CRED-**
3 **IT UNIONS.**

4 *Section 109 of the Federal Credit Union Act (12*
5 *U.S.C. 1759) is amended by adding at the end the following*
6 *new subsection:*

7 *“(f) CRITERIA FOR APPROVAL OF EXPANSION OF MUL-*
8 *TIPLE COMMON-BOND CREDIT UNIONS.—*

9 *“(1) IN GENERAL.—The Board shall—*

10 *“(A) encourage the formation of separately*
11 *chartered credit unions instead of approving an*
12 *application to include an additional group with-*
13 *in the field of membership of an existing credit*
14 *union whenever practicable and consistent with*
15 *reasonable standards for the safe and sound op-*
16 *eration of the credit union; and*

17 *“(B) if the formation of a separate credit*
18 *union by the group is not practicable or consist-*
19 *ent with the standards referred to in subpara-*
20 *graph (A), require the inclusion of the group in*
21 *the field of membership of a credit union that is*
22 *within reasonable proximity to the location of*
23 *the group whenever practicable and consistent*
24 *with reasonable standards for the safe and sound*
25 *operation of the credit union.*

1 “(2) *APPROVAL CRITERIA.*—*The Board may not*
2 *approve any application by a Federal credit union,*
3 *the field of membership category of which is described*
4 *in subsection (b)(2) to include any additional group*
5 *within the field of membership of the credit union (or*
6 *an application by a Federal credit union described in*
7 *subsection (b)(1) to include an additional group and*
8 *become a credit union described in subsection (b)(2)),*
9 *unless the Board determines, in writing, that—*

10 “(A) *the credit union has not engaged in*
11 *any unsafe or unsound practice (as defined in*
12 *section 206(b)) that is material during the 1-*
13 *year period preceding the date of filing of the*
14 *application;*

15 “(B) *the credit union is adequately capital-*
16 *ized;*

17 “(C) *the credit union has the administra-*
18 *tive capability to serve the proposed membership*
19 *group and the financial resources to meet the*
20 *need for additional staff and assets to serve the*
21 *new membership group;*

22 “(D) *any potential harm that the expansion*
23 *of the field of membership of the credit union*
24 *may have on any other insured credit union and*
25 *its members is clearly outweighed in the public*

1 *interest by the probable beneficial effect of the ex-*
 2 *pansion in meeting the convenience and needs of*
 3 *the members of the group proposed to be included*
 4 *in the field of membership; and*

5 *“(E) the credit union has met such addi-*
 6 *tional requirements as the Board may prescribe,*
 7 *by regulation.”.*

8 **SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY**
 9 **CREDIT UNIONS.**

10 *Section 109 of the Federal Credit Union Act (12*
 11 *U.S.C. 1759) is amended by adding at the end the following*
 12 *new subsection:*

13 *“(g) REGULATIONS REQUIRED FOR COMMUNITY CRED-*
 14 *IT UNIONS.—*

15 *“(1) DEFINITION OF WELL-DEFINED LOCAL COM-*
 16 *MUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The*
 17 *Board shall prescribe, by regulation, a definition for*
 18 *the term ‘well-defined local community, neighborhood,*
 19 *or rural district’ for purposes of—*

20 *“(A) making any determination with re-*
 21 *gard to the field of membership of a credit union*
 22 *described in subsection (b)(3); and*

23 *“(B) establishing the criteria applicable*
 24 *with respect to any such determination.*

1 “(2) *SCOPE OF APPLICATION.*—The definition
 2 *prescribed by the Board under paragraph (1) shall*
 3 *apply with respect to any application to form a new*
 4 *credit union, or to alter or expand the field of mem-*
 5 *bership of an existing credit union, that is filed with*
 6 *the Board after the date of enactment of the Credit*
 7 *Union Membership Access Act.”.*

8 **TITLE II—REGULATION OF**
 9 **CREDIT UNIONS**

10 **SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIRE-**
 11 **MENTS.**

12 *(a) IN GENERAL.*—Section 202(a)(6) of the Federal
 13 *Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by*
 14 *adding at the end the following new subparagraphs:*

15 “(C) *ACCOUNTING PRINCIPLES.*—

16 “(i) *IN GENERAL.*—Accounting prin-
 17 *ciples applicable to reports or statements re-*
 18 *quired to be filed with the Board by each*
 19 *insured credit union shall be uniform and*
 20 *consistent with generally accepted account-*
 21 *ing principles.*

22 “(ii) *BOARD DETERMINATION.*—If the
 23 *Board determines that the application of*
 24 *any generally accepted accounting principle*
 25 *to any insured credit union is not appro-*

1 *appropriate, the Board may prescribe an ac-*
2 *counting principle for application to the*
3 *credit union that is no less stringent than*
4 *generally accepted accounting principles.*

5 *“(iii) DE MINIMUS EXCEPTION.—This*
6 *subparagraph shall not apply to any in-*
7 *sured credit union, the total assets of which*
8 *are less than \$10,000,000, unless prescribed*
9 *by the Board or an appropriate State credit*
10 *union supervisor.*

11 *“(D) LARGE CREDIT UNION AUDIT RE-*
12 *QUIREMENT.—*

13 *“(i) IN GENERAL.—Each insured cred-*
14 *it union having total assets of \$500,000,000*
15 *or more shall have an annual independent*
16 *audit of the financial statements of the cred-*
17 *it union, performed in accordance with gen-*
18 *erally accepted auditing standards by an*
19 *independent certified public accountant or*
20 *public accountant licensed by the appro-*
21 *priate State or jurisdiction to perform those*
22 *services.*

23 *“(ii) VOLUNTARY AUDITS.—If a Fed-*
24 *eral credit union that is not required to*
25 *conduct an audit under clause (i), and that*

1 *has total assets of more than \$10,000,000*
2 *conducts such an audit for any purpose,*
3 *using an independent auditor who is com-*
4 *pensated for his or her audit services with*
5 *respect to that audit, the audit shall be per-*
6 *formed consistent with the accountancy*
7 *laws of the appropriate State or jurisdic-*
8 *tion, including licensing requirements.”.*

9 ***(b) TECHNICAL AND CONFORMING AMENDMENT.***—*Sec-*
10 *tion 202(a)(6)(B) of the Federal Credit Union Act (12*
11 *U.S.C. 1782(a)(6)(B)) is amended by striking “subpara-*
12 *graph (A)” and inserting “subparagraph (A) or (D)”.*

13 ***SEC. 202. CONVERSION OF INSURED CREDIT UNIONS.***

14 *Section 205(b) of the Federal Credit Union Act (12*
15 *U.S.C. 1785(b)) is amended—*

16 (1) *in paragraph (1), by striking “Except with*
17 *the prior written approval of the Board, no insured*
18 *credit union shall” and inserting “Except as provided*
19 *in paragraph (2), no insured credit union shall, with-*
20 *out the prior approval of the Board”;*

21 (2) *by redesignating paragraph (2) as para-*
22 *graph (3); and*

23 (3) *by inserting after paragraph (1) the follow-*
24 *ing new paragraph:*

1 “(2) *CONVERSION OF INSURED CREDIT UNIONS*
2 *TO MUTUAL SAVINGS BANKS.*—

3 “(A) *IN GENERAL.*—*Notwithstanding para-*
4 *graph (1), an insured credit union may convert*
5 *to a mutual savings bank or savings association*
6 *(if the savings association is in mutual form), as*
7 *those terms are defined in section 3 of the Fed-*
8 *eral Deposit Insurance Act, without the prior*
9 *approval of the Board, subject to the require-*
10 *ments and procedures set forth in the laws and*
11 *regulations governing mutual savings banks and*
12 *savings associations.*

13 “(B) *CONVERSION PROPOSAL.*—*A proposal*
14 *for a conversion described in subparagraph (A)*
15 *shall first be approved, and a date set for a vote*
16 *thereon by the members (either at a meeting to*
17 *be held on that date or by written ballot to be*
18 *filed on or before that date), by a majority of the*
19 *directors of the insured credit union. Approval of*
20 *the proposal for conversion shall be by the af-*
21 *firmative vote of a majority of the members of*
22 *the insured credit union who vote on the pro-*
23 *posal.*

24 “(C) *NOTICE OF PROPOSAL TO MEMBERS.*—
25 *An insured credit union that proposes to convert*

1 to a mutual savings bank or savings association
2 under subparagraph (A) shall submit notice to
3 each of its members who is eligible to vote on the
4 matter of its intent to convert—

5 “(i) 90 days before the date of the
6 member vote on the conversion;

7 “(ii) 60 days before the date of the
8 member vote on the conversion; and

9 “(iii) 30 days before the date of the
10 member vote on the conversion.

11 “(D) NOTICE OF PROPOSAL TO BOARD.—

12 The Board may require an insured credit union
13 that proposes to convert to a mutual savings
14 bank or savings association under subparagraph
15 (A) to submit a notice to the Board of its intent
16 to convert during the 90-day period preceding
17 the date of the completion of the conversion.

18 “(E) INAPPLICABILITY OF ACT UPON CON-
19 VERSION.—Upon completion of a conversion de-
20 scribed in subparagraph (A), the credit union
21 shall no longer be subject to any of the provisions
22 of this Act.

23 “(F) LIMIT ON COMPENSATION OF OFFI-
24 CIALS.—

1 “(i) *IN GENERAL.*—No director or sen-
2 ior management official of an insured credit
3 union may receive any economic benefit in
4 connection with a conversion of the credit
5 union as described in subparagraph (A),
6 other than—

7 “(I) director fees; and

8 “(II) compensation and other ben-
9 efits paid to directors or senior man-
10 agement officials of the converted insti-
11 tution in the ordinary course of busi-
12 ness.

13 “(ii) *SENIOR MANAGEMENT OFFI-*
14 *CIAL.*—For purposes of this subparagraph,
15 the term ‘senior management official’ means
16 a chief executive officer, an assistant chief
17 executive officer, a chief financial officer,
18 and any other senior executive officer (as
19 defined by the appropriate Federal banking
20 agency pursuant to section 32(f) of the Fed-
21 eral Deposit Insurance Act).

22 “(G) *CONSISTENT RULES.*—

23 “(i) *IN GENERAL.*—Not later than 6
24 months after the date of enactment of the
25 Credit Union Membership Access Act, the

1 *Administration shall promulgate final rules*
2 *applicable to charter conversions described*
3 *in this paragraph that are consistent with*
4 *rules promulgated by other financial regu-*
5 *lators, including the Office of Thrift Super-*
6 *vision and the Office of the Comptroller of*
7 *the Currency. The rules required by this*
8 *clause shall provide that charter conversion*
9 *by an insured credit union shall be subject*
10 *to regulation that is no more or less restric-*
11 *tive than that applicable to charter conver-*
12 *sions by other financial institutions.*

13 “(ii) *OVERSIGHT OF MEMBER VOTE.—*
14 *The member vote concerning charter conver-*
15 *sion under this paragraph shall be adminis-*
16 *tered by the Administration, and shall be*
17 *verified by the Federal or State regulatory*
18 *agency that would have jurisdiction over the*
19 *institution after the conversion. If either the*
20 *Administration or that regulatory agency*
21 *disapproves of the methods by which the*
22 *member vote was taken or procedures appli-*
23 *cable to the member vote, the member vote*
24 *shall be taken again, as directed by the Ad-*
25 *ministration or the agency.”.*

1 **SEC. 203. LIMITATION ON MEMBER BUSINESS LOANS.**

2 (a) *IN GENERAL.*—*The Federal Credit Union Act (12*
3 *U.S.C. 1701 et seq.) is amended by inserting after section*
4 *107 the following new section:*

5 **“SEC. 107A. LIMITATION ON MEMBER BUSINESS LOANS.**

6 “(a) *IN GENERAL.*—*On and after the date of enact-*
7 *ment of this section, no insured credit union may make any*
8 *member business loan that would result in a total amount*
9 *of such loans outstanding at that credit union at any one*
10 *time equal to more than the lesser of—*

11 “(1) *1.75 times the actual net worth of the credit*
12 *union; or*

13 “(2) *1.75 times the minimum net worth required*
14 *under section 216(c)(1)(A) for a credit union to be*
15 *well capitalized.*

16 “(b) *EXCEPTIONS.*—*Subsection (a) does not apply in*
17 *the case of—*

18 “(1) *an insured credit union chartered for the*
19 *purpose of making, or that has a history of primarily*
20 *making, member business loans to its members, as de-*
21 *termined by the Board; or*

22 “(2) *an insured credit union that—*

23 “(A) *serves predominantly low-income*
24 *members, as defined by the Board; or*

25 “(B) *is a community development financial*
26 *institution, as defined in section 103 of the Com-*

1 *munity Development Banking and Financial In-*
2 *stitutions Act of 1994.*

3 “(c) *DEFINITIONS.—As used in this section—*

4 *“(1) the term ‘member business loan’—*

5 *“(A) means any loan, line of credit, or let-*
6 *ter of credit, the proceeds of which will be used*
7 *for a commercial, corporate or other business in-*
8 *vestment property or venture, or agricultural*
9 *purpose; and*

10 *“(B) does not include an extension of cred-*
11 *it—*

12 *“(i) that is fully secured by a lien on*
13 *a 1- to 4-family dwelling that is the pri-*
14 *mary residence of a member;*

15 *“(ii) that is fully secured by shares in*
16 *the credit union making the extension of*
17 *credit or deposits in other financial institu-*
18 *tions;*

19 *“(iii) that is described in subpara-*
20 *graph (A), if it was made to a borrower or*
21 *an associated member that has a total of all*
22 *such extensions of credit in an amount*
23 *equal to less than \$50,000;*

24 *“(iv) the repayment of which is fully*
25 *insured or fully guaranteed by, or where*

1 *there is an advance commitment to pur-*
2 *chase in full by, any agency of the Federal*
3 *Government or of a State, or any political*
4 *subdivision thereof; or*

5 *“(v) that is granted by a corporate*
6 *credit union (as that term is defined by the*
7 *Board) to another credit union.*

8 “(2) the term ‘net worth’—

9 “(A) with respect to any insured credit
10 union, means the credit union’s retained earn-
11 ings balance, as determined under generally ac-
12 cepted accounting principles; and

13 “(B) with respect to a credit union that
14 serves predominantly low-income members, as
15 defined by the Board, includes secondary capital
16 accounts that are—

17 “(i) uninsured; and

18 “(ii) subordinate to all other claims
19 against the credit union, including the
20 claims of creditors, shareholders, and the
21 Fund; and

22 “(3) the term ‘associated member’ means any
23 member having a shared ownership, investment, or
24 other pecuniary interest in a business or commercial
25 endeavor with the borrower.

1 “(d) *EFFECT ON EXISTING LOANS.*—*An insured credit*
2 *union that has, on the date of enactment of this section,*
3 *a total amount of outstanding member business loans that*
4 *exceeds the amount permitted under subsection (a) shall,*
5 *not later than 3 years after that date of enactment, reduce*
6 *the total amount of outstanding member business loans to*
7 *an amount that is not greater than the amount permitted*
8 *under subsection (a).*”

9 “(e) *CONSULTATION AND COOPERATION WITH STATE*
10 *CREDIT UNION SUPERVISORS.*—*In implementing this sec-*
11 *tion, the Board shall consult and seek to work cooperatively*
12 *with State officials having jurisdiction over State-chartered*
13 *insured credit unions.*”

14 “(b) *STUDY AND REPORT.*—

15 “(1) *STUDY.*—*The Secretary shall conduct a study*
16 *of member business lending by insured credit unions,*
17 *including—*

18 “(A) *an examination of member business*
19 *lending over \$500,000 and under \$50,000, and a*
20 *breakdown of the types and sizes of businesses*
21 *that receive member business loans;*

22 “(B) *a review of the effectiveness and enforce-*
23 *ment of regulations applicable to insured credit*
24 *union member business lending;*

1 (C) whether member business lending by in-
2 sured credit unions could affect the safety and
3 soundness of insured credit unions or the Na-
4 tional Credit Union Share Insurance Fund;

5 (D) the extent to which member business
6 lending by insured credit unions helps to meet fi-
7 nancial services needs of low- and moderate-in-
8 come individuals within the field of membership
9 of insured credit unions;

10 (E) whether insured credit unions that en-
11 gage in member business lending have a competi-
12 tive advantage over other insured depository in-
13 stitutions, and if any such advantage could af-
14 fect the viability and profitability of such other
15 insured depository institutions; and

16 (F) the effect of enactment of this Act on the
17 number of insured credit unions involved in
18 member business lending and the overall amount
19 of commercial lending.

20 (2) NCUA COOPERATION.—The National Credit
21 Union Administration shall, upon request, provide
22 such information as the Secretary may require to
23 conduct the study required under paragraph (1).

24 (3) REPORT.—Not later than 12 months after the
25 date of enactment of this Act, the Secretary shall sub-

1 *mit a report to the Congress on the results of the*
2 *study conducted under paragraph (1).*

3 **SEC. 204. NATIONAL CREDIT UNION ADMINISTRATION**
4 **BOARD MEMBERSHIP.**

5 *Section 102(b) of the Federal Credit Union Act (12*
6 *U.S.C. 1752a(b)) is amended—*

7 *(1) by striking “(b) The Board” and inserting*
8 *“(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—*
9 *“(1) IN GENERAL.—The Board”;* and

10 *(2) by adding at the end the following new para-*
11 *graph:*

12 *“(2) APPOINTMENT CRITERIA.—*

13 *“(A) EXPERIENCE IN FINANCIAL SERV-*
14 *ICES.—In considering appointments to the*
15 *Board under paragraph (1), the President shall*
16 *give consideration to individuals who, by virtue*
17 *of their education, training, or experience relat-*
18 *ing to a broad range of financial services, finan-*
19 *cial services regulation, or financial policy, are*
20 *especially qualified to serve on the Board.*

21 *“(B) LIMIT ON APPOINTMENT OF CREDIT*
22 *UNION OFFICERS.—Not more than 1 member of*
23 *the Board may be appointed to the Board from*
24 *among individuals who, at the time of the ap-*
25 *pointment, are, or have recently been, involved*

1 with any insured credit union as a committee
2 member, director, officer, employee, or other in-
3 stitution-affiliated party.”.

4 **SEC. 205. REPORT AND CONGRESSIONAL REVIEW REQUIRE-**
5 **MENT FOR CERTAIN REGULATIONS.**

6 A regulation prescribed by the Board shall be treated
7 as a major rule for purposes of chapter 8 of title 5, United
8 States Code, if the regulation defines, or amends the defini-
9 tion of—

10 (1) the term “immediate family or household”
11 for purposes of section 109(e)(1) of the Federal Credit
12 Union Act (as added by section 101 of this Act); or

13 (2) the term “well-defined local community,
14 neighborhood, or rural district” for purposes of sec-
15 tion 109(g) of the Federal Credit Union Act (as added
16 by section 103 of this Act).

17 **TITLE III—CAPITALIZATION AND**
18 **NET WORTH OF CREDIT UNIONS**

19 **SEC. 301. PROMPT CORRECTIVE ACTION.**

20 (a) *IN GENERAL.*—Title II of the Federal Credit
21 Union Act (12 U.S.C. 1781 et seq.) is amended by adding
22 at the end the following new section:

23 **“SEC. 216. PROMPT CORRECTIVE ACTION.**

24 “(a) *RESOLVING PROBLEMS TO PROTECT FUND.*—

1 “(1) *PURPOSE.*—*The purpose of this section is to*
2 *resolve the problems of insured credit unions at the*
3 *least possible long-term loss to the Fund.*

4 “(2) *PROMPT CORRECTIVE ACTION REQUIRED.*—
5 *The Board shall carry out the purpose of this section*
6 *by taking prompt corrective action to resolve the*
7 *problems of insured credit unions.*

8 “(b) *REGULATIONS REQUIRED.*—

9 “(1) *INSURED CREDIT UNIONS.*—

10 “(A) *IN GENERAL.*—*The Board shall, by*
11 *regulation, prescribe a system of prompt correc-*
12 *tive action for insured credit unions that is—*

13 “(i) *consistent with this section; and*

14 “(ii) *comparable to section 38 of the*
15 *Federal Deposit Insurance Act.*

16 “(B) *COOPERATIVE CHARACTER OF CREDIT*
17 *UNIONS.*—*The Board shall design the system re-*
18 *quired under subparagraph (A) to take into ac-*
19 *count that credit unions are not-for-profit co-*
20 *operatives that—*

21 “(i) *do not issue capital stock;*

22 “(ii) *must rely on retained earnings to*
23 *build net worth; and*

24 “(iii) *have boards of directors that con-*
25 *sist primarily of volunteers.*

1 “(2) *NEW CREDIT UNIONS.*—

2 “(A) *IN GENERAL.*—*In addition to regula-*
3 *tions under paragraph (1), the Board shall, by*
4 *regulation, prescribe a system of prompt correc-*
5 *tive action that shall apply to new credit unions*
6 *in lieu of this section and the regulations pre-*
7 *scribed under paragraph (1).*

8 “(B) *CRITERIA FOR ALTERNATIVE SYS-*
9 *TEM.*—*The Board shall design the system pre-*
10 *scribed under subparagraph (A)—*

11 “(i) *to carry out the purpose of this*
12 *section;*

13 “(ii) *to recognize that credit unions (as*
14 *cooperatives that do not issue capital stock)*
15 *initially have no net worth, and give new*
16 *credit unions reasonable time to accumulate*
17 *net worth;*

18 “(iii) *to create adequate incentives for*
19 *new credit unions to become adequately*
20 *capitalized by the time that they either—*

21 “(I) *have been in operation for*
22 *more than 10 years; or*

23 “(II) *have more than \$10,000,000*
24 *in total assets;*

1 “(iv) to impose appropriate restric-
2 tions and requirements on new credit
3 unions that do not make sufficient progress
4 toward becoming adequately capitalized;
5 and

6 “(v) to prevent evasion of the purpose
7 of this section.

8 “(c) NET WORTH CATEGORIES.—

9 “(1) IN GENERAL.—For purposes of this section
10 the following definitions shall apply:

11 “(A) WELL CAPITALIZED.—An insured
12 credit union is ‘well capitalized’ if—

13 “(i) it has a net worth ratio of not less
14 than 7 percent; and

15 “(ii) it meets any applicable risk-based
16 net worth requirement under subsection (d).

17 “(B) ADEQUATELY CAPITALIZED.—An in-
18 sured credit union is ‘adequately capitalized’
19 if—

20 “(i) it has a net worth ratio of not less
21 than 6 percent; and

22 “(ii) it meets any applicable risk-based
23 net worth requirement under subsection (d).

24 “(C) UNDERCAPITALIZED.—An insured
25 credit union is ‘undercapitalized’ if—

1 “(i) it has a net worth ratio of less
2 than 6 percent; or

3 “(ii) it fails to meet any applicable
4 risk-based net worth requirement under sub-
5 section (d).

6 “(D) SIGNIFICANTLY UNDERCAPITALIZED.—
7 An insured credit union is ‘significantly under-
8 capitalized’—

9 “(i) if it has a net worth ratio of less
10 than 4 percent; or

11 “(ii) if—

12 “(I) it has a net worth ratio of
13 less than 5 percent; and

14 “(II) it—

15 “(aa) fails to submit an ac-
16 ceptable net worth restoration
17 plan within the time allowed
18 under subsection (f); or

19 “(bb) materially fails to im-
20 plement a net worth restoration
21 plan accepted by the Board.

22 “(E) CRITICALLY UNDERCAPITALIZED.—An
23 insured credit union is ‘critically undercapital-
24 ized’ if it has a net worth ratio of less than 2
25 percent (or such higher net worth ratio, not to

1 *exceed 3 percent, as the Board may specify by*
2 *regulation).*

3 “(2) *ADJUSTING NET WORTH LEVELS.—*

4 “(A) *IN GENERAL.—If, for purposes of sec-*
5 *tion 38(c) of the Federal Deposit Insurance Act,*
6 *the Federal banking agencies increase or decrease*
7 *the required minimum level for the leverage limit*
8 *(as those terms are used in that section 38), the*
9 *Board may, by regulation, and subject to sub-*
10 *paragraph (B) of this paragraph, correspond-*
11 *ingly increase or decrease 1 or more of the net*
12 *worth ratios specified in subparagraphs (A)*
13 *through (D) of paragraph (1) of this subsection*
14 *in an amount that is equal to not more than the*
15 *difference between the required minimum level*
16 *most recently established by the Federal banking*
17 *agencies and 4 percent of total assets (with re-*
18 *spect to institutions regulated by those agencies).*

19 “(B) *DETERMINATIONS REQUIRED.—The*
20 *Board may increase or decrease net worth ratios*
21 *under subparagraph (A) only if the Board—*

22 “(i) *determines, in consultation with*
23 *the Federal banking agencies, that the rea-*
24 *son for the increase or decrease in the re-*
25 *quired minimum level for the leverage limit*

1 *also justifies the adjustment in net worth*
2 *ratios; and*

3 “(ii) *determines that the resulting net*
4 *worth ratios are sufficient to carry out the*
5 *purpose of this section.*

6 “(C) *TRANSITION PERIOD REQUIRED.—If*
7 *the Board increases any net worth ratio under*
8 *this paragraph, the Board shall give insured*
9 *credit unions a reasonable period of time to meet*
10 *the increased ratio.*

11 “(d) *RISK-BASED NET WORTH REQUIREMENT FOR*
12 *COMPLEX CREDIT UNIONS.—*

13 “(1) *IN GENERAL.—The regulations required*
14 *under subsection (b)(1) shall include a risk-based net*
15 *worth requirement for insured credit unions that are*
16 *complex, as defined by the Board based on the port-*
17 *folios of assets and liabilities of credit unions.*

18 “(2) *STANDARD.—The Board shall design the*
19 *risk-based net worth requirement to take account of*
20 *any material risks against which the net worth ratio*
21 *required for an insured credit union to be adequately*
22 *capitalized may not provide adequate protection.*

23 “(e) *EARNINGS-RETENTION REQUIREMENT APPLICA-*
24 *BLE TO CREDIT UNIONS THAT ARE NOT WELL CAPITAL-*
25 *IZED.—*

1 “(1) *IN GENERAL.*—*An insured credit union that*
2 *is not well capitalized shall annually set aside as net*
3 *worth an amount equal to not less than 0.4 percent*
4 *of its total assets.*

5 “(2) *BOARD’S AUTHORITY TO DECREASE EARN-*
6 *INGS-RETENTION REQUIREMENT.*—

7 “(A) *IN GENERAL.*—*The Board may, by*
8 *order, decrease the 0.4 percent requirement in*
9 *paragraph (1) with respect to a credit union to*
10 *the extent that the Board determines that the de-*
11 *crease—*

12 “(i) *is necessary to avoid a significant*
13 *redemption of shares; and*

14 “(ii) *would further the purpose of this*
15 *section.*

16 “(B) *PERIODIC REVIEW REQUIRED.*—*The*
17 *Board shall periodically review any order issued*
18 *under subparagraph (A).*

19 “(f) *NET WORTH RESTORATION PLAN REQUIRED.*—

20 “(1) *IN GENERAL.*—*Each insured credit union*
21 *that is undercapitalized shall submit an acceptable*
22 *net worth restoration plan to the Board within the*
23 *time allowed under this subsection.*

24 “(2) *ASSISTANCE TO SMALL CREDIT UNIONS.*—
25 *The Board (or the staff of the Board) shall, upon*

1 *timely request by an insured credit union with total*
2 *assets of less than \$10,000,000, and subject to such*
3 *regulations or guidelines as the Board may prescribe,*
4 *assist that credit union in preparing a net worth res-*
5 *toration plan.*

6 “(3) *DEADLINES FOR SUBMISSION AND REVIEW*
7 *OF PLANS.—The Board shall, by regulation, establish*
8 *deadlines for submission of net worth restoration*
9 *plans under this subsection that—*

10 “(A) *provide insured credit unions with*
11 *reasonable time to submit net worth restoration*
12 *plans; and*

13 “(B) *require the Board to act on net worth*
14 *restoration plans expeditiously.*

15 “(4) *FAILURE TO SUBMIT ACCEPTABLE PLAN*
16 *WITHIN TIME ALLOWED.—*

17 “(A) *FAILURE TO SUBMIT ANY PLAN.—If an*
18 *insured credit union fails to submit a net worth*
19 *restoration plan within the time allowed under*
20 *paragraph (3), the Board shall—*

21 “(i) *promptly notify the credit union*
22 *of that failure; and*

23 “(ii) *give the credit union a reasonable*
24 *opportunity to submit a net worth restora-*
25 *tion plan.*

1 “(B) *SUBMISSION OF UNACCEPTABLE*
2 *PLAN.—If an insured credit union submits a net*
3 *worth restoration plan within the time allowed*
4 *under paragraph (3) and the Board determines*
5 *that the plan is not acceptable, the Board shall—*

6 “(i) *promptly notify the credit union*
7 *of why the plan is not acceptable; and*

8 “(ii) *give the credit union a reasonable*
9 *opportunity to submit a revised plan.*

10 “(5) *ACCEPTING PLAN.—The Board may accept*
11 *a net worth restoration plan only if the Board deter-*
12 *mines that the plan is based on realistic assumptions*
13 *and is likely to succeed in restoring the net worth of*
14 *the credit union.*

15 “(g) *RESTRICTIONS ON UNDERCAPITALIZED CREDIT*
16 *UNIONS.—*

17 “(1) *RESTRICTION ON ASSET GROWTH.—An in-*
18 *sured credit union that is undercapitalized shall not*
19 *generally permit its average total assets to increase,*
20 *unless—*

21 “(A) *the Board has accepted the net worth*
22 *restoration plan of the credit union for that ac-*
23 *tion;*

24 “(B) *any increase in total assets is consist-*
25 *ent with the net worth restoration plan; and*

1 “(C) *the net worth ratio of the credit union*
2 *increases at a rate that is consistent with the net*
3 *worth restoration plan.*

4 “(2) *RESTRICTION ON MEMBER BUSINESS*
5 *LOANS.—Notwithstanding section 107A(a), an in-*
6 *sured credit union that is undercapitalized may not*
7 *make any increase in the total amount of member*
8 *business loans (as defined in section 107A(c)) out-*
9 *standing at that credit union at any one time, until*
10 *such time as the credit union becomes adequately cap-*
11 *italized.*

12 “(h) *MORE STRINGENT TREATMENT BASED ON OTHER*
13 *SUPERVISORY CRITERIA.—With respect to the exercise of*
14 *authority by the Board under regulations comparable to*
15 *section 38(g) of the Federal Deposit Insurance Act—*

16 “(1) *the Board may not reclassify an insured*
17 *credit union into a lower net worth category, or treat*
18 *an insured credit union as if it were in a lower net*
19 *worth category, for reasons not pertaining to the safe-*
20 *ty and soundness of that credit union; and*

21 “(2) *the Board may not delegate its authority to*
22 *reclassify an insured credit union into a lower net*
23 *worth category or to treat an insured credit union as*
24 *if it were in a lower net worth category.*

1 “(i) *ACTION REQUIRED REGARDING CRITICALLY*
2 *UNDERCAPITALIZED CREDIT UNIONS.*—

3 “(1) *IN GENERAL.*—*The Board shall, not later*
4 *than 90 days after the date on which an insured cred-*
5 *it union becomes critically undercapitalized—*

6 “(A) *appoint a conservator or liquidating*
7 *agent for the credit union; or*

8 “(B) *take such other action as the Board de-*
9 *termines would better achieve the purpose of this*
10 *section, after documenting why the action would*
11 *better achieve that purpose.*

12 “(2) *PERIODIC REDETERMINATIONS RE-*
13 *QUIRED.*—*Any determination by the Board under*
14 *paragraph (1)(B) to take any action with respect to*
15 *an insured credit union in lieu of appointing a con-*
16 *servator or liquidating agent shall cease to be effective*
17 *not later than the end of the 180-day period begin-*
18 *ning on the date on which the determination is made,*
19 *and a conservator or liquidating agent shall be ap-*
20 *pointed for that credit union under paragraph (1)(A),*
21 *unless the Board makes a new determination under*
22 *paragraph (1)(B) before the end of the effective period*
23 *of the prior determination.*

1 “(3) *APPOINTMENT OF LIQUIDATING AGENT RE-*
2 *QUIRED IF OTHER ACTION FAILS TO RESTORE NET*
3 *WORTH.—*

4 “(A) *IN GENERAL.—Notwithstanding para-*
5 *graphs (1) and (2), the Board shall appoint a*
6 *liquidating agent for an insured credit union if*
7 *the credit union is critically undercapitalized on*
8 *average during the calendar quarter beginning*
9 *18 months after the date on which the credit*
10 *union became critically undercapitalized.*

11 “(B) *EXCEPTION.—Notwithstanding sub-*
12 *paragraph (A), the Board may continue to take*
13 *such other action as the Board determines to be*
14 *appropriate in lieu of appointment of a liquidat-*
15 *ing agent if—*

16 “(i) *the Board determines that—*

17 “(I) *the insured credit union has*
18 *been in substantial compliance with an*
19 *approved net worth restoration plan*
20 *that requires consistent improvement*
21 *in the net worth of the credit union*
22 *since the date of the approval of the*
23 *plan; and*

24 “(II) *the insured credit union has*
25 *positive net income or has an upward*

1 *trend in earnings that the Board*
2 *projects as sustainable; and*

3 “(ii) *the Board certifies that the credit*
4 *union is viable and not expected to fail.*

5 “(4) *NONDELEGATION.—*

6 “(A) *IN GENERAL.—Except as provided in*
7 *subparagraph (B), the Board may not delegate*
8 *the authority of the Board under this subsection.*

9 “(B) *EXCEPTION.—The Board may delegate*
10 *the authority of the Board under this subsection*
11 *with respect to an insured credit union that has*
12 *less than \$5,000,000 in total assets, if the Board*
13 *permits the credit union to appeal any adverse*
14 *action to the Board.*

15 “(j) *REVIEW REQUIRED WHEN FUND INCURS MATE-*
16 *RIAL LOSS.—For purposes of determining whether the*
17 *Fund has incurred a material loss with respect to an in-*
18 *sured credit union (such that the inspector general of the*
19 *Board must make a report), a loss is material if it exceeds*
20 *the sum of—*

21 “(1) *\$10,000,000; and*

22 “(2) *an amount equal to 10 percent of the total*
23 *assets of the credit union at the time at which the*
24 *Board initiated assistance under section 208 or was*
25 *appointed liquidating agent.*

1 “(k) *APPEALS PROCESS.*—*Material supervisory deter-*
2 *minations, including decisions to require prompt corrective*
3 *action, made pursuant to this section by Administration*
4 *officials other than the Board may be appealed to the Board*
5 *pursuant to the independent appellate process required by*
6 *section 309 of the Riegle Community Development and Reg-*
7 *ulatory Improvement Act of 1994 (or, if the Board so speci-*
8 *fies, pursuant to separate procedures prescribed by regula-*
9 *tion).*

10 “(l) *CONSULTATION AND COOPERATION WITH STATE*
11 *CREDIT UNION SUPERVISORS.*—

12 “(1) *IN GENERAL.*—*In implementing this sec-*
13 *tion, the Board shall consult and seek to work coop-*
14 *eratively with State officials having jurisdiction over*
15 *State-chartered insured credit unions.*

16 “(2) *EVALUATING NET WORTH RESTORATION*
17 *PLAN.*—*In evaluating any net worth restoration plan*
18 *submitted by a State-chartered insured credit union,*
19 *the Board shall seek the views of the State official*
20 *having jurisdiction over the credit union.*

21 “(3) *DECIDING WHETHER TO APPOINT CON-*
22 *SERVATOR OR LIQUIDATING AGENT.*—*With respect to*
23 *any decision by the Board on whether to appoint a*
24 *conservator or liquidating agent for a State-chartered*
25 *insured credit union—*

1 “(A) the Board shall—

2 “(i) seek the views of the State official
3 having jurisdiction over the credit union;
4 and

5 “(ii) give that official an opportunity
6 to take the proposed action;

7 “(B) the Board shall, upon timely request of
8 an official referred to in subparagraph (A),
9 promptly provide the official with—

10 “(i) a written statement of the reasons
11 for the proposed action; and

12 “(ii) reasonable time to respond to that
13 statement;

14 “(C) if the official referred to in subpara-
15 graph (A) makes a timely written response that
16 disagrees with the proposed action and gives rea-
17 sons for that disagreement, the Board shall not
18 appoint a conservator or liquidating agent for
19 the credit union, unless the Board, after consid-
20 ering the views of the official, has determined
21 that—

22 “(i) the Fund faces a significant risk
23 of loss with respect to the credit union if a
24 conservator or liquidating agent is not ap-
25 pointed; and

1 “(ii) the appointment is necessary to
2 reduce—

3 “(I) the risk that the Fund would
4 incur a loss with respect to the credit
5 union; or

6 (II) any loss that the Fund is ex-
7 pected to incur with respect to the
8 credit union; and

9 “(D) the Board may not delegate any deter-
10 mination under subparagraph (C).

11 “(m) CORPORATE CREDIT UNIONS EXEMPTED.—This
12 section does not apply to any insured credit union that—

13 “(1) operates primarily for the purpose of serv-
14 ing credit unions; and

15 “(2) permits individuals to be members of the
16 credit union only to the extent that applicable law re-
17 quires that such persons own shares.

18 “(n) OTHER AUTHORITY NOT AFFECTED.—This sec-
19 tion does not limit any authority of the Board or a State
20 to take action in addition to (but not in derogation of) that
21 required under this section.

22 “(o) DEFINITIONS.—For purposes of this section the
23 following definitions shall apply:

1 “(1) *FEDERAL BANKING AGENCY.*—*The term*
2 *‘Federal banking agency’ has the same meaning as in*
3 *section 3 of the Federal Deposit Insurance Act.*

4 “(2) *NET WORTH.*—*The term ‘net worth’—*

5 “(A) *with respect to any insured credit*
6 *union, means retained earnings balance of the*
7 *credit union, as determined under generally ac-*
8 *cepted accounting principles; and*

9 “(B) *with respect to a low-income credit*
10 *union, includes secondary capital accounts that*
11 *are—*

12 “(i) *uninsured; and*

13 “(ii) *subordinate to all other claims*
14 *against the credit union, including the*
15 *claims of creditors, shareholders, and the*
16 *Fund.*

17 “(3) *NET WORTH RATIO.*—*The term ‘net worth*
18 *ratio’ means, with respect to a credit union, the ratio*
19 *of the net worth of the credit union to the total assets*
20 *of the credit union.*

21 “(4) *NEW CREDIT UNION.*—*The term ‘new credit*
22 *union’ means an insured credit union that—*

23 “(A) *has been in operation for less than 10*
24 *years; and*

1 “(B) has not more than \$10,000,000 in
2 total assets.”.

3 (b) CONSERVATORSHIP AND LIQUIDATION AMEND-
4 MENTS TO FACILITATE PROMPT CORRECTIVE ACTION.—

5 (1) CONSERVATORSHIP.—Section 206(h) of the
6 Federal Credit Union Act (12 U.S.C. 1786(h)) is
7 amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (D), by striking
10 “or” at the end;

11 (ii) in subparagraph (E), by striking
12 the period at the end and inserting a semi-
13 colon; and

14 (iii) by adding at the end the following
15 new subparagraphs:

16 “(F) the credit union is significantly under-
17 capitalized, as defined in section 216, and has no rea-
18 sonable prospect of becoming adequately capitalized,
19 as defined in section 216; or

20 “(G) the credit union is critically undercapital-
21 ized, as defined in section 216.”; and

22 (B) in paragraph (2)—

23 (i) in subparagraph (A), by striking
24 “In the case” and inserting “Except as pro-

1 *vided in subparagraph (C), in the case”;*

2 *and*

3 *(ii) by adding at the end the following*

4 *new subparagraph:*

5 *“(C) In the case of a State-chartered insured*
6 *credit union, the authority conferred by subpara-*
7 *graphs (F) and (G) of paragraph (1) may not be ex-*
8 *ercised unless the Board has complied with section*
9 *216(l).”.*

10 *(2) LIQUIDATION.—Section 207(a) of the Federal*
11 *Credit Union Act (12 U.S.C. 1787(a)) is amended—*

12 *(A) in paragraph (1)(A), by striking “him-*
13 *self” and inserting “itself”; and*

14 *(B) by adding at the end the following new*
15 *paragraph:*

16 *“(3) LIQUIDATION TO FACILITATE PROMPT COR-*
17 *RECTIVE ACTION.—The Board may close any credit*
18 *union for liquidation, and appoint itself or another*
19 *(including, in the case of a State-chartered insured*
20 *credit union, the State official having jurisdiction*
21 *over the credit union) as liquidating agent of that*
22 *credit union, if—*

23 *“(A) the Board determines that—*

24 *“(i) the credit union is significantly*
25 *undercapitalized, as defined in section 216,*

1 *and has no reasonable prospect of becoming*
2 *adequately capitalized, as defined in section*
3 *216; or*

4 *“(i) the credit union is critically*
5 *undercapitalized, as defined in section 216;*
6 *and*

7 *“(B) in the case of a State-chartered in-*
8 *sured credit union, the Board has complied with*
9 *section 216(l).”.*

10 *(c) CONSULTATION REQUIRED.—In developing regula-*
11 *tions to implement section 216 of the Federal Credit Union*
12 *Act (as added by subsection (a) of this section), the Board*
13 *shall consult with the Secretary, the Federal banking agen-*
14 *cies, and the State officials having jurisdiction over State-*
15 *chartered insured credit unions.*

16 *(d) DEADLINES FOR REGULATIONS.—*

17 *(1) IN GENERAL.—Except as provided in para-*
18 *graph (2), the Board shall—*

19 *(A) publish in the Federal Register pro-*
20 *posed regulations to implement section 216 of the*
21 *Federal Credit Union Act (as added by sub-*
22 *section (a) of this section) not later than 270*
23 *days after the date of enactment of this Act; and*

1 (B) promulgate final regulations to imple-
2 ment that section 216 not later than 18 months
3 after the date of enactment of this Act.

4 (2) *RISK-BASED NET WORTH REQUIREMENT.*—

5 (A) *ADVANCE NOTICE OF PROPOSED RULE-*
6 *MAKING.*—Not later than 180 days after the date
7 of enactment of this Act, the Board shall publish
8 in the *Federal Register* an advance notice of pro-
9 posed rulemaking, as required by section 216(d)
10 of the *Federal Credit Union Act*, as added by
11 this Act.

12 (B) *FINAL REGULATIONS.*—The Board shall
13 promulgate final regulations, as required by that
14 section 216(d) not later than 2 years after the
15 date of enactment of this Act.

16 (e) *EFFECTIVE DATE.*—

17 (1) *IN GENERAL.*—Except as provided in para-
18 graph (2), section 216 of the *Federal Credit Union*
19 *Act* (as added by this section) shall become effective
20 2 years after the date of enactment of this Act.

21 (2) *RISK-BASED NET WORTH REQUIREMENT.*—
22 Section 216(d) of the *Federal Credit Union Act* (as
23 added by this section) shall become effective on Janu-
24 ary 1, 2001.

1 (f) *REPORT TO CONGRESS REQUIRED.*—When the
2 Board publishes proposed regulations pursuant to sub-
3 section (d)(1)(A), or promulgates final regulations pursu-
4 ant to subsection (d)(1)(B), the Board shall submit to the
5 Congress a report that specifically explains—

6 (1) *how the regulations carry out section*
7 *216(b)(1)(B) of the Federal Credit Union Act (as*
8 *added by this section), relating to the cooperative*
9 *character of credit unions; and*

10 (2) *how the regulations differ from section 38 of*
11 *the Federal Deposit Insurance Act, and the reasons*
12 *for those differences.*

13 (g) *CONFORMING AMENDMENTS.*—

14 (1) *AMENDMENTS RELATING TO ENFORCEMENT*
15 *OF PROMPT CORRECTIVE ACTION.*—Section 206(k) of
16 *the Federal Credit Union Act (12 U.S.C. 1786(k)) is*
17 *amended—*

18 (A) *in paragraph (1), by inserting “or sec-*
19 *tion 216” after “this section” each place it ap-*
20 *pears; and*

21 (B) *in paragraph (2)(A)(ii), by inserting “,*
22 *or any final order under section 216” before the*
23 *semicolon.*

24 (2) *CONFORMING AMENDMENT REGARDING AP-*
25 *POINTMENT OF STATE CREDIT UNION SUPERVISOR AS*

1 *CONSERVATOR.—Section 206(h)(1) of the Federal*
2 *Credit Union Act (12 U.S.C. 1786(h)(1)) is amended*
3 *by inserting “or another (including, in the case of a*
4 *State-chartered insured credit union, the State official*
5 *having jurisdiction over the credit union)” after “ap-*
6 *point itself”.*

7 *(3) AMENDMENT REPEALING SUPERSEDED PRO-*
8 *VISION.—Section 116 of the Federal Credit Union Act*
9 *(12 U.S.C. 1762) is repealed.*

10 **SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE**

11 **FUND EQUITY RATIO, AVAILABLE ASSETS**
12 **RATIO, AND STANDBY PREMIUM CHARGE.**

13 *(a) IN GENERAL.—Section 202 of the Federal Credit*
14 *Union Act (12 U.S.C. 1782) is amended—*

15 *(1) by striking subsection (b) and inserting the*
16 *following:*

17 *“(b) CERTIFIED STATEMENT.—*

18 *“(1) STATEMENT REQUIRED.—*

19 *“(A) IN GENERAL.—For each calendar year,*
20 *in the case of an insured credit union with total*
21 *assets of not more than \$50,000,000, and for*
22 *each semi-annual period in the case of an in-*
23 *sured credit union with total assets of*
24 *\$50,000,000 or more, an insured credit union*
25 *shall file with the Board, at such time as the*

1 *Board prescribes, a certified statement showing*
2 *the total amount of insured shares in the credit*
3 *union at the close of the relevant period and both*
4 *the amount of its deposit or adjustment of de-*
5 *posit and the amount of the insurance charge*
6 *due to the Fund for that period, both as com-*
7 *puted under subsection (c).*

8 “(B) *EXCEPTION FOR NEWLY INSURED*
9 *CREDIT UNION.—Subparagraph (A) shall not*
10 *apply with respect to a credit union that became*
11 *insured during the reporting period.*

12 “(2) *FORM.—The certified statements required to*
13 *be filed with the Board pursuant to this subsection*
14 *shall be in such form and shall set forth such support-*
15 *ing information as the Board shall require.*

16 “(3) *CERTIFICATION.—The president of the cred-*
17 *it union or any officer designated by the board of di-*
18 *rectors shall certify, with respect to each statement re-*
19 *quired to be filed with the Board pursuant to this*
20 *subsection, that to the best of his or her knowledge*
21 *and belief the statement is true, correct, complete, and*
22 *in accordance with this title and the regulations*
23 *issued under this title.”;*

24 (2) *in subsection (c)(1)(A), by striking clause*
25 *(iii) and inserting the following:*

1 “(iii) *PERIODIC ADJUSTMENT.*—The
 2 *amount of each insured credit union’s de-*
 3 *posit shall be adjusted as follows, in accord-*
 4 *ance with procedures determined by the*
 5 *Board, to reflect changes in the credit*
 6 *union’s insured shares:*

7 “(I) *annually, in the case of an*
 8 *insured credit union with total assets*
 9 *of not more than \$50,000,000; and*

10 “(II) *semi-annually, in the case of*
 11 *an insured credit union with total as-*
 12 *sets of \$50,000,000 or more.”;*

13 (3) *in subsection (c), by striking paragraphs (2)*
 14 *and (3) and inserting the following:*

15 “(2) *INSURANCE PREMIUM CHARGES.*—

16 “(A) *IN GENERAL.*—*Each insured credit*
 17 *union shall, at such times as the Board pre-*
 18 *scribes (but not more than twice in any calendar*
 19 *year), pay to the Fund a premium charge for in-*
 20 *surance in an amount stated as a percentage of*
 21 *insured shares (which shall be the same for all*
 22 *insured credit unions).*

23 “(B) *RELATION OF PREMIUM CHARGE TO*
 24 *EQUITY RATIO OF FUND.*—*The Board may assess*
 25 *a premium charge only if—*

1 “(i) the Fund’s equity ratio is less
2 than 1.3 percent; and

3 “(ii) the premium charge does not ex-
4 ceed the amount necessary to restore the eq-
5 uity ratio to 1.3 percent.

6 “(C) PREMIUM CHARGE REQUIRED IF EQ-
7 UITY RATIO FALLS BELOW 1.2 PERCENT.—If the
8 Fund’s equity ratio is less than 1.2 percent, the
9 Board shall, subject to subparagraph (B), assess
10 a premium charge in such an amount as the
11 Board determines to be necessary to restore the
12 equity ratio to, and maintain that ratio at, 1.2
13 percent.

14 “(3) DISTRIBUTIONS FROM FUND REQUIRED.—

15 “(A) IN GENERAL.—The Board shall effect a
16 pro rata distribution to insured credit unions
17 after each calendar year if, as of the end of that
18 calendar year—

19 “(i) any loans to the Fund from the
20 Federal Government, and any interest on
21 those loans, have been repaid;

22 “(ii) the Fund’s equity ratio exceeds
23 the normal operating level; and

24 “(iii) the Fund’s available assets ratio
25 exceeds 1.0 percent.

1 “(B) *AMOUNT OF DISTRIBUTION.*—The
2 Board shall distribute under subparagraph (A)
3 the maximum possible amount that—

4 “(i) does not reduce the Fund’s equity
5 ratio below the normal operating level; and

6 “(ii) does not reduce the Fund’s avail-
7 able assets ratio below 1.0 percent.

8 “(C) *CALCULATION BASED ON CERTIFIED*
9 *STATEMENTS.*—In calculating the Fund’s equity
10 ratio and available assets ratio for purposes of
11 this paragraph, the Board shall determine the
12 aggregate amount of the insured shares in all in-
13 sured credit unions from insured credit unions
14 certified statements under subsection (b) for the
15 final reporting period of the calendar year re-
16 ferred to in subparagraph (A).”;

17 (4) in subsection (c), by adding at the end the
18 following new paragraph:

19 “(4) *TIMELINESS AND ACCURACY OF DATA.*—In
20 calculating the available assets ratio and equity ratio
21 of the Fund, the Board shall use the most current and
22 accurate data reasonably available.”; and

23 (5) by striking subsection (h) and inserting the
24 following:

1 “(h) *DEFINITIONS.*—For purposes of this section, the
2 following definitions shall apply:

3 “(1) *AVAILABLE ASSETS RATIO.*—The term
4 ‘available assets ratio’, when applied to the Fund,
5 means the ratio of—

6 “(A) the amount determined by subtract-
7 ing—

8 “(i) direct liabilities of the Fund and
9 contingent liabilities for which no provision
10 for losses has been made, from

11 “(ii) the sum of cash and the market
12 value of unencumbered investments author-
13 ized under section 203(c), to

14 “(B) the aggregate amount of the insured
15 shares in all insured credit unions.

16 “(2) *EQUITY RATIO.*—The term ‘equity ratio’,
17 when applied to the Fund, means the ratio of—

18 “(A) the amount of Fund capitalization, in-
19 cluding insured credit unions’ 1 percent capital-
20 ization deposits and the retained earnings bal-
21 ance of the Fund (net of direct liabilities of the
22 Fund and contingent liabilities for which no
23 provision for losses has been made); to

24 “(B) the aggregate amount of the insured
25 shares in all insured credit unions.

1 “(3) *INSURED SHARES.*—*The term ‘insured*
2 *shares’, when applied to this section, includes share,*
3 *share draft, share certificate, and other similar ac-*
4 *counts as determined by the Board, but does not in-*
5 *clude amounts exceeding the insured account limit set*
6 *forth in section 207(c)(1).*”

7 “(4) *NORMAL OPERATING LEVEL.*—*The term*
8 *‘normal operating level’, when applied to the Fund,*
9 *means an equity ratio specified by the Board, which*
10 *shall be not less than 1.2 percent and not more than*
11 *1.5 percent.’”*

12 **(b) *EFFECTIVE DATE.***—*This section and the amend-*
13 *ments made by this section shall become effective on Janu-*
14 *ary 1 of the first calendar year beginning more than 180*
15 *days after the date of enactment of this Act.*

16 **SEC. 303. ACCESS TO LIQUIDITY.**

17 *Section 204 of the Federal Credit Union Act (12*
18 *U.S.C. 1784) is amended by adding at the end the following*
19 *new subsections:*

20 **“(f) *ACCESS TO LIQUIDITY.***—*The Board shall—*

21 **“(1) *periodically assess the potential liquidity***
22 *needs of each insured credit union, and the options*
23 *that the credit union has available for meeting those*
24 *needs; and*

1 “(2) periodically assess the potential liquidity
2 needs of insured credit unions as a group, and the op-
3 tions that insured credit unions have available for
4 meeting those needs.

5 “(g) *SHARING INFORMATION WITH FEDERAL RE-*
6 *SERVE BANKS.*—*The Board shall, for the purpose of facili-*
7 *tating insured credit unions’ access to liquidity, make*
8 *available to the Federal reserve banks (subject to appro-*
9 *priate assurances of confidentiality) information relevant*
10 *to making advances to such credit unions, including the*
11 *Board’s reports of examination.”.*

12 ***TITLE IV—MISCELLANEOUS***
13 ***PROVISIONS***

14 ***SEC. 401. STUDY AND REPORT ON DIFFERING REGULATORY***
15 ***TREATMENT.***

16 (a) *STUDY.*—*The Secretary shall conduct a study of—*

17 (1) *the differences between credit unions and*
18 *other federally insured financial institutions, includ-*
19 *ing regulatory differences with respect to regulations*
20 *enforced by the Office of Thrift Supervision, the Office*
21 *of the Comptroller of the Currency, the Federal De-*
22 *posit Insurance Corporation, and the Administration;*
23 *and*

24 (2) *the potential effects of the application of Fed-*
25 *eral laws, including Federal tax laws, on credit*

1 (A) insured depository institutions having
2 less than \$1,000,000,000 in assets; and

3 (B) banks having total assets of not less
4 than \$1,000,000,000 nor more than
5 \$10,000,000,000; and

6 (2) any other recommendations that the Sec-
7 retary deems appropriate that would preserve the via-
8 bility and growth of small banking institutions in the
9 United States.

Attest:

Secretary.

105TH CONGRESS
2^D SESSION

H. R. 1151

AMENDMENT