

Union Calendar No. 272

105TH CONGRESS
2D SESSION

H. R. 1151

[Report No. 105-472]

A BILL

To amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions.

MARCH 30, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 272

105TH CONGRESS
2D SESSION

H. R. 1151

[Report No. 105-472]

To amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. LATOURETTE (for himself, Mr. KANJORSKI, Mr. SOLOMON, Mr. BROWN of California, Mr. LEWIS of California, Ms. KAPTUR, Mr. MCDADE, Mr. DINGELL, Mr. BURTON of Indiana, Ms. RIVERS, Mr. LIVINGSTON, Ms. ROYBAL-ALLARD, Mr. QUINN, Mr. YATES, Mr. WAMP, Mr. SANDERS, Mr. HINCHEY, and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Banking and Financial Services

MARCH 30, 1998

Additional sponsors: Mr. KILDEE, Mr. CONYERS, Mr. BARCIA, Mr. KLINK, Mrs. JOHNSON of Connecticut, Mr. WALSH, Mr. KUCINICH, Mr. FILNER, Mr. HILLIARD, Mr. GEJDENSON, Mr. LANTOS, Mr. SHERMAN, Mr. DIXON, Mr. MARKEY, Mr. THOMPSON, Mr. ROTHMAN, Ms. ESHOO, Mr. BONIOR, Mrs. MINK of Hawaii, Mr. NEAL of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. LIPINSKI, Mr. GONZALEZ, Ms. NORTON, Mr. LEWIS of Georgia, Mr. STUPAK, Mr. WELDON of Pennsylvania, Mr. SABO, Mrs. KENNELLY of Connecticut, Mr. GIBBONS, Mr. STARK, Mr. TOWNS, Mr. BOEHLERT, Mr. DELLUMS, Mr. FALCOMAVAEGA, Mr. WEYGAND, Mr. CONDIT, Mr. COYNE, Mr. TORRES, Mr. KOLBE, Ms. STABENOW, Mr. FRANK of Massachusetts, Mr. PALLONE, Mr. STOKES, Ms. SANCHEZ, Mr. KIM, Mr. BERMAN, Mr. FATTAH, Mr. OLVER, Mr. EVANS, Mrs. LINDA SMITH of Washington, Mr. SANFORD, Mr. OBERSTAR, Mr. MASCARA, Mr. FOGLIETTA, Mr. DICKS, Mr. CALVERT, Mr. GILCHREST, Mr. McDERMOTT, Mr. MARTINEZ, Mr. PAYNE, Mr. ANDREWS, Mr. UNDERWOOD, Mr. PETERSON of Pennsylvania, Mr. FOX of Pennsylvania, Ms. MCKINNEY, Mr. HOYER, Mr. RODRIQUEZ, Mr. DAVIS of Illinois, Mr. JOHNSON of Wisconsin, Mr. CLAY, Mr. CAPPS, Mr. HORN, Mr. MENENDEZ, Mr. SHAYS, Mr. CUMMINGS, Mr. NADLER, Mr. BLUNT,

Mr. BECERRA, Mr. TALENT, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. FAZIO of California, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATERS, Mr. WYNN, Mr. MILLER of California, Mrs. MCCARTHY of New York, Mr. HOLDEN, Mr. GILMAN, Mrs. MORELLA, Mr. ENGLISH of Pennsylvania, Mr. FARR of California, Ms. DELAURO, Mr. LEVIN, Mr. MCGOVERN, Mr. RANGEL, Mr. MANTON, Mr. RUSH, Mr. PACKARD, Mrs. TAUSCHER, Mr. BLAGOJEVICH, Mr. CUNNINGHAM, Mr. SERRANO, Ms. WOOLSEY, Mr. COSTELLO, Mr. DOYLE, Mr. FAWELL, Mr. ABERCROMBIE, Mr. SESSIONS, Mr. ORTIZ, Mr. HUNTER, Mr. GINGRICH, Mr. MOLLOHAN, Mr. GREEN, Mr. WAXMAN, Ms. BROWN of Florida, Mrs. CHENOWETH, Mr. BARR of Georgia, Mr. SHUSTER, Mr. ROYCE, Mr. YOUNG of Alaska, Mr. WISE, Ms. LOFGREN, Mrs. THURMAN, Mr. BILBRAY, Mr. MCHUGH, Mr. SOUDER, Mr. MCHALE, Mr. BURR of North Carolina, Mr. OBEY, Mr. MATSUI, Ms. DEGETTE, Mr. SMITH of Michigan, Mr. JONES, Mr. McNULTY, Mr. ETHERIDGE, Mr. MEEHAN, Mr. LEWIS of Kentucky, Mr. WOLF, Mr. GREENWOOD, Mr. KIND, Mr. PETERSON of Minnesota, Ms. PELOSI, Mr. REYES, Mr. KNOLLENBERG, Mr. TRAFICANT, Mr. PETRI, Mr. CRAMER, Ms. MCCARTHY of Missouri, Mr. WELDON of Florida, Mr. HALL of Ohio, Mr. FORBES, Mr. RAHALL, Mr. FOLEY, Mr. HERGER, Mr. ENSIGN, Mr. BISHOP, Mr. FROST, Mr. ALLEN, Mrs. LOWEY, Mr. CRAPO, Mr. DOOLITTLE, Mr. BALDACCI, Mr. SNYDER, Mr. METCALF, Mr. ROEMER, Mr. FORD, Mr. GOODLING, Mr. COBLE, Mr. ROGAN, Mr. ENGEL, Mr. MEEKS of New York, Mr. STRICKLAND, Mr. PAPPAS, Mr. SPRATT, Mrs. CAPPS, Mr. CLYBURN, Mr. WELLER, Mr. HASTINGS of Florida, Mr. HILL, Mr. PAUL, Mr. GRAHAM, Mr. PRICE of North Carolina, Mr. PICKETT, Mr. LAHOOD, Mr. POSHARD, Mr. ADAM SMITH of Washington, and Mr. MINGE

MARCH 30, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 20, 1997]

A BILL

To amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Credit Union Member-*
3 *ship Access Act”.*

4 **SEC. 2. FINDINGS.**

5 *The Congress finds the following:*

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

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

15 *(3) To promote thrift and credit extension, a*
16 *meaningful affinity and bond among members, mani-*
17 *fested by a commonality of routine interaction, shared*
18 *and related work experiences, interests, or activities,*
19 *or the maintenance of an otherwise well-understood*
20 *sense of cohesion or identity is essential to the fulfill-*
21 *ment of credit unions’ public mission.*

22 *(4) Credit unions, unlike many other partici-*
23 *pants in the financial services market, are exempt*
24 *from Federal and most State taxes because they are*
25 *member-owned, democratically operated, not-for-profit*
26 *organizations generally managed by volunteer boards*

1 of directors and because they have the specified mis-
 2 sion of meeting the credit and savings needs of con-
 3 sumers, especially persons of modest means.

4 (5) Improved credit union safety and soundness
 5 provisions will enhance the public benefit that citizens
 6 receive from these cooperative financial services insti-
 7 tutions.

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

10 **SEC. 101. FIELDS OF MEMBERSHIP.**

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

13 (1) in the 1st sentence—

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

18 (B) by striking “, except that” and all that
 19 follows through the period at the end of such sen-
 20 tence and inserting a period; and

21 (2) by adding at the end the following new sub-
 22 sections:

23 “(b) MEMBERSHIP FIELD.—Subject to the other provi-
 24 sions of this section, the membership of any Federal credit

1 *union shall be limited to the membership described in 1 of*
2 *the following categories:*

3 “(1) *SINGLE COMMON-BOND CREDIT UNION.—1*
4 *group which has a common bond of occupation or as-*
5 *sociation.*

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

8 “(A) *each of which has (within such group)*
9 *a common bond of occupation or association;*
10 *and*

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

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

20 “(c) *GRANDFATHERED MEMBERS AND GROUPS.—*

21 “(1) *IN GENERAL.—Notwithstanding subsection*
22 *(b)—*

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

1 *bership Access Act may remain a member of*
2 *such credit union after such date; and*

3 “(B) *a member of any group whose mem-*
4 *bers constituted a portion of the membership of*
5 *any Federal credit union as of such date of en-*
6 *actment shall continue to be eligible to become a*
7 *member of such credit union, by virtue of mem-*
8 *bership in such group, after such date.*

9 “(2) *SUCCESSORS.—If the common bond of any*
10 *group referred to in paragraph (1) is defined by any*
11 *particular organization or business entity, paragraph*
12 *(1) shall continue to apply with respect to any succes-*
13 *sor to such organization or entity.*

14 “(d) *MULTIPLE COMMON-BOND CREDIT UNION GROUP*
15 *REQUIREMENTS.—*

16 “(1) *NUMERICAL LIMITATION.—Except as pro-*
17 *vided in paragraph (2), only a group with fewer than*
18 *3,000 members shall be eligible to be included in the*
19 *field of membership of a credit union described in*
20 *subsection (b)(2).*

21 “(2) *EXCEPTIONS.—In the case of any Federal*
22 *credit union whose field of membership is determined*
23 *under subsection (b)(2), the numerical limitation de-*
24 *scribed in paragraph (1) shall not apply with respect*
25 *to the following:*

1 “(A) *CERTAIN LARGER GROUPS INCAPABLE*
2 *OF SUPPORTING AND OPERATING A SINGLE-*
3 *GROUP CREDIT UNION.*—*Any group which the*
4 *Board determines, in writing and in accordance*
5 *with the guidelines and regulations described in*
6 *paragraph (4), could not feasibly or reasonably*
7 *establish a new single common-bond credit union*
8 *described in subsection (b)(1) because—*

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

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

22 “(iii) *the group would be unlikely to*
23 *operate a safe and sound credit union.*

1 “(B) *TRANSACTIONS FOR SUPERVISORY*
2 *REASONS.—Any group transferred from another*
3 *credit union—*

4 “(i) *in connection with a merger or*
5 *consolidation which has been recommended*
6 *by the Board or any appropriate State*
7 *credit union supervisor for safety and*
8 *soundness concerns with respect to such*
9 *other credit union; or*

10 “(ii) *by the Board in the Board’s ca-*
11 *capacity as conservator or liquidating agent*
12 *with respect to such other credit union.*

13 “(3) *EXCEPTION FOR UNDERSERVED AREAS.—*
14 *Notwithstanding subsection (b), in the case of a Fed-*
15 *eral credit union described in paragraph (2) of such*
16 *subsection, the Board may allow the membership of*
17 *the credit union to include any person or organiza-*
18 *tion within a local community, neighborhood, or*
19 *rural district if—*

20 “(A) *the Board determines that such local*
21 *community, neighborhood, or rural district—*

22 “(i) *meets the requirements of para-*
23 *graph (3) and subparagraphs (A) and (B)*
24 *of paragraph (4) of section 233(b) of the*
25 *Bank Enterprise Act of 1991, and such ad-*

1 *ditional requirements as the Board may im-*
2 *pose; and*

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

9 *“(B) the credit union establishes and main-*
10 *tains an office or facility in such local commu-*
11 *nity, neighborhood, or rural district at which*
12 *credit union services are available.*

13 *“(4) REGULATIONS AND GUIDELINES.—The*
14 *Board shall issue guidelines or regulations, after no-*
15 *tice and opportunity for comment, setting forth the*
16 *criteria the Board will apply in determining whether*
17 *or not an additional group may be included within*
18 *the field of membership of an existing credit union*
19 *pursuant to paragraph (2).*

20 *“(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVI-*
21 *SIONS.—*

22 *“(1) MEMBERSHIP ELIGIBILITY LIMITED TO IM-*
23 *MEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No in-*
24 *dividual shall be eligible for membership in a credit*
25 *union on the basis of the relationship of such individ-*

1 *ual to another person who is eligible for membership*
 2 *in such credit union unless the individual is a mem-*
 3 *ber of the immediate family or household (as such*
 4 *terms are defined by the Board by regulation) of such*
 5 *other person.*

6 *“(2) RETENTION OF MEMBERSHIP.—Except as*
 7 *provided in section 118, once a person becomes a*
 8 *member of a credit union in accordance with this*
 9 *title, such person or organization may remain a*
 10 *member of such credit union until the person or orga-*
 11 *nization chooses to withdraw from the membership of*
 12 *the credit union.”.*

13 **SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEM-**
 14 **BERSHIP OF MULTIPLE COMMON-BOND CRED-**
 15 **IT UNIONS.**

16 *Section 109 of the Federal Credit Union Act (12*
 17 *U.S.C. 1759) is amended by inserting after subsection (e)*
 18 *(as added by section 101 of this title) the following new*
 19 *subsection:*

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

22 *“(1) IN GENERAL.—The Board shall—*

23 *“(A) encourage the formation of separately*
 24 *chartered credit unions instead of approving an*
 25 *application to include an additional group with-*

1 *in the field of membership of an existing credit*
2 *union whenever practicable and consistent with*
3 *reasonable standards for the safe and sound op-*
4 *eration of the credit union; and*

5 “(B) *if the formation of a separate credit*
6 *union by such group is not practicable or con-*
7 *sistent with such standards, require the inclusion*
8 *of such group in the field of membership of a*
9 *credit union which is within reasonable proxim-*
10 *ity to the location of the group whenever prac-*
11 *ticable and consistent with reasonable standards*
12 *for the safe and sound operation of the credit*
13 *union.*

14 “(2) *APPROVAL CRITERIA.—The Board may not*
15 *approve any application by a Federal credit union*
16 *described in subsection (b)(2) to include any addi-*
17 *tional group within the field of membership of such*
18 *credit union (or an application by a Federal credit*
19 *union described in paragraph (1) to include an addi-*
20 *tional group and become a credit union described in*
21 *paragraph (2)) unless the Board determines, in writ-*
22 *ing, that—*

23 “(A) *such credit union has not engaged in*
24 *any unsafe or unsound practice (as defined in*
25 *section 206(b)) which is material during the 1-*

1 *year period preceding the filing of the applica-*
2 *tion;*

3 “(B) *the credit union is adequately capital-*
4 *ized;*

5 “(C) *the credit union has the administra-*
6 *tive capability to serve the proposed membership*
7 *group and the financial resources to meet the*
8 *need for additional staff and assets to serve the*
9 *new membership group;*

10 “(D) *pursuant to the most recent evaluation*
11 *of such credit union under section 215, the credit*
12 *union is satisfactorily providing affordable cred-*
13 *it union services to all individuals of modest*
14 *means within the field of membership of such*
15 *credit union;*

16 “(E) *any potential harm the expansion of*
17 *the field of membership of the credit union may*
18 *have on any other insured credit union and its*
19 *members is clearly outweighed in the public in-*
20 *terest by the probable beneficial effect of the ex-*
21 *ansion in meeting the convenience and needs of*
22 *the members of the group proposed to be included*
23 *in the field of membership; and*

1 “(F) the credit union has met such addi-
 2 tional requirements as the Board may prescribe
 3 in regulations.”.

4 **SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY**
 5 **CREDIT UNIONS.**

6 Section 109 of the Federal Credit Union Act (12
 7 U.S.C. 1759) is amended by inserting after subsection (f)
 8 (as added by section 102 of this title) the following new
 9 subsection:

10 “(g) **REGULATIONS REQUIRED FOR COMMUNITY CRED-**
 11 **IT UNIONS.**—

12 “(1) **DEFINITION OF WELL-DEFINED LOCAL COM-**
 13 **MUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.**—The
 14 Board shall prescribe regulations defining the term
 15 ‘well-defined local community, neighborhood, or rural
 16 district’ for purposes of—

17 “(A) making any determination with re-
 18 gard to the field of membership of a credit union
 19 described in subsection (b)(3); and

20 “(B) establishing the criteria applicable
 21 with respect to any such determination.

22 “(2) **SCOPE OF APPLICATION.**—Paragraph (1)
 23 shall apply with respect to any application to form
 24 a new credit union, or to alter or expand the field of
 25 membership of an existing credit union, which is filed

1 *with the Board after the date of the enactment of*
2 *Credit Union Membership Access Act.”.*

3 **TITLE II—REGULATION OF**
4 **CREDIT UNIONS**

5 **SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIRE-**
6 **MENTS.**

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

10 *“(C) ACCOUNTING PRINCIPLES.—*

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

17 *“(ii) BOARD DETERMINATION.—If the*
18 *Board determines that the application of*
19 *any generally accepted accounting principle*
20 *to any insured credit union is not appro-*
21 *priate, the Board may prescribe an ac-*
22 *counting principle for application to such*
23 *credit unions which is no less stringent*
24 *than generally accepted accounting prin-*
25 *ciples.*

1 *the conversion of a credit union into any other form of de-*
2 *pository institution, including regulations relating to the*
3 *form of disclosure required preceding a vote by the members*
4 *of a credit union with regard to any such conversion and*
5 *the manner in which such vote shall be conducted, to ensure*
6 *that such regulations freely and fairly permit any such con-*
7 *version after free, fair, and objective disclosure to the mem-*
8 *bers of the credit union of the facts and issues involved in*
9 *any such conversion.*

10 *(b) REPORT TO THE CONGRESS.—*

11 *(1) IN GENERAL.—Before the end of the 12-*
12 *month period beginning on the date of the enactment*
13 *of this Act, the National Credit Union Administra-*
14 *tion Board shall submit a detailed report on the find-*
15 *ings and conclusions of the Board in connection with*
16 *the review required under subsection (a).*

17 *(2) CONTENTS OF REPORT.—The report submit-*
18 *ted pursuant to paragraph (1) shall contain—*

19 *(A) any recommendation for any adminis-*
20 *trative or legislative change which the Board*
21 *may determine to be appropriate with regard to*
22 *any aspect of the conversion of a credit union*
23 *into another form of depository institution; and*

24 *(B) the justification for any recommenda-*
25 *tion of the Board—*

1 (i) to retain in effect any provision of
2 the regulations in effect on March 13, 1998,
3 which govern or affect the conversion of a
4 credit union into any other form of depository
5 institution; or

6 (ii) to amend or alter any such provi-
7 sion.

8 (c) *DEFINITIONS.*—For purposes of this section, the fol-
9 lowing definitions shall apply:

10 (1) *CREDIT UNION.*—The term “credit union”
11 means any Federal credit union or State credit union
12 (as such terms are defined in paragraphs (1) and (6),
13 respectively, of section 101 of the Federal Credit
14 Union Act).

15 (2) *DEPOSITORY INSTITUTION.*—The term “de-
16 pository institution” has the meaning given such
17 term in section 3 of the Federal Deposit Insurance
18 Act.

19 **SEC. 203. FREEZE ON BOARD REGULATIONS RELATING TO**
20 **COMMERCIAL LOANS AND CERTAIN AP-**
21 **PRAISAL REQUIREMENTS RELATING TO SUCH**
22 **LOANS.**

23 (a) *IN GENERAL.*—The regulations of the National
24 Credit Union Administration Board which are codified in
25 parts 701.21(h) and 722.3(a) of the Code of Federal Regula-

1 tions, as in effect on March 13, 1998 (relating to business
2 loans and lines of credit to members and appraisal require-
3 ments), including any other regulations which are applica-
4 ble with respect to loans or lines of credit to which the part
5 applies, shall remain in effect without amendment or al-
6 tered application until the end of the 1-year period begin-
7 ning on such date and, notwithstanding the Federal Credit
8 Union Act or any other provision of law, any action of the
9 National Credit Union Administration Board, or the Na-
10 tional Credit Union Administration, on or after such date
11 which purports to amend (including an amendment by sub-
12 stitution) or otherwise apply any such regulation dif-
13 ferently than in effect on such date shall have no force or
14 legal effect before the end of such 1-year period.

15 (b) *REVIEW AND REPORT TO THE CONGRESS.*—Before
16 the end of the 1-year period described in subsection (a), the
17 National Credit Union Administration Board shall conduct
18 a review of the effectiveness of the regulations referred to
19 in such subsection as in effect on March 13, 1998, and shall
20 submit a report to the Congress on the results of such review
21 before the end of such 1-year period.

1 **SEC. 204. SERVING PERSONS OF MODEST MEANS WITHIN**
2 **THE FIELD OF MEMBERSHIP OF CREDIT**
3 **UNIONS.**

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

7 **“SEC. 215. SERVING PERSONS OF MODEST MEANS WITHIN**
8 **THE FIELD OF MEMBERSHIP OF CREDIT**
9 **UNIONS.**

10 *“(a) CONTINUING AND AFFIRMATIVE OBLIGATION.—*
11 *The purpose of this section is to reaffirm that insured credit*
12 *unions have a continuing and affirmative obligation to*
13 *meet the financial services needs of persons of modest means*
14 *consistent with safe and sound operation.*

15 *“(b) EVALUATION BY THE BOARD.—The Board shall,*
16 *before the end of the 12-month period beginning on the date*
17 *of the enactment of the Credit Union Membership Access*
18 *Act—*

19 *“(1) prescribe criteria for periodically reviewing*
20 *the record of each insured credit union in providing*
21 *affordable credit union services to all individuals of*
22 *modest means (including low- and moderate-income*
23 *individuals) within the field of membership of such*
24 *credit union; and*

25 *“(2) provide for making the results of such re-*
26 *view publicly available.*

1 “(c) *ADDITIONAL CRITERIA FOR COMMUNITY CREDIT*
2 *UNIONS REQUIRED.*—*The Board shall, by regulation—*

3 “(1) *prescribe additional criteria for annually*
4 *evaluating the record of any insured credit union*
5 *which is organized to serve a well-defined local com-*
6 *munity, neighborhood, or rural district in meeting the*
7 *credit needs and credit union service needs of the en-*
8 *tire field of membership of such credit union; and*

9 “(2) *prescribe procedures for remedying the fail-*
10 *ure of any insured credit union described in para-*
11 *graph (1) to meet the criteria established pursuant to*
12 *such paragraph, including the disapproval of any ap-*
13 *plication by such credit union to expand the field of*
14 *membership of such credit union.*

15 “(d) *EMPHASIS ON PERFORMANCE, NOT PAPER-*
16 *WORK.*—*In evaluating any insured credit union under this*
17 *section, the Board shall—*

18 “(1) *focus on the actual performance of the in-*
19 *sured credit union; and*

20 “(2) *not impose burdensome paperwork or rec-*
21 *ordkeeping requirements.”.*

22 “(b) *ANNUAL REPORTS.*—*With respect to each of the 1st*
23 *5 years which begin after the date of the enactment of this*
24 *Act, the National Credit Union Administration Board shall*
25 *include in the annual report to the Congress under section*

1 102(d) of the Federal Credit Union Act a report on the
 2 progress of the Board in implementing section 215 of such
 3 Act (as added by subsection (a) of this section).

4 **SEC. 205. NATIONAL CREDIT UNION ADMINISTRATION**
 5 **BOARD MEMBERSHIP.**

6 Section 102(b) of the Federal Credit Union Act (12
 7 1752a(b)) is amended—

8 (1) by striking “(b) The Board” and inserting

9 “(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

10 “(1) IN GENERAL.—The Board”; and

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

13 “(2) APPOINTMENT CRITERIA.—

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

22 “(B) LIMIT ON APPOINTMENT OF CREDIT
 23 UNION OFFICERS.—Not more than 1 member of
 24 the Board may be appointed to the Board from
 25 among individuals who, at the time of such ap-

1 *after section 215 (as added by section 204 of this Act) the*
2 *following new section:*

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

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

5 *“(1) PURPOSE.—The purpose of this section is to*
6 *resolve the problems of insured credit unions at the*
7 *least possible long-term loss to the National Credit*
8 *Union Share Insurance Fund.*

9 *“(2) PROMPT CORRECTIVE ACTION REQUIRED.—*

10 *The Board shall carry out the purpose of this section*
11 *by taking prompt corrective action to resolve the*
12 *problems of insured credit unions.*

13 *“(b) REGULATIONS.—The Board shall implement sub-*
14 *section (a) of this section by prescribing regulations, after*
15 *public notice and opportunity for comment, which—*

16 *“(1) establish criteria and procedures for*
17 *classifying credit unions as ‘well capitalized’, ‘ade-*
18 *quately capitalized’, ‘undercapitalized’, ‘significantly*
19 *undercapitalized’, or ‘critically undercapitalized’;*

20 *“(2) specify a series of graduated regulatory en-*
21 *forcement actions that may be imposed upon any*
22 *credit union which fails to meet the requirements for*
23 *classification as an adequately capitalized credit*
24 *union, including—*

1 “(A) the submission of net worth restoration
2 plans;

3 “(B) earnings retention requirements;

4 “(C) prior written approval by the Board
5 for certain activities such as branching and
6 entry into new lines of business; and

7 “(D) the appointment of a conservator or
8 liquidating agent in appropriate circumstances;

9 “(3) establish reasonable net worth requirements,
10 including risk-based net worth requirements in the
11 case of complex credit unions, for various categories
12 of credit unions and prescribe the manner in which
13 net worth is calculated (for purposes of such require-
14 ments) with regard to various types of investments,
15 including investments in corporate credit unions, tak-
16 ing into account the unique nature and role of credit
17 unions;

18 “(4) establish criteria for reclassifying the cap-
19 ital classifications of credit unions that engage in un-
20 safe or unsound practices; and

21 “(5) are generally comparable with the prompt
22 corrective action provisions set forth in section 38 of
23 the Federal Deposit Insurance Act, taking into ac-
24 count the distinct capital structure, cooperative na-
25 ture, and other characteristics of credit unions.”.

1 **(b) EFFECTIVE DATE OF REGULATIONS.**—

2 **(1) PROPOSED REGULATIONS.**—*The National*
3 *Credit Union Administration Board shall publish, in*
4 *the Federal Register, proposed regulations which meet*
5 *the requirements of the amendment made by sub-*
6 *section (a) before the end of the 270-day period begin-*
7 *ning on the date of the enactment of this Act.*

8 **(2) FINAL REGULATIONS.**—*The regulations re-*
9 *quired by the amendment made by subsection (a)*
10 *shall take effect in final form by the end of the 18-*
11 *month period beginning on the date of the enactment*
12 *of this Act.*

13 **(c) REPORT TO CONGRESS.**—*At the time the proposed*
14 *prompt corrective action regulations are published in the*
15 *Federal Register by the National Credit Union Administra-*
16 *tion Board pursuant to subsection (b)(1), the Board shall*
17 *submit a report to the Congress on the differences and simi-*
18 *larities between such prompt corrective action regulations*
19 *and the regulations prescribed by the Federal bank agencies*
20 *under section 38 of the Federal Deposit Insurance Act.*

21 **SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE**
22 **FUND EQUITY RATIO, AVAILABLE ASSETS**
23 **RATIO, AND STANDBY PREMIUM CHARGE.**

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

1 (1) *by amending subsection (b) to read as fol-*
2 *lows:*

3 “(b) *CERTIFIED STATEMENT.*—

4 “(1) *STATEMENT REQUIRED.*—

5 “(A) *IN GENERAL.*—*For each calendar year*
6 *in the case of an insured credit union with total*
7 *assets of not more than \$50,000,000, and for*
8 *each semi-annual period in the case of an in-*
9 *insured credit union with total assets of*
10 *\$50,000,000 or more, an insured credit union*
11 *shall file with the Board, at such time as the*
12 *Board prescribes, a certified statement showing*
13 *the total amount of insured shares in the credit*
14 *union at the close of the relevant period and both*
15 *the amount of its deposit or adjustment of de-*
16 *posit and the amount of the insurance charge*
17 *due to the fund for that period, both as computed*
18 *under subsection (c).*

19 “(B) *EXCEPTION FOR NEWLY INSURED*
20 *CREDIT UNION.*—*Subparagraph (A) shall not*
21 *apply with respect to a credit union that became*
22 *insured during the reporting period.*

23 “(2) *FORM.*—*The certified statements required to*
24 *be filed with the Board pursuant to this subsection*

1 shall be in such form and shall set forth such support-
2 ing information as the Board shall require.

3 “(3) *CERTIFICATION.*—*The president of the cred-*
4 *it union or any officer designated by the board of di-*
5 *rectors shall certify, with respect to each such state-*
6 *ment, that to the best of his or her knowledge and be-*
7 *lief the statement is true, correct, complete, and in ac-*
8 *cordance with this title and the regulations issued*
9 *under this title.”;*

10 (2) by amending clause (iii) of subsection
11 (c)(1)(A) to read as follows:

12 “(iii) *PERIODIC ADJUSTMENT.*—*The*
13 *amount of each insured credit union’s de-*
14 *posit shall be adjusted as follows, in accord-*
15 *ance with procedures determined by the*
16 *Board, to reflect changes in the credit*
17 *union’s insured shares:*

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

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

24 (3) by amending paragraphs (2) and (3) of sub-
25 section (c) to read as follows:

1 “(2) *INSURANCE PREMIUM CHARGES.*—

2 “(A) *IN GENERAL.*—*Each insured credit*
3 *union shall, at such times as the Board pre-*
4 *scribes (but not more than twice in any calendar*
5 *year), pay to the fund a premium charge for in-*
6 *surance in an amount stated as a percentage of*
7 *insured shares (which shall be the same for all*
8 *insured credit unions).*

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

12 “(i) *the fund’s equity ratio is less than*
13 *1.3 percent; and*

14 “(ii) *the premium charge does not ex-*
15 *ceed the amount necessary to restore the eq-*
16 *uity ratio to 1.3 percent.*

17 “(C) *PREMIUM CHARGE REQUIRED IF EQ-*
18 *UITY RATIO FALLS BELOW 1.2 PERCENT.*—*If the*
19 *fund’s equity ratio is less than 1.2 percent, the*
20 *Board shall, subject to subparagraph (B), assess*
21 *a premium charge in such an amount as the*
22 *Board determines to be necessary to restore the*
23 *equity ratio to, and maintain that ratio at, 1.2*
24 *percent.*

25 “(3) *DISTRIBUTIONS FROM FUND REQUIRED.*—

1 “(A) *IN GENERAL.*—*The Board shall effect a*
2 *pro rata distribution to insured credit unions*
3 *after each calendar year if, as of the end of that*
4 *calendar year—*

5 “(i) *any loans to the fund from the*
6 *Federal Government, and any interest on*
7 *those loans, have been repaid;*

8 “(ii) *the fund’s equity ratio exceeds the*
9 *normal operating level; and*

10 “(iii) *the fund’s available assets ratio*
11 *exceeds 1.0 percent.*

12 “(B) *AMOUNT OF DISTRIBUTION.*—*The*
13 *Board shall distribute under subparagraph (A)*
14 *the maximum possible amount that—*

15 “(i) *does not reduce the fund’s equity*
16 *ratio below the normal operating level; and*

17 “(ii) *does not reduce the fund’s avail-*
18 *able assets ratio below 1.0 percent.*

19 “(C) *CALCULATION BASED ON CERTIFIED*
20 *STATEMENTS.*—*In calculating the fund’s equity*
21 *ratio and available assets ratio for purposes of*
22 *this paragraph, the Board shall determine the*
23 *aggregate amount of the insured shares in all in-*
24 *sured credit unions from insured credit unions*
25 *certified statements under subsection (b) for the*

1 *final reporting period of the calendar year re-*
 2 *ferred to in subparagraph (A).”;*

3 (4) *by adding at the end of subsection (c) the fol-*
 4 *lowing new paragraph:*

5 “(4) *TIMELINESS AND ACCURACY OF DATA.—In*
 6 *calculating the available assets ratio and equity ratio*
 7 *of the fund, the Board shall use the most current and*
 8 *accurate data reasonably available.”; and*

9 (5) *by amending subsection (h) to read as fol-*
 10 *lows:*

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

13 “(1) *AVAILABLE ASSETS RATIO.—The term*
 14 *‘available assets ratio’, when applied to the fund,*
 15 *means the ratio of—*

16 “(A) *the amount determined by subtract-*
 17 *ing—*

18 “(i) *direct liabilities of the fund and*
 19 *contingent liabilities for which no provision*
 20 *for losses has been made, from*

21 “(ii) *the sum of cash and the market*
 22 *value of unencumbered investments author-*
 23 *ized under section 203(c), to*

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

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

3 “(A) the amount of fund capitalization, in-
4 cluding insured credit unions’ 1 percent capital-
5 ization deposits and the fund’s retained earnings
6 balance (net of direct liabilities of the fund and
7 contingent liabilities for which no provision for
8 losses has been made), to

9 “(B) the aggregate amount of the insured
10 shares in all insured credit unions.

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

17 “(4) *NORMAL OPERATING LEVEL.*—The term
18 ‘normal operating level’, when applied to the fund,
19 means an equity ratio specified by the Board, which
20 shall be not less than 1.2 percent and not more than
21 1.5 percent.”.

22 (b) *EFFECTIVE DATE.*—This section shall become effec-
23 tive on January 1 of the first calendar year beginning more
24 than 180 days after the date of enactment of this Act.

1 **SEC. 303. ACCESS TO LIQUIDITY.**

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

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

6 *“(1) periodically assess the potential liquidity*
7 *needs of each insured credit union, and the options*
8 *that the credit union has available for meeting those*
9 *needs; and*

10 *“(2) periodically assess the potential liquidity*
11 *needs of insured credit unions as a group, and the op-*
12 *tions that insured credit unions have available for*
13 *meeting those needs.*

14 “(g) *SHARING INFORMATION WITH FEDERAL RE-*
15 *SERVE BANKS.—The Board shall, for the purpose of facili-*
16 *tating insured credit unions’ access to liquidity, make*
17 *available to the Federal reserve banks (subject to appro-*
18 *priate assurances of confidentiality) information relevant*
19 *to making advances to such credit unions, including the*
20 *Board’s reports of examination.”.*

1 **TITLE IV—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 401. ASSURING INDEPENDENT DECISION MAKING IN**
4 **CONNECTION WITH CERTAIN CONVERSIONS.**

5 *Section 18 of the Federal Deposit Insurance Act (12*
6 *U.S.C. 1828) is amended by adding at the end the following*
7 *new subsection:*

8 “(t) *CONVERSIONS INVOLVING FORMER CREDIT*
9 *UNIONS.—*

10 “(1) *IN GENERAL.—Notwithstanding any other*
11 *provision of law—*

12 “(A) *an insured credit union may not con-*
13 *vert into an insured depository institution; and*

14 “(B) *an insured depository institution*
15 *which resulted from a prior conversion of an in-*
16 *sured credit union into such insured depository*
17 *institution may not convert from the mutual*
18 *form to the stock form and may not convert from*
19 *1 form of depository institution into another,*

20 *unless the appropriate Federal banking agency for the*
21 *insured depository institution which results from any*
22 *such conversion reviews the conversion and determines*
23 *that the requirements of paragraphs (2) and (3) have*
24 *been met.*

1 “(2) *PROHIBITION ON ECONOMIC BENEFIT FROM*
2 *CONVERSION FOR CREDIT UNION OFFICERS, DIREC-*
3 *TORS, AND COMMITTEE MEMBERS.—An individual*
4 *who is or, at any time during the 5-year period pre-*
5 *ceding any conversion described in paragraph (1),*
6 *was a director, committee member, or senior manage-*
7 *ment official of an insured credit union described in*
8 *subparagraph (A) or (B) of such paragraph (in con-*
9 *nection with such conversion) may not receive any*
10 *economic benefit as a result of the conversion with re-*
11 *gard to the shares or interests of such director, mem-*
12 *ber, or officer in the former insured credit union or*
13 *in any resulting insured depository institution.*

14 “(3) *ACKNOWLEDGEMENT AND ATTESTATION BY*
15 *OFFICERS, DIRECTORS, AND COMMITTEE MEMBERS.—*
16 *Any insured credit union or insured depository insti-*
17 *tution which is seeking to engage in a conversion*
18 *which is subject to this subsection shall submit—*

19 “(A) *a written acknowledgement, in such*
20 *form and manner as the appropriate Federal*
21 *banking agency may prescribe, by every individ-*
22 *ual who is subject to the prohibition contained in*
23 *paragraph (2), that such individual is aware of*
24 *such prohibition; and*

1 “(B) an attestation that the conversion
2 under review will not result in a violation of
3 such prohibition.

4 “(4) *DEFINITIONS.*—For purposes of this sub-
5 section, the following definitions shall apply:

6 “(A) *INSURED CREDIT UNION.*—The term
7 ‘insured credit union’ has the meaning given to
8 such term in section 101(7) of the Federal Credit
9 Union Act.

10 “(B) *SENIOR MANAGEMENT OFFICIAL.*—The
11 term ‘senior management official’ means a chief
12 executive officer, an assistant chief executive offi-
13 cer, a chief financial officer, and any other sen-
14 ior executive officer (as defined by the appro-
15 priate Federal banking agency pursuant to sec-
16 tion 32(f)).”.

17 **SEC. 402. PAYMENT OF INTEREST ON RESERVES AT FED-**
18 **ERAL RESERVE BANKS.**

19 (a) *IN GENERAL.*—Section 19(b) of the Federal Re-
20 serve Act (12 U.S.C. 461(b)) is amended by adding at the
21 end the following new paragraph:

22 “(12) *EARNINGS ON RESERVES.*—

23 “(A) *IN GENERAL.*—Balances maintained
24 at a Federal reserve bank by or on behalf of a
25 depository institution to meet the reserve require-

1 *ments of this subsection applicable with respect*
2 *to such depository institution shall receive earn-*
3 *ings to be paid by the Federal reserve bank at*
4 *least once each calendar quarter at a rate not to*
5 *exceed the rate earned on the securities portfolio*
6 *of the Federal Reserve System during the preced-*
7 *ing quarter.*

8 “(B) *REGULATIONS RELATING TO PAY-*
9 *MENTS AND DISTRIBUTIONS.—The Board may*
10 *prescribe regulations concerning—*

11 “(i) *the payment of earnings in ac-*
12 *cordance with this paragraph;*

13 “(ii) *the distribution of such earnings*
14 *to the depository institutions which main-*
15 *tain balances at such banks or on whose be-*
16 *half such balances are maintained; and*

17 “(iii) *the responsibilities of depository*
18 *institutions, Federal home loan banks, and*
19 *the National Credit Union Administration*
20 *Central Liquidity Facility with respect to*
21 *the crediting and distribution of earnings*
22 *attributable to balances maintained, in ac-*
23 *cordance with subsection (c)(1)(B), in a*
24 *Federal reserve bank by any such entity on*

1 *behalf of depository institutions which are*
2 *not member banks.”.*

3 ***(b) TECHNICAL AND CONFORMING AMENDMENT.—***

4 *(1) Section 19(b)(4) of the Federal Reserve Act*
5 *(12 U.S.C. 461(b)(4)) is amended by striking sub-*
6 *paragraph (C).*

7 *(2) Section 19(c)(1)(A) of the Federal Reserve*
8 *Act (12 U.S.C. 461(c)(1)(A)) is amended by striking*
9 *“subsection (b)(4)(C)” and inserting “subsection (b)”.*