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CHAPTER 26.

 SOUTH CAROLINA CREDIT UNION ACT

ARTICLE 1.

 DEFINITIONS

**SECTION 34‑26‑100.** Short title.

 This chapter is known and may be cited as the "South Carolina Credit Union Act of 1996".

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑110.** Definition.

 In construing this chapter, the following definitions shall apply unless such application would produce a result clearly inconsistent with the context of the provision.

 (1) "Board" means the South Carolina Board of Financial Institutions.

 (2) "Capital" means share accounts, reserves, and undivided earnings.

 (3) "Commissioner" means the Commissioner of the State Board of Financial Institutions.

 (4) "Corporate credit union" means a credit union whose field of membership consists primarily of other credit unions and credit union related organizations.

 (5) "Credit union" means a cooperative, nonprofit corporation, incorporated under this chapter, for the purposes of encouraging thrift among its members, creating a source of credit at fair and reasonable rates of interest, and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.

 (6) "Deposit account" means a balance held by a credit union and established by a member, another credit union, organization, as defined in the Federal Credit Union Act, revised October 1998, Title 1, Section 1785‑205(2), Paragraph (1), or a governmental unit in accordance with standards specified by the credit union including balances designated as deposits, deposit certificates, checking accounts, or other names. Ownership of a deposit account does not confer membership or voting rights and does not represent an interest in the capital of the credit union upon dissolution. A deposit account is a debt owed by the credit union to the credit holder.

 (7) "Fixed asset" means a structure, land, computer hardware and software, and heating and cooling equipment that is affixed to premises. This also includes other property items such as furniture, fixtures, and equipment.

 (8) "Governmental unit" means any board, agency, department, authority, instrumentality, or other unit or organizations of the federal, state, county, or municipal level of government.

 (9) "Family" includes persons related by blood or marriage as well as foster and adopted children and legal guardians.

 (10) "Insolvent" means the condition that results when the cash value of assets realizable in a reasonable time is less than the liabilities that must be met within that time.

 (11) "Insuring organization" means an organization that provides aid and financial assistance to credit unions that are in the process of liquidation or are incurring financial difficulty in order that the share and deposit accounts in the credit unions shall be protected or guaranteed against loss or without limit or up to a specified level for each account.

 (12) "Organization" means any corporation, association, partnership, society, firm, syndicate, trust, or other legal entity.

 (13) "Person" means any natural person, trust, partnership, corporation, governmental unit, or any other organization.

 (14) "Reserves" means allocations of retained income and includes regular and special reserves including any allowances for losses.

 (15) "Risk assets" shall be considered all assets except the following:

 (a) cash on hand;

 (b) deposits or shares or both in federally or state insured banks, savings and loan associations, and credit unions;

 (c) assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States Government, its agencies, the Federal National Mortgage Association, or the Governmental National Mortgage Association;

 (d) loans to other credit unions;

 (e) loans to students insured under the provisions of Title IV, Part B of the Federal Higher Education Act of 1965 or similar state insurance programs;

 (f) loans insured under Title 1 of the Federal National Housing Act by the Federal Housing Administration or insured by private mortgage insurers;

 (g) shares or deposits in corporate credit unions;

 (h) common trust investments which deal in authorized investments;

 (i) prepaid expenses;

 (j) accrued interest on nonrisk investments;

 (k) furniture and equipment;

 (l) land and buildings;

 (m) loans fully secured by a pledge of shares in the lending credit unions, equal to and maintained to at least the amount of the loan outstanding;

 (n) loans which are purchased from liquidating credit unions and guaranteed by the National Credit Union Administration; or

 (o) loans insured or guaranteed by federal or state governments.

 (16) "Share account" means a balance held by a credit union and established by a member in accordance with standards specified by the credit union including balances designated as shares, share certificates, share draft accounts, or other accounts. Ownership of a share account confers membership and voting rights and represents an interest in the capital of the credit union upon dissolution to members in good standing.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 2007 Act No. 51, Section 1, eff upon approval (became law without the Governor's signature on June 7, 2007).

ARTICLE 2.

 SUPERVISION AND REGULATION

**SECTION 34‑26‑200.** Responsibility of Board of Financial Institutions.

 The Board of Financial Institutions shall be responsible for the supervision and regulation of credit unions incorporated under this chapter.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑210.** Discretionary powers of board.

 (1) The board may establish procedures to implement any provision of this chapter and to define any term not defined in the chapter. Such procedures shall serve to foster and maintain an effective level of credit union services and the security of member accounts. The provisions of the State Administrative Procedures Act shall apply to all regulations of the board under this chapter.

 (2) The board may restrict the withdrawal of shares or deposit accounts or both from any credit union having determined circumstances exist which make such restriction necessary for the proper protection of shareholders or depositors.

 (3) The board may issue cease and desist orders having determined from competent and substantial evidence that a credit union is engaged or has engaged, or when the board has reasonable cause to believe the credit union is about to engage, in an unsafe or unsound practice, or is violating or has violated or the board has reasonable cause to believe is about to violate a material provision of any law, regulation, or any condition imposed in writing by the board or any written agreement made with the board.

 (4) The board may suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, or committee member who has committed any violation of a law, regulation, or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission, or practice which constitutes a breach of that person's fiduciary duty as such director, officer, or committee member, when the board has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members.

 (5) By issuing operational instructions, the board may authorize state credit unions to engage in activities approved for federally‑chartered credit unions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑220.** Suspension of operations of bankrupt or insolvent credit union; liquidation of assets.

 (1) If it appears that any credit union is bankrupt or insolvent, or that it has wilfully violated this chapter, or is operating in an unsafe or unsound manner, the board may issue an order temporarily suspending the credit union's operations for not more than sixty days. The board of directors shall be given notice by registered mail of such suspension, which notice shall include a list of the reasons for such suspension, and a list of the specific violations of this chapter, if any. The board shall also notify the insuring organization of any suspension.

 (2) Upon receipt of such suspension notice, the credit union shall cease all operations, except those authorized by the board. The board of directors shall then file with the board a reply to the suspension notice, and may request a hearing to present a plan of corrective actions proposed if the board desires to continue operations. The board of directors may request that the credit union be declared insolvent and a liquidating agent be appointed.

 (3) Upon receipt of evidence from the suspended credit union that the conditions causing the order of suspension have been corrected, the board may revoke the suspension notice, permit the credit union to resume normal operations, and notify the insuring organization.

 (4) If the board, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, the board may issue a notice of involuntary liquidation and appoint a liquidating agent. However, before issuing the notice of involuntary liquidation the board shall make an effort to merge the troubled credit union with another credit union. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures outlined in this section.

 (5) If, within the suspension period, the credit union fails to answer the suspension notice or request a hearing, the board may then revoke the credit union's charter, appoint a liquidating agent, and liquidate the credit union.

 (6) In the event of liquidation, the assets of the credit union or the proceeds from any disposition of the assets shall be applied and distributed in the following sequence:

 (a) secured creditors up to the value of their collateral;

 (b) costs and expenses of liquidation;

 (c) wages due the employees of the credit union;

 (d) costs and expenses incurred by creditors in successfully opposing the release of the credit union from certain debts as allowed by the board;

 (e) taxes owed to the United States or any other governmental unit;

 (f) debts owed to the United States;

 (g) general creditors, secured creditors to the extent their claims exceed the value of their collateral, and owners of deposit accounts to the extent such accounts are uninsured;

 (h) members, to the extent of uninsured share accounts and the organization that insured the accounts of the credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑230.** Appointment of conservator of credit union assets by board or board designee; remedy of credit union to regain possession and control of assets.

 (1) The board may, at the board's sole discretion and without advance notice, self appoint or appoint an insuring organization or any other person as conservator to immediately take possession and control of the business and assets of any credit union in any case in which the board determines that such action is necessary to conserve the assets of the credit union or to protect the interests of the members of such credit union.

 (2) Not later than fifteen days after the date on which the board or a designee takes possession and control of the business and assets of a credit union pursuant to subsection (1), such credit union may apply to the appropriate court for the judicial circuit in which the principal office of credit union is located for an order requiring the board to show cause why the board or the designee should not be enjoined from continuing such possession and control.

 (3) Except as provided in subsection (2), the board or a designee may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time:

 (a) as the board shall permit such credit union to continue business subject to such terms and conditions as the board imposes; or

 (b) as such credit union is merged or liquidated.

 (4) The board may appoint such agents as considered necessary in order to assist in carrying out the duties of the conservator under this section.

 (5) All expenses incurred by the board in exercising the authority of that office under this section with respect to any credit union shall be paid out of the assets of such credit union, except that the board may waive the charging of all or a part of such expenses.

 (6) The authority granted by this section is in addition to all other authority granted to the board under this chapter.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑240.** Duty of board to examine credit union; disclosure requirements of credit union officers and agents.

 (1) The board at periodic intervals not to exceed twenty‑four months shall examine or cause to be examined each credit union. A credit union and any of its officers and agents shall be required to give the board or the board's representatives full access to all books, papers, securities, records, and other sources of information under their control.

 (2) A report of such examination shall be forwarded to the chairman of the board after completion. The report shall contain comments relative to the management of the affairs of the credit union and the general condition of its assets. Within sixty days after the receipt of such report, the directors and committeemen shall meet to consider matters contained in the report.

 (3) In lieu of making an examination of a credit union, the commissioner may accept an examination or audit report of the condition of the credit union made by the National Credit Union Administration.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑250.** Duty of credit union to maintain books, records, accounting systems, and procedures.

 (1) A credit union shall maintain all books, records, accounting systems, and procedures in accordance with such regulations as the board from time to time prescribes.

 (2) A credit union is not liable for destroying records after the expiration of the record retention time prescribed by regulation, except for any records involved in an official investigation or examination about which the credit union has received notice.

 (3) Reproduction of any credit union records shall be admissible as evidence of transactions with the credit union as provided in Section 34‑3‑540.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑260.** Form of credit union annual report to board.

 (1) Credit unions shall report to the board annually on forms approved by the board for that purpose. Additional reports may be required.

 (2) A charge shall be levied, as prescribed by regulation, for each day a credit union fails to provide a required report, unless it is excused for cause.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑270.** Fees to defray administration, supervision, examination and other expenses of annual examination of credit union.

 (1) The board shall establish annual supervisory fees to be paid by credit unions. Such fees shall defray, as far as practicable, the administrative, supervisory, examining, and other expenses of the annual examination.

 (2) Any such fees established shall be in accordance with a graduated scale on the basis of assets and shall be payable annually.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑280.** Conflict of interest; prohibitions respecting board or commissioner's office employees and credit unions.

 (1) No employee of the South Carolina Board of Financial Institutions or the commissioner's office shall be an officer, director, or attorney for any credit union incorporated under this chapter, or, except as provided in subsection (2), receive, directly or indirectly, any payment or gratuity from any such credit union.

 (2) Subsection (1) does not prohibit any such person from being a shareholder or depositor in a credit union incorporated under this chapter on the same terms as are available to other members.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 3.

 FORMATION OF CREDIT UNION

**SECTION 34‑26‑300.** Application for credit union charter of incorporation; articles of incorporation and bylaws.

 (1) Any ten or more residents of this State, of legal age, who share one or more common bonds referred to in Section 34‑26‑500(2) with one thousand or more residents of this State may apply for a credit union charter by complying with this section.

 (2) The incorporators shall prepare, adopt, and execute in duplicate articles of incorporation and agree to the terms thereof. The articles shall state:

 (a) The credit union's name, and the location of the proposed credit union's principal place of business;

 (b) that the existence of the credit union shall be perpetual; and

 (c) the names and addresses of the incorporators to the articles of incorporation.

 (3) The incorporators shall prepare, adopt, and execute in duplicate bylaws consistent with this chapter for the general government of the credit union.

 (4) The incorporators shall select at least five persons who are eligible for membership and who agree to become members and serve on the board of directors, and at least three other persons who are eligible for membership and who agree to become members and serve on the supervisory committee. The persons selected to serve on the board of directors and supervisory committee shall execute an agreement to serve in these capacities until the first annual meeting or until the election of their respective successors, whichever is later.

 (5) The incorporators shall forward to the commissioner the incorporation fee, if any, the duplicate articles of incorporation and bylaws and the agreements to serve.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 1999 Act No. 49, Section 1, eff June 1, 1999.

**SECTION 34‑26‑310.** Consideration of application; time period for approval or denial; factors considered.

 (1) The board shall act upon the application within ninety days. The application shall be approved if the articles and bylaws are in conformity with this chapter and the board is satisfied that:

 (a) the characteristics of the membership set forth in the application for charter are favorable to the economic viability of the proposed credit union; and

 (b) the reputation and character of the initial board of directors and supervisory committee provide assurance that the credit union's affairs will be properly administered.

 (2) If a certificate of incorporation is issued, the commissioner shall return a copy of the bylaws and one of the duplicate originals of the articles of incorporation to the incorporators or their representatives. The original articles and bylaws shall be preserved in the permanent files of the credit union.

 (3) If an application is denied, the board shall notify the incorporators and set forth reasons for the denial.

 (4) The incorporators may not transact any credit union business until a certificate of incorporation has been received.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 1999 Act No. 49, Section 2, eff June 1, 1999.

**SECTION 34‑26‑320.** Model articles of incorporation to facilitate organization of credit unions.

 In order to simplify the organization of credit unions, the commissioner shall cause to be prepared model articles of incorporation and bylaws, consistent with this chapter, which may be used by credit union incorporators for their guidance. Such articles of incorporation and bylaws shall be available to persons desiring to organize a credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑330.** Amendment of articles of incorporation and bylaws.

 (1) The articles of incorporation and the bylaws may be amended as provided in the articles and bylaws, respectively. Amendments to the bylaws shall be submitted to the commissioner for approval.

 (2) Amendments shall become effective upon approval in writing by the commissioner.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑340.** Name requirements of credit unions.

 (1) The name of every credit union organized under this chapter shall include the phrase "credit union". No credit union may adopt a name either identical to the name of any other credit union doing business in this State or so similar to the name of any other credit union doing business in this State as to be misleading or to cause confusion.

 (2) No person, other than a credit union incorporated under this chapter, the Federal Credit Union Act, or a credit union authorized to do business in this State under Section 34‑26‑370, an association of credit unions, or an organization, corporation, or association, whose membership or ownership is primarily limited to credit unions or credit union organizations, may use a name or title containing the phrase "credit union" or any derivation thereof, or represent itself as a credit union or conduct business as a credit union.

 (3) The board may petition a court of competent jurisdiction to enjoin a violation of this section.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑350.** Principal place of business of credit union; other locations.

 (1) A credit union may change its principal place of business within this State upon approval of the commissioner.

 (2) A credit union may maintain and dispose of other service facilities, including automated terminals, at locations other than its principal office upon approval of the commissioner. The maintenance of such facilities must be reasonably necessary to furnish service to its members.

 (3) A credit union may join with one or more other credit unions or other financial organizations in the operation of automated terminals or other service facilities.

 (4) A credit union may establish and close branches and purchase property for future expansion with approval of the Board of Financial Institutions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 2007 Act No. 51, Section 2, eff upon approval (became law without the Governor's signature on June 7, 2007).

**SECTION 34‑26‑360.** Fiscal year.

 The fiscal year of each credit union incorporated under this chapter shall end on the last day of December.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑370.** Conduct of business in state by lawful out‑of‑State credit union; requirements of board approval.

 (1) A credit union organized under the laws of another state or territory of the United States may conduct business as a credit union in this State with the approval of the board, provided credit unions incorporated under this chapter are allowed to do business in the other state under conditions similar to these provisions. Before granting the approval, the board must find that the out‑of‑state credit union:

 (a) is a credit union organized under laws similar to this chapter;

 (b) is financially solvent;

 (c) has account insurance comparable to that required for credit unions incorporated under this chapter;

 (d) is examined and supervised by a regulatory agency of the state in which it is organized or the federal government; and

 (e) needs to conduct business in this State to adequately serve its members in this State.

 (2) No out‑of‑state credit union may conduct business in this State unless it:

 (a) charges interest in compliance with the provisions of Section 34‑26‑810 when making loans in this State;

 (b) complies with the consumer protection provided by law and provisions and regulations applicable to credit unions incorporated under this chapter;

 (c) agrees to furnish the commissioner a copy of the report of examination of its regulatory agency and if necessary to submit to an examination by the commissioner; and

 (d) designates and maintains an agent for the service of process in this State.

 (3) The board may revoke the approval of a credit union to conduct business in this State if the board finds that:

 (a) the credit union no longer meets the requirements of subsection (1);

 (b) the credit union has violated the laws of this State or regulations or orders issued by the board;

 (c) the credit union has engaged in a pattern of unsafe or unsound credit union practices; or

 (d) continued operation by the credit union is likely to have a substantially adverse impact on the financial, economic, or other interests of residents of this State.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑380.** Conduct of business out of state by credit union; necessity of board approval.

 A credit union incorporated under this chapter may conduct business outside of this State, in other states, or territories where it is permitted to conduct business as a credit union. However, a credit union may not operate an out‑of‑state branch without first obtaining approval of the board.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑390.** Exemption of credit union from business license tax.

 Credit unions organized under this chapter are exempt from business license taxes.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 4.

 POWERS OF CREDIT UNION

**SECTION 34‑26‑400.** Particular powers of cooperative credit union; loans to other credit unions.

 A cooperative credit union may receive the savings of its members in payment for shares, may lend to its members at reasonable rates of interest, not to exceed the rate authorized by law, or may invest, as provided by law, the funds so accumulated, may borrow from banks, savings and loan associations, trust companies, or other credit unions, or persons, and loan such money to its members, and may undertake such other activities authorized by law, provided that any credit union may loan money to any other credit union at such rate as the parties to the loan may agree.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑410.** Additional powers of credit union.

 In addition to the powers mentioned elsewhere in this chapter, a credit union may:

 (1) enter into contracts of any nature;

 (2) sue and be sued;

 (3) adopt, use, and display a corporate seal;

 (4) acquire, lease, hold, assign, pledge, hypothecate, sell, discount, or otherwise dispose of property or assets, either in whole or part, necessary or incidental to its operations;

 (5) borrow from any source, provided that a credit union must receive the commissioner's approval to borrow in excess of an aggregate of twenty‑five percent of its capital and deposits;

 (6) purchase the assets of another credit union upon approval of the commissioner;

 (7) offer related financial services including, but not limited to, electronic fund transfers, safe deposit boxes, leasing, and correspondent arrangements with other financial institutions;

 (8) hold membership in other credit unions organized under this or other provisions of law, and in associations and organizations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law;

 (9) act as fiscal agent for and receive payments on share and deposit accounts from a governmental unit;

 (10) make contributions to any nonprofit civic, charitable, or service organizations; and

 (11) purchase, sell, and hold investment securities which are marketable obligations in the form of bonds, notes, or debentures which are salable under ordinary circumstances with reasonable promptness at a fair value.

 All investments and related contracts and agreements shall be made in accordance with written investment policies established by the board of directors.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑420.** Powers incidental to purpose of credit union; limitations.

 A credit union may exercise incidental powers to enable it to carry out its purposes. However, the powers granted by state law or regulation to a state‑chartered credit union shall not exceed those provided by federal law to a federally chartered credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 2007 Act No. 51, Section 3, eff upon approval (became law without the Governor's signature on June 7, 2007).

ARTICLE 5.

 MEMBERSHIP

**SECTION 34‑26‑500.** Requirements of membership; eligible groups; requirement of board approval.

 (1) The membership of a credit union may consist of groups having different common bonds, having been duly admitted as members, having paid any required one‑time or periodic membership fee, or both, having subscribed to one or more shares, and having complied with such other requirements as the articles of incorporation and bylaws specify.

 (2) Credit union membership may also consist of groups having different common bonds of occupation or association or persons employed within a defined business district, building, industrial park or shopping center, and members of the family of such persons who are related by either blood or marriage.

 (3) A credit union may add additional groups not to exceed two hundred fifty potential members to its field of membership, as necessary, provided the groups reasonably are served by one of the credit union's service facilities, and the group has provided a written request for service to the credit union. However, the Board of Financial Institutions may revoke the power of a credit union to add groups provided by this section upon a finding that permitting additions pursuant to the provisions of this section are not in the best interest of the credit union. The adding of these groups must be consistent with the following:

 (a) In order to add additional groups, a credit union first shall obtain a letter on the group's letterhead, if possible, signed by an official representative identified by title, requesting credit union service. The groups shall indicate the number of potential members seeking service. This document must be maintained by the credit union permanently with its bylaws.

 (b) A credit union adding groups shall maintain a log of these groups. The log must include the following: the date the group obtained service, the name and location of the group, the number of potential members added, the number of miles to the nearest main or branch office, and the date of the approval of the group by the board of directors.

 (c) Upon complying with the above procedures, board approval is not necessary to add groups with no more than two hundred fifty potential members to a credit union's field of membership. Approval of the Board of Financial Institutions must be obtained before the addition of groups in excess of two hundred fifty.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 1999 Act No. 49, Section 3, eff June 1, 1999; 2007 Act No. 51, Section 4, eff upon approval (became law without the Governor's signature on June 7, 2007).

**SECTION 34‑26‑510.** Organizations eligible for credit union membership.

 Organizations comprised entirely of individuals who are eligible for membership in the credit union may be admitted to membership. Likewise, organizations, one of whose principal functions is to provide services to persons who are eligible for membership in the credit union, may be admitted to membership. Other organizations having a commonality of interest with the credit union may be admitted to membership with the approval of the commissioner.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑520.** Eligibility of other credit unions.

 Any credit union organized under this chapter may accept as a member any other credit union organized under this or any other provision of law.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑530.** Application for membership; duty of board of directors; appeal of membership denial.

 The board of directors shall act upon applications for membership or appoint one or more membership officers to approve applications for membership under such conditions as the board prescribes. Persons wishing to join a credit union must do so by written application which shall be acted upon in accordance with credit union procedure. A person denied membership by a membership officer may appeal the denial to the credit union board.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑540.** Retention of membership.

 Members who cease to be eligible for membership may be permitted to retain their membership in the credit union, under reasonable standards established by the board of directors.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑550.** Member liability for credit union debt.

 The members of the credit union shall not be personally or individually liable for the payment of the credit union's debts solely by virtue of holding membership.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑560.** Expulsion; request for hearing.

 The board of directors may expel a member pursuant to a written policy adopted by it. Any person expelled by the board shall have the right to request a hearing before it to reconsider the expulsion.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑570.** Annual and other meetings of credit union membership.

 (1) The annual meeting and any special meetings of the members of the credit union shall be held in accordance with the bylaws.

 (2) At all such meetings all natural members shall have one vote, irrespective of the member's share holdings. No member may vote by proxy, but a member may vote by absentee ballot, mail, or other method if the bylaws of the credit union so provide. Accounts held by organizations must be considered nonvoting members.

 (3) The board of directors may establish a minimum age, not greater than eighteen years of age, as a qualification of eligibility to vote at meetings of the members or to hold office, or both.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑580.** Special meetings; grounds and proceedings.

 (1) The supervisory committee by a majority vote may call a special meeting of the members to consider any violation of this chapter, the credit union's articles of incorporation or bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe or unauthorized.

 (2) The bylaws may also prescribe the manner in which a special meeting of the members may be called by the members or by the board of directors, or both.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 6.

 DIRECTION OF AFFAIRS

**SECTION 34‑26‑600.** Authority of board of directors.

 The board of directors shall have the authority and responsibility for the oversight of the management of the business affairs, funds, and records of the credit union. The authority to direct shall be exercised by the board as a group and not individually.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑605.** Membership of board; term of office; board appointment of credit committee.

 (1) The board shall consist of an odd number of directors, at least five in number, to be elected by and from the members. Elections shall be held at the annual meeting or in such other manner as the bylaws provide. All members of the board shall hold office for such terms as the bylaws provide, except that terms shall be staggered so that an approximately equal number expire each year.

 (2) At an organization meeting to be held within thirty days following each annual election, if it is stipulated in the bylaws, the board of directors shall appoint a credit committee that consists of an odd number, not less than three, whose terms are as the bylaws provide. The bylaws may offer the option of using loan officers instead of having a credit committee.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 2007 Act No. 51, Section 5, eff upon approval (became law without the Governor's signature on June 7, 2007).

**SECTION 34‑26‑610.** Filing of record of names and addresses of membership.

 Within thirty days after the organizational meeting, a record of the names and addresses of the members of the board and such other committees and officials, as required, shall be filed with the commissioner.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑615.** Board vacancies; credit and supervisory committee vacancies.

 The board of directors shall fill any vacancies occurring in the board until successors elected at the next annual election have qualified. The board shall also fill vacancies in the credit and supervisory committees.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑620.** Prohibition against compensation for services; accident insurance; expenses.

 No officer, director, or committee member, other than an employee, may be compensated for services. However, providing reasonable accident insurance protection while on credit union business shall not be considered compensation. Directors, officers, and committee members may be reimbursed for expenses incidental to the performance of official business of the credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑625.** Conflicts of interest; limitation on persons with pecuniary interest.

 No director, committee member, officer, agent, or employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting that person's pecuniary interest or the pecuniary interest of any partnership, or association, other than the credit union, in which that person is directly or indirectly interested.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑630.** Election of officers.

 (1) At their organization meeting held within thirty days following each annual election, the board of directors shall elect from their own number a chairman of the board, one or more vice chairmen, a secretary, and a treasurer. The offices of secretary and treasurer may be combined. They shall also elect any other officers that are specified in the bylaws.

 (2) The terms of the board officers shall be one year, or until their successors are chosen and have been duly qualified.

 (3) The duties of the officers shall be prescribed in the bylaws.

 (4) The board of directors shall appoint a president to act as the chief executive officer of the credit union and who will manage its operations.

 (5) Notwithstanding any other provision of this act, a credit union may use any titles it chooses for the officials holding the positions described in this article, as long as such titles are not misleading.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑635.** Appointment of executive committee.

 The board of directors may appoint from its own number an executive committee, consisting of not less than three directors, which may be authorized to perform specific actions for the board, subject to confirmation.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑640.** Meetings of board; frequency of meeting.

 The board of directors shall meet at least monthly and at other times as is necessary.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑645.** Duties of board.

 In addition to the duties found elsewhere in this chapter, it also shall be the duty of the board of directors to:

 (1) purchase adequate fidelity coverage for all employees and review such coverage annually with notations in board minutes;

 (2) employ and establish the compensation of the president, chief executive officer, or manager who shall hire such other persons necessary to carry on the business of the credit union;

 (3) approve an annual operating budget for the credit union;

 (4) authorize the conveyance of property;

 (5) borrow or lend money to carry on the functions of the credit union;

 (6) appoint any special committees deemed necessary;

 (7) determine the rate of interest which shall be charged on loans;

 (8) declare dividends if it first determines that the credit union's financial condition warrants this;

 (9) declare an interest refund to borrowers at the close of each accounting period if it first determines that the credit union's financial condition warrants this;

 (10) approve amendments to the bylaws;

 (11) determine the amount of entrance fees, the maximum and minimum number of shares, the par value of shares of capital stock, which may be held by, and the maximum amount which may be lent to, any one member;

 (12) determine the amount of fines and service charges, if any;

 (13) establish titles for all elected officers and senior management positions; and

 (14) perform such other duties it may deem appropriate and authorize any action not inconsistent with this chapter and not specifically reserved by the bylaws for the members.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑650.** Credit committee supervision of member loans.

 (1) The credit committee shall have the general supervision of all loans to members. It may approve or disapprove loans, subject to written policies established by the board of directors.

 (2) The credit committee shall meet as often as the business of the credit union requires to consider applications for loans or review the work of the loan officers. No loan shall be made unless it is approved by a majority of the committee who are present at the meeting at which the application is considered.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑655.** Appointment of credit committee loan officers.

 The credit committee may appoint one or more loan officers and delegate the power to approve or disapprove loans, subject to such limitations or conditions as it may prescribe.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑660.** Purpose and composition of credit union supervisory committee; term of office.

 (1) Each credit union shall have a supervisory committee. The supervisory committee shall make or cause to be made an annual audit of the credit union and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union. The supervisory committee shall make or cause to be made such supplementary audits, examinations, and verifications of members' accounts as it deems necessary or as are required by the board or by the board of directors, and submit a report of these supplementary audits to the board of directors. It may investigate questions regarding the financial affairs of the credit union, and may by unanimous vote suspend any officer of the credit union or any member of the credit committee or the board of directors whom it might believe or suspect is failing to properly handle the credit union's financial affairs.

 (2) The supervisory committee shall consist of three members to be elected by and from the membership. Elections shall be held at the annual meeting or in such other manner as the bylaws provide. All members of the supervisory committee shall hold office for such terms as the bylaws provide.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑665.** Suspension of member; supervisory committee report to board.

 (1) The supervisory committee shall report any suspension of a credit committee member to the board of directors. The board shall meet not less than seven nor more than twenty‑one days after such suspension to take appropriate final actions. The suspended person shall have the right to appear and be heard at the meeting.

 (2) Upon any suspension of any officer or board member, a membership meeting shall be called not less than seven nor more than twenty‑one days after such suspension. At such meeting the suspended person shall have the right to appear and be heard. The suspension shall be acted upon by the members and it shall be affirmed or reversed.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑670.** Suspension or removal of supervisory committee member.

 Any member of the supervisory committee may be suspended or removed for failure to perform duties in accordance with this chapter, the articles of incorporation, or the bylaws by the board of directors by a two‑thirds vote of those present at a meeting. The committee member shall have the appeal rights outlined in Section 34‑26‑665(2).

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 7.

 ACCOUNTS

**SECTION 34‑26‑700.** Share accounts; par value; pledged shares.

 (1) Share accounts shall be subscribed to and paid for in such manner and amounts as the bylaws prescribe.

 (2) The par value of shares shall be as prescribed in the bylaws.

 (3) Shares may be pledged as security on any loan.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑710.** Dividends.

 (1) At such intervals and for such periods as the board of directors may authorize, and after provision for the required reserves, the board of directors may declare dividends to be paid on share accounts from the current earnings. Any dividends paid from the undivided earnings account must have prior approval of the commissioner.

 (2) Dividends may be paid at various rates with due regard to the conditions that pertain to each type of account such as minimum balance, notice, and time requirements.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑720.** Deposits.

 A credit union may accept deposits from members, other credit unions, and governmental units subject to the terms, rates, and conditions established by the board of directors.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑730.** Withdrawal of deposited funds; withdrawal notice.

 (1) Funds in share and deposit accounts may be withdrawn for payment to the account holder or to third parties, in such manner and in accordance with such procedures as are established by the board of directors.

 (2) Share and deposit accounts shall be subject to any withdrawal notice requirement which is imposed pursuant to the bylaws.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑740.** Payments on share accounts.

 Payments on share accounts may be received from a minor who may withdraw funds from such accounts including the dividends and interest thereon. Payments on share accounts by a minor and withdrawals thereof by the minor shall be valid in all respects. For such purposes a minor is deemed of the age of majority.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑750.** Ownership interests in share accounts; joint accounts.

 (1) A member may designate any person or persons to own a share account with the member in joint tenancy with the right of survivorship, as a tenant in common or under any other form of joint ownership permitted by law, but no co‑owner, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office or be required to pay a membership fee. Credit union bylaws or policy, or both, shall establish membership and member's right to vote, obtain loans, or hold office.

 (2) Payment of part or all of such accounts to any of the co‑owners shall, to the extent of such payment, discharge the liability to all unless the account agreement contains a prohibition or limitation on such payment.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 2007 Act No. 51, Section 6, eff upon approval (became law without the Governor's signature on June 7, 2007).

**SECTION 34‑26‑760.** Share accounts held in trust; beneficiaries.

 (1) Share and deposit accounts may be owned by one or more members in trust for one or more beneficiaries, or owned by one or more nonmembers in trust for one or more beneficiaries who are members.

 (2) Beneficiaries may be minors, but no beneficiary unless a member in that person's own right, shall be permitted to vote in accordance with the bylaws, obtain loans, hold office, or be required to pay a membership fee.

 (3) Payment of part or all of such a trust account to the party in whose name the account is held shall, to the extent of such payment, discharge the liability of the credit union to that party and to the beneficiary, and the credit union shall be under no obligation to see to the application of such payment.

 (4) In the event of the death of the party who owns a trust account, if the credit union has been given no other written notice of the existence or terms of any trust and has not received a court order as to disposition of the account, account funds and any dividends or interest thereon may be paid to the beneficiary on request.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑770.** Payable‑on‑death share accounts; effect of transfer of account.

 Notwithstanding any other provision of law, a credit union may establish share and deposit accounts payable to one or more persons during their lifetimes and on the death of all of them to one or more payable‑on‑death payees. Any transfer to a payable‑on‑death payee is effective by reason of the account contract and shall not be considered to be a testamentary transfer.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑780.** Account lien; right of set off.

 The credit union shall have a lien on the share accounts and accumulated dividends of a member for any sum owed the credit union by the member and for any loan endorsed by him. The credit union shall also have a right of immediate set‑off with respect to every deposit account. The credit union may waive its right to a lien, to immediate set‑off, to restrict withdrawals, or to any combination of such rights with respect to any share or deposit account or groups of such accounts.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑790.** Requirement of incorporators to apply for insurance prior to application for charter.

 (1) Before the incorporators of a credit union forward the application to the Board of Financial Institutions under Section 34‑26‑300(5), they shall apply for insurance on share and deposit accounts provided by the National Credit Union Administration under Title II of the Federal Credit Union Act or subsequent federal agency.

 (2) A credit union which has lost its commitment for such insurance shall immediately notify the commissioner and commence steps to either liquidate or merge with an insured credit union.

 (3) No application to form a credit union shall be approved by the Board of Financial Institutions to form a credit union unless they have obtained a commitment for insurance of its share and deposit accounts.

 (4) The Board of Financial Institutions may share reports of condition and examination reports with the insuring organization.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 8.

 LOANS

**SECTION 34‑26‑800.** Loans and lines of credit; establishment of written policies.

 A credit union may loan to members for such purposes and upon such conditions and by such means as the bylaws may provide. The board of directors shall establish written policies with respect to the granting of loans and the extending of lines of credit, including the terms, conditions, and acceptable forms of security.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑810.** Interest rates.

 The interest rates on loans shall be determined by the board of directors, subject to the limitations, if any, established by the South Carolina Consumer Protection Code. The board may also authorize any refund of interest on such classes of loans and under such conditions as it prescribes.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑820.** Incidental fees and expenses.

 (1) In addition to interest charged on loans, a credit union may charge members all reasonable expenses in connection with the making, closing, disbursing, extending, collecting, or renewing of loans allowed by the Consumer Protection Code.

 (2) A credit union may assess charges to members, in accordance with the bylaws, for failure to meet their obligations to the credit union in a timely manner.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑830.** Loan application.

 Applications for loans shall be made by the credit union policy.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑840.** Limitation of size of loan; in general.

 The aggregate of direct or indirect loans to any one member shall be limited to fifteen percent of the credit union's reserves and undivided earnings. This limit shall not apply to loans which are fully secured by assignment of shares or deposits in the credit union or obligations of the United States Government. However, for credit unions in operation for five years or less, the aggregate of direct or indirect loans to any one member shall not exceed ten percent of the credit union's shares.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑850.** Limitation on loan advances by approved line of credit; periodic review.

 (1) Upon application by a member, the credit committee, or loan officer may approve a line of credit, and loan advances may be granted to the member within the limit of such line of credit. Where a line has been approved, no additional credit application is required as long as the aggregate indebtedness does not exceed the approved limit.

 (2) Lines of credit shall be subject to periodic review by the credit union, in accordance with the written policies of the board of directors.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑860.** Limitation on size of loan secured by real estate; approved collateral.

 A credit union is authorized to make loans secured by real estate. The real estate collateral may consist of improved or unimproved property including, but not limited to, a mobile home, modular home, vacation home, property under construction, condominium, or single family dwelling which must be the borrower's primary residence.

 Loan terms for unimproved real estate may not exceed fifteen years. Loan terms for a residential dwelling may not exceed the maximum allowed by FNMA or GNMA.

 Real estate loan requirements for loan to value and certified appraisals shall not exceed maximums allowed for federally chartered credit unions.

 A loan that does not require a certified appraisal requires an inspection by a credit union‑appointed individual and evidence of value in the file. A loan application, note, and security instrument may be executed on current versions of FHA, VA, FHLMC, FNMA, or FHLMC/FNMA approved forms.

 A loan may not be made on real estate located beyond the continental United States of America.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996; 1999 Act No. 49, Section 4, eff June 1, 1999; 2007 Act No. 51, Section 7, eff upon approval (became law without the Governor's signature on June 7, 2007).

**SECTION 34‑26‑870.** Credit union participation in joint loan with other credit union.

 A credit union may participate in loans to credit union members jointly with other credit unions pursuant to written policies established by the board of directors. A credit union which originates such a loan shall retain an interest of at least ten percent of the face amount of the loan.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑880.** Credit union participation in federal or state loan programs; other powers.

 (1) A credit union may participate in any guaranteed loan program of the federal or state government under the terms and conditions specified in the law under which such a program is provided.

 (2) A credit union may purchase conditional sales contracts, notes, and similar instruments of its members.

 (3) A credit union may finance for any person by way of installment sales contract the sale of the credit union's property, including property obtained as a result of defaults in obligations owed to it.

 (4) A credit union may engage in the leasing of personal property to its members.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑890.** Limitation on loans to directors and members of supervisory and credit committees.

 (1) A credit union may make loans to its directors and members of its supervisory and credit committees, provided that:

 (a) the loan complies with all requirements of this chapter and is not on terms more favorable than those extended to other borrowers; and

 (b) the aggregate of loans to such officials, excepting those secured by shares or deposits, may not exceed fifteen percent of the credit union's reserves and undivided earnings.

 (2) A credit union may permit officers, directors, and members of its supervisory and credit committees to act as comakers, guarantors, or endorsers of loans to family members, subject to the requirements of subsection (1) above. Officials may secure loans for other members with shares on deposit.

 (3) A credit union may make loans to its employees.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 9.

 OTHER MEMBER SERVICES

**SECTION 34‑26‑900.** Provision of member services; in general.

 A credit union may purchase or make available insurance for its members.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑910.** Insurance for officers, agents, and employees.

 A credit union may purchase and maintain insurance on behalf of any person who is or was an elected official, officer, employee, or agent of the credit union, or who is or was serving at the request of the credit union as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against such person in any such capacity or arising out of such person's status as such, whether or not the credit union would have the power to indemnify such person against such liability.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑920.** Marketing arrangements.

 A credit union may enter into marketing arrangements with other credit unions, organizations, or financial institutions to facilitate its members' voluntary purchase of goods, insurance, and other services from third parties. A credit union may be compensated for services so provided.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑930.** Collection, receipt, and disbursement in connection with negotiable instruments; automated services; fees.

 A credit union may collect, receive, and disburse monies in connection with the providing of negotiable checks, money orders, travelers checks, wire transfers, and sight drafts, and the providing of services through automated teller machines and for such other purposes as may provide benefit or convenience to its members. A credit union may charge fees for such services.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑940.** Retirement, pension, profit‑sharing, and deferred income accounts.

 A credit union may act as trustee or custodian of any form of retirement, pension, profit‑sharing, or deferred income accounts authorized under federal law or the laws of this State including, but not limited to, individual retirement accounts, pension funds of self‑employed individuals, and pension funds of a company or organization whose employees or members are eligible for membership in the credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 10.

 INVESTMENTS

**SECTION 34‑26‑1000.** Investment of credit union funds; investment committee.

 The board of directors shall have charge of the investments of funds, except that the board may designate an investment committee or investment officer to make investments in its behalf, under written investment policies established by the board.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1010.** Designation of depositories.

 The board of directors shall designate a depository or depositories for the funds of the credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1020.** Permissible investments of credit union funds.

 Funds not used in loans to members may be invested:

 (1) in any investment which is legal for state‑chartered banks;

 (2) in deposits, obligations, or other accounts of financial institutions organized under state or federal law;

 (3) in loans to or in shares or deposits of other credit unions or corporate credit unions;

 (4) in deposits, in loans to, or shares of any Federal Reserve Bank, U.S. Central Credit Union, or of any central liquidity facility established under state or federal law;

 (5) in shares, stocks, deposits in, loans to, or other obligations of any credit union service organization, or association exclusively providing services associated with the credit union or engaging in activities incidental to the operations of a credit union. Such investments in the aggregate may not exceed fifteen percent of the credit union's reserves and undivided profits;

 (6) in participation loans with other credit unions; and

 (7) in fixed assets, not to exceed sixty percent of the credit union's reserves and undivided profits, unless with the prior written approval of the Board of Financial Institutions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 11.

 RESERVE ALLOCATIONS

**SECTION 34‑26‑1100.** Determination of gross earnings; reservation of reserve; waiver of reserve requirement.

 Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside as a regular reserve for contingencies in accordance with the following schedule:

 (1) A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside:

 (a) ten percent of gross income until the regular reserve shall equal four percent of the total outstanding nonshare secured loans and risk assets;

 (b) five percent of gross income until the regular reserve shall equal six percent of the total outstanding nonshare secured loans and risk assets.

 (2) A credit union in operation less than four years or having assets of less than five hundred thousand dollars shall set aside:

 (a) ten percent of gross income until the regular reserve shall equal seven and one‑half percent of the total outstanding nonshare secured loans and risk assets; and

 (b) five percent of gross income until the regular reserve shall equal ten percent of the total outstanding nonshare secured loans and risk assets.

 (3) Whenever the regular reserve falls below the level required by regulation, it shall be replenished by regular contributions in such amounts as may be needed to maintain the required level.

 (4) The Board of Financial Institutions may decrease or waive entirely the reserve requirement for an individual credit union in one or more accounting periods having determined such action is necessary or desirable.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1110.** Permissible use of reserve; effect of liquidation of credit union.

 The regular reserve shall belong to the credit union and shall be used to meet contingencies or losses in its business. The regular reserve shall not be distributed except on liquidation of the credit union, or in accordance with a plan approved by the Board of Financial Institutions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1120.** Special reserves.

 In addition to the regular reserve, special reserves to protect the interest of members shall be established when required by regulation or when found by the board of directors of the credit union or by the commissioner, in any special case, to be necessary for that purpose. These may include allowances for loan losses, investment losses, or any other reserves the board of directors may establish.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 12.

 CHANGE IN CORPORATE STATUS

**SECTION 34‑26‑1200.** Dissolution; voluntary liquidation; distribution of assets.

 (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

 (2) If it decides to begin the procedure, the board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily, and directing that the question of liquidation be submitted to the members.

 (3) Within ten days after the board of directors decides to submit the question of liquidation to the members, the credit union shall notify the Board of Financial Institutions and the insuring organization in writing, setting forth the reasons for the proposed liquidation. Within ten days after the members act on the question of liquidation, the credit union shall notify the Board of Financial Institutions and the insuring organization in writing as to the action of the members on the proposal.

 (4) As soon as the board of directors decides to submit the question of liquidation to the members, payments on, withdrawals of, and making any transfer of share and deposit accounts to loans and interest, making investments of any kind, and granting loans may be restricted or suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

 (5) For a credit union to enter voluntary liquidation, approval is required by a two‑thirds majority of the members voting in accordance with Section 34‑26‑570(2) of this chapter at a regular or special meeting of the members. When authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by first class mail, at least ten days prior to such meeting. Certification of the voluntary liquidation shall be filed with the board accompanied by the resolution of the board of directors and a certified extract of the shareholders' meeting approving the liquidation.

 (6) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting on loans and distributing its assets, and performing all duties required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully concluded.

 (7) The board of directors or the liquidating agent shall distribute the assets of the credit union or the proceeds of any disposition of the assets in the sequence described in Section 34‑26‑220(6).

 (8) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution and file the same, together with all pertinent books and records of the liquidating credit union, with the Board of Financial Institutions, whereupon such credit union shall be dissolved.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1210.** Merger.

 A credit union organized under this chapter may, with the approval of the Board of Financial Institutions regardless of common bond, merge with one or more credit unions organized under this chapter, the laws of another state or territory of the United States, or the laws of the United States with approval of each credit union's regulator.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1220.** Conversion of credit union to organization under laws of another state or United States; requirement of member approval.

 A credit union incorporated under the laws of this State may be converted to a credit union organized under the laws of any state or under the laws of the United States, or a credit union organized under the laws of the United States or of any other state may convert to a credit union incorporated under the laws of this State. To effect such a conversion, a credit union must receive the approval of a two‑thirds majority of the members voting in accordance with the credit union's bylaws on the question of a charter conversion and upon the approval of the credit union's current and future regulator.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

ARTICLE 13.

 CORPORATE CREDIT UNION

**SECTION 34‑26‑1300.** Corporate credit union.

 (1) A corporate credit union may be incorporated under this article. All parts of this chapter not inconsistent with this article shall apply to it.

 (2) Only one corporate credit union shall be so incorporated. No other credit union may use the term "corporate credit union" in its name.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1310.** Purposes of corporate credit union.

 The purposes of the corporate credit union are to:

 (a) accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services;

 (b) act as an intermediary for credit union funds between members and other corporate credit unions;

 (c) obtain liquid funds from other credit union organizations, financial intermediaries, and other sources;

 (d) foster and promote in cooperation with other state, regional, and national corporate credit unions and credit union organizations or associations the economic security, growth, and development of member credit unions;

 (e) provide payment systems and correspondent services to its members; and

 (f) perform such other services of benefit to its members which are authorized by the Board of Financial Institutions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1320.** Corporate credit union membership.

 (1) Membership in the corporate credit union shall consist of and be limited to the credit union subscribers to the articles of incorporation, credit unions incorporated under this chapter, the Federal Credit Union Act or any other credit union act, organizations or associations of credit unions, and such other organizations provided for in the articles of incorporation.

 (2) A member of the corporate credit union shall designate one person to be its authorized representative to attend meetings of the corporate credit union and to vote on behalf of the member. A credit union member of the corporate credit union may only designate as its authorized representative a member of its own credit union. No person may serve as the authorized representative of more than one member of the corporate credit union.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1330.** Application to form corporate credit union.

 (1) Application to form a corporate credit union shall be made in writing to the Board of Financial Institutions. The application shall contain the names of at least ten percent of the credit unions in the proposed field of membership that have agreed to subscribe to shares in the corporate credit union at the time the application is made.

 (2) The application shall be accompanied by articles of incorporation, bylaws, and a copy of the application for share insurance.

 (3) The bylaws shall provide for the selection of a board of directors of at least five persons, all of whom shall be authorized representatives of members. The bylaws shall require those applying for membership to subscribe to membership shares or other shares, or both, in a minimum amount as specified in the bylaws.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1340.** Powers and privileges of corporate credit union; in general.

 (1) The corporate credit union shall enjoy the powers and privileges of any other credit union incorporated under this chapter in addition to those powers enumerated in this article, notwithstanding any limitations or restrictions found elsewhere in this chapter.

 (2) The corporate credit union may:

 (a) accept funds, either as shares or deposits, from a member credit union or credit union organizations;

 (b) make loans to or invest in a member credit union;

 (c) make loans to or place deposits in a bank, savings bank, trust company, or savings and loan association incorporated by this State, by another state, or by the United States;

 (d) provide payment systems and correspondent services to its members;

 (e) participate with any credit union incorporated by this State, another state, or the United States in making loans to its members or to members of any other participating credit union, under the terms and conditions to which the participating credit unions agree;

 (f) purchase, sell, and hold investment securities as stated in Section 34‑26‑1020 which are marketable obligations in the form of bonds, notes, or debentures which are salable under ordinary circumstances with reasonable promptness at a fair value. All investments and related contracts and agreements shall be made in accordance with written investment policies established by the board of directors;

 (g) borrow from any source, at the discretion of its board of directors;

 (h) authorize its board of directors to delegate the authority to set interest rates on loans and deposits and to determine dividends on shares;

 (i) contract for penalties for payment of loans prior to the scheduled maturity;

 (j) sell all or a part of its real estate to another depository financial institution, purchase all or part of the real estate of another depository financial institution, and assume the liabilities of the selling depository financial institution and those of its members or depositors;

 (k) act as intermediary for the funds of members, credit unions, and other corporate credit unions;

 (l) act as agent for members, other credit unions and credit union organizations in paying, receiving, transferring the assets and liabilities received and invested as permitted in this article;

 (m) receive and hold in safekeeping the securities and other assets of its members and, in connection therewith, make such disposition of such assets as may be agreed to or directed by the member; and

 (n) exercise all incidental powers that are convenient, suitable, or necessary to enable it to carry out its purposes.

 (3) The corporate credit union may exercise the powers or privileges granted a federal corporate credit union, subject to the approval of the Board of Financial Institutions.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1350.** Participation in National Credit union Administration Central Liquidity Facility; other state and federal financial systems; agreements with third parties.

 The corporate credit union may enter into agreements and subscribe to any required shares for the purpose of participation in the National Credit Union Administration Central Liquidity Facility created by Public Law 95‑630 or any other state or federal central financial system available to credit unions. It may also enter into agreements with any third parties to aid credit unions to obtain additional sources of liquidity.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1360.** Acceptance of security for loans; pledges, assignments, hypothecation, or mortgages.

 The corporate credit union may require and accept security for loans to a member in the form of a pledge, assignment, hypothecation, or mortgage of any assets of the member or a guarantor.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1370.** Board of director of corporate credit union meetings.

 The board of directors of the corporate credit union shall meet at least every month in person or by means of telephone as provided in the bylaws.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1380.** Corporate credit union reserve requirements; exemptions.

 (1) The corporate credit union shall be exempt from the regular reserve requirements of Article 11, but at the end of each dividend period and prior to paying a dividend, or at the option of the credit union, on a monthly basis if dividends are paid more frequently than monthly, sums shall be set aside in a corporate reserve in accordance with the following schedule:

 (a) When the credit union's corporate reserve and undivided earnings are less than four percent of assets at the end of the transfer period, the credit union shall set aside an amount equal to .0015 times the credit union's average daily assets for the transfer period times the number of days in the transfer period, divided by three hundred and sixty‑five.

 (b) This reserve requirement may be changed from time to time by the board as it deems appropriate.

 (2) Charges may be made to the corporate reserve for loan losses and for investment losses caused by factors other than trading losses or market fluctuations. Other charges to the corporate reserve may only be made with the prior approval of the commissioner.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.

**SECTION 34‑26‑1390.** Annual audit and report.

 (1) The supervisory committee of the corporate credit union shall cause an annual opinion audit to be made by an independent certified public accountant and shall submit the annual audit report to the board of directors. A summary of the audit report shall be submitted to the membership at the next annual meeting.

 (2) A copy of the audit report shall be submitted to the Board of Financial Institutions within thirty days after receipt by the board of directors.

HISTORY: 1996 Act No. 371, Section 1, eff May 29, 1996.