

Public Law 91-468

AN ACT

October 19, 1970
[S. 3822]

To provide insurance for member accounts in State and federally chartered credit unions and for other purposes.

Federal and
State credit
unions.
Share insur-
ance.
73 Stat. 628.
Ante, p. 49.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Credit Union Act, as amended (12 U.S.C. 1751-1775), is further amended—

(1) by inserting immediately above the heading of section 2 the following:

“TITLE I—FEDERAL CREDIT UNIONS”;

(2) by redesignating sections 2 through 28 as sections 101 through 127, respectively; and

(3) by inserting the following new title after section 127, as redesignated by paragraph (2) of this section:

“TITLE II—SHARE INSURANCE

“INSURANCE OF MEMBER ACCOUNTS AND ELIGIBILITY PROVISIONS

“SEC. 201. (a) The Administrator, as hereinafter provided, shall insure the member accounts of all Federal credit unions and he may insure the member accounts of (1) credit unions organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, and (2) credit unions organized and operating under the jurisdiction of the Department of Defense if such credit unions are operating in compliance with the requirements of title I of this Act and regulations issued thereunder.

“(b) Application for insurance of member accounts shall be made immediately by each Federal credit union and may be made at any time by a State credit union or a credit union operating under the jurisdiction of the Department of Defense. Applications for such insurance shall be in such form as the Administrator shall provide and shall contain an agreement by the applicant—

“(1) to pay the reasonable cost of such examinations as the Administrator may deem necessary in connection with determining the eligibility of the applicant for insurance: *Provided*, That examinations required under title I of this Act shall be so conducted that the information derived therefrom may be utilized for share insurance purposes, and examinations conducted by State regulatory agencies shall be utilized by the Administrator for such purposes to the maximum extent feasible;

“(2) to permit and pay the reasonable cost of such examinations as in the judgment of the Administrator may from time to time be necessary for the protection of the fund and of other insured credit unions;

“(3) to permit the Administrator to have access to any information or report with respect to any examination made by or for any public regulatory authority, including any commission, board, or authority having supervision of a State-chartered credit union, and furnish such additional information with respect thereto as the Administrator may require;

12 USC 1752-
1772a.
82 Stat. 285.

Application,
agreement.

"(4) to provide protection and indemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates;

"(5) to maintain such regular reserves as may be required by the laws of the State, district, territory, or other jurisdiction pursuant to which it is organized and operated, in the case of a State-chartered credit union, or as may be required by section 116 of this Act, in the case of a Federal credit union;

Post, p. 1017.

"(6) to maintain such special reserves as the Administrator, by regulation or in special cases, may require for protecting the interest of members or to assure that all insured credit unions maintain regular reserves which are not less than those required under title I of this Act;

Ante, p. 994.

"(7) not to issue or have outstanding any account or security the form of which, by regulation or in special cases, has not been approved by the Administrator;

"(8) to pay the premium charges for insurance imposed by this title; and

"(9) to comply with the requirements of this title and of regulations prescribed by the Administrator pursuant thereto.

"(c) (1) Before approving the application of any credit union for insurance of its member accounts, the Administrator shall consider—

"(A) the history, financial condition, and management policies of the applicant;

"(B) the economic advisability of insuring the applicant without undue risk of the fund;

"(C) the general character and fitness of the applicant's management;

"(D) the convenience and needs of the members to be served by the applicant; and

"(E) whether the applicant is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

"(2) The Administrator shall reject the application of any credit union for insurance of its member accounts if he finds that its reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, that insurance of its member accounts would otherwise involve undue risk to the fund, or that its powers and purposes are inconsistent with the promotion of thrift among its members and the creation of a source of credit for provident or productive purposes.

"(d) If the application of a Federal credit union for insurance is rejected, the Administrator shall suspend or revoke its charter unless, within one year after the rejection, the credit union meets the requirements for insurance and becomes an insured credit union.

"(e) Upon the approval of any application for insurance, the Administrator shall notify the applicant and shall issue to it a certificate evidencing the fact that it is, as of the date of issuance of the certificate, an insured credit union under the provisions of this title.

Insurance certificates.

"REPORTS OF CONDITION; CERTIFIED STATEMENTS; PREMIUMS FOR INSURANCE

"SEC. 202. (a) (1) Each insured credit union shall make reports of condition to the Administrator upon dates which shall be selected by him. Such reports of condition shall be in such form and shall contain such information as the Administrator may require. The reporting dates selected for reports of condition shall be the same for all insured

credit unions except that when any of said reporting dates is a non-business day for any credit union the preceding business day shall be its reporting date. The total amount of the member accounts of each insured credit union as of each reporting date shall be reported in such reports of condition in accordance with regulations prescribed by the Administrator. Each report of condition shall contain a declaration by the president, by a vice president, by the treasurer, or by any other officer designated by the board of directors of the reporting credit union to make such declaration, that the report is true and correct to the best of his knowledge and belief. Unless such requirement is waived by the Administrator, the correctness of each report of condition shall be attested by the signatures of three of the officers of the reporting credit union with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

"(2) The Administrator may call for such other reports as he may from time to time require.

"(3) The Administrator may require reports of condition to be published in such manner, not inconsistent with any applicable law, as he may direct. Every insured credit union which willfully fails to make or publish any such report within ten days shall be subject to a penalty of not more than \$100 for each day of such failure, recoverable by the Administrator for his use.

Penalty.

"(4) The Administrator may accept any report of condition made to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of condition made to the Administrator.

73 Stat. 628;
Ante, p. 994.

"(5) Reports required under title I of this Act shall be so prepared that they can be used for share insurance purposes. To the maximum extent feasible, the Administrator shall use for insurance purposes reports submitted to State regulatory agencies by State-chartered credit unions.

Annual certified
statements.

"(b) On or before January 31 of each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Administrator a certified statement showing the total amount of the member accounts in the credit union at the close of the preceding insurance year and the amount of the premium charge for insurance due to the fund for that year, as computed under subsection (c) of this section. The certified statements required to be filed with the Administrator pursuant to this subsection shall be in such form and shall set forth such supporting information as the Administrator shall require. Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief the statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.

Premium,
computation.

"(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, each insured credit union, on or before January 31 of each insurance year, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the preceding insurance year.

"(2) Each credit union which was in existence prior to the enactment of this title and which becomes insured under this title after January 1 of any insurance year shall pay to the fund, for the insurance year in which it becomes insured, a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the month before the month

in which it becomes insured, reduced by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which it becomes insured. Such payment shall be made within thirty days after the date on which the credit union receives the certificate of insurance issued to it under section 201 of this title.

“(3) Each credit union which is chartered after enactment of this title and which becomes insured under this title in the insurance year in which it is chartered shall pay to the fund, for the insurance year in which it is chartered, a premium charge for insurance computed in the following manner:

“(A) To the total amount of the member accounts in the credit union at the close of the month in which it becomes insured, add the total amount of such member accounts in the credit union at the close of each succeeding month of the insurance year and divide the total by the number of such months (including the month in which it becomes insured).

“(B) From the figure obtained under subparagraph (A), subtract \$10,000.

“(C) Multiply the figure obtained under subparagraph (B) by one-twelfth of 1 per centum.

“(D) Reduce the figure obtained under subparagraph (C) by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which the credit union becomes insured. The figure obtained under this subparagraph is the amount of the premium charge for insurance due to the fund. Such premium charge shall be paid on or before January 31 of the insurance year following the year in which the credit union was chartered.

“(4) When any loans to the fund from the Federal Government and the interest thereon have been repaid and the amount in the fund equals or exceeds the normal operating level, the Administrator may reduce the premium charge for insurance, but not below the amount necessary, in his judgment, to maintain the fund at the normal operating level. Any such reduction shall be effective only so long as the amount in the fund equals or exceeds the normal operating level and no loan to the fund from the Federal Government is outstanding.

“(5) If in any year expenditures from the fund exceed the income of the fund, the Administrator may require each insured credit union to pay to the fund for such year, in addition to the regular premium charge for insurance payable under paragraph (1), (2), or (3) of this subsection, a special premium charge which shall not exceed an amount equal to the amount of the regular premium charge.

“(6) (A) An insured credit union which is closed for liquidation because of insolvency or otherwise is entitled to a rebate of premiums paid by it to the fund. Rebates shall be paid in accordance with regulations prescribed by the Administrator, but no payment of rebate shall be made during any period in which

“(i) a loan to the fund from the Federal Government is outstanding; or

“(ii) the Administrator determines that the payment would unduly jeopardize the financial condition of the fund.

A credit union otherwise entitled to a rebate of premiums shall not lose its entitlement because payment thereof cannot at any given time be made under the limitations prescribed in clause (i) or (ii).

“(B) The amount of rebate of premiums to which a credit union is entitled under subparagraph (A) shall be computed as follows: To

Liquidated
credit unions,
premium rebate.

the total amount of premiums paid to the fund by the credit union, plus interest on such payments at the average rate of interest earned by the fund on its assets during each of the years in which the payments were made; subtract the sum of

“(i) the credit union’s prorata share of the fund’s administrative expenses during the period in which the credit union had an insured status;

“(ii) the credit union’s prorata share of the net insurance payments (other than those referred to in clause (iii)) chargeable to the fund for claims arising during such period; and

“(iii) the net insurance payments chargeable to the fund for claims arising in connection with the liquidation of the credit union.

A credit union’s prorata share of the fund’s administrative expenses or net insurance payments for any year (or part thereof) shall be determined by dividing the total amount credited to member and non-member accounts in the credit union at the end of such year (or part thereof), by the total amount credited to all such accounts in all credit unions having an insured status at the end of such year (or part thereof).

Noncompliance,
penalty.

“(d) (1) Any insured credit union which fails to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed by it in connection with determining the amount of any premium charge for insurance may be compelled to make such report or to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Administrator against the credit union and any officer or officers thereof. Any such suit may be brought in any court of the United States of competent jurisdiction in the district or territory in which the principal office of the credit union is located.

Nonapplicability.

“(2) Any insured credit union which willfully fails or refuses to file any certified statement or to pay any premium charge for insurance required under this title shall be subject to a penalty of not more than \$100 for each day that such violation continues, which penalty the Administrator may recover for his use. The provisions of this paragraph shall not be applicable in any case in which the refusal to pay the premium charge for insurance is due to a dispute between the insured credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

Premium payment, default, dividend restriction.

“(3) No insured credit union shall pay any dividends on its member accounts or distribute any of its assets while it remains in default in the payment of any premium charge for insurance due to the fund. Any director or officer of any insured credit union who knowingly participates in the declaration or payment of any such dividend or in any such distribution shall, upon conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both. The provisions of this paragraph shall not be applicable in any case in which the default is due to a dispute between the credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

Nonapplicability.

Unpaid premium, recovery.

“(e) The Administrator, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured credit union the amount of any unpaid premium charge for insurance lawfully payable by the credit union to the fund, whether or not such credit union shall have made any report of condi-

tion under subsection (a) of this section or filed any certified statement required under subsection (b) of this section and whether or not suit shall have been brought to compel the credit union to make any such report or to file any such statement. No action or proceeding shall be brought for the recovery of any premium charge due to the fund, or for the recovery of any amount paid to the fund in excess of the amount due it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made. Where the insured credit union has made or filed with the Administrator a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of any premium charge, the claim shall not be deemed to have accrued until the discovery by the Administrator of the fact that the certified statement is false or fraudulent.

Ante, p. 995.

“(f) Should any Federal credit union fail to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed under subsection (b) of this section or to pay any premium charge for insurance required to be paid under any provision of this title, and should the credit union fail to correct such failure within thirty days after written notice has been given by the Administrator to an officer of the credit union, citing this subsection and stating that the credit union has failed to make any such report or file any such statement or pay any such premium charge as required by law, all the rights, privileges, and franchises of the credit union granted to it under title I of this Act shall be thereby forfeited. Whether or not the penalty provided in this subsection has been incurred shall be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which the principal office of such credit union is located, under direction of and by the Administrator in his own name, before the credit union shall be declared dissolved. The remedies provided in this subsection and in subsections (d) and (e) of this section shall not be construed as limiting any other remedies against any insured credit union but shall be in addition thereto.

Noncompliance,
penalty.

Ante, p. 994.

“(g) Each insured credit union shall maintain such records as will readily permit verification of the correctness of its reports of condition, certified statements, and premium charges for insurance. However, no insured credit union shall be required to retain such records for such purpose for a period in excess of five years from the date of the making of any such report, the filing of any such statement, or the payment of any premium charge, except that when there is a dispute between the insured credit union and the Administrator over the amount of any premium charge for insurance the credit union shall retain such records until final determination of the issue.

Records.

“(h) For the purposes of this section—

“(1) the term ‘insurance year’ means the period beginning on January 1 and ending on the following December 31, both dates inclusive; and

“Insurance
year.”

“(2) the term ‘normal operating level,’ when applied to the Fund, means an amount equal to 1 per centum of the aggregate amount of the member accounts in all insured credit unions.

“Normal
operating level.”

“NATIONAL CREDIT UNION SHARE INSURANCE FUND

“SEC. 203. (a) There is hereby created in the Treasury of the United States a National Credit Union Share Insurance Fund which shall be used by the Administrator as a revolving fund for carrying out the purposes of this title. Money in the fund shall be available upon

requisition by the Administrator, without fiscal year limitation, for making payments of insurance under section 207 of this title, for providing assistance and making expenditures under section 208 of this title in connection with the liquidation or threatened liquidation of insured credit unions, and for such administrative and other expenses incurred in carrying out the purposes of this title as he may determine to be proper.

“(b) All premium charges for insurance paid pursuant to the provisions of section 202 of this title and all fees for examinations and all penalties collected by the Administrator under any provision of this title shall be deposited in the National Credit Union Share Insurance Fund.

Investment
authorization.

“(c) The Administrator may authorize the Secretary of the Treasury to invest and reinvest such portions of the fund as the Administrator may determine are not needed for current operations in any interest-bearing securities of the United States or in any securities guaranteed as to both principal and interest by the United States or in bonds or other obligations which are lawful investments for fiduciary, trust, and public funds of the United States, and the income therefrom shall constitute a part of the fund.

Loans to fund,
limitation and
terms.

“(d) (1) If, in the judgment of the Administrator, a loan to the fund is required at any time for carrying out the purposes of this title, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate \$100,000,000 outstanding at any one time. Except as otherwise provided in this subsection and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Administrator and the Secretary of the Treasury.

Interest
accrual.

“(2) Interest shall accrue to the Treasury on the amount of any outstanding loans made to the fund pursuant to paragraph (1) of this subsection on the basis of the average daily amount of such outstanding loans determined at the close of each fiscal year with respect to such year, and the Administrator shall pay the interest so accruing into the Treasury as miscellaneous receipts annually from the fund. The Secretary of the Treasury shall determine the applicable interest rate in advance by calculating the average yield to maturity (on the basis of daily closing market bid quotations during the month of June of the preceding fiscal year) on outstanding marketable public debt obligations of the United States having a maturity date of five or less years from the first day of such month of June and by adjusting such yield to the nearest one-eighth of 1 per centum.

Interest rate.

“(3) For the purpose of making loans under paragraph (1) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are hereby extended to include such loans. All loans and repayments under this section shall be treated as public debt transactions of the United States.

40 Stat. 288.
31 USC 774.

“(e) So long as any loans to the fund are outstanding, the Administrator shall from time to time, not less often than annually, determine whether the balance in the fund is in excess of the amount which, in his judgment, is needed to meet the requirements of the fund and shall pay such excess to the Secretary of the Treasury, to be credited against the loans to the fund.

"EXAMINATION OF INSURED CREDIT UNIONS"

"SEC. 204. (a) The Administrator shall appoint examiners who shall have power, on his behalf, to examine any insured credit union, any credit union making application for insurance of its member accounts, or any closed insured credit union whenever in the judgment of the Administrator an examination is necessary to determine the condition of any such credit union for insurance purposes. Each examiner shall have power to make a thorough examination of all of the affairs of the credit union and shall make a full and detailed report of the condition of the credit union to the Administrator. The Administrator in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured member accounts. Each claim agent shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured accounts, and to issue subpoenas and subpoenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpoena.

Examiners and claim agents, powers.

Report by examiner.

"(b) In connection with examinations of insured credit unions, the Administrator, or his designated representatives, shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect of the affairs of any such credit union, and to issue subpoenas and subpoenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpoena.

"(c) In cases of refusal to obey a subpoena issued to, or contumacy by, any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination, or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. Such court may issue an order requiring such person to appear before the Administrator, or before a person designated by him, there to produce records, if so ordered, or to give testimony touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpoena issued under the authority of this title on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Privilege against self-incrimination.

"(d) The Administration may accept any report of examination made by or to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of examination made on behalf of the Administrator.

"REQUIREMENTS GOVERNING INSURED CREDIT UNIONS

Insured status,
advertisement.

"SEC. 205. (a) Every insured credit union shall display at each place of business maintained by it a sign or signs indicating that its member accounts are insured by the Administrator and shall include in all of its advertisements a statement to the effect that its member accounts are insured by the Administrator. The Administrator may exempt from this requirement advertisements which do not relate to member accounts or advertisements in which it is impractical to include such a statement. The Administrator shall prescribe by regulation the forms of such signs, the manner of display, the substance of any such statement, and the manner of use.

Restrictions.

"(b) (1) Except with the prior written approval of the Administrator, no insured credit union shall—

"(A) merge or consolidate with any noninsured credit union or institution;

"(B) assume liability to pay any member accounts in, or similar liabilities of, any noninsured credit union or institution;

"(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the member accounts in such insured credit union; or

"(D) convert into a noninsured credit union or institution.

"(2) Except with the prior written approval of the Administrator, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

"(c) In granting or withholding approval or consent under subsection (b) of this section, the Administrator shall consider—

"(1) the history, financial condition, and management policies of the credit union;

"(2) the adequacy of the credit union's reserves;

"(3) the economic advisability of the transaction;

"(4) the general character and fitness of the credit union's management;

"(5) the convenience and needs of the members to be served by the credit union; and

"(6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

"(d) Except with the written consent of the Administrator, no person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the credit union involved shall be subject to a penalty of not more than \$100 for each day this prohibition is violated, which the Administrator may recover for his use.

Penalty.

Security
standards.

"(e) (1) The Administrator shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

"(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the

submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

“(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed \$100 for each day of the violation.

Penalty.

“TERMINATION OF INSURANCE; CEASE-AND-DESIST PROCEEDINGS; SUSPENSION AND/OR REMOVAL OF DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS

“SEC. 206. (a) Any insured credit union other than a Federal credit union may, upon not less than ninety days' written notice to the Administrator and upon the affirmative vote of a majority of its members within one year prior to the giving of such notice, terminate its status as an insured credit union.

“(b) (1) Whenever, in the opinion of the Administrator, any insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of such credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or is violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or is violating or has violated any written agreement entered into with the Administrator, the Administrator shall serve upon the credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Administrator shall send a copy of such statement to the commission, board, or authority, if any, having supervision of such credit union. Unless such correction shall be made within one hundred and twenty days after service of such statement, or within such shorter period of not less than twenty days after such service as the Administrator shall require in any case where he determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay in the correction of such practices or conditions or violations, or as the commission, board, or authority having supervision of such credit union, if any, shall require in the case of an insured State-chartered credit union, the Administrator, if he shall determine to proceed further, shall give to the credit union not less than thirty days' written notice of his intention to terminate the status of the credit union as an insured credit union. Such notice shall contain a statement of the facts constituting the alleged unsafe and unsound practices or conditions or violations and shall fix a time and place for a hearing thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured credit union. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time above-prescribed in which to make such correction, the Administrator may issue and serve upon the credit union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

Notice.

Hearing.

Judicial
review.

"(2) Any credit union whose insured status has been terminated by order of the Administrator under this subsection shall have the right of judicial review of such order only to the same extent as provided for the review of orders under subsection (i) of this section.

Notice to
members.

"(c) In the event of the termination of a credit union's status as an insured credit union as provided under subsection (a) or (b) of this section, the credit union shall give prompt and reasonable notice to all of its members whose accounts are insured that it has ceased to be an insured credit union. It may include in such notice a statement of the fact that member accounts insured on the effective date of such termination, to the extent not withdrawn, remain insured for one year from the date of such termination, but it shall not further represent itself in any manner as an insured credit union. In the event of failure to give the notice as herein provided to members whose accounts are insured, the Administrator is authorized to give reasonable notice.

Insurance, con-
tinuation for one
year.

"(d) After the termination of the insured status of any credit union as provided under subsection (a) or (b) of this section, insurance of its member accounts to the extent that they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one year, but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the Administrator. The credit union shall continue to pay premiums to the Administrator during such period as in the case of an insured credit union and the Administrator shall have the right to examine such credit union from time to time during the period during which such insurance continues. Such credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union for the period of one year from the date of such termination. In the event that such credit union shall be closed for liquidation within such period of one year, the Administrator shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

Notice.

"(e) (1) If, in the opinion of the Administrator, any insured credit union or any credit union any of the member accounts of which are insured is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union a notice of charges in respect thereof, the notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices or violation or violations and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or viola-

Hearing.

tion specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise, require the credit union and its directors, officers, committee members, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such practice or violation.

“(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the credit union concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein) and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

“(f) (1) Whenever the Administrator shall determine that the unsafe or unsound practice or practices or violation or threatened violation specified in the notice of charges served upon the credit union pursuant to subsection (e) (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to otherwise seriously prejudice the interests of its insured members, the Administrator may issue a temporary order requiring the credit union to cease and desist from any such practice or violation. Such order shall become effective upon service upon the credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administrator shall dismiss the charges specified in such notice or, if a cease-and-desist order is issued against the credit union, until the effective date of any such order.

Temporary
cease-and-desist
order.

“(2) Within ten days after the credit union concerned has been served with a temporary cease-and-desist order, the credit union may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union under subsection (e) (1) of this section, and such court shall have jurisdiction to issue such injunction.

Injunctive
procedure.

“(3) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Administrator may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the principal office of the credit union is located for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

“(g) (1) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union

Director,
officer, committee
member, removal.

has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

Notice.

“(2) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

“(3) In respect to any director, officer, or committee member of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to such effect served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, officer, or committee member or in the conduct of whose affairs he has participated.

Hearing.

“(4) A notice of intention to remove a director, officer, committee member, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured credit union shall contain a statement of the facts constituting the grounds therefor and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice unless an earlier or a later date is set by the Administrator at the request of such director, officer, committee member, or other person, and for good cause shown, or at the request of the Attorney General of the United States. Unless such director, officer, committee member, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice has been established, the

Administrator may issue such orders of suspension or removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as he may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, officer, committee member, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

"(5) Within ten days after any director, officer, committee member, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under paragraph (3) of this subsection, such director, officer, committee member, or other person may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, committee member, or other person under paragraph (1) or (2) of this subsection, and such court shall have jurisdiction to stay such suspension and/or prohibition.

"(h) (1) Whenever any director, officer, or committee member of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any complaint authorized by a United States attorney or in any information or indictment, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, committee member, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may issue and serve upon such director, officer, committee member, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, officer, or committee member shall cease to be a director, officer, or committee member of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, officer, committee member, or other person from office and/or to prohibit further participation in the affairs of the credit union pursuant to paragraph (1) or (2) of subsection (g) of this section.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit

Notice.

Temporary directors, appointment.

union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

Jurisdiction.

“(i) (1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. Such hearing shall be private unless the Administrator, in his discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Administrator has notified the parties that the case has been submitted to him for final decision, he shall render his decision (which shall include findings of fact upon which his decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (i). Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Administrator may at any time, upon such notice and in such manner as he may deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Administrator may modify, terminate, or set aside any such order with permission of the court.

80 Stat. 380;
81 Stat. 195.
5 USC 500.

Judicial review.

“(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the practices or violations stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the credit union or the director, officer, committee member, or other person concerned or an order issued under subsection (h) of this section) by filing in the court of appeals of the United States for the circuit in which the principal office of the credit union is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

72 Stat. 941;
80 Stat. 1323.

80 Stat. 392.
5 USC 701.

62 Stat. 928.

“(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator.

“(j) The Administrator may in his discretion apply to the United States district court, or the United States court of any territory within the jurisdiction of which the principal office of the credit union is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance therewith. However, except as otherwise provided in this section, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section or to review, modify, suspend, terminate, or set aside any such notice or order.

Jurisdiction.

“(k) Any director, officer, or committee member, or former director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, committee member, or other person under subsections (g) (3), (g) (4), or (h) of this section and who (i) participates in any manner in the conduct of the affairs of the credit union involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such credit union, or (ii) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, shall upon conviction be fined not more than \$5,000 or imprisoned for not more than one year, or both.

Penalty.

“(l) As used in this section (1) the terms ‘cease-and-desist order which has become final’ and ‘order which has become final’ means a cease-and-desist order, or an order issued by the Administrator with the consent of the credit union or the director, officer, committee member, or other person concerned, or with respect to which no petition for review of the action of the Administrator has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (i) of this section, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said paragraph, or an order issued under subsection (h) of this section, and (2) the term ‘violation’ includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Definitions.

“(m) Any service required or authorized to be made by the Administrator under this section may be made by registered mail or in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide. Copies of any notice or order served by the Administrator upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this section, shall also be sent to the commission, board, or authority, if any, having supervision of such credit union.

“(n) In connection with any proceeding under subsection (e), (f) (1), or (g) of this section involving an insured State-chartered credit union or any director, officer, committee member, or other person participating in the conduct of its affairs, the Administrator shall provide the commission, board, or authority, if any, having supervision of such credit union, with notice of his intent to institute such a pro-

ceeding and the grounds thereof. Unless within such time as the Administrator deems appropriate in the light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of such commission, board, or authority, the Administrator may proceed as provided in this section. No credit union or other party who is the subject of any notice or order issued by the Administrator under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

“(o) In the course of or in connection with any proceeding under this section, the Administrator, or any designated representative thereof, including any person designated to conduct any hearing under this section, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum, and the Administrator is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an insured credit union or a director, officer, or committee member thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper, and such expenses and fees shall be paid by the credit union or from its assets.

“PAYMENT OF INSURANCE

Liquidation.

“SEC. 207. (a) (1) Upon his finding that a Federal credit union insured under this title is bankrupt or insolvent, the Administrator shall close such credit union for liquidation and appoint himself liquidating agent therefor.

Claims.

“(2) Notwithstanding any other provision of law, it shall be the duty of the Administrator as such liquidating agent to cause notice to be given, by advertisement in such newspapers as he may direct, to all persons having claims against such closed credit union, to present their claims within four months from the date such advertisement first appeared; to realize upon the assets of such closed credit union, having due regard to the condition of credit in the locality; and to wind up the affairs of such closed credit union in conformity with the provisions of law relating to the liquidation of bankrupt or insolvent Federal credit unions, except as herein otherwise provided. The Administrator as such liquidating agent shall pay to himself for his own account such portion of the amounts realized from such liquidation as he shall be entitled to receive on account of his subrogation to the claims of members, and he shall pay to members and other creditors

Proceedings,
powers of Admin-
istrator.

the net amounts available for distribution to them. The Administrator as such liquidating agent, however, may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to the first sentence of this paragraph, and no liability shall attach to the Administrator himself for as such liquidating agent by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

Dividend pay-
ments.

“(3) Notwithstanding any other provision of law, the Administrator as liquidating agent of a closed Federal credit union insured under this title shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist him in his duties as such liquidating agent. All fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Administrator and may be paid by him out of funds coming into his possession as such liquidating agent.

Fees.

“(b) Whenever any insured State-chartered credit union shall have been closed by action of its board of directors or by the commission, board, or authority having supervision of such credit union, as the case may be, or by a court of competent jurisdiction, on account of bankruptcy or insolvency, the Administrator shall accept appointment as liquidating agent therefor, if such appointment is tendered by the commission, board, or authority having supervision of such credit union, or by a court of competent jurisdiction, and is authorized or permitted by State law. With respect to any such State-chartered credit union, the Administrator as such liquidating agent shall possess all the rights, powers, and privileges granted by State law to a liquidating agent of a State-chartered credit union. For the purposes of this subsection, the term ‘liquidating agent’ includes a liquidating agent, receiver, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a credit union.

“Liquidating
agent.”

“(c) Whenever an insured credit union shall have been closed for liquidation on account of bankruptcy or insolvency, payment of the insured accounts in such credit union shall be made by the Administrator as soon as possible, subject to the provisions of subsection (d) of this section. For the purposes of this subsection, the term ‘insured account’ means the total amount of the account in the member’s name (after deducting offsets) less any part thereof which is in excess of \$20,000. Such amount shall be determined according to such regulations as the Administrator may prescribe, and, in determining the amount due to any member, there shall be added together all accounts in the credit union maintained by him for his own benefit either in his own name or in the names of others. The Administrator may define, with such classifications and exceptions as he may prescribe, the extent of the insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy. The Administrator, in his discretion, may require proof of claims to be filed before paying the insured accounts, and in any case where he is not satisfied as to the validity of a claim for an insured account, he may require the final determination of a court of competent jurisdiction before paying such claim.

Payment.

“Insured ac-
count.”

Coverage;
extent.

Claims, proof.

“(d) In the case of a closed Federal credit union, the Administrator, upon the payment to any member as provided in subsection (c) of this section, shall be subrogated to all rights of the member against such closed credit union to the extent of such payment. In the case of any other closed insured credit union, the Administrator shall not make any payment to any member until the right of the

Administrator to be subrogated to the rights of such member on the same basis as provided in the case of a closed Federal credit union shall have been recognized either by express provision of State law, by allowance of claims by the commission, board, or authority having supervision of such credit union, by assignment of claims by members, or by any other effective method. In the case of any closed insured credit union, such subrogation shall include the right on the part of the Administrator to receive the same dividends from the proceeds of the assets of such closed credit union as would have been payable to the member on a claim for the insured account, but such member shall retain his claim for any uninsured portion of his account. The rights of members and other creditors of any State-chartered credit union shall be determined in accordance with the applicable provisions of State law.

Payment, discharge of liability.

“(e) Payment of an insured account to any person by the Administrator shall discharge the Administrator to the same extent that payment to such person by the closed insured credit union would have discharged it from liability for the insured account.

Undisclosed names.

“(f) Except as otherwise prescribed by the Administrator, the Administrator shall not be required to recognize as the owner of any portion of an account appearing on the records of the closed credit union under a name other than that of the claimant any person whose name or interest as such owner is not disclosed on the records of such closed credit union as part owner of such account, if such recognition would increase the aggregate amount of the insured accounts in such closed credit union.

“(g) The Administrator may withhold payment of such portion of the insured account of any member of a closed credit union as may be required to provide for the payment of any direct or indirect liability of such member to the closed credit union or its liquidating agent, which is not offset against a claim due from such credit union, pending the determination and payment of such liability by such member or any other person liable therefor.

“(h) If, after the Administrator shall have given at least four months' notice to the member by mailing a copy thereof to his last-known address appearing on the records of the closed credit union, any member of the closed credit union shall fail to claim his insured account from the Administrator within 18 months after the appointment of the liquidating agent for the closed credit union, all rights of the member against the Administrator with respect to the insured account shall be barred, and all rights of the member against the closed credit union, or the estate to which the Administrator may have become subrogated, shall thereupon revert to the member.

Assets, sale.

“(i) (1) Liquidating agents of insured credit unions closed for liquidation on account of bankruptcy or insolvency may offer the assets of such credit unions for sale to the Administrator or as security for loans from the Administrator, upon receiving permission from the commission, board, or authority having supervision of such credit union, in the case of an insured State-chartered credit union, in accordance with express provisions of State law. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such credit unions. The Administrator, in his discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured credit union closed for liquidation on account of bankruptcy or insolvency, but in any case in which the Administrator is acting as liquidating agent of a closed insured

credit union, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

“(2) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

“(A) shall be in writing;

“(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

“(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

“(D) shall have been, continuously, from the time of its execution, an official record of the credit union.

“SPECIAL ASSISTANCE TO AVOID LIQUIDATION

“SEC. 208. (a) (1) In order to reopen a closed insured credit union or in order to prevent the closing of an insured credit union which the Administrator has determined is in danger of closing, the Administrator, in his discretion, is authorized to make loans to, or purchase the assets of, or establish accounts in such insured credit union upon such terms and conditions as he may prescribe. Such loans shall be made and such accounts shall be established only when, in the opinion of the Administrator, such action is necessary to protect the Fund or the interests of the members of the credit union. Such loans and accounts may be in subordination to the rights of members and creditors of the credit union.

Loans.

“(2) Whenever in the judgment of the Administrator such action will reduce the risk or avert a threatened loss to the fund and will facilitate a merger or consolidation of an insured credit union with another insured credit union, or will facilitate the sale of the assets of an open or closed insured credit union to and assumption of its liability by another insured credit union, the Administrator may, upon such terms and conditions as he may determine, make loans secured in whole or in part by assets of an open or closed insured credit union, which loans may be in subordination to the rights of members and creditors of such credit union, or the Administrator may purchase any of such assets or may guarantee any other insured credit union against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured credit union.

“(3) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator, in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

“(A) shall be in writing;

“(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

“(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

“(D) shall have been continuously, from the time of its execution, an official record of the credit union.

“(b) For the protection of the Fund, the Administrator, without regard to the Federal Property and Administrative Services Act of 1949, may—

“(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, sell for cash or credit, or lease, in his discretion, any real property acquired or held by him under this section; and

“(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him under this section.

Section 3709 of the Revised Statutes of the United States shall not apply to any purchase or contract for services or supplies made or entered into by the Administrator under this section if the amount thereof does not exceed \$1,000, or to any contract for hazard insurance on any real property acquired or held by him under this section.

“(c) In connection with the liquidation of any insured credit union, the Administrator shall have the power to carry on the business of and collect all obligations to the credit union, to settle, compromise, or release claims in favor of or against the credit union, and to do all other things that may be necessary in connection therewith, subject to the regulation of the court or other public body having jurisdiction over the matter.

“(d) Money received by the Administrator in carrying out this section shall be paid into the Fund.

“ADMINISTRATIVE PROVISIONS

“SEC. 209. (a) In carrying out the purposes of this title, the Administrator may—

“(1) make contracts;

“(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Administrator shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Administrator may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Administrator is a party in his capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Administrator or his property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

“(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of \$5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

63 Stat. 377.
40 USC 471
note.

41 USC 5.

“(4) to appoint such officers and employees as are not otherwise provided for in this Act, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

“(5) employ experts and consultants or organizations thereof, as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a);

“(6) prescribe the manner in which his general business may be conducted and the privileges granted to him by law may be exercised and enjoyed;

“(7) exercise all powers specifically granted by the provisions of this title and such incidental powers as shall be necessary to carry out the powers so granted;

“(8) make examinations of and require information and reports from insured credit unions, as provided in this title.

“(9) act as liquidating agent;

“(10) delegate to any officer or employee of the Administration such of his functions as he deems appropriate; and

“(11) prescribe such rules and regulations as he may deem necessary or appropriate to carry out the provisions of this title.

“(b) With respect to the financial operations arising by reason of this title, the Administrator shall—

“(1) prepare annually and submit a business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act; and

“(2) maintain an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act.

60 Stat. 810.
5 USC 3109.

59 Stat. 597.
31 USC 841
note,
GAO audit.

59 Stat. 599;
78 Stat. 698.
31 USC 850.

“NONDISCRIMINATORY PROVISION

“SEC. 210. It is not the purpose of this title to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this title to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this title.”

SEC. 2. Section 101 of the Federal Credit Union Act, as redesignated by section 1 of this Act (formerly section 2 of such Act), is amended—

Definitions.
73 Stat. 628.
12 USC 1752.

(1) by striking out the word “and” at the end of paragraph (2) thereof;

(2) by striking out the period at the end of paragraph (3) thereof and inserting “; and” in lieu thereof; and

(3) by adding the following new paragraphs after paragraph (3) thereof:

“(4) The terms ‘member account’ and ‘account’ (when referring to the account of a member of a credit union) mean a share, share certificate, or share deposit account of a member of a credit union of a type approved by the Administrator which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member, and, in the case of a credit union serving predominantly

low-income members (as defined by the Administrator), such terms (when referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share deposit account of such nonmember which is of a type approved by the Administrator and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to give credit to the account of such nonmember;

“(5) The terms ‘State credit union’ and ‘State-chartered credit union’ mean a credit union organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to Federal credit unions;

“(6) The term ‘insured credit union’ means any credit union the member accounts of which are insured in accordance with the provisions of title II of this Act, and the term ‘noninsured credit union’ means any credit union the member accounts of which are not so insured;

“(7) The term ‘Fund’ means the National Credit Union Share Insurance Fund; and

“(8) The term ‘branch’ includes any branch credit union, branch office, branch agency, additional office, or any branch place of business located in any State of the United States, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, at which member accounts are established or money lent.”

SEC. 3. Section 493 of title 18 of the United States Code (relating to bonds and obligations of certain lending agencies) is amended—

(1) by inserting the words “National Credit Union Administration,” following the words “Federal Deposit Insurance Corporation,”; and

(2) by inserting the words “insured credit union,” following the words “intermediate credit bank.”

SEC. 4. Section 657 of title 18 of the United States Code (relating to lending, credit, and insurance institutions) is amended—

(1) by inserting the words “National Credit Union Administration,” following the words “Federal Deposit Insurance Corporation,”; and

(2) by inserting the words “or by the Administrator of the National Credit Union Administration” following the words “Federal Savings and Loan Insurance Corporation”.

SEC. 5. Section 709 of title 18 of the United States Code (relating to false advertising and misuses of names to indicate a Federal agency) is amended by adding after the third paragraph thereof the following paragraph:

“Whoever falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or, being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which shareholdings in such credit union are insured under such Act; or”.

SEC. 6. Section 1006 of title 18 of the United States Code (relating to false entries in reports and transactions of Federal credit institutions) is amended—

(1) by inserting the words “National Credit Union Administration,” following the words “Federal Deposit Insurance Corporation,”; and

62 Stat. 711.

62 Stat. 729.

62 Stat. 733;
81 Stat. 27.73 Stat. 628.
12 USC 1751.62 Stat. 750;
70 Stat. 714.

(2) by inserting the words "or by the Administrator of the National Credit Union Administration" following the words "Federal Savings and Loan Insurance Corporation".

SEC. 7. Section 1014 of title 18 of the United States Code (relating to false statements in loan and credit applications) is amended by striking out the words "or a Federal credit union" and by inserting the words "a Federal credit union, or an insured State-chartered credit union" in lieu thereof.

62 Stat. 752;
78 Stat. 269.

SEC. 8. Section 2113 of title 18 of the United States Code (relating to bank robbery and incidental crimes) is amended as follows:

64 Stat. 394.

(1) Subsections (a), (b), and (c) are each amended by inserting the words "credit union," following the word "bank," each place it appears therein.

(2) The following new subsection is added at the end thereof:

"(h) As used in this section the term 'credit union' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration."

"Credit union."

SEC. 9. Section 116 of the Federal Credit Union Act, as redesignated by section 1 of this Act (formerly section 17 of such Act), is amended to read as follows:

Reserves.
73 Stat. 634.
12 USC 1762.

"SEC. 116. (a) 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 against losses on loans and against such other losses as may be specified in regulations prescribed under this Act, sums in accordance with the following schedule:

"10 per centum of gross income until the regular reserve shall equal $7\frac{1}{2}$ per centum of the total of outstanding loans and risk assets, then

"5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

Whenever the regular reserve falls below 10 per centum or $7\frac{1}{2}$ per centum of the total of outstanding loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of $7\frac{1}{2}$ per centum or 10 per centum.

"(b) In addition to such regular reserve, special reserves to protect the interests of members shall be established—

"(1) when required by regulation; or

"(2) when found by the Administrator, in any special case, to be necessary for that purpose."

SEC. 10. Section 107 of the Federal Credit Union Act, as redesignated by section 1 of this Act (formerly section 8 of such Act), is amended—

81 Stat. 110;
82 Stat. 284.
12 USC 1757.

(1) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) to receive from its members or other federally insured credit unions payments on shares, share certificates, or share deposits, and, in the case of credit unions serving predominantly low-income members (as defined by the Administrator), to receive payments on shares, share certificates, or share deposits from nonmembers;" and

(2) by adding at the end of paragraph (8) the following: "and (H) in shares, share certificates, or share deposits of federally insured credit unions;"

Approved October 19, 1970.