

By: Representative Ford

To: Banks and Banking

HOUSE BILL NO. 511
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 81-13-1 THROUGH 81-13-75 AND
2 SECTIONS 81-13-79 AND 81-13-81, MISSISSIPPI CODE OF 1972, WHICH
3 PROVIDE FOR THE REGULATION OF CREDIT UNIONS; TO REPEAL SECTION
4 81-13-77, MISSISSIPPI CODE OF 1972, WHICH IS A REPEALER ON THE
5 STATUTES PROVIDING FOR THE REGULATION OF CREDIT UNIONS; AND FOR
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 81-13-1, Mississippi Code of 1972, is
9 reenacted as follows:

10 81-13-1. (1) Any seven (7) persons who are residents of the
11 State of Mississippi of full age and of good moral and sound
12 business character eligible under this chapter to become members
13 of a credit union may prepare in duplicate articles of association
14 and incorporation, and sign the same and cause the same to be
15 acknowledged by one (1) of the signers before an officer competent
16 to take acknowledgments to the effect that the same has been
17 signed and executed by all of the signers. Before any credit
18 union may be organized and formed, the prospective incorporators
19 shall give notice to the Department of Banking and Consumer
20 Finance by petition to the Commissioner of Banking and Consumer
21 Finance of their desire to engage in business as a credit union
22 and shall at the time file with the commissioner two (2) copies of
23 the proposed articles of incorporation, duly sworn to by one (1)
24 of the prospective incorporators.

25 (2) Upon receipt of a petition for a certificate of
26 incorporation to form a credit union and such additional
27 information as may be required by the commissioner, the
28 commissioner shall promptly give consideration to the petition and

29 make an examination of the proposed articles of incorporation to
30 determine if they meet all requirements of the law. The
31 commissioner shall then make an investigation to determine that
32 the prerequisites of this chapter have been complied with and
33 that:

34 (a) The character, responsibility and general fitness
35 of the persons named in the petition are such as to command
36 confidence and warrant belief that the business of the proposed
37 credit union will be honestly and efficiently conducted in
38 accordance with the intent and purpose of this chapter and that
39 the proposed credit union will have qualified management;

40 (b) There is need for the proposed credit union to
41 serve the proposed field of membership, which shall be specific in
42 detail; and

43 (c) The anticipated volume and type of business and
44 field of membership of the proposed credit union is such as to
45 indicate profitable operation within a reasonable time.

46 When the commissioner has completed the examination and made
47 his investigation, he shall record his preliminary findings and
48 recommendations in writing.

49 (3) The commissioner shall consider the findings and shall
50 hear such oral testimony as he may wish, and may also receive
51 information and hear testimony bearing upon the approval of the
52 organization and operation of the new credit union. When the
53 commissioner has completed the examination and investigation, the
54 commissioner shall record the findings in writing and render a
55 decision as to whether or not said credit union should be
56 authorized to do business. If the decision is favorable, the
57 incorporators shall then present one (1) of said copies of the
58 articles of association and incorporation, with a recording fee of
59 Ten Dollars (\$10.00) to the Secretary of State of the State of
60 Mississippi who shall receive and file the same, whereupon said
61 persons entering into said articles shall be and become an

62 incorporated credit union association under the laws of the State
63 of Mississippi, without individual liability for debts, obligation
64 or other liabilities of said association, in excess of such
65 membership fees as remain due and unpaid by said members,
66 respectively, and may sue and be sued in the name of said
67 association. The Secretary of State shall record the said
68 articles in his office and return the original so recorded to said
69 association. The association shall file articles for record in
70 the office of the clerk of the chancery court in the county where
71 the principal place of business is located.

72 (4) If the commissioner shall deny the application for such
73 charter, he shall notify the applicant in writing of such denial
74 and shall include in such notification the reason or reasons for
75 such denial. When any application for a charter is denied, the
76 applicant shall have the right to a hearing thereon by and before
77 the commissioner by filing, within thirty (30) days after the date
78 of the receipt of the notification of denial, a written petition
79 with the commissioner requesting such hearing. Upon the filing of
80 any such request, the commissioner shall fix a date for the
81 hearing, which date shall not be later than thirty (30) days from
82 the date of the filing of the request, and notice shall be given
83 to the public of the fact that such hearing will be held by the
84 publication of a notice in some newspaper published in the county
85 where the business is proposed to be conducted not less than ten
86 (10) days before the date of the hearing, which notice shall
87 specify the date, time, place and purpose of the hearing, said
88 hearing to be in the office of the commissioner in Jackson,
89 Mississippi. If there is no newspaper published in the county
90 where the business is proposed to be conducted, such notice shall
91 be placed in a newspaper having general circulation in such
92 county.

93 (5) All such hearings shall be held and conducted in the
94 office of the commissioner, and the applicant and any and all

95 other interested persons may appear and present such evidence as
96 shall be relevant and material and the commissioner may cause the
97 production and presentation of such evidence as deemed relevant
98 and material. At all such hearings the applicant shall have the
99 right to be represented by counsel and to examine and
100 cross-examine any and all witnesses that may testify at such
101 hearing. For the purpose of compelling the attendance of
102 witnesses at such hearing the commissioner shall have the power to
103 issue subpoenas therefor in the same manner as subpoenas are
104 issued in circuit courts. All witnesses who shall testify at any
105 such hearing shall be sworn in the same manner as witnesses are
106 sworn in the circuit courts and shall be subject to penalties for
107 perjury as is otherwise provided under the laws of this state.

108 (6) At all such hearings the commissioner shall cause the
109 evidence presented to be taken down and a record made thereof and
110 the commissioner shall make a written finding and decision with
111 reference to the question presented and shall cause same to be
112 included in the record. The original of said record shall be kept
113 as a permanent record by the commissioner and a copy thereof shall
114 be furnished to the applicant. If the application for the charter
115 shall be denied as a result of such hearing, the applicant may
116 obtain a review of such denial by filing a petition for the review
117 of such denial within thirty (30) days from the date of such
118 denial to the circuit court of the county in which it is sought to
119 organize such credit union. The review by said court shall be on
120 the record made before the commissioner and copies of all
121 applications, bonds and other papers and documents of every kind
122 filed with the commissioner in connection with the application and
123 said hearing shall be included in said record along with the
124 transcript of the evidence.

125 (7) The corporate existence of an association shall begin on
126 the date the certificate of incorporation is issued to the credit

127 union, and such existence shall be perpetual unless terminated in
128 accordance with the provisions of this chapter.

129 (8) At any time the commissioner determines that a credit
130 union ceases to offer normal credit union services to its members
131 as a result of a merger, voluntary liquidation, involuntary
132 liquidation or any other cause, the commissioner shall be
133 authorized to pay the required fee to record the cancellation of
134 the charter of the credit union in the county where originally
135 recorded and in the Secretary of State's office.

136 SECTION 2. Section 81-13-3, Mississippi Code of 1972, is
137 reenacted as follows:

138 81-13-3. (1) The articles of association, in addition to
139 such other provisions not in conflict with law as the organizers
140 may desire, shall set forth provisions showing:

141 (a) The name of the proposed credit union (which shall
142 include the words "Credit Union") and the city, town or village in
143 which the principal office is to be located, if in a city, town or
144 village, or the designation of the place not in a city, town or
145 village in which the principal office is to be located.

146 (b) The name and address of the subscribers to the
147 articles and the number of shares subscribed by each.

148 (c) A statement that incorporation is desired under
149 this particular law and the par value of the shares (which shall
150 not exceed Ten Dollars (\$10.00)).

151 (d) That the association and its members will comply
152 with all the laws, rules and regulations applicable to credit
153 unions.

154 (2) The articles of association may be amended by an
155 affirmative vote of a majority of the board of directors at a duly
156 held meeting, and the filing with the Secretary of State and the
157 Commissioner of Banking and Consumer Finance of duplicate copies
158 of such amendment acknowledged in the manner provided for the
159 acknowledgment of the original articles, and the approval of such

160 amendment in writing by the commissioner. Such amendment shall be
161 recorded in the Office of the Secretary of State upon the payment
162 of a recording fee of Ten Dollars (\$10.00), and shall be recorded
163 in the office of the clerk of the chancery court of the county in
164 which the principal place of business is situated. The proposed
165 amendment must be set forth in the call for the meeting.

166 SECTION 3. Section 81-13-4, Mississippi Code of 1972, is
167 reenacted as follows:

168 81-13-4. No credit union shall accept any deposits unless or
169 until it submits sufficient evidence that its accounts are insured
170 by the National Credit Union Administration or by any successor
171 thereto. Any credit union shall thereafter conduct business only
172 while its accounts are insured.

173 SECTION 4. Section 81-13-5, Mississippi Code of 1972, is
174 reenacted as follows:

175 81-13-5. (1) Before making loans or receiving deposits, the
176 credit union shall file with the Department of Banking and
177 Consumer Finance a set of its bylaws with certificate of adoption
178 which in addition to such other provisions as may be contained
179 therein shall show:

180 (a) The date of the annual meeting, which will be
181 before March 31 of each year, the manner of notification of
182 meetings, the number of members constituting a quorum, and
183 regulations as to voting.

184 (b) The number of directors (which shall not be less
185 than five (5)) and officers, all of whom must be members, the
186 names of the first board of directors, their powers and duties,
187 together with the duties of officers elected by the board of
188 directors.

189 (c) The qualifications for membership.

190 (d) The number of members of the credit committee, if
191 any, and of the supervisory committee (which shall be not less

192 than three (3) each), together with their respective powers and
193 duties.

194 (e) The conditions under which shares may be issued,
195 transferred and withdrawn, deposits received and withdrawn, loans
196 made and repaid and the funds otherwise invested.

197 (f) The charges, if any, which shall be made for
198 failure to meet obligations punctually, whether or not the
199 corporation shall have the power to borrow, the method of
200 receipting for money, the manner of accumulating a reserve fund
201 and determining a dividend, and such other matters, consistent
202 with the provisions of this chapter, as may be required to protect
203 the organization and make possible the operation of the credit
204 union in question.

205 (2) Amendments to the bylaws may be made by members at a
206 regular or special meeting, if the proposed amendment is set forth
207 in the call for the meeting and is approved by a majority of the
208 members present at a meeting at which a quorum is present. The
209 amendment of bylaws shall not become effective until approved in
210 writing by the commissioner.

211 SECTION 5. Section 81-13-9, Mississippi Code of 1972, is
212 reenacted as follows:

213 81-13-9. The use by any person, corporation, association or
214 copartnership except corporations formed under the provisions of
215 this chapter, of any name or title which contains the words
216 "credit union" shall be a misdemeanor.

217 SECTION 6. Section 81-13-11, Mississippi Code of 1972, is
218 reenacted as follows:

219 81-13-11. In addition to the general powers authorized for
220 corporations in Section 79-3-7, a credit union shall have the
221 following specific powers:

222 (a) It may receive the savings of its members in
223 payment for shares and on deposit and investments by other credit
224 unions on deposit.

225 (b) It may make loans to members, authorized by the
226 credit committee, and may make loans to other credit unions,
227 committee members and directors, as authorized by the board of
228 directors.

229 (c) It may invest, through the board of directors, only
230 in accordance with NCUA's rules and regulations, Federal Credit
231 Union Act, and any interpretive rulings issued by the NCUA.

232 The funds of the credit union shall be used first, however,
233 for loans to members and preference shall be given to the smaller
234 loan in the event the available funds do not permit all loans to
235 be made which have been approved by the credit committee or loans
236 officers.

237 SECTION 7. Section 81-13-12, Mississippi Code of 1972, is
238 reenacted as follows:

239 81-13-12. Notwithstanding any other law to the contrary, the
240 Commissioner of Banking and Consumer Finance by rule may authorize
241 a credit union doing business under this chapter to engage in any
242 activity in which it could engage, exercise any power it could
243 exercise, or make any loan or investment it could make, if it were
244 operating as a federal credit union.

245 SECTION 8. Section 81-13-13, Mississippi Code of 1972, is
246 reenacted as follows:

247 81-13-13. Membership shall consist of the incorporators and
248 such natural persons as have been duly elected to membership and
249 have paid the entrance fee as required by the bylaws, and have
250 complied with such other requirements as the certificate of
251 organization may contain, and successors-in-law to accounts of
252 deceased members subject to individual approval by the board of
253 directors. One entrance fee will be required for each account
254 regardless of the number of joint owners. Other organizations
255 (whether incorporated or not) composed primarily of the same
256 individuals who are eligible to join the credit union are also
257 eligible for membership. Credit unions shall be organized within

258 groups which have a common bond of occupation, association, or
259 residence; provided that one (1) corporate central credit union
260 sponsored by the Mississippi Credit Union League may accept as
261 members the credit unions that are members of the Mississippi
262 Credit Union League and shall include in its title the words
263 "corporate central"; and provided further that one (1) credit
264 union sponsored by the Mississippi Credit Union League may accept
265 as members the members of credit unions holding membership in the
266 Mississippi Credit Union League, the members of their immediate
267 families, the employees of the Mississippi Credit Union League and
268 the members of their immediate families, organizations or
269 associations of such persons, and other persons residing in this
270 state who do not have the services of a credit union available to
271 them, such credit union to be known as the Mississippi League
272 Central Credit Union, subject to such limitations on membership as
273 may be from time to time adopted by the board of directors in the
274 minutes of the central credit union.

275 SECTION 9. Section 81-13-15, Mississippi Code of 1972, is
276 reenacted as follows:

277 81-13-15. Credit unions shall be subject to the supervision
278 of the Department of Banking and Consumer Finance. The
279 Commissioner of Banking and Consumer Finance is empowered with
280 authority to promulgate from time to time rules and regulations
281 concerning the operation of credit unions; provided that such
282 rules and regulations shall be consistent with and in conformity
283 with the laws of the State of Mississippi. Credit unions shall
284 make a report of condition thereto at least annually on blank
285 forms to be supplied by said department. Credit unions shall
286 transmit to the department such call reports within a time
287 limitation established by the commissioner; however, such time
288 limitation cannot exceed that set by the National Credit Union
289 Administration. For any failure or delay in furnishing this
290 report, the credit union shall be subject to an administrative

291 fine, which may be imposed by the commissioner, of Fifty Dollars
292 (\$50.00) a day for each day while in such default. Reports shall
293 be verified by both the chief elected official and the treasurer
294 and additional reports may be required by the said department.

295 SECTION 10. Section 81-13-17, Mississippi Code of 1972, is
296 reenacted as follows:

297 81-13-17. Each credit union shall be examined at least once
298 per eighteen-month period by the Commissioner of Banking and
299 Consumer Finance. The commissioner may conduct other examinations
300 and the commissioner or examiners of the Department of Banking and
301 Consumer Finance shall at all times be given free access to all
302 the books, papers, securities and other sources of information in
303 respect to the credit union. For that purpose he shall have the
304 power to subpoena and examine personally or through one (1) of his
305 deputies, or examiners, duly authorized, witnesses on oath and
306 documents pertaining to the business of the credit union. The
307 fees for examination shall be determined by the commissioner by
308 assessing the association according to the cost based on the
309 average daily cost of all examiners of the department, plus actual
310 and necessary expenses. The commissioner shall have the authority
311 to prescribe supervision fees at the rate of Ten Cents (10¢) per
312 One Thousand Dollars (\$1,000.00) of assets, and not be less than
313 Twenty Dollars (\$20.00) nor more than Two Hundred Dollars
314 (\$200.00) a year for overhead expenses of the department in
315 supervising the credit union. The commissioner shall send each
316 such credit union a statement of the amount due by it and shall
317 specify how the same shall be paid. The fees shall be due and
318 payable in accordance with the statement so furnished and shall be
319 paid within ten (10) days after the date fixed for their payment.
320 Such fees shall constitute a lien on the assets of the credit
321 union until paid. Any such credit union failing to make payment
322 within ten (10) days as herein provided shall be liable to a

323 penalty of ten percent (10%) of the amount in default for each day
324 thereafter.

325 In the event the commissioner's office, because of work load
326 or other good sufficient cause, is unable to conduct an annual
327 examination of a credit union as provided for in this section, the
328 commissioner is hereby authorized to accept the examination of any
329 credit union performed by the National Credit Union Administration
330 or by any succession thereto. However, in no case shall the
331 commissioner be authorized to accept any such examination of any
332 credit union performed by the NCUA or its successor for any two
333 (2) consecutive eighteen-month periods.

334 SECTION 11. Section 81-13-19, Mississippi Code of 1972, is
335 reenacted as follows:

336 81-13-19. (1) If it appears that any credit union is
337 bankrupt or insolvent, or that it has violated any other
338 provisions of law, or is in danger of loss due to mismanagement or
339 fraud, the commissioner shall issue an order temporarily
340 suspending the credit union's operations for not less than thirty
341 (30) nor more than sixty (60) days. The board of directors shall
342 be given notice by registered mail of such suspension, which
343 notice shall include a list of the reasons for such suspension, or
344 a list of the specific violations of law.

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

353 (3) Upon receipt of evidence from the suspended credit union
354 that the conditions causing the order of suspension have been
355 corrected, the commissioner, upon finding that such conditions

356 have been corrected, may revoke the suspension notice and permit
357 the credit union to resume normal operations.

358 (4) If the commissioner, after issuing notice of suspension
359 and providing an opportunity for a hearing, rejects the credit
360 union's plan to continue operations, he may issue a notice of
361 involuntary liquidation and appoint a liquidating agent. The
362 commissioner shall continue his order suspending the credit
363 union's operation until final determination or liquidation. The
364 credit union may request the chancery court of the county in which
365 the home office of the credit union is located to take such action
366 as it may deem necessary under the law.

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

371 SECTION 12. Section 81-13-21, Mississippi Code of 1972, is
372 reenacted as follows:

373 81-13-21. (1) If it appears to the Commissioner of Banking
374 and Consumer Finance, as a result of any examination or from any
375 report made to him, that the public interest may be served by the
376 appointment of a conservator, and if he shall find that: (a) the
377 capital of a credit union is impaired, or (b) the credit union is
378 concealing any assets, books or records or (c) the members of such
379 credit union are in actual danger of loss due to mismanagement,
380 misappropriation of funds, fraud, violation of this chapter, or
381 violation of any lawful rule of the board or (d) has lost its
382 field of membership or (e) the credit union is in violation of an
383 order or injunction, as authorized by this section, which has
384 become final since time to appeal has expired without appeal or a
385 final order entered from which there can be no appeal, the
386 commissioner may appoint a conservator for such credit union,
387 which may be the commissioner or any other person, and upon such
388 appointment the commissioner shall apply immediately to the

389 chancery court in the county in which the home office of the
390 credit union is located for confirmation of such appointment, and
391 such court shall have exclusive jurisdiction to determine the
392 issues and all related matters. Such proceedings shall be given
393 precedence over other cases pending in such court, and shall in
394 every way be expedited. Such court shall confirm such appointment
395 if it shall find that one or more of such grounds exist, and a
396 certified copy of the order of the court confirming such
397 appointment shall be evidence thereof. Such conservator shall
398 have the power and authority provided in this chapter and such
399 other power and authority as may be expressed in the order of the
400 court. Such conservator shall endeavor promptly to remedy the
401 situations complained of by the commissioner in his application
402 for confirmation of such appointment. Within six (6) months of
403 the date of such appointment, or within twelve (12) months if the
404 court shall extend such period of six (6) months, such credit
405 union shall be returned to the board of directors thereof and
406 thereafter shall be managed and operated as if no conservator had
407 been appointed. If the commissioner serves as conservator, he
408 shall receive no additional compensation, but if another person is
409 appointed, then the compensation of the conservator, as determined
410 by the court, shall be paid by the credit union. A certified copy
411 of the order of the court discharging such conservator and
412 returning such credit union to the directors thereof shall be
413 sufficient evidence thereof.

414 (2) Any conservator appointed shall have all the rights,
415 powers and privileges possessed by the officers, board of
416 directors and members of the credit union and shall have the
417 power, with the approval of the court, to limit or condition
418 withdrawals from the credit union and to effectuate a system for
419 payment of withdrawals.

420 (3) The directors and officers shall remain in office and
421 the employees shall remain in their respective positions, but the

422 conservator may remove any director, officer or employee, provided
423 the order of removal of a director or officer shall be approved by
424 the chancery court.

425 (4) While the credit union is in the charge of a
426 conservator, members or borrowers of such credit union shall
427 continue to make payments to the credit union in accordance with
428 the terms and conditions of their contracts. All expenses of the
429 credit union during such conservatorship shall be paid by the
430 credit union.

431 SECTION 13. Section 81-13-23, Mississippi Code of 1972, is
432 reenacted as follows:

433 81-13-23. The credit union fiscal year shall end at the
434 close of business on the thirty-first day of December.

435 SECTION 14. Section 81-13-25, Mississippi Code of 1972, is
436 reenacted as follows:

437 81-13-25. At an annual meeting the members shall elect a
438 board of directors and a supervisory committee. The credit
439 union's board of directors shall determine whether the credit
440 union will: (1) have a credit committee elected by the
441 membership; (2) have a credit committee appointed by the board;
442 and/or (3) will hire loan officers. The board shall include this
443 decision in their bylaws and the board shall determine and record
444 in the minutes of a duly held meeting, the authority of the credit
445 committee, if any, and/or the loan officers. Unless the number of
446 members of the credit union is less than eleven (11), no member of
447 the board shall be a member of either of said committees. All
448 members of the board and committees and all officers shall be
449 sworn to discharge their duties faithfully and shall hold their
450 several offices for such terms as may be provided in the bylaws.
451 The oath shall be subscribed by the individual taking it and
452 certified by the officer before whom it is taken and shall be
453 transmitted within ten (10) days after the oath to the
454 Commissioner of Banking and Consumer Finance and filed and

455 preserved in his office. For any failure or delay in transmitting
456 the oath, the credit union shall be subject to an administrative
457 fine, which may be imposed by the commissioner, of Ten Dollars
458 (\$10.00) per day for each day the documents are not received.

459 SECTION 15. Section 81-13-27, Mississippi Code of 1972, is
460 reenacted as follows:

461 81-13-27. At the first meeting and at each first meeting in
462 the fiscal year, the board of directors shall elect from their own
463 number a president or chairman, vice president or vice chairman,
464 treasurer, and may elect a secretary. At each board, special or
465 annual meeting, the president/chairman shall appoint a recording
466 secretary to accurately record the actions taken at said meeting.
467 The board of directors shall have the general management of the
468 affairs, funds and records of the corporation and shall meet as
469 often as may be necessary. Unless the bylaws shall specifically
470 reserve any or all of the duties to the members, it shall be the
471 special duty of the directors:

472 (a) To act upon all applications for membership and on
473 the expulsion of members;

474 (b) To determine, from time to time, rates of interest
475 which shall be allowed on deposits and charged on loans;

476 (c) To fix the amount of the surety bond which shall be
477 required of each officer having the custody of funds;

478 (d) To fix the maximum number of shares which may be
479 held by, and the maximum amount which may be loaned to any one (1)
480 member; to declare dividends and recommend amendments to the
481 bylaws;

482 (e) To fill vacancies in the board of directors and
483 credit committee until the election and qualification of
484 successors;

485 (f) To have charge of the investment of funds of the
486 corporation, other than loans to members, and to perform such
487 other duties as the members may, from time to time, authorize.

488 SECTION 16. Section 81-13-28, Mississippi Code of 1972, is
489 reenacted as follows:

490 81-13-28. A member of the board of directors or a member of
491 the credit committee or supervisory committee or an employee of a
492 credit union may not participate in the deliberation or the
493 determination of a question affecting his own pecuniary interest
494 or the pecuniary interest of a corporation, partnership or
495 association in which he is interested. Any person who violates
496 this section may not thereafter serve as an officer, agent or
497 employee of a credit union.

498 SECTION 17. Section 81-13-29, Mississippi Code of 1972, is
499 reenacted as follows:

500 81-13-29. No member of the credit or supervisory committee
501 shall receive any compensation for his services as a member of
502 said committees; provided, however, that one (1) elected official
503 of the board of directors may be compensated for services
504 rendered.

505 SECTION 18. Section 81-13-33, Mississippi Code of 1972, is
506 reenacted as follows:

507 81-13-33. The supervisory committee shall, at frequent
508 intervals, inspect the securities, cash and accounts of the credit
509 union and supervise the acts of the board of directors, credit
510 committee and officers, any or all of whom the supervisory
511 committee may, at any time, by a unanimous vote suspend. Within
512 seven (7) days after such suspension, the supervisory committee
513 shall cause notice to be given the members of a special meeting to
514 take action on such suspension, the call for the meeting to
515 indicate clearly its purpose. By a majority vote the committee
516 may call a meeting of the shareholders to consider any violation
517 of this chapter or of the bylaws, or any practice of the credit
518 union which, in the opinion of said committee, is unsafe and
519 unauthorized. The committee shall fill vacancies in their own
520 number until the next annual meeting of the members. Annually the

521 supervisory committee shall make or cause to be made a thorough
522 audit of the receipts, disbursements, income, assets and
523 liabilities of the credit union for the said fiscal year and shall
524 make a full report thereon to the directors, which report shall be
525 filed and preserved with the records of the credit union. The
526 supervisory committee shall make a report to the members at the
527 annual meeting.

528 SECTION 19. Section 81-13-35, Mississippi Code of 1972, is
529 reenacted as follows:

530 81-13-35. The capital of a credit union shall consist of the
531 regular and any other reserve accounts, the undivided earnings and
532 any other earnings accounts, allowances for loss accounts. A
533 credit union shall have a lien on the shares of any member and on
534 the dividends payable thereon for and to the extent of any loan
535 towards the liquidation of said member's indebtedness. A credit
536 union may, upon the resignation or expulsion of a member, cancel
537 the shares of such member and apply the withdrawal value of such
538 shares first towards the liquidation of said member's
539 indebtedness. A credit union may charge an entrance or membership
540 fee as may be provided in the bylaws.

541 SECTION 20. Section 81-13-37, Mississippi Code of 1972, is
542 reenacted as follows:

543 81-13-37. Shares may be issued and deposits received in the
544 name of a minor, without a guardian, and in trust in accordance
545 with applicable law.

546 SECTION 21. Section 81-13-39, Mississippi Code of 1972, is
547 reenacted as follows:

548 81-13-39. A credit union may lend to its members at
549 reasonable rates of interest, which shall not exceed one and
550 three-fourths percent (1-3/4%) per month, computed on unpaid
551 balances, or invest the funds accumulated as herein provided.
552 Fines and penalties shall not be considered as interest. A charge
553 of Ten Dollars (\$10.00) in lieu of interest may be made on any

554 loan payable in a single payment, and a charge of Fifteen Dollars
555 (\$15.00) in lieu of interest may be made on any loan payable in
556 installments.

557 SECTION 22. Section 81-13-41, Mississippi Code of 1972, is
558 reenacted as follows:

559 81-13-41. A credit union shall have the power to borrow from
560 any source, but the total of such borrowing shall at no time
561 exceed fifty percent (50%) of the capital and surplus of the
562 borrowing credit union.

563 SECTION 23. Section 81-13-43, Mississippi Code of 1972, is
564 reenacted as follows:

565 81-13-43. (1) Loans to members may be made only in
566 accordance with the NCUA's rules and regulations, Federal Credit
567 Union Act, state statutes, and any interpretive rulings issued by
568 the NCUA.

569 (2) No officer or committee member shall act as endorser or
570 guarantor for other borrowers from the same credit union.

571 SECTION 24. Section 81-13-45, Mississippi Code of 1972, is
572 reenacted as follows:

573 81-13-45. A borrower may repay the whole or any part of his
574 loan on any day on which the office of the corporation is open for
575 the transaction of business.

576 SECTION 25. Section 81-13-51, Mississippi Code of 1972, is
577 reenacted as follows:

578 81-13-51. Immediately before the payment of each dividend,
579 and in no event less than one (1) time per year, the net income of
580 the credit union shall be determined. From this amount, there
581 shall be set aside, as a regular reserve against losses on loans
582 and against such other losses as may be specified in regulations
583 prescribed under this chapter, sums as follows:

584 A credit union whose accounts are insured by the National
585 Credit Union Administration, as required by this chapter, shall
586 set aside and maintain its reserve funds in the manner promulgated

587 and prescribed by the administrator of the National Credit Union
588 Administration. Provided, however, that said reserve funds shall
589 be no less than those prescribed by the Commissioner of Banking
590 and Consumer Finance, who may, upon written notice, require
591 additional reserves to protect the capital structures of any
592 credit union. The board of directors may elect to set apart to
593 the reserve fund any amount deemed necessary if it determines that
594 potential contingencies require additional reserves. The reserve
595 fund shall belong to the credit union and shall be held to meet
596 contingencies and shall not be distributed to the members except
597 upon dissolution of the credit union.

598 SECTION 26. Section 81-13-53, Mississippi Code of 1972, is
599 reenacted as follows:

600 81-13-53. The board of directors of a credit union may
601 declare and pay a dividend from net earnings or accumulated net
602 undivided earnings remaining after the statutory reserve has been
603 set aside.

604 SECTION 27. Section 81-13-55, Mississippi Code of 1972, is
605 reenacted as follows:

606 81-13-55. At any duly held meeting the board of directors,
607 by a two-thirds (2/3) vote of those present may expel from the
608 corporation any member thereof.

609 SECTION 28. Section 81-13-57, Mississippi Code of 1972, is
610 reenacted as follows:

611 81-13-57. All amounts paid in on shares of an expelled or
612 withdrawing member with any dividends credited to his shares to
613 the date of expulsion or withdrawal shall be paid to said member
614 but only as funds therefor become available and after deducting
615 any amounts due to the corporation by said member. All deposits
616 of an expelled or withdrawing member, with any interest accrued,
617 shall be paid to such member, subject to ninety (90) days' notice,
618 and after deducting any amounts due to the corporation by said
619 member. Said member, when withdrawing shares or deposits, shall

620 have no further right in said credit union or to any of its
621 benefits, but such expulsion or withdrawal shall not operate to
622 relieve such member from any remaining liability to the
623 corporation.

624 SECTION 29. Section 81-13-59, Mississippi Code of 1972, is
625 reenacted as follows:

626 81-13-59. At any meeting, called for the purpose, notice of
627 the purpose being contained in the call, a majority of the entire
628 membership may vote to dissolve the corporation and shall,
629 thereupon signify their consent to such dissolution in writing and
630 shall file such consent with the Commissioner of Banking and
631 Consumer Finance, attested by a majority of its officers, with a
632 statement of the names and addresses of the directors and
633 officers, duly verified. The commissioner, upon receipt of
634 satisfactory proof of the solvency of the corporation, shall
635 execute in duplicate a certificate to the effect that such consent
636 and statement have been filed and that it appears therefrom that
637 the corporation had complied with this section. Such duplicate
638 certificate shall be filed by such corporation in the office of
639 the clerk of the chancery court of the county in which said
640 corporation has its place of business and thereupon such credit
641 union shall be dissolved and shall cease to carry on business
642 except for the purpose of adjusting and winding up its affairs.
643 It shall, by its board of directors, then proceed to adjust and
644 wind up its business, be empowered to carry out its contracts,
645 collect its accounts receivable, and liquidate its assets and
646 apply the same in discharge of the obligations of the corporation
647 and, after paying such obligations, each share according to the
648 amount paid in thereon, shall be entitled to its proportion of the
649 balance of the assets. Said corporation shall continue in
650 existence for the purpose of discharging its debts and
651 obligations, collecting and distributing its assets, and doing all
652 other acts required in order to wind up its business, and may sue

653 and be sued for the purpose of enforcing such debts and
654 obligations until its affairs are fully adjusted and wound up, for
655 three (3) years.

656 SECTION 30. Section 81-13-60, Mississippi Code of 1972, is
657 reenacted as follows:

658 81-13-60. (1) Any state credit union may apply to the
659 Commissioner of Banking and Consumer Finance for permission to
660 establish a branch office. The application shall be in such a
661 form as may be prescribed by the commissioner and shall be
662 approved or denied by the commissioner within one hundred twenty
663 (120) days of filing.

664 (2) The commissioner shall approve a branch application when
665 all of the following criteria are met:

666 (a) The applicant has an examination rating of two (2)
667 or higher;

668 (b) The applicant has capital ratios equal or exceeding
669 the amount required by the insurer of deposit accounts;

670 (c) The applicant has no formal or informal enforcement
671 actions outstanding; and

672 (d) The applicant has demonstrated that its members
673 would be well served by the branch.

674 (3) If the commissioner denies the branch application, the
675 branch applicant will have the right of a hearing as prescribed in
676 Section 81-13-1 for those applicants denied a new credit union.

677 SECTION 31. Section 81-13-61, Mississippi Code of 1972, is
678 reenacted as follows:

679 81-13-61. A credit union may change its place of business
680 upon written approval from the Department of Banking and Consumer
681 Finance.

682 SECTION 32. Section 81-13-62, Mississippi Code of 1972, is
683 reenacted as follows:

684 81-13-62. (1) For the purposes of this section, the
685 following words shall have the meanings provided in this
686 subsection unless the context otherwise requires:

687 (a) "Electronic terminal" means an unmanned electronic
688 device owned or operated by a federally insured credit union
689 through which a consumer may initiate an electronic fund transfer.

690 (b) "Electronic fund transfer" means any of the
691 following:

692 (i) The withdrawal of cash from or the deposit of
693 cash or checks into an unmanned electronic device, such as an
694 automatic teller machine, but not including night depositories;

695 (ii) An application for or acceptance of a loan
696 through use of an unmanned electronic device;

697 (iii) The transfer of funds between accounts
698 through use of an unmanned electronic device; or

699 (iv) The issuance of a check by an unmanned
700 electronic device.

701 (2) Any state credit union may apply to the Commissioner of
702 Banking and Consumer Finance for permission to establish
703 electronic terminals. The application shall be in such a form as
704 may be prescribed by the commissioner. The commissioner shall
705 approve the electronic terminal when all of the following criteria
706 are met:

707 (a) The applicant has an examination rating of two (2)
708 or higher;

709 (b) The applicant has capital ratios equal or exceeding
710 the amount required by the insurer of deposit accounts;

711 (c) The applicant has no formal or informal enforcement
712 actions outstanding; and

713 (d) The applicant has demonstrated that its members
714 would be well served by the electronic terminal.

715 (3) For the use of its electronic terminals connected to
716 sharing networks or systems, a credit union may impose a fee if

717 imposition of the fee is disclosed at a time and in a manner that
718 allows a user to terminate or cancel the transaction without
719 incurring the transaction fee. Such fee shall not exceed Two
720 Dollars (\$2.00) or four percent (4%) of the gross amount of the
721 transaction, whichever is greater. An agreement to share
722 electronic terminals shall not prohibit, limit or restrict the
723 right of a credit union to charge such fees for the use of its
724 electronic terminals as allowed by state or federal law, or
725 require a credit union to limit or waive its rights or obligations
726 under this section.

727 SECTION 33. Section 81-13-63, Mississippi Code of 1972, is
728 reenacted as follows:

729 81-13-63. The credit unions organized hereunder, their
730 property, their franchises, capital, reserves, surpluses, and
731 other funds, and their income shall be exempt from all taxation
732 now or hereafter imposed; except that any real property and any
733 tangible personal property of such credit unions shall be subject
734 to federal, state, county, municipal or other local taxation to
735 the same extent as other similar property is taxed. Nothing
736 herein contained shall prevent holdings in any credit union
737 organized hereunder from being included in the valuation of the
738 personal property of the owners or holders thereof in assessing
739 taxes imposed by authority of the state or political subdivision
740 thereof in which the credit union is located; but the duty or
741 burden of collecting or enforcing the payment of such a tax shall
742 not be imposed upon any such credit union and the tax shall not
743 exceed the rate of taxes imposed upon holdings in federal credit
744 unions.

745 SECTION 34. Section 81-13-65, Mississippi Code of 1972, is
746 reenacted as follows:

747 81-13-65. (1) A state credit union may be converted into a
748 federal credit union by complying with the following requirements:

749 (a) The proposition for such conversion shall first be
750 approved, and a date set for a vote thereon by the members, either
751 at a regular meeting or a special meeting called for that purpose
752 by a majority of the directors of the state credit union. Written
753 notice of the proposition and of the date set for the vote shall
754 be delivered or mailed to each member, not more than thirty (30)
755 days nor less than seven (7) days prior to such date. Approval of
756 the proposition for conversion shall be by the affirmative vote of
757 a majority of the members attending said meeting.

758 (b) A statement of the results of the vote, verified by
759 the affidavits of the president or vice president and the
760 secretary, shall be filed with the Commissioner of Banking and
761 Consumer Finance within ten (10) days after the vote is taken.

762 (c) Promptly after the vote is taken and in no event
763 later than ninety (90) days thereafter, if the proposition for
764 conversion was approved by such vote, the credit union shall take
765 such action as may be necessary under the Federal Credit Union Act
766 to make it a federal credit union, and within ten (10) days after
767 receipt of the federal credit union charter there shall be filed
768 with the commissioner a copy of the charter thus issued. Upon
769 such filing the credit union shall cease to be a state credit
770 union.

771 (d) Upon ceasing to be a state credit union, such
772 credit union shall no longer be subject to any of the provisions
773 of this chapter. The successor federal credit union shall be
774 vested with all of the assets and shall continue responsible for
775 all of the obligations of the state credit union to the same
776 extent as though the conversion had not taken place.

777 (2) (a) A federal credit union, organized under the Federal
778 Credit Union Act, may be converted into a state credit union by:

779 (i) Complying with all federal requirements
780 requisite to enabling it to convert to a state credit union or
781 cease being a federal credit union;

782 (ii) Filing with the commissioner proof of such
783 compliance, satisfactory to the commissioner;

784 (iii) Filing with the Department of Banking and
785 Consumer Finance the articles of incorporation required for state
786 credit unions; and

787 (iv) Filing such other statements or proof as may
788 from time to time be required by the commissioner.

789 (b) Should the commissioner determine that an audit
790 should be made of the credit union prior to approval, he shall
791 direct such audit and the reasonable, actual cost thereof shall be
792 paid by the credit union.

793 (c) When the commissioner has been satisfied that all
794 of such requirements have been complied with, the commissioner
795 shall approve the charter of incorporation. Upon such approval
796 the federal credit union shall become a state credit union as of
797 the date it ceases to be a federal credit union. The state credit
798 union shall be vested with all of the assets and shall continue
799 responsible for all of the obligations of the federal credit union
800 to the same extent as though the conversion had not taken place.

801 SECTION 35. Section 81-13-69, Mississippi Code of 1972, is
802 reenacted as follows:

803 81-13-69. (1) The bylaws may provide for the taking of
804 referendum votes by the membership upon questions coming before
805 the membership; such voting to be by mail, or otherwise in writing
806 or a combination of viva voce voting and writing.

807 (2) Special meetings of the members may be held by order of
808 the board of directors or the supervisory committee, and shall be
809 held on request of ten percent (10%) of the members. At all
810 meetings a member shall have but one (1) vote, irrespective of the
811 number of shares held. No shareholder may vote by proxy, but a
812 society, association, copartnership or corporation having
813 membership in the credit union may be represented and voted by one
814 (1) person duly authorized by such society, association,

815 copartnership or corporation to represent it. Provided that the
816 notice of the meeting has stated the question to be considered,
817 the members may decide on any matter of interest to the
818 corporation, may overrule the directors by a three-fourths (3/4)
819 vote of those present, and may amend the bylaws.

820 SECTION 36. Section 81-13-71, Mississippi Code of 1972, is
821 reenacted as follows:

822 81-13-71. The making of a wilfully false affidavit to any
823 statement, report or other document required by law in connection
824 with the establishment or operating of a credit union shall be
825 perjury and punishable as such, according to the general laws of
826 the state and the embezzlement of any of the funds, securities or
827 other property of a credit union, shall be punishable as such
828 according to the general laws.

829 SECTION 37. Section 81-13-73, Mississippi Code of 1972, is
830 reenacted as follows:

831 81-13-73. Each credit union shall keep sufficient books and
832 accounts in such form as shall be approved by the Commissioner of
833 Banking and Consumer Finance in accordance with the NCUA
834 guidelines. However, any state credit union may cause any or all
835 records, books and accounts at any time in its custody to be
836 reproduced in a format of storage commonly used, whether
837 electronic, imaged, magnetic, microphotographic, or otherwise, and
838 any reproduction so made shall have the same force and effect as
839 the original thereof and be admitted in evidence equally with the
840 original.

841 SECTION 38. Section 81-13-75, Mississippi Code of 1972, is
842 reenacted as follows:

843 81-13-75. All laws or parts of laws which otherwise would be
844 in conflict with the provisions of this chapter are to be
845 construed so as not to apply to credit unions to the extent that
846 they would conflict with this chapter but nothing herein shall be
847 taken as repealing any law of the state affecting or regulating

848 the receiving of deposits, the making of loans, the issuance of
849 shares or securities, or the lending of money, or the charging or
850 receiving of interest, except so far as the same applies to and
851 may be involved in or related to the establishment and operating
852 of credit unions.

853 SECTION 39. Section 81-13-77, Mississippi Code of 1972,
854 which is a repealer on the statutes providing for the regulation
855 of credit unions, is repealed.

856 SECTION 40. Section 81-13-79, Mississippi Code of 1972, is
857 reenacted as follows:

858 81-13-79. (1) Any credit union may, with the approval of
859 the Commissioner of Banking and Consumer Finance or his successor,
860 merge with another credit union under the existing charter of the
861 other credit union, pursuant to any plan agreed upon by the
862 majority of each board of directors of each credit union joining
863 in the merger, and approved by the affirmative vote of a majority
864 of the members of the merging credit union present at a meeting of
865 its members duly called for such purpose, and consented to by any
866 government agency or other organization insuring the accounts of
867 the credit union. Provided, however, such merger shall not be in
868 violation of the provision of Section 81-13-13, which requires a
869 common bond of occupation, association or residence within groups
870 which are members of a credit union.

871 (2) After agreement by the directors and approval by the
872 members of the merging credit union, the president and secretary
873 of the credit union shall execute a certificate of merger, which
874 shall set forth all of the following:

875 (a) The time and place of the meeting of the board of
876 directors at which the plan was agreed upon;

877 (b) The vote in favor of the adoption of the plan;

878 (c) A copy of the resolution or other action by which
879 the plan was agreed upon;

880 (d) The time and place of the meeting of the members at
881 which the plan agreed upon was approved; and

882 (e) The vote by which the plan was approved by the
883 members.

884 (3) Such certificate and a copy of the plan of merger agreed
885 upon shall be forwarded to the Commissioner of Banking and
886 Consumer Finance or his successor, certified by him, and returned
887 to both credit unions within thirty (30) days.

888 (4) Upon return of the certificate from the commissioner or
889 his successor, all property, property rights and members' interest
890 of the merged credit union shall vest in the surviving credit
891 union without deed, endorsement or other instrument of transfer,
892 and all debts, obligations and liabilities of the merged credit
893 union shall be deemed to have been assumed by the surviving credit
894 union under whose charter the merger was effected. The rights and
895 privileges of the members of the merged credit union shall remain
896 intact.

897 (5) This section shall be construed, whenever possible, to
898 permit a credit union chartered under any other law to merge with
899 one chartered under Section 81-13-1 et seq., or to permit one
900 chartered under Section 81-13-1 et seq. to merge with one
901 chartered under any other law.

902 SECTION 41. Section 81-13-81, Mississippi Code of 1972, is
903 reenacted as follows:

904 81-13-81. (1) No credit union, except credit unions
905 organized under the laws of the United States or under this
906 chapter, shall do business in this state until it has received
907 approval from the Commissioner of the Department of Banking and
908 Consumer Finance.

909 (2) The commissioner may approve the operation of such a
910 credit union in this state after finding that:

911 (a) The field of membership to be served by such credit
912 union is not now being adequately served;

913 (b) There is a need for such credit union to conduct
914 business in the state to adequately serve its members and not
915 merely to solicit new membership;

916 (c) The credit union is financially solvent;

917 (d) The credit union's accounts are insured by the
918 National Credit Union Administration or its successor; and

919 (e) The credit union has executed an agreement with the
920 commissioner to:

921 (i) Submit a copy of its annual regulatory
922 examination report;

923 (ii) Designate a resident agent;

924 (iii) Inform members that it is not regulated,
925 insured or supervised by the State of Mississippi; and

926 (iv) Agree to fully comply with the provisions of
927 the Mississippi credit union laws, rules and regulations.

928 (3) The commissioner may prohibit any such credit union from
929 doing business within the state, or disapprove an application, or
930 suspend or revoke one previously issued, if he finds the credit
931 union not conforming to Mississippi credit union laws, rules and
932 regulations, or finds that twenty-five percent (25%) or more of
933 the credit union's members are, or are expected to be residents of
934 Mississippi.

935 SECTION 42. This act shall take effect and be in force from
936 and after July 1, 2001.