

Senate Bill No. 1472

CHAPTER 612

An act to amend Section 14254.5 of, to add Chapter 10 (commencing with Section 16000) and Chapter 11 (commencing with Section 16500) to Division 5 of, and to repeal Section 14157 of, the Financial Code, relating to credit unions.

[Approved by Governor September 23, 2000. Filed
with Secretary of State September 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, Ortiz. Credit unions.

The California Credit Union Law provides for the licensing and regulation of credit unions by the Commissioner of Financial Institutions. That law provides that a credit union organized and duly qualified as a credit union in another state of the United States, as defined, may organize and operate pursuant to these provisions if it is in compliance with certain requirements.

This bill would delete the provision relating to credit unions organized in other states and would instead enact separate, new provisions governing licensing of credit unions of other states and credit unions of foreign nations that intend to operate in California. These provisions, among other things, would require deposit or share accounts of these credit unions to be insured, provide for various fees to be paid to the commissioner, allow the commissioner to examine the books, accounts, and records of the credit union, and provide for various enforcement provisions, including imposition of civil penalties by the commissioner. This bill would also prohibit a California credit union from establishing a branch office in another state without the approval of that state's licensing authority.

The people of the State of California do enact as follows:

SECTION 1. Section 14157 of the Financial Code is repealed.

SEC. 2. Section 14254.5 of the Financial Code is amended to read:

14254.5. (a) Except as provided in subdivisions (b) and (c), within 10 business days of opening, closing, or relocating a branch office, a credit union shall notify the commissioner in writing of the action, including the street and mailing addresses of the branch office.

(b) A credit union shall not establish a branch office in another state of the United States without the approval of the governmental authority with jurisdiction to license or charter credit unions in that state. "State" has the meaning set forth in Section 146.7.

(c) A credit union shall not establish a branch office in a foreign nation without the prior written approval of the commissioner. “Foreign nation” has the meaning set forth in Section 139.3.

SEC. 3. Chapter 10 (commencing with Section 16000) is added to Division 5 of the Financial Code, to read:

CHAPTER 10. FOREIGN (OTHER STATE) CREDIT UNIONS

Article 1. General Provisions

16000. This chapter may be cited as the “Foreign (Other State) Credit Union Law.”

16001. In this chapter:

(a) “Branch business” means the business of issuing share accounts, certificates for funds, and share drafts, receiving deposits, paying checks, making loans and other obligations, and other activities that the commissioner may specify by order or regulation.

(b) “California branch office,” when used with respect to a foreign (other state) credit union, means an office in this state at which the foreign (other state) credit union engages in branch business.

(c) (1) “California facility,” when used with respect to a foreign (other state) credit union, means an office in this state at which the foreign (other state) credit union engages in business other than branch business.

(2) In the case of an employer-supported foreign (other state) credit union, a “California facility” does not include a table, counter, or booth on the premises of the employer’s place of business at which a volunteer of the foreign (other state) credit union provides information or services to members but does not engage in branch business.

(d) “Foreign nation” means any nation other than the United States, including, without limitation, any subdivision, territory, trust territory, dependency, colony, or possession of any nation other than the United States.

(e) “Foreign (other nation) credit union” means any credit union or similar institution that is organized under the laws of a foreign nation.

(f) “Foreign (other state) credit union” means a credit union that is organized under the laws of any state of the United States other than this state.

(g) “Home state,” when used with respect to a foreign (other state) credit union, means the state of the United States under which the foreign (other state) credit union is organized.

(h) “Home state regulator,” when used with respect to a foreign (other state) credit union, means the state regulatory agency in the home state of the foreign (other state) credit union which has



primary regulatory authority over the foreign (other state) credit union.

(i) “State of the United States” means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

16002. Nothing in this chapter shall be deemed to authorize a foreign (other nation) credit union to transact business in this state.

16003. No foreign (other state) credit union may establish or maintain a California branch office or California facility unless it is qualified to transact intrastate business under Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code, except as provided in Section 8910 of the Corporations Code.

16004. No foreign (other state) credit union may establish a California branch office or California facility unless its deposit or share accounts are insured by the National Credit Union Administration or other insurer that is not unsatisfactory to the commissioner.

16005. Each application filed with the commissioner under this chapter or under any regulation or order issued under this chapter shall be in the form, shall contain the information, shall be signed in the manner, and shall (if the commissioner requires by regulation or order) be verified in the manner that the commissioner may by regulation or order require.

16006. Fees shall be paid to and collected by the commissioner as follows:

(a) The fee for an application by a foreign (other state) credit union that is not licensed to transact business in this state for approval to establish a branch office is one thousand dollars (\$1,000).

(b) The fee for an application by a foreign (other state) credit union that is licensed to transact business in this state for approval to establish a California branch office is five hundred dollars (\$500).

(c) The fee for issuing a license to establish and maintain a California branch office or California facility is twenty-five dollars (\$25).

(d) Each foreign (other state) credit union that on June 1 of any year maintains one or more California branch offices or California facilities shall pay, on or before the following July 1, a fee of two hundred fifty dollars (\$250) per California branch office and one hundred dollars (\$100) per California facility. However, the maximum fee shall be not more than one thousand dollars (\$1,000).

(e) If the commissioner makes an examination in connection with a pending application, the foreign (other state) credit union making the application shall pay a fee for the examination at the rate of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary



for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(f) If the commissioner makes an examination of a foreign (other state) credit union that maintains a California branch office or California facility, the foreign (other state) credit union shall pay a fee for the examination at the rate of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

16007. (a) Not less than 30 days before a foreign (other state) credit union establishes a California branch office or a California facility, the foreign (other state) credit union shall file with the commissioner, in the form that the commissioner may by regulation or order require, an appointment irrevocably appointing the commissioner and the commissioner's successor from time to time in office to be the foreign (other state) credit union's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other state) credit union or any of its successors that arises out of the activities of the California branch office or California facility after the appointment has been filed, with the same force and validity as if served personally on the foreign (other state) credit union or its successors, as the case may be.

(b) Any foreign (other state) credit union that maintains a California branch office or California facility that has not filed with the commissioner an appointment pursuant to subdivision (a) is deemed by the maintenance of the branch office or facility to have appointed the commissioner as its attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other state) credit union or any of its successors that arises out of the activities of the California branch office or California facility, with the same force and validity as if served personally on the credit union or its successor, as the case may be.

(c) Service may be made on a foreign (other state) credit union that has appointed or is deemed to have appointed the commissioner as its attorney for service of process by leaving a copy of the process at any office of the commissioner. However, the service is not effective unless (1) the party making the service, who may be the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the foreign (other state) credit union served at the last address on file with the commissioner for any of the foreign (other state) credit union's offices in this state or at its head office, and (2) an affidavit of compliance with this subdivision by the party making the service is filed in the case on or before the return date if any, or within any further time that the



court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

16008. In administering the provisions of this chapter, the commissioner may share information with federal and home state regulators of foreign (other state) credit unions.

16009. A foreign (other state) credit union that is licensed to establish an office shall post at a conspicuous place at the office a notice to the public which states the name of the foreign (other state) credit union, the type of office it is, and the state of the United States under whose laws it was organized or chartered.

16010. No license shall be transferable or assignable.

16011. Whenever a foreign (other state) credit union is licensed to establish more than one office, it shall designate one of its offices as its primary office.

16012. Each foreign (other state) credit union that is licensed to establish an office shall conduct all of the business of the office in a single building or in adjoining buildings. However, with prior to notice to the commissioner, the foreign (other state) credit union may conduct part of the business of the office elsewhere in the same vicinity.

16013. Whenever any provision of this chapter or of any regulation or order issued under this chapter which is applicable to or with respect to a foreign (other state) credit union that maintains a California branch office or California facility is inconsistent with any provision of any other chapter of this division, the provision of the other chapter applies, and the latter provision does not apply.

Article 2. Establishment of a California Branch Office or
California Facility

16020. (a) Except for the activities described in paragraph (2) of subdivision (c) of Section 16001, no foreign (other state) credit union shall transact business in this state except at a branch office or facility that it is licensed to maintain and at which it is permitted by this chapter to transact the business transacted.

(b) Subdivision (a) shall not be deemed to prohibit any of the following:

(1) Any foreign (other state) credit union from carrying on the activities described in subdivision (d) of Section 191 of the Corporations Code.

(2) The advertising or solicitation of shares or deposits in this state by a foreign (other state) credit union made through the media of the mail, radio, television, magazines, newspapers, the Internet, or similar media, provided that shares or deposits are not accepted or received in this state.



(3) The acceptance of loan applications through agents in this state, provided the loan applications are approved or rejected, and the loans are funded, outside of this state.

(c) For the purposes of subdivision (a), no foreign (other state) credit union shall be deemed to be transacting business in this state merely because a majority-owned subsidiary transacts business in this state.

16021. (a) No foreign (other state) credit union shall establish or maintain a California branch office unless the commissioner shall have first approved its establishment and issued a license authorizing the foreign (other state) credit union to maintain the California branch office.

(b) Notwithstanding subdivision (a), this article does not apply to any branch office or other office in this state of a foreign (other state) credit union that was established prior to January 1, 2001, in compliance with existing law.

16022. (a) If the commissioner finds all of the following with respect to an application by a foreign (other state) credit union for approval to establish a California branch office, the commissioner shall approve the application:

(1) That the foreign (other state) credit union, the directors and officers of the foreign (other state) credit union, and the proposed management of the branch office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other state) credit union are satisfactory.

(3) That the management of the foreign (other state) credit union and the proposed management of the branch office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the branch office, the foreign (other state) credit union will operate the branch office in a safe and sound manner and in compliance with all applicable laws, regulations, and orders.

(5) That the foreign (other state) credit union's plan to establish and to maintain the branch office affords reasonable promise of successful operation.

(6) That the foreign (other state) credit union's establishment and maintenance of the branch office will promote the convenience and advantage of its members, and is necessary or convenient to meet the needs of the foreign (other state) credit union's members.

(7) Not more than 50 percent of the members of the foreign (other state) credit union are or will be residents of this state.

If the commissioner finds otherwise, the commissioner shall deny the application.

(b) Whenever an application by a foreign (other state) credit union for approval to establish a California branch office has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other state) credit union to maintain the



California branch office have been fulfilled, the commissioner shall issue the license.

16023. The approval of an application for approval to establish a California branch office shall be revoked by operation of law if the applicant foreign (other state) credit union does not establish and maintain the California branch office within one year after the date of the approval, unless prior to the expiration of the one-year period the commissioner extends the time within which the foreign (other state) credit union may establish the California branch office.

16024. (a) Within 30 days of establishing a California facility, a foreign (other state) credit union shall notify the commissioner in writing of its intent to establish in a California facility. The notice shall identify the proposed location of the facility, describe its proposed activities, and contain any other information which the commissioner may by regulation or order specify.

(b) A foreign (other state) credit union shall not commence business at a proposed facility without a license having been issued by the commissioner.

Article 5. Relocation or Discontinuance of California Branch Office or California Facility

16075. Within 10 days of relocating a California branch office or California facility, a foreign (other state) credit union shall file a report with the commissioner which contains the information specified by the commissioner by regulation or order. The foreign (other state) credit union shall not conduct business at the new location of the California branch office or California facility without a license issued by the commissioner for the new location.

16076. Not less than 30 days before a foreign (other state) credit union discontinues a California branch office or California facility, it shall file a report with the commissioner which contains the information specified by the commissioner by regulation or order.

16077. Promptly after a foreign (other state) credit union relocates or discontinues a California branch office or California facility pursuant to this article, the foreign (other state) credit union shall surrender to the commissioner the license which authorized the foreign (other state) credit union to maintain the California branch office or California facility at the old or discontinued site.

Article 6. Conduct of Credit Union Business

16100. (a) A foreign (other state) credit union that has a license to establish and maintain an office in this state may engage in activities at such office as may be authorized under the laws of its home state and the laws of this state that are applicable to credit unions.



(b) Nothing in subdivision (a) authorizes a foreign (other state) credit union to engage in any activity at a California branch office or California facility that it is not authorized to transact or is prohibited from transacting under the law of its home state or that credit unions organized under the laws of this state are not authorized to transact or are prohibited from transacting.

16101. (a) The following provisions of this division apply to a foreign (other state) credit union that maintains a California branch office or California facility with respect to its business in this state as if the foreign (other state) credit union were a credit union organized under the laws of this state:

- (1) Section 14203.
- (2) Section 14204.
- (3) Section 14208.
- (4) Section 14210.
- (5) Section 14256.
- (6) Section 14409.
- (7) Section 14409.2.
- (8) Section 14602.
- (9) Section 14652.5.

(10) Section 14655, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other state) credit union.

(11) Section 14656, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other state) credit union.

(12) Article 8 (commencing with Section 14750) of Chapter 4.

(13) Article 1 (commencing with Section 14850) of Chapter 6.

(14) Article 1 (commencing with Section 14950) of Chapter 7.

(15) Article 2 (commencing with Section 15001) of Chapter 7.

(16) Article 3 (commencing with Section 15050) of Chapter 7, to the extent loans of the type described in that article are carried on the books of a branch office of a foreign (other state) credit union.

(17) Section 15102.

(b) The laws of this state that are applicable to the activities, operations, and transactions of credit unions organized under the laws of this state, other than the laws in this division, similarly shall apply to the activities, operations, and transactions of a foreign (other state) credit union in this state. Those laws include, but are not limited to, consumer protection laws and laws relating to creditor rights and remedies, mortgages and deeds of trust, bank deposits and collections, and negotiable instruments.

16102. (a) Any foreign (other state) credit union that is authorized to and does maintain a California branch office or California facility is exempted from the restrictions of Section 1 of Article XV of the California Constitution relating to rates of interest



upon the loan or forbearance of any money, goods, or things in action or on accounts after demand.

(b) This section does not exempt a foreign (other state) credit union or any subsidiary from complying with all other laws and regulations governing the business in which the foreign (other state) credit union or subsidiary is engaged.

(c) This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

(d) This section does not authorize a foreign (other state) credit union or any subsidiary to charge an interest rate on a loan or forbearance in excess of any limitation that exists under the laws of its home state.

16103. (a) A foreign (other state) credit union that is licensed to establish and maintain an office or offices in this state shall keep the assets of the offices separate and apart from the assets of its business outside this state, if required by written order of the commissioner.

(b) Persons who are creditors of a foreign (other state) credit union as a result of the business of an office of the foreign (other state) credit union in this state shall be entitled to priority over other creditors with respect to the assets of the business in this state of the foreign (other state) credit union.

Article 7. Examination, Reports, and Records

16150. (a) The commissioner may at any time investigate into the affairs and examine the books, accounts, and other records of a foreign (other state) credit union and of any subsidiary thereof.

(b) The commissioner and any person designated by him or her shall have free access to any office of the foreign (other state) credit union and to its books, accounts, and other records.

16151. The commissioner may make any examination of a foreign (other state) credit union at any office of the commissioner.

16152. (a) Each foreign (other state) credit union shall, within 10 days after receipt or within any extended time that the commissioner may specify, file with the commissioner a copy of any audit report obtained by, and of any examination report prepared for or of, the foreign (other state) credit union.

(b) Each foreign (other state) credit union shall file with the commissioner a copy of any response made by the foreign (other state) credit union to an audit or examination report referred to in subdivision (a) within 10 days after making the response or within any extended time that the commissioner may specify.

16153. A foreign (other state) credit union shall file with the commissioner any other report as the commissioner may from time to time require. Each report shall be in the form, contain the information, and be filed on the date, as may be prescribed by the commissioner.



16154. A foreign (other state) credit union that maintains a California branch office or California facility, if required by the commissioner, shall make, keep, and preserve, at the branch office, facility, or at any other place that the commissioner may by regulation or order approve, the books, accounts, and other records relating to the business of the California branch office or California facility, in the form, in the manner, and for the time that the commissioner may by regulation or order require.

Article 9. Enforcement

16200. (a) The commissioner may bring an action in the name of the people of this state in the superior court to enjoin any violation of, to enforce compliance with, or to collect any penalty or other liability imposed under this division or any regulation or order issued under this chapter. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and a monitor, receiver, conservator, or other designated fiduciary or officer of the court may be granted as appropriate.

(b) A receiver, monitor, conservator, or other designated fiduciary officer of the court appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the court.

(c) If the commissioner finds that it is in the public interest, the commissioner may include in a claim for restitution, disgorgement, or damages on behalf of the person injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award ancillary relief.

(d) The provisions of this section that authorize the commissioner to bring actions and seek relief are not intended to, and do not, affect any right that any other person may have to bring the same or similar actions or to seek the same or similar relief.

16200.5. (a) If the commissioner finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 16020, the commissioner may order the person to cease and desist from the violation unless and until the person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom the order is directed may file with the commissioner an application for a hearing on the order. If



the commissioner fails to commence a hearing within 15 business days after the application is filed with him or her (or within such longer period to which the person consents), the order shall be deemed rescinded. At the hearing the commissioner shall affirm, modify, or rescind the order.

(2) The right of any person, to whom an order is issued under subdivision (a), to petition for judicial review of the order shall not be affected by the failure of the person to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16201. If, after notice and hearing, the commissioner finds that any person has violated any provision of this chapter or of any regulation or order issued under this chapter, the commissioner may order the person to pay to the commissioner a civil penalty in an amount as the commissioner may specify; provided, however, that the amount of the civil penalty shall not exceed one hundred dollars (\$100) for each violation or, in the case of a continuing violation, one hundred dollars (\$100) for each day for which the violation continues.

16202. If, after notice and hearing, the commissioner finds any of the following with respect to a foreign (other state) credit union that is licensed to maintain an office in this state, the commissioner may issue an order suspending or revoking the license of the foreign (other state) credit union:

(a) That the foreign (other state) credit union has violated a provision of this division or of any regulation or order issued under this division or a provision of any other applicable law, regulation, or order.

(b) That the foreign (other state) credit union is transacting the business in this state or elsewhere in an unsafe or unsound manner.

(c) That the foreign (other state) credit union is in unsafe or unsound condition.

(d) That the foreign (other state) credit union has ceased to operate its office.

(e) That the foreign (other state) credit union is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities, including share accounts and certificates for funds, exceed its assets.

(f) That the foreign (other state) credit union has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) That the foreign (other state) credit union has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for such relief under any such law against the foreign (other state) credit union, and the



foreign (other state) credit union has by any affirmative act approved of or consented to the action or the relief has been granted.

(h) That a receiver, liquidator, or conservator has been appointed for the foreign (other state) credit union or that any proceeding for an appointment or any similar proceeding has been initiated in the home state of the foreign (other state) credit union.

(i) That the existence of the foreign (other state) credit union or the authority of the foreign (other state) credit union to transact banking business under the laws of the home state of the foreign (other state) credit union has been suspended or terminated.

(j) That any fact or condition exists that, if it had existed at the time when the foreign (other state) credit union applied for approval to transact business in this state, would have been grounds for denying the application.

16203. (a) If the commissioner finds that any of the factors set forth in Section 16202 is true with respect to any foreign (other state) credit union that is licensed to maintain an office in this state and that it is necessary for the protection of the interests of creditors of the foreign (other state) credit union's business in this state or, in any case, for the protection of the public interest that the commissioner immediately suspend or revoke the license of the foreign (other state) credit union, the commissioner may issue an order suspending or revoking the license of the foreign (other state) credit union.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the foreign (other state) credit union to which the order is issued may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence the hearing within 15 business days after the application is filed with the commissioner (or within any longer period to which the foreign (other state) credit union consents), the order shall be deemed rescinded. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any foreign (other state) credit union to which an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the foreign (other state) credit union to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16204. Any foreign (other state) credit union whose license to maintain an office is suspended or revoked shall immediately surrender the license to the commissioner.

16205. (a) Any foreign (other state) credit union to which an order is issued under Section 16202 or 16203 may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the foreign (other state) credit union will, if and when it is again



authorized to maintain an office, comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any foreign (other state) credit union to which an order is issued under Section 16202 or 16203 to petition for judicial review of the order shall not be affected by the failure of the foreign (other state) credit union to apply to the commissioner pursuant to subdivision (a) to modify or rescind the order.

16206. (a) If the commissioner finds that any of the factors set forth in Section 16202 is true with respect to any foreign (other state) credit union which is authorized to transact business in this state and that it is necessary for the protection of the interests of the creditors of the business of the foreign (other state) credit union in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the foreign (other state) credit union, the commissioner may by order forthwith take possession of the property and business of the foreign (other state) credit union and retain possession until the foreign (other state) credit union resumes business in this state or is finally liquidated. The foreign (other state) credit union may, with the consent of the commissioner, resume business in this state under the conditions as the commissioner may prescribe.

(b) (1) Whenever the commissioner takes possession of the property and business of a foreign (other state) credit union pursuant to subdivision (a), the foreign (other state) credit union may, within 10 days, apply to the superior court in the county in which the primary office in this state of the foreign (other state) credit union is located to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order him or her to surrender the property and business of the foreign (other state) credit union to the foreign (other state) credit union or make any further order as may be just.

(2) The judgment of the court may be appealed by the commissioner or by the foreign (other state) credit union in the manner provided by law for appeals from the judgment of a superior court to the court of appeal. In case the commissioner appeals the judgment of the court, the appeal shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) Whenever the commissioner takes possession of the property and business of a foreign (other state) credit union pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the foreign (other state) credit union in accordance with Sections 14301 to 14304, inclusive.



(d) When the commissioner has completed the liquidation of the property and business of a foreign (other state) credit union in this state, the commissioner shall transfer any remaining assets to the foreign (other state) credit union in accordance with any order the court may issue. However, in case the foreign (other state) credit union has an office in another state of the United States which is in liquidation and the assets of that office appear to be insufficient to pay in full the creditors of that office, the court shall order the commissioner to transfer to the liquidator of that office the amount of any remaining assets as appears to be necessary to cover the insufficiency. If there are two or more offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to those offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in the manner as the court determines.

SEC. 4. Chapter 11 (commencing with Section 16500) is added to Division 5 of the Financial Code, to read:

CHAPTER 11. FOREIGN (OTHER NATION) CREDIT UNIONS

Article 1. General Provisions

16500. This chapter may be cited as the “Foreign (Other Nation) Credit Union Law.”

16501. In this chapter:

(a) “Agency,” when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union transacts credit union business, other than branch business.

(b) “Branch business” means the business of issuing shares or certificates, receiving deposits, paying checks, making loans, and other activities that the commissioner may specify by order or regulation.

(c) “Branch office,” when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in branch business.

(d) “Business in this state,” when used with respect to a foreign (other nation) credit union which is licensed to maintain one or more offices, includes the aggregate business of all of the offices.

(e) “Foreign nation” means any nation other than the United States, including, without limitation, any subdivision, territory, trust territory, dependency, colony, or possession of any nation other than the United States.

(f) “Foreign (other nation) credit union” means any credit union or similar institution that is organized under the laws of a foreign nation.



(g) “Foreign (other state) state credit union” means a credit union that is organized under the laws of a state of the United States other than California.

(h) “Home country,” when used with respect to a foreign (other nation) credit union, means the foreign nation under whose laws the foreign (other nation) credit union is organized.

(j) “Home country regulator,” when used with respect to a foreign (other nation) credit union, means the regulatory agency in the home country of the foreign (other nation) credit union which has primary regulatory authority over the foreign (other nation) credit union.

(k) (1) “License” means a license issued under this chapter, authorizing a foreign (other nation) credit union to maintain an office.

(2) To be “licensed” means to be issued or to hold a license.

(3) To be “licensed to transact business in this state,” when used with respect to a foreign (other nation) credit union, means that the foreign (other nation) credit union is licensed to maintain an agency or branch office.

(l) “Office,” when used with respect to a foreign (other nation) credit union, means a branch office, an agency, or a representative office maintained by the foreign (other nation) credit union.

(m) “Representative office,” when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in representational functions but at which it does not transact business.

(n) “State of the United States” means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

16502. Nothing in this chapter shall apply to a foreign (other state) state credit union or be deemed to authorize a foreign (other state) state credit union to transact business in this state.

16503. No foreign (other nation) credit union may establish a branch office unless its deposit or share accounts are insured by the National Credit Union Administration or other insurer that is not unsatisfactory to the commissioner.

16504. Each application filed with the commissioner under this chapter or under any regulation or order issued under this chapter shall be in the form, shall contain the information, shall be signed in the manner, and shall (if the commissioner requires by regulation or order) be verified in the manner that the commissioner may by regulation or order require.

16505. Fees shall be paid to and collected by the commissioner as follows:

(a) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is not licensed to transact



business in this state for approval to establish a branch office shall be one thousand dollars (\$1,000).

(b) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is not licensed to transact business in this state for approval to establish an agency shall be five hundred dollars (\$500).

(c) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is licensed to transact business in this state for approval to establish a branch office shall be five hundred dollars (\$500).

(d) The fee for filing with the commissioner an application by a foreign (other nation) credit union that is licensed to transact business in this state for approval to establish an agency shall be two hundred fifty dollars (\$250).

(e) The fee for filing with the commissioner an application by a foreign (other nation) credit union for approval to establish a representative office shall be two hundred fifty dollars (\$250).

(f) The fee for filing with the commissioner an application by a foreign (other nation) credit union for approval to relocate or to close an office shall be one hundred fifty dollars (\$150).

(g) The fee for issuing a license shall be twenty-five dollars (\$25).

(h) Each foreign (other nation) credit union that on June 1 of any year maintains one or more offices shall pay, on or before the following July 1, a fee of two hundred fifty dollars (\$250) per branch office, one hundred dollars (\$100) per agency, and fifty dollars (\$50) per representative office.

(i) If the commissioner makes an examination in connection with a pending application, the foreign (other nation) credit union making the application shall pay a fee for the examination at the rate of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(j) If the commissioner makes an examination of a foreign (other nation) credit union that is licensed to maintain an office, the foreign (other nation) credit union shall pay a fee for the examination at the rate of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

16506. (a) (1) No foreign (other nation) credit union shall be issued a license to maintain an office unless it shall have first filed with the commissioner, in the form that the commissioner may by regulation or order require, an appointment irrevocably appointing the commissioner and the commissioner's successor from time to time in office to be the foreign (other nation) credit union's attorney to receive service of any lawful process in any noncriminal judicial



or administrative proceeding against the foreign (other nation) credit union or any of its successors that arises out of the activities in this state after the appointment has been filed, with the same force and validity as if served personally on the foreign (other nation) credit union or its successor, as the case may be.

(2) Any foreign (other nation) credit union that maintains an office in this state and that has not filed with the commissioner an appointment pursuant to paragraph (1) shall be deemed by the maintenance of that office to have appointed the commissioner as its attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the foreign (other nation) credit union or any of its successors that arises out of the activities in this state with the same force and validity as if served personally on the foreign (other nation) credit union or its successor, as the case may be.

(b) Service may be made on a foreign (other nation) credit union that has appointed or is deemed to have appointed the commissioner as its attorney for service of process by leaving a copy of the process at any office of the commissioner. However, the service is not effective unless (1) the party making the service, who may be the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the foreign (other nation) credit union served at its last address on file with the commissioner at any of its offices in this state or at its head office, and (2) an affidavit of compliance with this subdivision by the party making service is filed in the case on or before the return date, if any, or within any further time that the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

16507. In administering the provisions of this chapter, the commissioner may share information with federal and home country regulators of foreign (other nation) credit unions.

16508. No license shall be transferable or assignable.

16509. A foreign (other nation) credit union that is licensed to establish an office shall post at a conspicuous place at the office a notice to the public which states the name of the foreign (other nation) credit union, the type of office it is, and the foreign country under whose laws it was organized or chartered.

16510. Whenever a foreign (other nation) credit union is licensed to establish more than one office, it shall designate one of its offices as its primary office.

16511. Each foreign (other nation) credit union that is licensed to establish an office shall conduct all of the business of the office in a single building or in adjoining buildings. However, with the approval of the commissioner, the foreign (other nation) credit union may conduct part of the business of the office elsewhere in the same vicinity.



16512. Whenever any provision of this chapter or of any regulation or order issued under this chapter that is applicable to or with respect to a foreign (other nation) credit union that maintains a branch office or facility is inconsistent with any provision of any other chapter of this division, the former provision applies, and the latter provision does not apply.

Article 2. Representative Offices

16525. (a) No foreign (other nation) credit union shall establish or maintain an office in this state at which it engages in representational functions unless it is licensed to maintain a representative office, agency, or branch office at that place.

(b) (1) No person shall establish or maintain an office in this state as representative of a foreign (other nation) credit union unless the foreign (other nation) credit union is licensed to maintain the office as a representative office.

(2) For purposes of this chapter, if any person establishes or maintains an office in this state as representative of a foreign (other nation) credit union, the foreign (other nation) credit union shall be deemed to establish and maintain the office as a representative office.

16526. (a) No foreign (other nation) credit union shall establish or maintain a representative office unless the commissioner shall have first approved the establishment of the office and issued a license authorizing the foreign (other nation) credit union to maintain the office.

(b) If the commissioner finds the following with respect to an application by a foreign (other nation) credit union for approval to establish a representative office, the commissioner shall approve the application:

(1) That the foreign (other nation) credit union, the directors and executive officers of the foreign (other nation) credit union, and the proposed management of the office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other nation) credit union are satisfactory.

(3) That the management of the foreign (other nation) credit union and the proposed management of the office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the office, the foreign (other nation) credit union will operate the office in compliance with all applicable laws, regulations, and orders.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to establish a representative office has been approved and all conditions precedent to the issuance of a license



authorizing the foreign (other nation) credit union to maintain the office have been fulfilled, the commissioner shall issue the license.

16527. (a) No foreign (other nation) credit union that is licensed to maintain a representative office shall relocate the office unless the commissioner shall have first approved the relocation and issued a license authorizing the credit union to maintain the office at the new site.

(b) (1) In case the new site of a representative office is in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate the representative office if the commissioner finds that the relocation of the office will not be substantially detrimental to the public convenience and advantage.

(2) In case the new site of a representative office is not in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate the representative office if the commissioner finds both of the following:

(i) The relocation of the office from the old site will not be substantially detrimental to the public convenience and advantage in the area that is primarily served by the office at the old site.

(ii) The relocation of the office to the new site will promote the public convenience and advantage.

If the commissioner does not make the findings required under either paragraph (1) or (2), the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to relocate a representative office has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other nation) credit union to maintain the office at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after a foreign (other nation) credit union that is licensed to maintain a representative office relocates the office, the foreign (other nation) credit union shall surrender to the commissioner the license that authorized it to maintain the office at the old site.

16528. A foreign (other nation) credit union that is licensed to maintain a representative office may, subject to any regulations that the commissioner may prescribe, engage in representational functions at the office but shall not solicit or accept share accounts or deposits or otherwise transact business at the office.

16529. (a) (1) No foreign (other nation) credit union that is licensed to maintain a representative office shall close the office unless the commissioner shall have first approved the closing.

(2) Paragraph (1) shall not be deemed to prohibit a foreign (other nation) credit union that is licensed to maintain a representative



office from closing the office in accordance with Article 8 (commencing with Section 16800).

(b) If the commissioner finds, with respect to an application by a foreign (other nation) credit union for approval to close a representative office, that the closing of the office will not be substantially detrimental to the public convenience and advantage, the commissioner shall approve the application. If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to close a representative office has been approved and all conditions precedent to the closing have been fulfilled, the foreign (other nation) credit union may close the office and shall promptly thereafter surrender to the commissioner the license that authorized it to maintain the office.

16530. The approval of an application for approval to establish a representative office shall be revoked by operation of law if the applicant foreign (other nation) credit union does not establish and maintain the office within one year after the date of the approval, unless prior to the expiration of the one-year period the commissioner extends the time within which the foreign (other nation) credit union may establish the representative office.

Article 3. Branch Offices and Agencies

16550. (a) No foreign (other nation) credit union shall transact business in this state except at a branch office or agency that it is licensed to maintain and at which it is permitted by this chapter to transact the business transacted.

(b) Subdivision (a) shall not be deemed to prohibit any of the following:

(1) Any foreign (other nation) credit union from carrying on the activities described in subdivision (d) of Section 191 of the Corporations Code.

(2) The advertising or solicitation of shares or deposits in this state by a foreign (other nation) credit union made through the media of the mail, radio, television, magazines, newspapers, the Internet, or similar media, provided that shares or deposits are not accepted or received in this state.

(3) The acceptance of loan applications through agents in this state, provided the loan applications are approved or rejected, and the loans are funded, outside of this state.

(c) For the purposes of subdivision (a), no foreign (other nation) credit union shall be deemed to be transacting business in this state merely because a majority-owned subsidiary transacts business in this state.

16551. No foreign (other nation) credit union shall be licensed to maintain a branch office or agency unless it is qualified to transact



intrastate business in this state under Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code, except as provided in Section 8910 of the Corporations Code.

16552. (a) No foreign (other nation) credit union shall establish or maintain a branch office or agency unless the commissioner shall have first approved its establishment and issued a license authorizing the foreign (other nation) credit union to maintain the branch office or agency.

(b) If the commissioner finds all of the following with respect to an application by a foreign (other nation) credit union for approval to establish a branch office or agency, the commissioner shall approve the application:

(1) That the foreign (other nation) credit union, the directors and officers of the foreign (other nation) credit union, and the proposed management of the office are each of good character and sound financial standing.

(2) That the financial history and condition of the foreign (other nation) credit union are satisfactory.

(3) That the management of the foreign (other nation) credit union and the proposed management of the office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the office, the foreign (other nation) credit union will operate the office in a safe and sound manner and in compliance with all applicable laws, regulations, and orders.

(5) That the foreign (other nation) credit union's plan to establish and to maintain the office affords reasonable promise of successful operation.

(6) That the foreign (other nation) credit union's establishment and maintenance of the office will promote the public convenience and advantage, and is necessary or convenient to meet the needs of the foreign (other nation) credit union's members.

(7) Not more than 50 percent of the members of the foreign (other nation) credit union are or will be residents of this state.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to establish a branch office or agency has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other nation) credit union to maintain the branch office or agency have been fulfilled, the commissioner shall issue the license.

16553. The approval of an application for approval to establish a branch office or agency shall be revoked by operation of law if the applicant foreign (other nation) credit union does not establish and maintain the office within one year after the date of the approval, unless prior to the expiration of the one-year period the



commissioner extends the time within which the foreign (other nation) credit union may establish the branch office or agency.

16554. (a) No foreign (other nation) credit union which is licensed to maintain a branch office or agency shall relocate the office unless the commissioner shall have first approved the relocation and issued a license authorizing the foreign (other nation) credit union to maintain the office at the new site.

(b) (1) In case the new site of the office is in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate a branch office or agency if the commissioner finds all of the following:

(A) That it will not be unsafe or unsound for the foreign (other nation) credit union to relocate the office.

(B) That the relocation of the office will not be substantially detrimental to the public convenience and advantage, or that the relocation is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

(2) In case the new site of the office is not in the same vicinity as the old site, the commissioner shall approve an application by a foreign (other nation) credit union for approval to relocate a branch office or agency if the commissioner finds all of the following:

(A) That the foreign (other nation) credit union's plan to relocate the office and to maintain the office at the new site affords reasonable promise of successful operation.

(B) That the relocation of the office from the old site will not be substantially detrimental to the public convenience and advantage in the area which is primarily served by the office at the old site, or that the relocation is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

(C) That the relocation of the office to the new site will promote the public convenience and advantage.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to relocate a branch office or agency has been approved and all conditions precedent to the issuance of a license authorizing the foreign (other nation) credit union to maintain the office at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after a foreign (other nation) credit union that is licensed to maintain a branch office or agency relocates the office, the foreign (other nation) credit union shall surrender to the commissioner the license which authorized it to maintain the office at the old site.

16555. (a) (1) No foreign (other nation) credit union that is licensed to maintain a branch office or agency shall close the office unless the commissioner shall have first approved the closing.



(2) Paragraph (1) shall not be deemed to prohibit a foreign (other nation) credit union that is licensed to maintain a branch office or agency from closing an office in accordance with Article 8 (commencing with Section 16800).

(b) If the commissioner finds the following with respect to an application by a foreign (other nation) credit union for approval to close a branch office or agency, the commissioner shall approve the application:

(1) That it will not be unsafe or unsound for the foreign (other nation) credit union to close the office.

(2) That the closing of the office will not be substantially detrimental to the public convenience and advantage or that the closing of the office is necessary in the interests of the safety and soundness of the foreign (other nation) credit union.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) credit union for approval to close a branch office or agency has been approved and all conditions precedent to the closing have been fulfilled, the foreign (other nation) credit union may close the office and shall promptly thereafter surrender to the commissioner the license which authorized it to maintain the office.

Article 6. Conduct of Credit Union Business

16600. (a) A foreign (other nation) credit union that has a license to establish and maintain an office may engage in activities at the office as may be authorized under applicable laws of its home country and the laws of this state.

(b) Nothing in subdivision (a) authorizes a foreign (other nation) credit union to engage in any activity at an office that it is not authorized to engage in or is prohibited from engaging in under the law of its home country, or that credit unions organized under the laws of this state are not authorized to engage in or are prohibited from engaging in under the laws of this state.

16601. (a) A foreign (other nation) credit union may not expand its field of membership in this state without first obtaining the commissioner's approval.

(b) An application for the commissioner's approval of an expansion of the field of membership in this state by a foreign (other nation) credit union shall be in the form and contain the information as may be specified, by order or regulation, by the commissioner.

16602. (a) The following provisions of this code apply to a foreign (other nation) credit union that maintains a branch office or agency with respect to its business in this state as if the foreign (other nation) credit union were a credit union organized under the laws of this state:



- (1) Section 14203.
- (2) Section 14204.
- (3) Section 14208.
- (4) Section 14210.
- (5) Section 14256.
- (6) Section 14409.
- (7) Section 14409.2.
- (8) Section 14602.
- (9) Section 14652.5.

(10) Section 14655, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other nation) credit union.

(11) Section 14656, to the extent promissory notes of the type described in this section are carried on the books of a branch office of a foreign (other nation) credit union.

(12) Article 8 (commencing with Section 14750) of Chapter 4.

(13) Section 14800.

(14) Section 14802.

(15) Section 14803.

(16) Section 14807.

(17) Section 14808.

(18) Section 14809.

(19) Article 1 (commencing with Section 14850) of Chapter 6.

(20) Article 1 (commencing with Section 14950) of Chapter 7.

(21) Article 2 (commencing with Section 15001) of Chapter 7.

(22) Article 3 (commencing with Section 15050) of Chapter 7, to the extent loans of the type described in that article are carried on the books of a branch office of a foreign (other nation) credit union.

(23) Section 15102.

(b) In addition to the laws specified in subdivision (a), the laws of this state applicable to transactions between a credit union organized under the laws of this state and its members and creditors shall similarly apply to the transactions of a foreign (other nation) credit union in this state. These laws include, but are not limited to, consumer protection laws and laws relating to creditor rights and remedies, commercial transactions, mortgages and deeds of trust, bank deposits and collections, and negotiable instruments.

16603. (a) Any foreign (other nation) credit union that is authorized to and does maintain a branch office or agency is exempted from the restrictions of Section 1 of Article XV of the California Constitution relating to rates of interest upon the loan or forbearance of any money, goods, or things in action or on accounts after demand.

(b) This section does not exempt a foreign (other nation) credit union or any subsidiary from complying with all other laws and regulations governing the business in which the foreign (other nation) credit union or subsidiary is engaged.



(c) This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

16604. (a) A foreign (other nation) credit union which is licensed to establish and maintain an office or offices shall keep the assets of the offices separate and apart from the assets of its business outside this state.

(b) Persons who are creditors of a foreign (other nation) credit union as a result of the business of an office of the foreign (other nation) credit union in this state shall be entitled to priority over other creditors with respect to the assets of the business in this state of the foreign (other nation) credit union.

16605. (a) In this section:

(1) “Adjusted liabilities,” when used with respect to a foreign (other nation) credit union, means the liabilities of the foreign (other nation) credit union’s business in this state, determined in accordance with generally accepted accounting principles, but excluding (A) accrued expenses, (B) any liability to an office (whether in or outside of this state) or majority-owned subsidiary of the foreign (other nation) credit union, and (C) other liabilities as the commissioner may by regulation or order exclude.

(2) “Applicable minimum,” when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign (other nation) credit union, means the amount as the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union’s business in this state, or for the protection of the public interest. However, in the case of a foreign (other nation) credit union which is licensed to maintain a branch office, the applicable minimum shall not be less than 5 percent of the adjusted liabilities of the foreign (other nation) credit union.

(3) “Approved depository,” when used with respect to a foreign (other nation) credit union, means a bank or credit union organized under the laws of this state or a national bank headquartered in this state that has been selected by the foreign (other nation) credit union and approved by the commissioner for the purpose of acting as the approved depository of the foreign (other nation) credit union and that has filed with the commissioner, in the form as the commissioner may by regulation or order prescribe, an agreement to comply with all applicable provisions of this section and of any regulation or order issued under this section.

(4) “Eligible assets” when used with respect to a foreign (other nation) credit union, means any of the following:

(A) Cash.

(B) Any negotiable certificate of deposit that (i) has a maturity of not more than one year, (ii) is payable in the United States, and (iii) is issued by a bank organized under the laws of a state of the United



States, by a national bank, or by a branch office of a foreign (other nation) bank that is located in the United States.

(C) Any banker's acceptance that is payable in the United States and that is eligible for discount with a federal reserve bank.

(D) Any other asset that the commissioner by regulation or order determines to be eligible.

Notwithstanding the foregoing provisions of this paragraph, "eligible asset," when used with respect to a foreign (other nation) credit union, does not include any instrument the issuer of which (i) is, or is affiliated with, the foreign (other nation) credit union, (ii) is domiciled in, or controlled by a person domiciled in, the same foreign nation as the foreign (other nation) credit union, or (iii) is, or is controlled by, the foreign nation. For purposes of the foregoing provision, to be "affiliated" means to control, to be controlled by, or to be under common control with; and to "control" has the meaning set forth in subdivision (b) of Section 700.

(b) For purposes of this section:

(1) The amount of adjusted liabilities of a foreign (other nation) credit union's business in this state shall be computed for the period of time and in the manner as the commissioner may by regulation or order prescribe.

(2) An eligible asset shall be valued at the lesser of market or par.

(c) (1) Before a foreign (other nation) credit union is authorized to transact business in this state, the foreign (other nation) credit union shall deposit, and each foreign (other nation) credit union that is licensed to transact business in this state shall maintain on deposit, with an approved depository eligible assets having a value in an amount not less than the applicable minimum.

(2) Whenever a foreign (other nation) credit union that is licensed to transact business in this state ceases to be so licensed, the foreign (other nation) credit union shall thereafter maintain on deposit with an approved depository eligible assets having a value in an amount not less than the applicable minimum for the period of time as the commissioner may determine to be necessary for the protection of creditors of the foreign (other nation) credit union's business in this state or for the protection of the public interest.

(d) (1) No foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section shall withdraw any eligible asset except with the prior approval of the commissioner.

(2) No approved depository that holds eligible assets on deposit from a foreign (other nation) credit union pursuant to this section shall release any eligible asset except with the prior approval of the commissioner or as otherwise provided in subdivision (h).

(e) Any foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section shall, unless the commissioner shall have suspended or revoked its



authorization to transact business in this state or taken possession of its property and business in this state, be entitled to receive any income paid on eligible assets.

(f) (1) Whenever a foreign (other nation) credit union deposits eligible assets with, or withdraws eligible assets from, an approved depository pursuant to this section, the foreign (other nation) credit union shall do so in accordance with the procedures and requirements as the commissioner may by regulation or order prescribe.

(2) Whenever an approved depository receives, holds, or releases eligible assets pursuant to this section, the approved depository shall do so in accordance with the procedures and requirements as the commissioner may by regulation or order prescribe and shall file with the commissioner reports as and when the commissioner may by regulation or order require.

(g) Whenever a foreign (other nation) credit union maintains eligible assets on deposit with an approved depository pursuant to this section:

(1) The eligible assets shall be deemed to be pledged to the commissioner for the benefit of the creditors of the foreign (other nation) credit union's business in the state; and, notwithstanding any provision of the Uniform Commercial Code to the contrary, the commissioner, for the benefit of these creditors, shall be deemed to have a security interest in the eligible assets.

(2) The eligible assets shall be free from any lien, charge, right of setoff, credit, or preference in connection with any claim of the approved depository against the foreign (other nation) credit union.

(h) (1) In case the commissioner takes possession of the property and business of a foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section, the approved depository shall, upon order of the commissioner, release the eligible assets to the commissioner, as liquidator of the property and business of the foreign (other nation) credit union.

(2) In case a foreign (other nation) credit union that maintains eligible assets on deposit with an approved depository pursuant to this section fails to pay any judgment creditor of its business in this state and the commissioner has not taken possession of the property and business of the foreign (other nation) credit union, the approved depository shall release the eligible assets to the commissioner, and the commissioner shall dispose of the eligible assets, as a court of competent jurisdiction of this state or of the United States may order for the benefit of the judgment creditor. For purposes of this paragraph, "judgment creditor of its business in this state" means a person to whom the foreign (other nation) credit union is required to pay money under a judgment that (A) arose out of the foreign (other nation) credit union's business in this state, (B) has been



entered by a court of this state or of the United States, (C) has become final, in that all possibility of direct attack on the judgment by way of appeal, motion for new trial, motion to vacate, or petition for extraordinary writ has been exhausted, and (D) has remained unpaid for a period of not less than 60 days after becoming final.

16607. (a) In this section:

(1) “Adjusted liabilities,” when used with respect to a foreign (other nation) credit union that is licensed to maintain a branch office, means the liabilities of the foreign (other nation) credit union’s business in this state, excluding (A) accrued expenses, (B) any liability to an office (whether in or outside of this state) or majority-owned subsidiary of the foreign (other nation) credit union, and (C) other liabilities as the commissioner may by regulation or order exclude.

(2) “Eligible assets” means any asset which the commissioner by regulation or order determines to be eligible for purposes of this section. However, “eligible asset,” when used with respect to a foreign (other nation) credit union that is licensed to maintain a branch office, includes any asset which the foreign (other nation) credit union maintains on deposit pursuant to Section 16606.

(b) For purposes of this section, the amount of eligible assets and the amount of adjusted liabilities of a foreign (other nation) credit union that is licensed to maintain a branch office each be computed for the period of time and in the manner as the commissioner may by regulation or order prescribe.

(c) A foreign (other nation) credit union licensed to maintain a branch office shall hold at its branch offices in this state or at any other place as the commissioner may approve, eligible assets in the amount, if any, as the commissioner may from time to time by regulation or order determine to be necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union’s business in this state, or for the protection of the public interest. However, in no event shall the amount exceed 108 percent of the adjusted liabilities of the foreign (other nation) credit union’s business in this state.

(d) If the commissioner finds, with respect to a foreign (other nation) credit union licensed to maintain a branch office in this state, that the action is necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the foreign (other nation) credit union’s business in this state, or for the protection of the public interest, the commissioner may order the foreign (other nation) credit union to place all or part of the eligible assets which the foreign (other nation) credit union is required to hold under subdivision (c) in the custody of a bank organized under the laws of this state or a national bank headquartered in this state as the commissioner may designate, and such assets shall be subject to the order of the commissioner.



Article 7. Examination, Reports, and Records

16700. (a) The commissioner may at any time investigate into the affairs and examine the books, accounts, and other records of a foreign (other nation) credit union and of any subsidiary thereof.

(b) The commissioner and any person designated by the commissioner shall have free access to any office of the foreign (other nation) credit union and to its books, accounts, and other records.

16701. The commissioner may make an examination of a foreign (other nation) credit union at any office of the commissioner.

16702. (a) Each foreign (other nation) credit union shall, within 10 days after receipt or within any extended time that the commissioner may specify, file with the commissioner a copy of any audit report obtained by, and of any examination report prepared for, the foreign (other nation) credit union.

(b) Each foreign (other nation) credit union shall file with the commissioner a copy of any response made by the foreign (other nation) credit union to an audit or examination report referred to in subdivision (a) within 10 days after making the response or within any extended time that the commissioner may specify.

16703. A foreign (other nation) credit union shall file with the commissioner any other report as the commissioner may from time to time require. Each report shall be in the form, contain the information, and be filed on the date, as may be prescribed by the commissioner.

16704. Each foreign (other nation) credit union that maintains an office shall make, keep, and preserve at that office, or at any other place that the commissioner may by regulation or order approve, the books, accounts, and other records relating to the business of the office, in the form, in the manner, and for the time that the commissioner may, by regulation or order, require.

Article 8. Voluntary Surrender of License

16800. (a) A foreign (other nation) credit union that is licensed to maintain an office may voluntarily surrender the license for the office by filing the license and a report with the commissioner. However, a foreign (other nation) credit union that holds licenses to maintain two or more offices may not voluntarily surrender less than all of its licenses.

(b) (1) Except as otherwise provided in paragraph (2), a voluntary surrender of a license shall be effective on the 30th day after the license and the report called for in subdivision (a) are filed with the commissioner or on an earlier date as the commissioner may by order specify.

(2) If a proceeding to revoke or suspend a license is pending at the time when the license and the report called for in subdivision (a) are



filed with the commissioner or if a proceeding to revoke or suspend a license or to impose conditions upon the surrender of a license is instituted before the 30th day after the license and the report called for in subdivision (a) are filed with the commissioner, the voluntary surrender of the license shall become effective at the time and upon the conditions that the commissioner may by order specify.

Article 9. Enforcement

16900. (a) The commissioner may bring an action in the name of the people of this state in the superior court to enjoin any violation of, to enforce compliance with, or to collect any penalty or other liability imposed under this division or any regulation or order issued under this chapter. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and a monitor, receiver, conservator, or other designated fiduciary or officer of the court may be granted as appropriate.

(b) A receiver, monitor, conservator, or other designated fiduciary officer of the court appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the court.

(c) If the commissioner finds that it is in the public interest, the commissioner may include in a claim for restitution, disgorgement, or damages on behalf of the person injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award ancillary relief.

(d) The provisions of this section that authorize the commissioner to bring actions and seek relief are not intended to, and do not, affect any right that any other person may have to bring the same or similar actions or to seek the same or similar relief.

16900.5. (a) If the commissioner finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 16020, the commissioner may order the person to cease and desist from the violation unless and until the person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom the order is directed may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence a hearing within 15 business days after the application is filed with him or her (or within such



longer period to which the person consents), the order shall be deemed rescinded. At the hearing the commissioner shall affirm, modify, or rescind the order.

(2) The right of any person, to whom an order is issued under subdivision (a), to petition for judicial review of the order shall not be affected by the failure of the person to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16901. If, after notice and hearing, the commissioner finds that any person has violated any provision of this chapter or of any regulation or order issued under this chapter, the commissioner may order the person to pay to the commissioner a civil penalty in an amount as the commissioner may specify; provided, however, that the amount of the civil penalty shall not exceed one hundred dollars (\$100) for each violation or, in the case of a continuing violation, one hundred dollars (\$100) for each day for which the violation continues.

16902. If, after notice and hearing, the commissioner finds any of the following with respect to a foreign (other nation) credit union that is licensed to maintain an office, the commissioner may issue an order suspending or revoking the license of the foreign (other nation) credit union.

(a) That the foreign (other nation) credit union has violated a provision of this division or of any regulation or order issued under this division or a provision of any other applicable law, regulation, or order.

(b) That the foreign (other nation) credit union is transacting the business in this state or elsewhere in an unsafe or unsound manner.

(c) That the foreign (other nation) credit union is in unsafe or unsound condition.

(d) That the foreign (other nation) credit union has ceased to operate its office.

(e) That the foreign (other nation) credit union is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities exceed its assets.

(f) That the foreign (other nation) credit union has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) That the foreign (other nation) credit union has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for such relief under any such law against the foreign (other nation) credit union, and the foreign (other nation) credit union has by any affirmative act approved of or consented to the action or the relief has been granted.



(h) That a receiver, liquidator, or conservator has been appointed for the foreign (other nation) credit union or that any proceeding for an appointment or any similar proceeding has been initiated in the home country of the foreign (other nation) credit union.

(i) That the existence of the foreign (other nation) credit union or the authority of the foreign (other nation) credit union to transact banking business under the laws of the home country of the foreign (other nation) credit union has been suspended or terminated.

(j) That any fact or condition exists that, if it had existed at the time when the foreign (other nation) credit union applied for approval to transact business in this state, would have been grounds for denying the application.

16903. (a) If the commissioner finds that any of the factors set forth in Section 16902 is true with respect to any foreign (other nation) credit union that is licensed to maintain an office and that it is necessary for the protection of the interests of creditors of the foreign (other nation) credit union's business in this state or, in any case, for the protection of the public interest that the commissioner immediately suspend or revoke the license of the foreign (other nation) credit union, the commissioner may issue an order suspending or revoking the license of the foreign (other nation) credit union.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the foreign (other nation) credit union to which the order is issued may file with the commissioner an application for a hearing on the order. If the commissioner fails to commence the hearing within 15 business days after the application is filed with the commissioner (or within any longer period to which the foreign (other nation) credit union consents), the order shall be deemed rescinded. Within 30 days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any foreign (other nation) credit union to which an order is issued under subdivision (a) to petition for judicial review of the order shall not be affected by the failure of the foreign (other nation) credit union to apply to the commissioner for a hearing on the order pursuant to paragraph (1).

16904. Any foreign (other nation) credit union whose license to maintain an office is suspended or revoked shall immediately surrender the license to the commissioner.

16905. (a) Any foreign (other nation) credit union to which an order is issued under Section 16902 and 16903 may apply to the commissioner to modify or rescind the order. The commissioner shall not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the foreign (other nation) credit union will, if and when it is again authorized to maintain an office, comply with all applicable



provisions of this division and of any regulation or order issued under this division.

(b) The right of any foreign (other nation) credit union to which an order is issued under Section 16902 or 16903 to petition for judicial review of the order shall not be affected by the failure of the foreign (other nation) credit union to apply to the commissioner pursuant to subdivision (a) to modify or rescind the order.

16906. (a) If the commissioner finds that any of the factors set forth in Section 16902 is true with respect to any foreign (other nation) credit union which is authorized to transact business in this state and that it is necessary for the protection of the interests of the creditors of the business of the foreign (other nation) credit union in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the foreign (other nation) credit union, the commissioner may by order forthwith take possession of the property and business of the foreign (other nation) credit union and retain possession until the foreign (other nation) credit union resumes business in this state or is finally liquidated. The foreign (other nation) credit union may, with the consent of the commissioner, resume business in this state under the conditions as the commissioner may prescribe.

(b) (1) Whenever the commissioner takes possession of the property and business of a foreign (other nation) credit union pursuant to subdivision (a), the foreign (other nation) credit union may, within 10 days, apply to the superior court in the county in which the primary office in this state of the foreign (other nation) credit union is located to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order him or her to surrender the property and business of the foreign (other nation) credit union to the foreign (other nation) credit union or make any further order as may be just.

(2) The judgment of the court may be appealed by the commissioner or by the foreign (other nation) credit union in the manner provided by law for appeals from the judgment of a superior court to the court of appeal. In case the commissioner appeals the judgment of the court, the appeal shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) Whenever the commissioner takes possession of the property and business of a foreign (other nation) credit union pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the foreign (other nation) credit union in accordance with Sections 14301 to 14304, inclusive.

(d) When the commissioner has completed the liquidation of the property and business of a foreign (other nation) credit union in this



state, the commissioner shall transfer any remaining assets to the foreign (other nation) credit union in accordance with any order the court may issue. However, in case the foreign (other nation) credit union has an office in another state of the United States which is in liquidation and the assets of that office appear to be insufficient to pay in full the creditors of that office, the court shall order the commissioner to transfer to the liquidator of that office the amount of any remaining assets as appears to be necessary to cover the insufficiency. If there are two or more offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to those offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in the manner as the court determines is equitable.

