

## TITLE 26

### BANKS AND BANKING

#### CHAPTER 21

#### IDAHO CREDIT UNION ACT

**26-2101. SCOPE.** This chapter shall be known as the "Idaho Credit Union Act" and shall be applicable to all persons except federal credit unions, operating as credit unions in the state of Idaho and to such other persons as shall subject themselves to its provisions, and to such persons who shall by violating any of its provisions become subject to the penalties provided herein.

**26-2102. PURPOSE.** The purpose of this chapter is to allow groups of persons with a common bond as provided in this chapter to form private nonprofit cooperative corporations to be known as credit unions, to provide an opportunity for its members to use and control their own money in order to improve their economic and social condition, to promote thrift at a reasonable rate of return and provide a source of credit at fair and reasonable rates of interest to those persons included in the common bond.

**26-2103. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE.** Unless displaced by the particular provisions of this chapter, the Uniform Commercial Code, the Uniform Consumer Credit Code, the Idaho Securities Act, the corporation laws of this state and the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

**26-2104. DEFINITION AND USE OF TERMS.** As used in this chapter unless the context otherwise requires:

(a) "Credit union" means a cooperative nonprofit corporation chartered under the provisions of this chapter.

(b) "Capital" means the shares of a credit union.

(c) "Director" means the director of the department of finance of the state of Idaho.

(d) "Federal supervisory agency" means the National Credit Union Administration.

(e) "Credit union services" means services such as draft and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of drafts, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a credit union.

(f) "Credit union service corporation" means a corporation organized to perform credit union services for two (2) or more credit unions, each of which owns part of the capital stock of such corporations, and which are subject to examination by either the department of finance of the state of Idaho or a federal supervisory agency.

(g) "Interstate credit union" means a credit union chartered under the provisions of this chapter or under the authority of the laws of another state and operating both in Idaho and in one (1)

or more other states.

(h) "Invest" means any advance of funds to a credit union service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

(i) "Surplus funds" means those funds which are not needed to meet a credit union's members' loan needs and credit union expenses.

(j) "Unsafe or unsound practice" means any action or lack of action that is contrary to the generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

(k) "Electronic service facility" means an electronic device that is operated by a credit union and that can be used to conduct transactions or obtain services offered by the credit union.

**26-2105. ORGANIZATION.** Any seven (7) or more residents of the jurisdiction of the state of Idaho, of legal age, who have a common bond referred to in section [26-2110](#), Idaho Code, may organize a credit union and become charter members thereof by:

(a) Filing an application furnished by the director.

(b) Executing in triplicate, articles of incorporation by the terms of which they agree to be bound, which articles shall state:

(1) The name, which shall include the words "credit union" and which must clearly indicate the common bond from which members will be taken and which is not the same name as that of any other existing credit union. A credit union may, however, do business in a name which includes only the initials of its name as it appears in its articles of incorporation and the words "credit union," and the city wherein the proposed credit union is to have its principal place of business;

(2) The term of existence of the credit union, which shall be perpetual;

(3) The par value of shares of the credit union, which shall be at least five dollars (\$5.00); and

(4) The names and addresses of the subscribers to the articles of incorporation, and the number of shares subscribed by each.

(c) Adopting bylaws for the general government of the credit union, consistent with the provisions of this chapter and executing the same in triplicate.

(d) Forwarding the required application fee, articles of incorporation and the bylaws to the director. If they conform to the statute, he shall endorse the articles of incorporation and return two (2) copies of the endorsed articles of incorporation and two (2) copies of the bylaws to the applicants of the credit union, one (1) copy of which is to be for the credit union's permanent files and the other copy to be filed with the county recorder's office in the county in which the principal place of business is located and with the department of finance. The original copy of the articles of incorporation and bylaws shall be retained by the department of finance. If the director approves or endorses the articles of incorporation, he will issue three (3) charters in original. The director shall have the authority to investigate the application for charter to determine whether the proposed credit union does meet the objectives of this chapter. The determination for the approval of the application for charter shall be under such rules and regulations as shall be adopted by the director. These rules and regulations shall give account to the number of potential members, their stability of employment or membership in the group comprising the common bond of membership and the economic characteristics of the proposed common bond. If, in the opinion of the director, the

proposed credit union does not meet these objectives, the charter application shall be denied.

(e) The subscribers for a credit union charter shall not transact any business until formal approval of the charter has been received. In order to simplify the organization of credit unions, the director shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this chapter, which shall be used by credit union incorporators for their guidance.

(f) The articles of incorporation filed in the department of finance shall be available for inspection and a copy may be provided upon payment of an appropriate fee.

**26-2106. AMENDMENT TO ARTICLES OF INCORPORATION AND BYLAWS --**

**APPROVAL OF DIRECTOR -- PROCEDURE.** (1) A credit union's articles of incorporation may be amended as provided in the articles of incorporation with approval of the director. Amendments to the articles of incorporation must be submitted to the director for approval. Amendments to the articles of incorporation are deemed to be approved by the director if the director does not deny them within thirty (30) days following receipt of the proposed amendments. Amendments to a credit union's articles of incorporation must conform with section [26-2105](#), Idaho Code.

(2) Upon approval by the director, the credit union shall promptly deliver amendments to the articles of incorporation, including any necessary filing fees, to the secretary of state for filing. Amendments to the articles of incorporation are effective upon approval by the director unless the amendments specify a different effective date.

(3) A credit union's bylaws may be amended as provided in the bylaws. A copy of any amendments to the bylaws must be mailed by certified mail return receipt requested to the department of finance within twenty (20) days after the adoption thereof. Amendments to the bylaws become effective on approval by the director unless the amendments specify a different date. Amendments to the bylaws are deemed to be approved by the director if the director does not deny them within thirty (30) days following receipt of the amendments.

**26-2107. RESTRICTIONS.** Any person, corporation, copartnership or association, except a credit union organized under the provisions of this chapter, an interstate credit union with a permit issued under section [26-2152](#), Idaho Code, the federal credit union act, 48 Statute 1216 (1934), 73 Statute (1959), 12 U.S.C. 192, or the Idaho credit union league, a recognized chapter of the Idaho credit union league, using a name or title containing the words "credit union" or any derivation thereof or representing themselves in their advertising or otherwise conducting business as a credit union shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one (1) year, or both, and may be permanently enjoined from using such words in its name.

**26-2108. POWERS.** A credit union shall have power to:

- (1) Make contracts;
- (2) Sue and be sued in the name of the credit union;
- (3) Own, hold, or use any real or personal property or any interest therein that is necessary or incidental to the credit union's operations, subject to the provisions of this chapter;
- (4) Require the payment of an entrance or membership fee of any applicant admitted to membership;
- (5) Receive from its members payments on shares and deposits of any type;
- (6) Pay dividends or interest on shares and deposits as provided for in this chapter;

(7) Make loans to its members in accordance with this chapter and purchase or otherwise acquire, in whole or in part, obligations of its members. A credit union may only purchase or otherwise acquire obligations of its members that it could enter into directly with the members;

(8) Charge interest and other fees on loans, impose fees and charges in connection with the accounts and services provided to members, including fees for failure to meet obligations to the credit union, and recover costs, including attorney's fees and court costs, incurred in collecting amounts owed to the credit union, subject to other applicable law;

(9) Borrow money in an aggregate amount not to exceed fifty percent (50%) of its members' shares and deposits, plus undivided earnings;

(10) Deposit funds in federally insured banks and savings and loan companies and in state or federal credit unions and otherwise invest funds as provided in this chapter;

(11) Lease tangible personal property to its members;

(12) Hold membership in other state or federally chartered credit unions and in trade or other associations related to the credit union's business;

(13) Receive funds as shares or deposits from a state or federal credit union, bank, savings bank, savings and loan association, or any other type of depository institution;

(14) Receive deposits from the federal government, a state, or any political subdivision of the federal government or a state, or a corporation or other entity established by either;

(15) Establish and operate electronic service facilities to provide services in accordance with this chapter. An electronic service facility that is not operated by personnel on the premises at which the electronic service facility is located is not a branch office for the purposes of section [26-2143](#), Idaho Code;

(16) Make charitable contributions that are reasonable in amounts in relation to the credit union's financial circumstances;

(17) Indemnify its directors, supervisory committee members, officers, employees, and others in accordance with provisions in its bylaws that are consistent with the Idaho business corporation act;

(18) Provide financial counseling services to its members, including but not limited to investment counseling or advice and debt counseling;

(19) Act as an insurance producer, employ insurance producers, or enter into other arrangements with insurance producers to offer any type of insurance to members in accordance with the Idaho insurance code;

(20) Join, make deposits in or loans to, or purchase shares of any federal reserve bank, federal home loan bank, or central liquidity facility established under federal or state law;

(21) Receive funds as shares or deposits from a deferred compensation plan or other retirement plan that serves any of the credit union's members or potential members;

(22) Sell, pledge, discount, or otherwise dispose of, in whole or in part, obligations of its members and service obligations of which it has disposed;

(23) Offer tax return preparation and filing services for its members;

(24) Enter into joint marketing, networking, or referral arrangements to facilitate members' purchases of goods and services from third parties. Such arrangements may include compensation to the credit union, subject to applicable law;

(25) Guarantee the signature of a member in connection with a transaction that involves tangible or intangible property in which a member has or seeks to acquire an interest;

(26) Perform any of the following services for any person in an underserved area, as designated in 12 CFR 1026.35(b)(2)(iv)(B), that does not have an established relationship with a financial institution or for any person in any area if the credit union has been designated as a

low-income credit union as that term is defined in 12 CFR 701.34:

- (a) Cashing and selling checks, drafts, or money orders;
- (b) Purchasing and selling foreign currencies in exchange for United States currency;
- (c) Wire transfers; and
- (d) Financial counseling services;

(27) Sell all or part of its assets, purchase all or part of the assets and assume all or part of the liabilities of another credit union, out-of-state credit union, or federal credit union, subject to the approval of the director; and

(28) Exercise such incidental powers as are necessary or convenient to enable the credit union to conduct the business of a credit union or to otherwise fulfill the purposes for which it was organized, in accordance with this chapter.

**26-2109. POWER TO ACQUIRE AND HOLD REAL PROPERTY.** (1) A credit union may invest in fixed assets necessary or related to its operations, subject to the following limitations:

- (a) The credit union's net worth equals at least seven percent (7%) of total assets;
- (b) The board approves any investment in real property; and
- (c) The aggregate book value of all such investments does not exceed seven and one-half percent (7.5%) of the total of its assets.

(2) The director may, upon written application, waive any of the limitations listed in subsection (1) of this section.

(3) A credit union may acquire property through foreclosure, deed in lieu of foreclosure, repossession, or other means in connection with protection or enforcement of the credit union's rights as a secured lender. Property acquired in this manner shall not be subject to the limitations of subsection (1) of this section.

(4) For purposes of this section:

(a) "Abandoned premises" means premises previously used to transact credit union business but no longer used for that purpose. It also means premises originally acquired to transact future credit union business but no longer intended for that purpose.

(b) "Fixed assets" means premises and furniture, fixtures, and equipment.

(c) "Immediate family member" means a spouse, domestic partner, or other family member living in the same household.

(d) "Partially occupy" means occupation and use, on a full-time basis, of at least fifty percent (50%) of each of the premises by the credit union.

(e) "Premises" means any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

(f) "Senior management employee" means the credit union's chief executive officer, any assistant chief executive officers, and the chief financial officer.

(g) "Unimproved land" or "unimproved real property" means:

(i) Raw land or land without development, significant buildings, structures, or site preparation;

(ii) Land that has never had improvements;

(iii) Land that was improved at one time but has functionally reverted to its unimproved state; or

(iv) Land that has been improved, but the improvements serve no purpose for the credit union's planned use of the property.

(5) Premises not currently used to transact credit union business.

(a) If a credit union acquires premises, including unimproved land or unimproved real property, it must partially occupy each of them within a reasonable period, but no later than six (6) years after the date of acquisition. The director may waive the partial occupation requirements based on economic or business conditions, or other conditions affecting use of the property, subject to a reasonable plan for partial occupancy. To seek a waiver, a credit union must submit a written request to the director and fully explain why it needs the waiver. The director shall provide the credit union a written response, either approving or disapproving the request. The director's decision shall be based on safety and soundness considerations.

(b) A credit union must make diligent efforts to dispose of abandoned premises and property acquired as described in subsection (3) of this section. The credit union must seek fair market value for the premises or property and record its efforts to dispose of the premises or property. The credit union must complete the sale within five (5) years of abandonment of the premises or acquisition of the property. Upon application by the credit union, the director shall approve the continued holding by the credit union for an additional period of five (5) years upon the credit union's showing of its good faith attempt to dispose of the premises or property, or that disposal within the first five (5) year period would be detrimental to the credit union. The director shall provide the credit union a written response, either approving or disapproving the application. If the director fails to respond within forty-five (45) days of receipt, the application is deemed approved. The director's decision shall be based on safety and soundness considerations.

**26-2110. MEMBERSHIP.** (a) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons having the common bond set forth in the articles of incorporation as have been duly admitted members, have paid the entrance fee, if any, as provided in the bylaws, have subscribed and paid for one (1) or more shares, and have complied with such other requirements as the articles of incorporation or bylaws may specify.

(b) Credit union organizations shall be limited to groups having a common bond of occupation or association, or to residents within a well-defined neighborhood, community, or rural district, employees of a common employer, or members of a bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and members of the immediate family of such persons.

(c) Societies and associations composed entirely of individuals who are within the field of membership of the credit union may be admitted to membership in the same manner and under the same conditions as individuals.

(d) An individual who leaves the field of membership may be permitted to retain his membership in the credit union at the discretion of the board and as provided in the bylaws.

(e) An employer, including the state and its political subdivisions, may become a member of a credit union, of which its employee is a member, only for the purpose of placing shares or deposits in the credit union pursuant to an employee deferred compensation plan qualified under chapter 400 of the Internal Revenue Code of 1954, as amended, or other retirement plans set out in section [26-2151](#), Idaho Code.

(f) Credit unions may become members of other Idaho credit unions.

**26-2111. EXPULSION AND WITHDRAWAL FROM FIELD OR MEMBERSHIP.** A member may be expelled in accordance with the bylaws and any policies established by the board. The credit union shall notify a member of the expulsion, the reasons for the expulsion, and the process by which the member may challenge the expulsion and seek reinstatement. The credit union shall, upon the request of the expelled member in accordance with this section, allow the member to challenge the expulsion and seek reinstatement as a member. A member who withdraws from membership or whose membership is otherwise terminated pursuant to the bylaws or who is expelled is not relieved of any liability to the credit union.

**26-2112. FISCAL YEAR.** The fiscal year of all credit unions organized under this chapter shall end on the last day of December.

**26-2113. MEMBER VOTING.** (1) No member may have more than one (1) vote. A natural person may not hold more than one (1) membership in a credit union on behalf of himself or herself. An organization having membership in a credit union may cast one (1) vote through a natural person agent authorized in accordance with any requirements of the credit union.

(2) Members may vote, as prescribed in the credit union's bylaws, by mail ballot, absentee ballot, or other methods, which may include electronic methods. However, no member may vote by proxy.

(3) A member who is not at least eighteen (18) years of age is not eligible to vote as a member unless otherwise provided in the credit union's bylaws.

**26-2113A. ANNUAL MEMBERSHIP MEETINGS.** (1) A credit union's annual membership meeting shall be held at such time and in such manner as the board prescribes, as permitted in the bylaws, and shall be conducted according to the rules of procedure approved by the board. If the meeting is conducted electronically, the credit union shall offer a means of participation in the meeting for members that are unable to participate electronically using their own communication services and equipment.

(2) Notice of the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union.

**26-2113B. SPECIAL MEMBERSHIP MEETINGS.** (1) A special membership meeting of a credit union may be called by:

(a) A majority vote of the board;

(b) A majority vote of the supervisory committee to suspend a director for cause; or

(c) A written petition signed or similarly authenticated by at least ten percent (10%) or two thousand (2,000) of the members of a credit union, whichever is less.

(2) Call of a special membership meeting of a credit union shall be in writing submitted to the secretary of the credit union by the board, the petitioners or the supervisory committee as applicable and shall state specifically the purpose or purposes for which the meeting is called and the agenda item or items for consideration by the members at the meeting. If the special membership meeting is called for the removal of one (1) or more directors or supervisory committee members, the call shall state the name of each individual whose removal is sought.

(3)(a) On receipt of a call for a special membership meeting, the secretary of the credit union shall determine whether the call satisfies the requirements of this section. If so, the secretary shall determine a reasonable date and time at which the special membership meeting will be held and provide notice of the special membership meeting in accordance with the requirements of this subsection. The special membership meeting must be held in the manner prescribed by the board in accordance with the bylaws. If the meeting is conducted electronically, the credit union shall offer a means of participation in the meeting for members who are unable to participate electronically using their own communication services and equipment. The special membership meeting must be held no later than sixty (60) days after the date on which the call is received by the secretary.

(b) The secretary shall give notice of the special membership meeting at least thirty (30) days before the date of the meeting, or within such other reasonable time period as may be provided in the bylaws. The notice must state the purpose or purposes for which the special membership meeting is called and the agenda items for the meeting. If the special membership meeting is called for the removal of one (1) or more directors or supervisory committee members, the notice must state the name of each individual whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special membership meeting includes the removal of the chairperson, the next highest-ranking board officer whose removal is not sought shall preside over the meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special membership meeting.

(5) At the special membership meeting, only those agenda items that are stated in the notice for the meeting may be considered.

(6) Special membership meetings shall be conducted according to the rules of procedure set forth in the bylaws. If the bylaws do not specify the rules of procedure that shall govern a special membership meeting, the special membership meeting shall be conducted according to the rules of procedure approved by the board.

#### **26-2114. BOARD OF DIRECTORS -- ELECTION OF DIRECTORS -- TERMS --**

**VACANCIES -- MEETINGS -- RULES.** (1) The business and affairs of a credit union shall be managed by a board of no fewer than five (5) and no more than fifteen (15) directors.

(2) The directors must be elected by and from the membership in conjunction with the credit union's annual membership meeting. They shall hold their offices until their successors are elected or appointed.

(3) Directors shall be elected to terms of between one (1) and three (3) years, as provided in the bylaws. If the terms are longer than one (1) year, the directors must be divided into classes, and an equal number of directors, as nearly as possible, must be elected each year.

(4) Except as provided in subsection (5) of this section, any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety (90) days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) In the case of a merger between two (2) credit unions pursuant to section [26-2132](#), Idaho Code, a board member of the merging credit union may continue to serve as a board member of the

continuing credit union for a period not to exceed the equivalent of the duration of his or her unexpired term on the board of the merging credit union, provided that the approved plan of merger or other agreement approved by the director provides for such service on the continuing credit union's board, with a corresponding expansion in the size of the continuing credit union's board not to exceed the limits under subsection (1) of this section.

(6)(a) The board must have at least six (6) regular meetings each year, with at least one (1) of these meetings held in each calendar quarter.

(b) The director may require the board to meet more frequently than six (6) times per year if the director finds it necessary in order to address matters the director determines necessitate more frequent meetings including, without limitation, evidence of any of the following:

(i) The credit union's current composite capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk (CAMELS) rating issued by the director is a "3," "4" or "5";

(ii) The credit union's current management component CAMELS rating issued by the director is a "3," "4" or "5";

(iii) The credit union's net worth ratio is less than seven percent (7%);

(iv) The credit union is currently in a troubled condition;

(v) In the judgment of the director, the credit union has committed an unsafe or unsound practice that has not been corrected to the satisfaction of the director and that continues to be a concern to the director, or the credit union is about to commit an unsafe or unsound practice; or

(vi) The credit union has been notified in writing by the director of a significant supervisory or financial concern.

(c) If the director determines, as set forth in paragraph (b) of this subsection, that a board of directors must meet more frequently than as set forth in paragraph (a) of this subsection, the director will send written notice to the board chair, with a copy to the credit union's manager, setting forth the director's findings underlying the determination and the required frequency of the board of directors meetings. This notice will remain in effect until rescinded in writing by the director.

**26-2114A. BOARD MEMBERS -- QUALIFICATIONS.** (1) A member of the board of directors must be a natural person and a member of the credit union. If a member of the board of directors ceases to be a member of the credit union, that person's service as a member of the board of directors shall terminate effective on termination of membership in the credit union.

(2)(a) If a member of the board of directors is absent from more than one-fourth (1/4) of the regular board meetings in any twelve (12) month period without being reasonably excused by the board, the member shall no longer serve on the board of directors.

(b) The board shall determine whether a member of the board is excluded from service pursuant to paragraph (a) of this subsection. After such determination has been made, the board secretary shall promptly notify the member of the board that such member shall no longer serve on the board. Failure to provide notice does not affect the termination of the member's service under paragraph (a) of this subsection.

(3) A member of the board of directors must meet any qualification requirements set forth in the credit union's bylaws. If the board determines that a member fails to meet such requirements, the member shall no longer serve on the board.

(4) The operating officers and employees of the credit union may not serve as members of the board of directors of the credit union.

**26-2114B. OFFICIALS -- FIDUCIARY DUTY -- RELIANCE ON INFORMATION. (1)**

Officials owe a fiduciary duty to the credit union and must discharge the duties of their respective positions:

- (a) In good faith;
- (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (c) In a manner the official reasonably believes to be in the best interests of the credit union.

(2) In discharging the duties of an official, the official is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One (1) or more officers or employees of the credit union whom the official reasonably believes to be reliable and competent in the matters presented;
- (b) Legal counsel, public accountants or other persons as to matters the official reasonably believes are within the person's professional or expert competence; or
- (c) A committee of the board of directors or supervisory committee of which the official is not a member if the official reasonably believes the committee merits confidence.

(3) An official is not acting in good faith if the official has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) An official is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

(5) As used in this section, "official" means a member of the board of directors, board officer, supervisory committee member or senior operating officer of the credit union.

**26-2115. OFFICERS. (1)** Within ten (10) days following the organizational meeting and after each annual membership meeting, the board shall elect from among its members a chair of the board, one (1) or more than one (1) vice-chair and a secretary. The board shall also elect other board officers as provided for in the credit union's bylaws for transacting the business of the board of the credit union. The terms of the board officers shall be one (1) year or until their successors are qualified and elected, unless sooner removed as provided in this chapter. All board officers must be elected members of the board.

(2) The chair and secretary shall execute a certificate of election on a form approved by the department of finance, which certificate shall set forth the names and addresses of the officers, members of the board of directors and committee members elected or appointed. One (1) copy of the certificate of election shall be filed with the department of finance within ten (10) days after such election or appointment.

(3) The board may designate as many operating officers as it deems necessary for conducting the business of the credit union including, but not limited to, a president or chief executive officer who shall be in charge of the credit union's day-to-day operations.

(4) A credit union may use any titles it chooses for the officials holding the positions described in this section as long as such titles are not misleading.

**26-2116. BOARD OF DIRECTORS -- POWERS AND DUTIES.** (1) The business and affairs of a credit union shall be managed by the board of directors of the credit union. The duties of the board include, but are not limited to, the duties enumerated in this section. The duties listed in subsection (2) of this section may not be delegated by the credit union's board of directors. The duties listed in subsection (3) of this section may be delegated to a committee, officer or employee, with appropriate reporting to the board.

(2) The board shall:

- (a) Retain the chief executive officer, or equivalent officer as specified in the bylaws, and set the chief executive officer's compensation;
- (b) Set the minimum amount of funds in a share account, if any, required for membership;
- (c) Establish policies governing the operation of the credit union;
- (d) Establish the conditions under which a member may be expelled for cause;
- (e) Approve an annual operating budget for the credit union;
- (f) Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;
- (g) Review the supervisory committee's annual report; and
- (h) Authorize the conveyance of real property and buildings.

(3) In addition, unless delegated, the board shall:

- (a) Determine the maximum amount of shares and deposits that a member may hold in the credit union;
- (b) Set the rate of interest on deposits, including nonmember deposits, and the rate of dividends on shares and authorize the payment of dividends on shares;
- (c) Approve the charge-off of credit union losses;
- (d) Determine the investment of surplus funds of the credit union in investments permitted by this chapter;
- (e) Fill vacancies on all committees; and
- (f) Authorize the credit union to borrow or lend money as needed to carry on the functions of the credit union.

**26-2117. PENALTIES FOR OFFICIAL MISCONDUCT.** Any officer, director, or committee member or loan officer of a credit union who knowingly permits a loan to be made or participates in a loan to a nonmember is guilty of a misdemeanor and shall be primarily liable to the credit union for the amount thus illegally loaned and the illegality of such a loan shall be no defense in any action of the credit union to recover on the loan.

Any officer, director, committee member, agent or employee who knowingly makes or subscribes to false entries or exhibits a false or fictitious paper, instrument, or security to a person authorized to examine the credit union books and records shall be guilty of a felony.

Any officer, director, committee member, agent or employee who receives payments on shares knowing the credit union is insolvent shall be guilty of a misdemeanor.

**26-2118. CREDIT COMMITTEE -- APPOINTMENT -- DUTIES.** (1) The board may appoint a credit committee. The credit committee shall have the general supervision of all loans to members. It shall be the duty of the credit committee to review all applications for loans, to ascertain whether the loan would be for a provident or productive purpose, to determine whether the applicant qualifies for the loan under the credit union's loan and underwriting policies, and to determine

whether the security offered, in the credit committee's judgment, is sufficient, and whether the requested terms of the loan are in accordance with the credit union's loan and underwriting policies.

(2) The credit committee shall meet as often as necessary and at least once each month to review delinquent loans. The credit committee shall keep a record of all actions taken at each meeting and shall submit a written report to the members at the annual meetings and to the board monthly.

(3) The credit committee, upon approval by the board, may appoint one (1) or more loan officers to act under the supervision of the credit committee, and a loan officer, when appointed, may make loans without the necessity for a meeting or of approval by any members of the credit committee, as provided in the bylaws. No more than one (1) member of the credit committee may serve in the position of loan officer. No individual shall have authority to disburse funds of the credit union for any loan that has been approved by him in his capacity as loan officer, except that the loan officer may disburse loans approved by him that are fully secured by shares or that do not exceed the credit union's unsecured loan limit set by the board of directors.

(4) No member of the credit committee may serve as a member of the board of directors or supervisory committee while serving as a member of the credit committee.

**26-2119. LOANS.** (1) A credit union may make secured and unsecured loans to its members under policies established by the board. A person that is not a member of the credit union may serve as a co-borrower or guarantor on a loan to a member of the credit union. Each loan must be evidenced by records adequate to support enforcement or collection of the loan and any review of the loan by the director.

(2) A credit union may not extend credit to a director, executive officer, supervisory committee member, or credit committee member unless the extension of credit is made on substantially the same terms as those prevailing at the time for comparable transactions by the credit union with members generally.

(a) For the purposes of this section, "executive officer" means a person who participates or has authority to participate in policymaking functions of the credit union.

(b) A director, executive officer, supervisory committee member, or credit committee member may not participate in approving or disbursing a loan in which the director, executive officer, supervisory committee member, or credit committee member has a direct or indirect financial interest.

(c) This section shall not prohibit any extension of credit made pursuant to a benefit or compensation program adopted by the board of directors that:

(i) Is widely available to employees of the credit union; and

(ii) Does not give preference to any director, executive officer, supervisory committee member, or credit committee member over other employees of the credit union.

(3) A credit union may make loans to another credit union, federal credit union, or out-of-state credit union.

(4) A credit union may purchase loans made to its members if the credit union's underwriting policies would have permitted it to originate the loans.

(5) A credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:

(a) A loan or group of loans of its members from any source, if they are loans the credit union is empowered to grant or the loan or loans are refinanced with the consent of the

borrowers within sixty (60) days after they are purchased, so that they are loans it is empowered to grant;

(b) A loan or group of loans of a liquidating credit union's individual members from the liquidating credit union;

(c) Student loans from any source if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market. A pool must include a substantial portion of the credit union's members' loans and must be sold promptly; and

(d) Real estate-secured loans, from any source, if the purchaser is granting real estate-secured loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. A pool must include a substantial portion of the credit union's members' loans and must be sold promptly.

(6) A credit union may sell in whole or in part, to any source, a loan to its members within the limitations of the board of directors' written sale policies, provided:

(a) The board of directors or investment committee approves the sale; and

(b) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the credit union's office.

(7) A credit union may purchase a participation interest in a loan from a credit union, credit union service organization, federally insured financial institution, and any state or federal government agency and its subdivision only if the loan is one the purchasing credit union is empowered to grant and the following additional conditions are satisfied:

(a) The purchase complies with all requirements to the same extent as if the purchasing credit union had originated the loan;

(b) The purchasing credit union has executed a written loan participation agreement with the originating lender and the agreement meets the minimum requirements for a loan participation agreement as described in paragraph (g) of this subsection;

(c) The originating lender retains an interest in each participated loan of at least ten percent (10%) of the outstanding balance of the loan through the life of the loan, unless a higher percentage is required under applicable state law;

(d) The borrower becomes a member of one of the participating credit unions before the purchasing credit union purchases a participation interest in the loan;

(e) The purchase complies with the purchasing credit union's internal written loan participation policy, which, at a minimum, must:

(i) Establish underwriting standards for loan participations;

(ii) Establish a limit on the aggregate amount of loan participations that may be purchased from any one (1) originating lender, not to exceed the greater of five million dollars (\$5,000,000) or one hundred percent (100%) of the credit union's net worth, unless this amount is waived by the director;

(iii) Establish limits on the amount of loan participations that may be purchased by each loan type, not to exceed a specified percentage of the credit union's net worth; and

(iv) Establish a limit on the aggregate amount of loan participations that may be purchased with respect to a single borrower, or group of associated borrowers, not to exceed fifteen percent (15%) of the credit union's net worth, unless waived by the director;

(f) To seek a waiver from any of the limitations in subsection (7) of this section, a credit union must submit a written request to the director with a full and detailed explanation of why it is requesting the waiver. Within forty-five (45) days of receipt of a completed waiver request, including all necessary supporting documentation and, if appropriate, any written concurrence, the director shall provide the credit union a written response. The director's decision shall be based on safety and soundness and other considerations. A credit union may request the director to reconsider a denied waiver request or to file an appeal under the administrative procedures rules, or both; and

(g) A loan participation agreement must:

(i) Be properly executed by authorized representatives of all parties under applicable law;

(ii) Be properly authorized by the credit union's board of directors or, if the board has so delegated in its policy, a designated committee or senior management official under the credit union's bylaws and all applicable law;

(iii) Be retained, either in original or copied form, in the credit union's office; and

(iv) Include provisions that, at a minimum, address the following:

1. Prior to purchase, the identification of the specific loan participation or participations being purchased, either directly in the agreement or through a document that is incorporated by reference into the agreement;

2. The interest that the originating lender will retain in the loan to be participated through the life of the loan;

3. The location and custodian for original loan documents;

4. An explanation of the conditions under which parties to the agreement can gain access to financial and other performance information about a loan, the borrower, and the servicer so the parties can monitor the loan;

5. An explanation of the duties and responsibilities of the originating lender, servicer, and participants with respect to all aspects of the participation, including servicing, default, foreclosure, collection, and other matters involving the ongoing administration of the loan; and

6. Circumstances and conditions under which participants may replace the servicer.

(8) Any real estate-secured loans granted by a nonfederally insured credit union shall comply with the appraisal requirements for federally insured credit unions. The director may require any credit union to obtain an appraisal on any real estate-secured loan whenever the director believes it necessary to address safety and soundness concerns.

(9) Any officer, director, supervisory committee member, or credit committee member who knowingly permits a loan to be made or participates in a loan to a nonmember of the credit union, unless the loan to the nonmember is otherwise allowed in this chapter or by a rule pursuant to this chapter, shall be primarily liable to the credit union for the amount illegally loaned. The illegality of such loan shall not be a defense in any action by the credit union to recover the amount loaned.

**26-2120. LIMIT ON LOAN AMOUNT -- LOANS TO ONE BORROWER.** (1) Unless otherwise provided in this chapter or by a rule pursuant to this chapter, no loan may be made to any borrower if the loan would cause the borrower and any associated borrowers to be indebted to the credit union on all types of loans in an aggregated amount exceeding one hundred thousand dollars

(\$100,000) or fifteen percent (15%) of the net worth of the credit union, whichever is greater, without the approval of the director.

(a) This section does not apply to a corporate credit union.

(b) Two (2) borrowers are "associated" for the purposes of this section if any of the following factors are present:

(i) One (1) of them will derive a direct benefit from the credit union's loan to the other. For this purpose, the term "direct benefit" means that the loan proceeds or assets purchased with those proceeds will be transferred to the other party other than in a bona fide arm's-length transaction where the proceeds are used to acquire property, goods, or services;

(ii) Loan proceeds for each of them are used to purchase interests in the same enterprise, and the borrowers will in the aggregate own more than fifty percent (50%) of the ownership interests in such enterprise. In such case, the borrowers are considered associated only to the extent of the loans made to purchase interests in the same enterprise;

(iii) The borrowers are related directly or indirectly through common control and either borrower derives fifty percent (50%) or more of its income from the other. For this purpose, "control" means that a person directly or indirectly owns or has the power to vote twenty-five percent (25%) or more of the ownership interest of an organization, controls the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of an organization, or has the power to exercise a controlling influence over the management or policies of the organization;

(iv) The expected source of repayment is the same for each borrower, and no individual borrower has a separate source of income from which the loan may be paid, taking into account the borrower's other obligations; or

(v) One (1) borrower is generally liable for the obligations or actions of the other.

(2) The limit on a loan amount in this section does not apply to any loan that is fully secured by shares or deposits.

**26-2120A. LIMIT ON LOAN MATURITY.** The maturity of a loan to a member may not exceed fifteen (15) years except as follows:

(1) A credit union may make loans with maturities not to exceed twenty (20) years in the case of:

(a) A loan to finance the purchase of a manufactured home if the manufactured home will be used as the member's residence and the loan is secured by a first lien on the manufactured home, and the manufactured home meets the requirements for the deductibility of residential mortgage interest for income tax under the Internal Revenue Code;

(b) A second mortgage loan or a nonpurchase money first mortgage loan in the case of a residence on which there is no existing first mortgage, if the loan is secured by a residential dwelling that is the residence of the member; and

(c) A loan to finance the repair, alteration, or improvement of a residential dwelling that is the residence of the member.

(2) A credit union may make residential real estate loans on one-to-four family dwellings used as second or vacation residences, including an individual cooperative unit, and that are secured by a first lien upon such dwelling, with maturities not to exceed thirty (30) years.

(3) A credit union may make residential real estate loans to members, including loans secured by manufactured homes permanently affixed to the land, with maturities not to exceed forty (40) years, subject to the following conditions:

(a) The loan shall be made on a one-to-four family dwelling that is or will be the principal residence of the member, and the loan shall be secured by a perfected first lien in favor of the credit union on such dwelling, or a perfected first security interest in the case of either a residential cooperative or a leasehold or ground rent estate;

(b) The loan application shall be a completed standard federal housing administration, veterans administration, federal home loan mortgage corporation, federal national mortgage association, or federal home loan mortgage corporation/federal national mortgage association application form. In lieu of use of a standard application, the credit union may have a current attorney's opinion on file stating that the forms in use meet the requirements of applicable federal, state, and local laws;

(c) The security instrument and note shall be executed on the most current version of the federal housing administration, veterans administration, federal home loan mortgage corporation, federal national mortgage association, or federal home loan mortgage corporation/federal national mortgage association uniform instruments for the jurisdiction in which the property is located. In lieu of use of a standard security instrument and note, the credit union may have a current attorney's opinion on file stating that the security instrument and note in use meet the requirements of applicable federal, state, and local laws; and

(d) The loan shall be secured by a perfected first lien or first security interest in favor of the credit union supported by a properly executed and recorded security instrument.

(4) Lines of credit are not subject to a maturity limit except as determined by contract between the credit union and the member.

**26-2121. SUPERVISORY COMMITTEE -- MEMBERSHIP -- TERMS -- VACANCIES.** (1) A supervisory committee of at least three (3) members must be appointed by the board as provided in the bylaws. Members of the supervisory committee shall serve a term of one (1) to three (3) years, unless sooner removed under this chapter or until their successors are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is appointed each year.

(2) At least one (1) supervisory committee member may attend each regular meeting of the board. However, supervisory committee members may be excluded from executive sessions of board meetings.

(3)(a) If a supervisory committee member is absent from more than one-fourth (1/4) of the committee meetings in any twelve (12) month period without being reasonably excused by the committee, the member shall no longer serve as a member of the committee.

(b) The supervisory committee shall promptly notify the member that such member shall no longer serve as a committee member. Failure to provide notice does not affect the termination of the member's service under paragraph (a) of this subsection.

(4) A supervisory committee member must be a natural person and a member of the credit union. If a member of the supervisory committee ceases to be a member of the credit union, the member shall no longer serve as a committee member.

(5) Any vacancy on the committee must be filled by an interim member appointed by the board.

(6) No operating officer or employee of a credit union may serve on the credit union's supervisory committee. No more than one (1) director may be a member of the supervisory committee at the same time. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee. No board officer of a credit union may serve as the chairperson of the supervisory committee.

**26-2121A. SUPERVISORY COMMITTEE DUTIES.** (1) The supervisory committee of a credit union shall:

- (a) Meet at least quarterly;
- (b) Keep fully informed as to the financial condition of the credit union and the decisions of the credit union's board;
- (c) Perform or arrange for an annual audit of the credit union's financial statements and provide any related findings and recommendations to the board;
- (d) Make or cause to be made a verification of member accounts as follows:
  - (i) At least annually by statistical sampling, with the sampling method to provide for:
    - 1. Random selection;
    - 2. A sample that is representative of the population from which it was selected;
    - 3. An equal chance of selecting each dollar in the population;
    - 4. Sufficient accounts in both number and scope on which to base conclusions concerning management's financial reporting objectives; and
    - 5. Additional procedures to be performed if evidence provided by confirmation alone is not sufficient; or
  - (ii) At least annually by nonstatistical sampling conducted by an independent person licensed as an accountant in the state of Idaho, using nonstatistical sampling methods consistent with generally accepted auditing standards if such methods provide for:
    - 1. Sufficient accounts in both number and scope on which to base conclusions concerning management's financial reporting objectives to provide assurance that the general ledger accounts are fairly stated in relation to the financial statements taken as a whole;
    - 2. Additional procedures to be performed by the accountant if evidence provided by confirmations alone is not sufficient; and
    - 3. Documentation of the sampling procedures used and of their consistency with generally accepted auditing standards, to be provided to the department upon request; or
  - (iii) At least every two (2) years by controlled verification of all member accounts;
- (e) Review or arrange to have reviewed annually the effectiveness of the credit union's internal controls;
- (f) Report its findings and recommendations to the board;
- (g) Provide an annual written report to members at each annual membership meeting on the credit union's financial condition;
- (h) Perform or arrange for additional audits as requested by the board or management or as deemed necessary by the supervisory committee and provide any related findings and

recommendations to management or the board as deemed appropriate by the supervisory committee;

(i) Monitor the implementation of management responses to material adverse findings in audits and regulatory examinations;

(j) Implement a process for the supervisory committee to receive and respond to whistleblower complaints; and

(k) Perform any additional duties as specified by the board or in the credit union's bylaws.

(2) The supervisory committee may in its sole discretion retain, at the credit union's expense, independent counsel or other professional advisors or consultants as necessary to perform the duties under this section.

**26-2121B. SUSPENSION OF MEMBERS OF THE BOARD BY SUPERVISORY**

**COMMITTEE -- FOR CAUSE.** (1) The supervisory committee may, for cause, suspend a member of the board, until a special membership meeting called for that purpose is held in accordance with the requirements of section [26-2113B](#), Idaho Code. The members participating in that meeting shall vote whether to remove the suspended person or persons.

(2) For purposes of this section, "cause" means demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the supervisory committee, create a material risk to the credit union.

**26-2121C. SUSPENSION OF MEMBERS OF THE BOARD OR SUPERVISORY**

**COMMITTEE BY BOARD -- FOR CAUSE.** (1) The board may, for cause, suspend a member of the board or a member of the supervisory committee until a special membership meeting, called for that purpose, is held. The membership meeting must be held within ninety (90) days after the suspension. The members attending the meeting shall vote whether to remove a suspended party.

(2) For purposes of this section, "cause" means demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, create a material risk to the credit union.

**26-2121D. REMOVAL OF DIRECTOR OR SUPERVISORY COMMITTEE MEMBER.** (1)

The members of a credit union may remove a director of the credit union at a special membership meeting held in accordance with section [26-2113B](#), Idaho Code, and called for that purpose. If the members remove a director, the members may at the same special membership meeting elect an interim director to complete the remainder of the former director's term of office or authorize the board to appoint an interim director as provided in section [26-2114](#), Idaho Code.

(2) If at any time, because of the removal of one (1) or more credit union directors under this chapter, the board of directors of a credit union has less than a quorum of directors, all powers and functions vested in or exercisable by the board vest in and are exercisable by the director or directors remaining until such a time as there is a quorum on the board of directors. If all of the directors of a credit union are removed under this chapter, the director of the department of finance shall appoint persons to serve temporarily as directors of the credit union until such a time as their respective successors take office.

(3) The members of a credit union may remove a supervisory committee member at a special membership meeting held in accordance with section [26-2113B](#), Idaho Code, and called for that

purpose. If the members remove a supervisory committee member, the members may at the same special membership meeting elect an interim supervisory committee member to complete the remainder of the former supervisory committee member's term of office or authorize the supervisory committee to appoint an interim supervisory committee member as provided in section [26-2121](#), Idaho Code.

**26-2122. COMPENSATION -- CREDIT UNION MANAGER, EMPLOYMENT.** No officer, director, or committee member may be compensated, directly or indirectly, for his services as such; provided, however, an elected member of the board of directors may serve as a part-time treasurer and receive a salary for his services. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office. The board may authorize the employment of a credit union manager and other employees as needed to conduct the business of the credit union. The board shall establish the compensation to be paid to the manager and any other employees of the credit union which shall be charged as an expense of the credit union. In the event the board of directors authorizes the employment of a manager of the credit union, the manager may not be a member of the board of directors. The credit union may provide group hospitalization and group health and accident insurance for the directors, officers and committee members which will not be considered compensation.

**26-2123. SHARES AND CERTIFICATES OF DEPOSIT.** A share may be in increments of five dollars (\$5.00) with a minimum of five dollars (\$5.00) and a maximum of twenty-five dollars (\$25.00) as the board of directors shall establish. The shares of a credit union shall all be common shares of one (1) class and have a par value as established by the board and bylaws. A member may purchase shares which will earn dividends as duly established by the board pursuant to section [26-2130](#), Idaho Code. Members may also purchase certificates of deposit which will be for a specified length of time and earn interest with a guaranteed rate to be established by the board of directors pursuant to section [26-2130](#), Idaho Code. No certificate shall be issued to denote ownership of a share of the credit union. Shares paid for may be transferred in such manner as the bylaws may prescribe.

In the event of default the credit union shall have and may exercise a lien on the shares and deposits of any member for any sum due the credit union from said member or for any loan made to, cosigned or endorsed by him. Christmas clubs, vacation clubs, travel clubs and other thrift organizations within the membership, which shall have the prior approval of the director of finance, may be established by the board of directors.

**26-2124. JOINT ACCOUNTS.** A member may designate any person or persons to hold shares, deposits, and thrift club accounts with him in joint tenancy with the right of survivorship; but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office. Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.

No credit union organized under the laws of this state shall be required to recognize the claim of any third party of any of the above such accounts or withhold payment of any such accounts to the depositor or to his order, unless and until the credit union is served with citation or other

appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such above accounts.

Such above accounts issued by any credit union organized under the laws of this state in the name of two (2) or more persons or to two (2) or more persons or the survivor of either, may be withdrawn on the signature of either party of whom such accounts were issued, or in whose name such accounts were made, and no recovery shall be had against such credit union for amounts so paid. When such accounts are issued in the name of two (2) or more persons or in the name of their survivor, the survivor of either party shall have power to act in all matters relating to such accounts whether the other person or persons named in such accounts be living or dead. The repurchase or withdrawal value of such accounts issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to any such person who shall make requests therefor, whether the other person or persons be living or dead. The payment or delivery to any such person, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of rights be made, shall be valid and sufficient release and discharge of any such credit union for the payment or delivery so made.

**26-2125. MINORS.** Shares, deposits or thrift club accounts may be issued in the name of a minor and such above accounts may be withdrawn by such minor and payments made on such withdrawals shall be valid.

**26-2126. TRUST ACCOUNTS.** Share [Shares] may be issued in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless a member in his own right, may be permitted to vote, obtain loans, hold office or be required to pay an entrance fee. Payment of part or all of such shares to such member shall, to the extent of such payment, discharge the liability of the credit union to the member and the beneficiary, and the credit union shall be under no obligation to see the application of such payment. In the event of the death of the member, and if shares are so issued or held and the credit union has been given no other written evidence of the existence or terms of any trust, such shares and any dividends or interest thereon shall be paid to the beneficiary.

**26-2127. INVESTMENT OF FUNDS.** (1) A credit union's board of directors must establish a written investment policy consistent with this chapter and other applicable laws and regulations.

(2) A credit union may invest its funds in any of the following, as long as the investments are deemed prudent by the board:

- (a) (i) Loans held by credit unions, out-of-state credit unions, or federal credit unions;  
and
- (ii) Loans to members held by other lenders, with approval of the director;
- (b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government;
- (c) General obligations of this state and its political subdivisions;
- (d) Obligations issued by corporations designated under 31 U.S.C. 9101, or obligations, participations, or other instruments issued and guaranteed by the federal housing administration, veterans administration, federal home loan mortgage corporation, federal national mortgage association, or federal home loan mortgage corporation/federal national

mortgage association, or other government-sponsored enterprise;

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Shares or other interests offered by a registered investment company or collective investment fund, if the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions, as evidenced by its prospectus or other appropriate documentation;

(h) Debt or equity issued by an organization owned by a credit union trade association whose members include Idaho credit unions, in an aggregate amount not to exceed one percent (1%) of the net worth of the credit union;

(i) Stocks, shares, membership units, or other ownership interests in corporations, limited liability companies, or mutual associations, in an aggregate amount not to exceed one percent (1%) of assets, and loans to such organizations in an aggregate amount not to exceed one percent (1%) of assets if:

(i) The ownership of such organizations or membership of such mutual associations, as applicable, is primarily confined to credit unions or organizations of credit unions; and

(ii) The purposes for which the corporation, limited liability company, or mutual association is formed are primarily to service credit unions or their members or otherwise to assist credit union operations.

(3) The director may authorize credit unions to purchase investments not listed above by rule or upon written application.

(4) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

(5) A credit union other than a corporate credit union shall not invest an amount that exceeds twenty-five percent (25%) of its net worth in an obligor or affiliate of the obligor. This subsection does not apply to the extent that the investment is insured or guaranteed by the United States government or an agency of the United States government or a state or local government or that the investment is in a corporate credit union.

(6) A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this act or by rule, order, or declaratory ruling of the director.

**26-2128. LIQUIDITY REQUIREMENTS.** (a) Every credit union shall have on hand as a liquidity reserve an amount equal to four percent (4%) of its outstanding shares, certificates of deposit, and certificates of indebtedness. Share or deposit accounts from which a member may withdraw funds by the use of a negotiable instrument shall be subject to the liquidity reserve requirements of subsection (b) of this section and not to the liquidity reserve requirements of this subsection. Said liquidity reserves, except as hereinafter otherwise provided, shall be kept in cash

on hand or on deposit subject to check or draft, with any bank or banks or corporate credit union located in the state of Idaho, which shall have been approved by the director as liquidity reserve depositories and shall be computed monthly as follows: on the basis of average daily bank deposits and average daily cash on hand.

(b) Every credit union which provides for its member's share or deposit accounts from which the member may withdraw funds by the use of negotiable instrument shall have on hand as a liquidity reserve in addition to the liquidity reserve required by subsection (a) of this section an amount equal to ten percent (10%) of its share and deposit accounts which are subject to withdrawal by the use of negotiable instrument. Said liquidity reserves shall be kept in cash on hand or on deposit subject to check or draft, with any bank or banks or corporate credit union located in the state of Idaho which shall have been approved by the director as liquidity reserve depositories and shall be computed monthly as follows: on the basis of average daily bank or corporate credit union deposits, and average daily cash on hand.

(c) Certificates of deposit issued by the Idaho Corporate Credit Union may be included in meeting the requirements of this section. To the extent a credit union is required to maintain reserves pursuant to the monetary control act of 1980 and the implementing regulations of the board of governors of the federal reserve system, as the same is presently enacted and as it may be amended in the future, the reserves required to be so maintained shall be considered as a part of, and not in addition to, the liquidity reserves required by this section.

**26-2129. RESERVE REQUIREMENTS.** (a) At the end of each accounting period the gross income shall be determined. From this amount there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in rules prescribed under this chapter, sums in accordance with the following:

(1) A credit union in operation for more than four (4) years and having assets of five hundred thousand dollars (\$500,000) or more shall set aside: (i) ten per cent (10%) of gross income until the regular reserve plus the allowance for loan loss account shall equal four per cent (4%) of the total of outstanding loans and risk assets, then (ii) five per cent (5%) of gross income until the regular reserve plus the allowance for loan loss account shall equal six per cent (6%) of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four (4) years or having assets of less than five hundred thousand dollars (\$500,000) shall set aside: (i) ten per cent (10%) of gross income until the regular reserve plus the allowance for loan loss account shall equal seven and one-half per cent (7.5%) of the total of outstanding loans and risk assets, then (ii) five per cent (5%) of gross income until the regular reserve plus the allowance for loan loss account shall equal ten per cent (10%) of the total of outstanding loans and risk assets.

(3) Risk assets do not include loans fully secured by member savings and loans guaranteed by an agency of the state or federal government, to the extent of such guarantee.

(4) Whenever the regular reserve plus the allowance for loan loss account falls below the stated per cent of the total outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(b) The director, in his discretion, may decrease the reserve requirements set forth in subsection (a) of this section when in his opinion such a decrease is necessary or desirable. The director may also require special reserves to protect the interests of members either by rule if it is to be generally applied, or by order for an individual credit union in a particular case.

**26-2130. DIVIDENDS.** (1) After allocation to required reserves, the board of directors may, at the end of any dividend period duly established, declare a dividend to be paid on shares or share certificates from undivided earnings as the bylaws may provide. Dividends may be paid at various rates, or not paid at all, with due regard to the conditions that pertain to each class of share.

(2) Subject to the approval of the board of directors, accounts closed between dividend periods may be credited with dividends at the rate set by the board of directors.

(3) Extraordinary dividends must be calculated on a rational means determined by the board of directors. For purposes of this section, "extraordinary dividends" means all irregularly scheduled and declared dividends.

**26-2131. SHARE REDUCTION.** Whenever the losses of any credit union, resulting from a depreciating in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may, by a majority vote of the entire membership, order a reduction in the shares of each of its shareholders to divide the loss proportionately among the members. If thereafter the credit union shall realize from such assets a greater amount than was fixed by the order of reduction, such excess shall be divided among the shareholders whose assets were reduced, but only to the extent of such reduction.

**26-2132. MERGER.** Any credit union may, with the approval of the director, merge with another credit union under the existing charter of such other credit union. The director shall not approve a merger if the effect of the merger would be to provide a broader common bond than allowable under section [26-2110](#), Idaho Code. The merger may be based upon any plan agreed to by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of the majority of the members of each such credit union at meetings of the members called for such purpose. Any member not present at the meeting may, within the next twenty (20) days, vote by signing a statement on a form prescribed by the board of directors and such vote shall have as full force and effect as if cast at the meeting. If any such member does not vote within the twenty (20) day period, he shall be deemed to be in favor of the merger. After such agreement by the directors and approval by the members of each credit union, the president and secretary of each credit union shall execute a certificate of merger which shall set forth at least all of the following:

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

(b) The vote in favor of adoption of the plan.

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

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

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

Such certificates and a copy of the plan of the merger shall be forwarded to the director and if approved, a copy of the certificate shall be filed with the county clerk of the county in which each credit union participating in the merger has its principal place of business, and then filed with the director, whereupon the charter of the merged credit union as a legal entity separate from the surviving credit union shall terminate.

Upon any such merger so affected, all property, property rights, and interests of the merged credit union, shall vest in the surviving credit union without deed, endorsement or other instrument of transfer, and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union whose charter the merger has affected.

This section shall be construed, when possible, to permit a credit union chartered under the Federal Credit Union Act to merge with one chartered under this chapter, or to permit one chartered under this chapter to merge with one chartered under the Federal Credit Union Act.

**26-2133. REPORTS -- FINANCIAL AND STATISTICAL DATA.** Each credit union shall timely file with the director any financial and statistical report or other information that a federally insured state-chartered credit union is required to file with the national credit union administration. Each report must be certified by the principal operating officer of the credit union. In addition, a credit union shall file reports as may be required by the director.

**26-2134. APPLICATION FEES.** For the purpose of paying the costs incident to the ascertainment of whether articles of incorporation should be issued, the subscribers to any such articles of incorporation shall pay, at the time of filing their articles of incorporation with the director, a fee as fixed by the director, but not to exceed twenty-five dollars (\$25.00), for the purpose of paying costs incident to the investigation of the application. All such fees shall be deposited with the state treasurer for the credit in the finance administrative account in the state dedicated fund.

**26-2135. BOOKS AND RECORDS.** The books and records of a credit union shall be kept in accordance with generally accepted accounting principles and by procedures approved by the director. Every credit union shall keep correct and complete books of accounts, minutes of meetings of members and directors and shall make such books and records and accounts available for examination. The books of account and records shall not be removed from the principal place of business without the consent of the director.

If a credit union utilizes the data processing services of another company the providing of such services by the other corporation shall be subject to the approval of the director and the director shall have the power to require the servicing company to provide such information as the director requires in a form required by the director. Any company providing data processing services for credit unions must agree to provide the director with information for purposes of examination which the director may by rule or regulation require in a form required by the director.

**26-2136. FEES.** (1) On or before February 15 of each calendar year, the director shall fix and collect from each credit union an assessment fee based upon the total assets of the credit union as of December 31 of the previous calendar year, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	FEE
\$50,000 or less	\$50.00 + \$1.00 per thousand dollars of assets
Over \$50,000 and not over \$100,000	\$100.00 + \$.99 per thousand dollars of assets in excess of \$50,000
Over \$100,000 and not over \$250,000	\$149.00 + \$.94 per thousand dollars of assets in excess of \$100,000
Over \$250,000 and not over \$1 million	\$291.00 + \$.89 per thousand dollars of assets in excess of \$250,000
Over \$1 million and not over \$2 million	\$958.00 + \$.80 per thousand dollars of assets in excess of \$1 million
Over \$2 million and not over \$5 million	\$1,758.00 + \$.61 per thousand dollars of assets in excess of \$2 million
Over \$5 million and not over \$8 million	\$3,588.00 + \$.48 per thousand dollars of assets in excess of \$5 million
Over \$8 million	\$5,028.00 + \$.35 per thousand dollars of assets in excess of \$8 million

(2) All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho credit union act shall be deposited into the finance administrative account pursuant to section [67-2702](#), Idaho Code.

**26-2136A. EXAMINATIONS AND INVESTIGATIONS REPORTS -- ACCESS TO RECORDS -- OATHS -- SUBPOENAS.** (1) The director shall examine each credit union at least once every eighteen (18) months, unless the director determines with respect to a credit union that a less frequent examination schedule will satisfactorily protect the financial stability of the credit union and will satisfactorily assure compliance with the provisions of this chapter. The director shall examine a credit union more frequently whenever the director shall deem it necessary.

(2) A report of examination conducted pursuant to subsection (1) of this section shall be forwarded to the chairman of the board of directors and the president or chief executive officer after the completion of the examination. The report shall be considered at the first meeting of the board of directors following its receipt. A reply to the director of finance shall be forwarded by the board of directors within fifteen (15) days of the meeting.

(3) Each credit union, including out-of-state and foreign credit unions permitted to operate in Idaho, and all of its officers and agents shall be required to give to representatives of the department of finance full access to review all books, papers, files, records, and other sources of information under their control, and retain copies of the same, and full access to personnel.

(4) Upon examination or investigation of a credit union, the director:

(a) May appraise and revalue the credit union's investments; and

(b) May require the credit union to charge off or set up a special reserve for loans and investments and other assets.

(5) The director may make an examination and investigation into the affairs of:

- (a) An out-of-state or foreign credit union permitted to operate in Idaho;
- (b) A nonpublicly held organization, or its subsidiary, in which a credit union has a material investment;
- (c) A publicly held organization in which the capital stock or equity is controlled by a credit union;
- (d) A credit union service organization, or any subsidiary of a credit union service organization, in which a credit union has an interest;
- (e) An organization that is not a credit union, out-of-state credit union, federal credit union, or foreign credit union and that has a majority interest in a credit union service organization in which a credit union has an interest;
- (f) A sole proprietorship or organization primarily in the business of managing one (1) or more credit unions;
- (g) A person or business providing any of the following services to a credit union or to a credit union service organization:
  - (i) Data processing services;
  - (ii) Activities that support financial services, including but not limited to lending funds transfer, fiduciary activities, trading activities, and deposit-taking; and
  - (iii) Internet-related services, including but not limited to web services and electronic bill payments, mobile applications, system and software development and maintenance, and security monitoring; or
- (h) A corporation or other business entity that provides alternative share insurance in accordance with section [26-2153](#), Idaho Code.

The director shall have full access to all books, papers, files, records, personnel, and other sources of information under the control of persons described in this subsection.

- (6) In connection with examinations and investigations, the director may:
  - (a) Administer oaths and examine under oath any person concerning the affairs of any credit union or of any person described in subsection (5) of this section; and
  - (b) Issue subpoenas to and require the attendance and testimony of any person at any place within this state and require witnesses to produce books, papers, files, records, and other sources of information.
- (7) The director may accept in lieu of an examination under this section:
  - (a) The report of an examiner authorized to examine a credit union or an out-of-state, federal, or foreign credit union or other financial institution; or
  - (b) The report of an accountant, satisfactory to the director, who has made and submitted a report of the condition of the affairs of a credit union or an out-of-state, federal, or foreign credit union or other financial institution. The director may accept all or part of such a report in lieu of all or part of an examination. The accepted report or accepted part of the report has the same force and effect as an examination under this section.

**26-2136B. EXAMINATION REPORTS AND SPECIFIED OTHER INFORMATION**

CONFIDENTIAL -- EXCEPTIONS -- PENALTY. (1) The following shall be confidential and privileged and not subject to public disclosure under [chapter 1, title 74](#), Idaho Code, and shall be subject to the provisions of section [26-1111](#), Idaho Code:

- (a) Examination reports and information obtained by the department of finance in conducting examinations and investigations under this chapter;

- (b) All written communications between the department of finance and any credit union that relate in any manner to the examination or condition of the credit union;
  - (c) Examination reports and related information from other financial institution regulators obtained by the department of finance;
  - (d) Reports or parts of reports accepted in lieu of an examination under section [26-2136A](#), Idaho Code; and
  - (e) Business plans and other proprietary information obtained by the department of finance in connection with a credit union's application or notice to the department.
- (2)(a) The director, any federal or other financial institution regulatory or supervisory agency, a private insurer authorized pursuant to section [26-2153](#), Idaho Code, and any credit union incorporated or chartered under [title 26](#), Idaho Code, or under federal law or the law of any state and doing business in the state of Idaho shall each have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, and the contents of any documents relating to any confidential communications, between the credit union and the department of finance or federal financial institution regulatory or supervisory agency or private insurer made during the regulatory relationship.
- (b) A communication is confidential if it is made during the regulatory relationship between the department of finance or the federal financial institution regulatory or supervisory agency or private insurer and any such credit union, and if the communication is not designed or intended for disclosure to any other parties.
  - (c) The privilege may be claimed by the credit union or by the department of finance or the federal financial institution regulatory or supervisory agency, or by the lawyer for either. The privilege may be waived only in accordance with this section and section [26-1111](#), Idaho Code.
  - (d) The director or the appropriate officer or employee of the federal financial institution regulatory or supervisory agency or private insurer may disclose confidential communications between the department of finance or agency or private insurer and credit union to the court, in camera, in a civil action. Such disclosure shall also be a privileged communication and the privilege may be claimed by the director, officer, or employee, or his lawyer.
  - (e) No sanction may be imposed upon any credit union as a result of the claim of a privilege by the credit union or the director or the officer or employee of the federal supervisory agency under this section.
- (3) Notwithstanding subsection (1) of this section, the director may furnish examination reports, work papers, final orders, or other information obtained in the conduct of an examination or investigation prepared by the director to:
- (a) Federal agencies empowered to examine credit unions or other financial institutions;
  - (b) Officials empowered to investigate criminal charges. The director may furnish only that part of the report that is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report, or other person examined, that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;
  - (c) The examined credit union or other person examined, solely for its confidential use or for the confidential use of the credit union's attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;
  - (d) The attorney general in his role as legal advisor to the director;

- (e) Prospective merger partners or conservators, receivers, or liquidating agents of a troubled credit union;
- (f) Credit union regulators in other states or foreign jurisdictions regarding an out-of-state or foreign credit union conducting business in this state under this chapter, or regarding a credit union conducting business in the other state or jurisdiction;
- (g) A person officially connected with the credit union or other person examined, as officer, director, supervisory committee member, attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;
- (h) Organizations that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage;
- (i) Organizations insuring or guaranteeing the shares of, or deposits in, the credit union;
- (j) The federal home loan bank of which the credit union is a member or to which the credit union has applied for membership; or
- (k) Other persons as the director may determine necessary to protect the public interest and confidence.

(4) Examination reports, work papers, temporary and final orders, consent orders, other information obtained in the conduct of an examination or investigation furnished under subsection (3) of this section, and all written communication between the department of finance and any credit union that relate in any manner to the condition of the credit union remain the property of the director and, if acquired by any person, shall be returned to the department of finance upon written demand. No person to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the affairs of a person, except that nothing prevents the use in a criminal prosecution of reports furnished under subsection (3)(b) of this section.

(5) In a civil action in which the reports or information are sought to be discovered or used as evidence, they may be disclosed only in accordance with subsection (2) of this section and section [26-1111](#), Idaho Code. After in-camera review of the reports or information in accordance with subsection (2) of this section and section [26-1111\(3\)\(d\)](#), Idaho Code, the court may permit discovery and introduction of only those portions of the report or information that are relevant and otherwise unobtainable by the requesting party. To the extent the court permits discovery and introduction of relevant portions of the report or information, the court shall attach any limitations and restrictions necessary to ensure that the portions of the report or information discovered and introduced shall not be disclosed to the public. This subsection does not apply to an action brought or defended by the director.

(6) Any person who knowingly violates a provision of this section shall be guilty of a misdemeanor.

**26-2136C. DISCLOSURE OF CONFIDENTIAL INFORMATION BY THE DEPARTMENT -- PENALTY.** (1) The department of finance, its director, employees, and former employees shall not disclose to any person or agency any fact or information obtained in the course of business of the department under this chapter, except in the course of their official duties for the department and in the following cases:

- (a) When, by the provisions of this chapter or [chapter 1, title 74](#), Idaho Code, it is made the duty of the department to make public records and publish the same;
- (b) When the department is required by law to take special action regarding the affairs of any credit union;

(c) When called as a witness in any criminal proceeding in a court of competent jurisdiction, provided that the court must review such information in chambers to determine the necessity of disclosing such information, and subject to the privilege provided by sections [26-1111\(3\)](#) and [26-2136B](#), Idaho Code;

(d) When, in the case of a problem credit union, it is necessary or advisable, in the discretion of the director, for the good of the public or of the depositors; or

(e) When, in the discretion of the department, it is advisable to disclose any such information to a state or federal credit union supervisory agency.

(2) Any person who violates the provisions of this section shall be guilty of a felony, and conviction shall subject the offender to a forfeiture of his office or employment.

**26-2137. FALSE REPORTS.** Any person, firm, corporation, or association which maliciously and knowingly spreads false reports about the management or finances of any credit union shall be guilty of a misdemeanor.

**26-2138. TAXATION.** A credit union shall be deemed an institution for savings and, together with all the accumulations therein, shall not be subject to taxation except as to real estate owned. The shares of a credit union shall not be subject to a stock transfer tax when issued by the corporation or when transferred from one (1) member to another.

**26-2139. CONVERSION.** A state chartered credit union may be converted into a federal credit union by complying with the following requirements:

(a) The proposition for such conversion shall first be approved and a date set for a vote thereof by the members, either at a meeting to be held on such date or by a written ballot to be filed on or before such date, by a majority of the board of directors of the state chartered credit union. Written notice of the proposition and of the date set for the vote shall be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union not more than twenty (20) nor less than five (5) days prior to such date. Approval of the proposition for conversion shall require the majority of those votes cast in person or in writing.

(b) A statement of results of the vote verified by the affidavits of the president or vice president and the secretary shall be filed with the director within ten (10) days after the vote is taken.

(c) Promptly after the vote is taken and in no event later than ninety (90) days thereafter if the proposition for conversion is approved by such vote, the credit union shall take such action as may be necessary under the federal law to make it a federal credit union, and within ten (10) days after the receipt of the federal charter, notice shall be filed with the director that the charter has been issued.

(d) Upon ceasing to be a state chartered credit union, such credit union shall no longer be subject to any of the provisions of this chapter.

A federally chartered credit union organized under the Federal Credit Union Act may be converted to a state-chartered credit union by the following procedure: complying with all state requirements requisite to enabling it to meet proof of solvency and organization as required by this chapter.

When the director has been satisfied that all requirements of this chapter have been complied with, he shall approve the organizational certificate as a state-chartered credit union as required by this chapter.

**26-2140. CEASE AND DESIST ORDER -- PENALTY.** (1) If the director finds that any credit union has engaged in an unsafe or unsound practice in conducting the business of such credit union, or any person has violated any provision of this chapter, any rule or order issued under this chapter, any condition imposed in writing by the director, or any written agreement entered into with the director, the director may order the credit union or other person to cease and desist from any such violation or practice. Such order shall be issued pursuant to [chapter 52, title 67](#), Idaho Code.

(2) After providing a notice and an opportunity for a public hearing pursuant to [chapter 52, title 67](#), Idaho Code, the director may assess against and collect a civil money penalty from any credit union or from any director, officer, supervisory committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union who:

- (a) Engages or participates in any unsafe or unsound practice in connection with a credit union; or
- (b) Violates or knowingly permits any person to violate any of the provisions of this chapter, any rule promulgated pursuant to this chapter, or any lawful order of the director issued pursuant to this chapter.

(3) A civil money penalty assessed pursuant to subsection (2) of this section shall not exceed one thousand dollars (\$1,000) per day for each day such violation continues. No civil money penalty shall be assessed for the same act or practice if another government agency has taken similar action against the credit union or person to be assessed such civil money penalty. In determining the amount of the civil money penalty to be assessed, the director of the department of finance shall consider:

- (a) The good faith of the credit union or person to be assessed with such civil money penalty;
- (b) The gravity of the violation;
- (c) Any previous violations by the credit union or person to be assessed with such civil money penalty;
- (d) The nature and extent of any previous violations; and
- (e) Such other matters as the director may deem appropriate.

(4) Upon waiver by the respondent of the right to a public hearing concerning an assessment of a civil money penalty, the hearing or portions thereof may be closed to the public when concerns arise about prompt withdrawal of moneys from or the safety and soundness of the credit union.

(5) For the purposes of this section, a violation shall include but is not limited to any action by any person alone or with another person that causes, brings about, or results in the participation in, counseling of, or aiding or abetting of a violation.

- (6) The director may modify or set aside any order assessing a civil money penalty.

**26-2140A. CONSERVATORSHIP.** (1) The director may, in his discretion and without notice, appoint himself or an agent as conservator and immediately take possession and control of the business and assets of any credit union in any case in which:

- (a) The director determines that such action is necessary to conserve the assets of any credit union or to protect the interests of the members of such credit union;

- (b) The credit union, by a resolution of its board of directors, consents to such an action by the director;
- (c) There is a violation of a cease and desist order, or any law, rule, regulation or any written agreement entered into with the director; or
- (d) There is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the director.

(2) Not later than thirty (30) calendar days after the date on which the director takes possession and control of the business and assets of a credit union, such credit union may apply to the district court for the judicial district in which the credit union is located for an order requiring the director to show cause why he should not be enjoined from continuing such possession and control. Except as provided in this subsection, no court may take any action, except at the request of the director, to restrain or affect the exercise of powers or functions of the director as conservator.

(3) The director may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time as:

- (a) The director shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the director;
- (b) Such credit union is placed in receivership in accordance with the provisions of section [26-2141](#), Idaho Code; or
- (c) Otherwise ordered by the district court of the judicial district in which the credit union is located.

(4) The director may appoint such agents as he considers necessary in order to carry out his duties as conservator.

(5) All expenses of the credit union during the period of the conservatorship shall be paid by the credit union.

(6) The conservator shall have all the powers of the members, the directors, the officers, and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the director.

(7) The authority granted in this section is in addition to all other authority granted to the director under this chapter.

**26-2140B. SUSPENSION OR REMOVAL OF DIRECTORS, SUPERVISORY COMMITTEE MEMBERS, OFFICERS, OR EMPLOYEES -- PROHIBITION OF FUTURE**

**EMPLOYMENT.** (1) The director may issue a written order, pursuant to [chapter 52, title 67](#), Idaho Code, suspending or removing a credit union director, supervisory committee member, officer, or employee upon finding that the director, supervisory committee member, officer, or employee has:

- (a) Been dishonest or reckless in the performance of his official duties;
- (b) Breached his fiduciary duties to the credit union in a manner that is likely to cause substantial loss or seriously weaken the credit union;
- (c) Violated any provision of this chapter, any state or federal law or regulation pertaining to the business of the credit union, or any order of the director;
- (d) Been convicted of a felony or any misdemeanor involving theft or dishonesty; or
- (e) Engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the credit union.

(2) In the event a director, supervisory committee member, officer, or employee has been removed from office as set forth in this section, and the order has not been modified, rescinded, or set aside, or if a person has been removed as a director, supervisory committee member, officer, or employee of a credit union by a federal financial institution regulator or a financial institution regulator in another state, the person is prohibited from becoming employed by a credit union supervised by the director in this state, except as specifically permitted by the director.

(3) The director, officer, employee, or credit union affected by order of the director may immediately petition the district court in the judicial district of the county in which the credit union has its principal place of business or in Ada county to set aside the order of the director. Upon the filing of such petition, the court shall have the jurisdiction to affirm or set aside in whole or in part and remand to the director.

(4) An order issued under this section must contain a statement of the facts that constitute grounds for removal or prohibition and cite relevant state or federal law or regulation.

(5) A prevailing party in any proceeding under this section may be awarded attorney's fees and costs pursuant to section [12-117](#), Idaho Code.

**26-2141. APPOINTMENT OF RECEIVER -- CONDITIONS -- PROCEEDING -- BOND -- REPORTING SCHEDULE -- SUBROGATION OF FEDERAL AGENCY TO RIGHTS OF DEPOSIT OWNERS.** (1) If a credit union refuses to pay its shares, deposits, or obligations in accordance with the terms under which the shares were received or the deposits or obligations were incurred, becomes insolvent, or refuses to submit its books, papers, and records for inspection by the director, or if it appears to the director that the credit union is in an unsafe and unsound condition, the director may apply to the district court for Ada county or for the county in which the principal place of business of the credit union is located for appointment of a receiver for the credit union.

(2) In a proceeding for the appointment of a receiver, the court may act upon the application immediately and without notice to any person. If at any time it appears to the court that the asserted reasons for receivership may not exist, the court shall order the director to show cause as to why the court should not dissolve the receivership.

(3) An insuring federal agency or private share insurer may act as receiver without bond. All other receivers, with the exception of an employee of the Idaho department of finance appointed as receiver in his official capacity, shall post a bond in an amount determined by the court.

(4) A receiver shall report to the director regarding all matters involving the receivership on a schedule established by the director.

(5) If a credit union is closed and placed in receivership, and the insuring federal agency or private share insurer pays or makes available for payment the insured shares and deposit liabilities of the closed credit union, the federal agency or private share insurer, whether or not it has become receiver of the credit union, is subrogated to all of the rights of the owners of the deposits against the closed credit union in the same manner and to the same extent as subrogation of the federal agency or private share insurer under the laws governing the federal agency or private share insurer.

(6) For purposes of this section, "insolvent" means a credit union that meets either of the following:

- (a) It is not able to pay its debts and other obligations, including those related to member shares, as they become due; or
- (b) Its liabilities exceed its assets.

(7) If a federal agency is appointed as receiver of a credit union, the receivership procedures of the federal agency shall govern the receivership.

**26-2141A. RECEIVER -- DUTIES -- POWERS.** (1) A receiver appointed pursuant to section [26-2141](#), Idaho Code, shall do all of the following:

- (a) Take possession of the books, records, and assets of the credit union and collect all debts, dues, and claims belonging to the credit union;
- (b) Sue and defend, compromise, and settle all claims involving the credit union;
- (c) Sell all real and personal property of the credit union;
- (d) Exercise all fiduciary functions of the credit union as of the date of the commencement of the receivership;
- (e) Pay all administrative expenses of the receivership. The administrative expenses are a first charge on the assets of the credit union and the receiver shall pay those expenses before any final distribution or payment of dividends to creditors or members;
- (f) Except as provided in this subsection, pay ratably the debts of the credit union. The receiver may not pay any debt that does not exceed one thousand dollars (\$1,000) in full, but the holder of that debt is not entitled to payment of interest on the debt;
- (g) After paying or providing for payment of all the administrative expenses and debts under subsections (e) and (f) of this section, pay ratably to the members of the credit union the balance of the net assets of the credit union in proportion to the number of shares held and owned by each;
- (h) Have all the powers of the directors, officers, and members of the credit union necessary to support an action taken on behalf of the credit union; and
- (i) Hold title to the credit union's property, contracts, and rights of action, beginning on the date the credit union is ordered into receivership.

(2) A receiver appointed pursuant to section [26-2141](#), Idaho Code, may do all of the following:

- (a) Borrow money as necessary or expedient to aid in the liquidation of the credit union and secure the borrowing by the pledge of a lien, security interest, or mortgage on the assets of the credit union;
- (b) Employ agents, legal counsel, accountants, appraisers, consultants, and other personnel the receiver considers necessary to assist in the performance of the receiver's duties. With the prior approval of the district court, the receiver may employ personnel of the department of finance if the receiver considers the employment to be advantageous or desirable. The expense of employing personnel of the department of finance is an administrative expense of the liquidation that is payable to the department of finance;
- (c) If approved by the district court, dispose of records of a credit union that are obsolete and unnecessary to administer the receivership or retain records, as necessary, through the termination of the receivership or for any period following the receivership as the receiver may find necessary or appropriate. In such case, a receiver may preserve assets of a liquidated credit union and deposit them in an account to be used to maintain the records of a liquidated credit union after the closing of the receivership; and
- (d) Exercise other powers and duties ordered by the district court under the laws of this state applicable to the appointment of a receiver.

**26-2142. VOLUNTARY AND/OR INVOLUNTARY LIQUIDATION.** (1) A credit union may elect to dissolve voluntarily and wind up its affairs in the following manner: The board shall adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of dissolution be submitted to a regular or special meeting of the members. After the adoption of the resolution to voluntarily dissolve, no receipts shall be accepted nor withdrawals permitted from its share or deposit accounts, nor shall any loans be made nor any dividends declared nor paid pending final determination by its membership on the voluntary dissolution. At a meeting specially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy was mailed to the members of the credit union at least ten (10) days prior thereto. Any member not present at such meeting may, within the next twenty (20) days, vote in favor of or may oppose dissolution by signing a statement in form approved by the department of finance and such vote shall have the force and effect as if cast at such meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the president and secretary shall within five (5) days following such meeting notify the department of finance of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses.

(2) If the department of finance, after issuing notice of suspension and providing opportunity for a hearing, rejects the credit union's plan to continue operations, the department of finance may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request a stay of execution of such action by appealing to the appropriate court of the jurisdiction in which the credit union is located. Involuntary liquidation may not be ordered prior to following the suspension procedures outlined in this chapter.

(3) The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The board or, in the case of involuntary dissolution, the liquidating agent shall apply and distribute the assets of the credit union or the proceeds from any disposition of the assets of the credit union in the following sequence:

- (a) Secured creditors, up to the value of their collateral;
- (b) Costs and expenses of liquidation, including a surety bond that shall be required;
- (c) Wages due the employees of the credit union;
- (d) Costs and expenses incurred by creditors in successfully opposing the release of the credit union from certain debts as allowed by the department of finance;
- (e) Taxes owed to the United States or any other governmental unit;
- (f) Debts owed to the United States;
- (g) General creditors; secured creditors, to the extent their claims exceed the value of their collateral; and owners of deposit accounts, to the extent such accounts are uninsured; and
- (h) Members, to the extent of uninsured share accounts and the organization that insured the accounts of the credit union.

As soon as the board or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, the director shall execute a certificate of dissolution. The credit union shall be subject to examination by and reporting to the department of finance to determine that all procedures have been observed as required by this chapter and shall pay such examination fees as are determined by the department of finance in accordance with its schedules.

(4) If the credit union shall not be completely liquidated and its assets discharged within three (3) years after the special meeting of the members, the director may take possession of the

books, records, and assets and proceed to complete liquidation. If the director determines after one (1) year from the commencement of liquidation proceedings that the liquidation is not proceeding in a reasonable and expeditious manner under all of the circumstances, he may take possession of the books, records, and assets and appoint a liquidating agent who shall give a bond to complete the liquidation.

**26-2143. HEAD OFFICE AND BRANCH OFFICES.** (1) A credit union may relocate its head office and the location of its books and records upon written notice to the director.

(2) A credit union may, under such rules as the director may adopt, establish branch offices at locations other than its head office. A credit union shall notify the director in writing at least thirty (30) days before opening a branch office location to conduct business.

(3) Prior to opening a branch office location, a credit union must obtain written approval from the director if:

(a) The credit union is subject to an order issued by the director pursuant to this chapter;

(b) The credit union's current CAMELS rating or its current management or capital CAMELS component ratings, as issued by the director, is a "3," "4," or "5"; or

(c) The location of a proposed branch office is outside of the credit union's current field of membership if its membership is based on a well-defined neighborhood, community, or rural district.

**26-2144. ADMINISTRATION, RULES AND REGULATIONS.** The administration of the provisions of this chapter shall be under the general supervision and control of the director. The director may from time to time make, amend and rescind such rules, regulations and forms necessary to carry out the provisions of this chapter. No rule, regulation or form may be made unless the director finds that the action is necessary or appropriate for the public interest or for the protection of the credit union's welfare consistent with the purposes of this chapter.

**26-2145. AUTHORITY TO EXERCISE FEDERAL POWERS.** (a) Notwithstanding any other provision of law, but subject to the limitations provided for in this section, a credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment which it could make if it were operating as a federal credit union, or a credit union chartered by another state.

(b) Before engaging in any activity or exercising any power afforded under this section, a credit union shall first notify the director of its intent to do so. This notice shall be sent to the director by U.S. mail, postage prepaid, certified or registered, with return receipt requested. Should the director take no action on the request within twenty (20) days of delivery to the director, the right to engage in the action or power so requested shall be deemed granted.

(c) Should the director deny the request, the affected credit union shall have the right to request a hearing before the director, which hearing shall be held within thirty (30) days of the date of the denial.

(d) The director shall have the discretion to deny any request which is inconsistent with the purposes of this chapter.

(e) No such approval shall operate to deny the director of any of his authority under this chapter and such permitted activity shall be subject to regulation by the director.

**26-2146. INVESTMENT IN SERVICE CORPORATION.** No limitation or prohibition otherwise imposed by any provision of the laws of the state of Idaho exclusively relating to credit unions shall prevent or prohibit any two (2) credit unions from investing not more than ten percent (10%) of the paid-in shares and deposits of members of each of them in a credit union service corporation.

**26-2147. CREDIT UNIONS JOINTLY HOLDING STOCK -- EFFECT OF WITHDRAWAL BY ONE CREDIT UNION.** If stock in a credit union service corporation has been held by two (2) credit unions, and one (1) of such credit unions ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stockholding credit union, the corporation may nevertheless continue to function as such and the other credit union may continue to hold stock in it.

**26-2148. DUTY OF CREDIT UNION SERVICE CORPORATION NOT TO DISCRIMINATE -- BURDEN OF PROOF.** Whenever a credit union, referred to in this section as any "applying credit union" subject to examination by either the department of finance of the state of Idaho, or a federal supervisory agency, applies for a type of credit union services for itself from a credit union service corporation which supplies the same type of credit union services to another credit union, and the applying credit union is competitive with any credit union, referred to in this section as a "stockholding credit union" which holds stock in such corporation, the corporation must offer to supply such services by either:

(a) Issuing stock to the applying credit union and furnishing credit union services to it on the same basis as to the other credit unions holding stock in the corporation, or

(b) Furnishing credit union services to the applying credit union at rates no higher than necessary to fairly reflect the cost of such services, including the reasonable cost of the capital provided to the corporation by its stockholders, at the corporation's option, unless comparable services at competitive overall cost are available to the applying credit union from another source, or unless the furnishing of the services sought by the applying credit union would be beyond the practical capacity of the corporation. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the credit union service corporation to show such availability.

**26-2149. PROHIBITED ACTIVITIES.** No credit union service corporation may engage in any revenue producing activity other than the performance of credit union services for credit unions and, to an extent not exceeding one half (1/2) of its total activity, the performance of similar services for persons or organizations other than credit unions.

**26-2150. CUSTOMER-CREDIT UNION COMMUNICATION TERMINAL.** A credit union may make available for use by its customers one (1) or more electronic devices or machines through which the customer may communicate to the credit union a request to withdraw money either from his account or from a previously authorized line of credit, or an instruction to receive or transfer funds for the customer's benefit. The device may receive or dispense cash in accordance

with such a request or instruction, subject to verification on line or off line by the credit union. Any transactions initiated through such a device shall be subject to verification by the credit union either by direct wire transmission or otherwise. Such facilities may be unmanned or manned.

A person may perform as would a device so long as the person does not perform any functions not specifically authorized by this section.

These devices shall be designated as a customer-credit union communication terminal (CCUCT). A CCUCT at locations other than the main office or a branch office of the credit union does not constitute a branch. A credit union shall provide insurance protection under its bonding program for transactions involving such devices.

(a) The establishment and use of CCUCT is subject to the following limitations:

(1) Written notice must be given to the director's office no less than thirty (30) days before any CCUCT is put into operation. Any credit union presently utilizing a CCUCT shall comply with the notice requirements within thirty (30) days. Such notice shall describe with regard to the communication system:

1. the location;
2. a general description of the area where located and the manner of installation;
3. the manner of operation;
4. the kinds of functions which will be performed;
5. whether the CCUCT will be shared, and, if so, under what terms and with what other institutions and their location;
6. the manufacturer and, if owned, the purchase price or, if leased, a copy of the lease;
7. the distance from the nearest credit union office and from the nearest similar CCUCT of the reporting credit union; and
8. the distance from the nearest office and nearest CCUCT of another credit union, which will share the facility, and the name of such other credit union or credit unions.

(2) The functions of the CCUCT shall be limited to:

1. the receiving of deposits;
2. the cashing of checks or drafts;
3. the dispensing of cash;
4. payment of loan proceeds on a prearranged line of credit;
5. the communication of other such information directly related to the customer's account; and
6. receiving loan payments.

(3) Arrangements may be made at the CCUCT for the placing or installation of a receptacle in which a customer may place packaged communication intended for the credit union.

(4) The CCUCT shall be a communication service available only to customers of the credit union or other financial institutions which the board of directors of the credit union may approve.

(5) The CCUCT shall not be advertised as a full service branch or as performing anything other than activities set out in subsection (a)(2) of this section.

(b) To the extent consistent with the anti-trust laws, credit unions are required to share unmanned CUCCTs [CCUCTs] at a reasonable fee with one (1) or more other financial institutions if requested by the other financial institution.

(c) The director may issue a cease and desist order upon a finding that a credit union utilizing a CCUCT is doing so in a manner not specifically authorized by this section.

(d) This section shall be deemed to apply to federal credit unions operating customer-credit union communication terminals and for the purpose of this section a financial institution shall mean any state or federally chartered commercial bank, savings and loan association or credit union authorized by the department of finance or a comparable federal agency to do business in the state of Idaho.

**26-2151. CUSTODIAL ACCOUNTS.** A credit union is authorized to act as custodian or fiduciary for members of the credit union and may receive reasonable compensation for so acting under any written trust instrument or custodial agreement in connection with a tax-advantaged savings plan authorized under the Internal Revenue Code or [chapter 30, title 63](#), Idaho Code, if the funds of such trust or funds subject to the custodial agreement are invested only in savings accounts or deposits in such credit union. All funds held in such fiduciary capacity by any such credit union may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this section.

**26-2152. INTERSTATE CREDIT UNIONS -- APPROVAL -- PERMIT -- FEES -- SUPERVISION.** (1) Provided that the membership limits as defined in section [26-2110](#), Idaho Code, are maintained:

(a) A credit union chartered under this chapter may operate in another state unless prohibited by the law of the other state. Idaho is the home state for any credit union chartered under this chapter.

(b) A credit union chartered under the laws of another state may operate in Idaho with the approval of the director on the terms and conditions provided in subsection (2) of this section. Idaho is the host state for any credit union chartered under the laws of any other state. The state which charters the credit union is the home state of the credit union.

(2) The director may issue a permit to a credit union chartered in another state to operate in this state in a manner consistent with the Idaho credit union act, provided that the credit union applies for such permit on a form approved by the director and has approval from the regulator of credit unions in its home state to operate in Idaho. A credit union for which Idaho is a host state shall acknowledge that Idaho laws relating to consumer protection apply to transactions with residents in Idaho. The credit union for which Idaho is a host state shall maintain its books and records in Idaho or in such other place as the director may agree in writing. The director may, pursuant to [chapter 52, title 67](#), Idaho Code, suspend or revoke the permit of any credit union for which Idaho is the host state for any violation of the Idaho credit union act.

(3) The director shall assess fees as provided in section [26-2136](#), Idaho Code, to be paid by a credit union for which Idaho is the host state on the basis of the assets of the credit union which are derived from its operations in Idaho. The director, in his discretion, may adjust such fees according to the level of participation of the department in the supervision of the credit union.

(4) The director may enter into agreements with private share insurers and credit union regulators both with the federal government and in other states, to coordinate and facilitate regulation and supervision of interstate credit unions as permitted by section [26-2610](#), Idaho Code.

**26-2153. SHARE AND DEPOSIT INSURANCE.** (1) Not later than January 1, 1986, a state-chartered credit union shall apply for and obtain insurance on shares and deposits as provided by the national credit union administration under title II of the federal credit union act (12 U.S.C. section 1781 et seq.), or alternatively, a form of comparable insurance approved by the director. This requirement does not apply to a credit union with debt and equity capital consisting primarily of funds from other credit unions.

(2) A credit union which has been denied a commitment for such insurance shall within thirty (30) days after the denial, commence steps to either liquidate, or merge with an insured credit union, or apply in writing to the director for additional time to obtain an insurance commitment.

The director shall grant one or more extensions of time to obtain the insurance upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the insurance.

(3) No credit union shall be granted a charter by the director unless such credit union has obtained insurance of its member share and deposit accounts.

(4) (a) Notwithstanding the above, a credit union whose members, after being fully informed on the subject, vote, by a simple majority of those members present at a meeting called for such purpose, to not obtain share insurance, shall not be required to obtain such insurance as condition precedent to doing business in this state.

(b) In those credit unions in which the membership has voted to reject the need for share insurance, the rejection shall be placed before the membership for reconsideration at least biannually thereafter.

(c) Should the membership of a credit union, in which the need for share insurance has been rejected, determine, as provided above, that the need for share insurance does exist, the credit union shall, within thirty (30) days following the date of the meeting held for the purpose of voting on the subject, make application for and obtain insurance as provided above.

(d) Those credit unions whose members have voted to remain uninsured shall disclose to their members, on a regular and periodic basis, that their shares and deposits in that credit union are not protected by share insurance and the procedures required by this section.

(5) The director may make available reports of condition and examination findings to the national credit union administration or to any qualified insuring organization and may accept any report of examination made on behalf of such agency or organizations. The director may appoint an official of the national credit union administration or of any qualified insuring organization as a liquidating agent of an insured credit union.

**26-2154. CREDIT UNIONS ELIGIBLE AS DEPOSITORIES.** Notwithstanding any other provision of this chapter, any state credit union or federal credit union located within this state may become a state depository by making application for that purpose to the state treasurer and may accept such funds as nonmember deposits.

**26-2155. DESIGNATION OF DEPOSITORY -- REPORTING OF RESERVES AND UNDIVIDED EARNINGS.** (1) The state treasurer shall designate credit unions qualified under this chapter as a state depository or depositories. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of state funds in the account of any public entity in any credit union exceed at any one time, the total of the reserves and undivided earnings of such credit union or the

total sum covered by share and deposit insurance provided by either the national credit union share insurance fund or by a deposit guarantee corporation authorized to issue share and deposit insurance contracts in this state, whichever sum shall be less. In the event that any credit union has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every credit union designated as a state depository and holding any deposit of the funds of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits, file with the state treasurer the affidavit of one (1) of its officers showing the amount of the reserves and undivided earnings of such credit union. Such affidavits shall be effective for the purposes of this section, to and including January 31 next following the date of their filing but no longer, and, on or before that date, if such credit union is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year. No such credit union shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit as is herein required and which still continues in effect is on file with the state treasurer in accordance with this section.

(3) The state treasurer is authorized in his or her discretion and from time to time to negotiate for the payment to designated state depositories of reasonable compensation for services rendered in acting as such depositories. The method and/or rate of such compensation and the terms and conditions thereof shall be fixed by the state treasurer after such negotiation, which may include the calling of bids for specific services. All bids received, whether by a formal bidding process or by negotiation, and the compensation fixed by the treasurer, which shall be in the form of a written agreement, shall be a matter of public record.

**26-2156. BOND COVERAGE.** (1) Each credit union must be adequately insured against risk. The board of directors of each credit union must at least annually review its bond and other insurance coverage to ensure that it is adequate in relation to the potential risks facing the credit union and the minimum requirements set by the board.

(2) Each credit union must purchase a blanket fidelity bond that:

- (a) Covers the officers, employees, directors, members of official committees, attorneys and other agents;
- (b) Covers against loss caused by fraud and dishonesty; and
- (c) Has the following required minimum dollar amount of coverage:

Assets	Minimum Bond
\$0 to \$4,000,000	Lesser of total assets or \$250,000
\$4,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000
\$50,000,001 to \$500,000,000	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000, to a maximum of \$5,000,000
Over \$500,000,000	1% of assets rounded to the nearest hundred million, to a maximum of \$9,000,000

(3) The maximum amount of allowable deductible is computed based on the credit union's asset size and capital level, as follows:

Assets	Maximum Deductible
\$0 to \$100,000	No deductible allowed
\$100,001 to \$250,000	\$1,000
\$250,001 to \$1,000,000	\$2,000
Over \$1,000,000	\$2,000 plus .001 of total assets, to a maximum of \$200,000; for credit unions that received a composite capital, asset, management, earnings, liquidity, and sensitivity (CAMELS) rating of "1" or "2" for the last two (2) full examinations and maintained a net worth classification of "well-capitalized" under national credit union administration (NCUA) regulations part 702 for six (6) immediately preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under NCUA regulations part 702, has remained "well-capitalized" for the six (6) immediately preceding quarters after applying the applicable RBNW requirements, the maximum deductible is \$1,000,000

(4) The director may require an additional amount of bond coverage for a credit union, taking into account the size of the credit union, the credit union's field of membership, risk level of the credit union, and any other factors the director finds relevant to the determination of appropriate bond coverage for a credit union.

(5) The board of directors should purchase additional or enhanced coverage when circumstances warrant.

(6) If a credit union fails to maintain a blanket fidelity bond in the amount prescribed by the director, the director may order the credit union to cease its operations until such time when the credit union obtains the required bond.

(7) When a credit union receives notice that its fidelity bond coverage will be suspended or terminated, the credit union shall notify the director in writing no fewer than thirty (30) days prior to the effective date of the suspension or termination.

**26-2157. AUTHORITY OF DIRECTOR TO CALL AND ATTEND SPECIAL MEETING OF THE BOARD.** The director may require and attend a special meeting of the board of a credit union if an examination of the credit union results in a composite capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk (CAMELS) rating of "3," "4," or "5." The director's request for a special board meeting must be made in writing to the chairman and the secretary of the board. On receipt of such a request, the secretary shall designate a time and place for the special board meeting, which shall be held within thirty (30) days after receipt of the request. The director may require the attendance of all of the directors at the special board meeting, and an absence unexcused by the director constitutes a violation of this chapter.

**26-2170. DEFINITION, PURPOSE AND RESTRICTIONS, IDAHO CORPORATE CREDIT UNION.** (a) The Idaho corporate credit union is a cooperative nonprofit corporate entity which can assist credit unions in meeting their investment and borrowing needs, assist credit unions in the sound management of their liquid assets and serve as a financial intermediary for credit unions.

(b) Any person, corporation, copartnership or association, except a corporate credit union organized under the provisions of this chapter, or the Federal Credit Union Act, using a name or title containing the words "corporate credit union" or any derivation thereof or representing themselves as a corporate credit union shall be fined not more than one thousand dollars (\$1,000), or imprisoned not more than one (1) year or both and may be permanently enjoined from using such words in its name.

**26-2171. ORGANIZATION -- IDAHO CORPORATE CREDIT UNION.** Any seven (7) or more credit unions within the state of Idaho, with at least one (1) credit union from each of the seven (7) chapters of the Idaho credit union league, may, through designated delegates appointed by their board of directors, organize the Idaho corporate credit union and become members thereof by:

(a) Filing an application furnished by the director;

(b) Executing in duplicate, articles of incorporation by the terms of which they agree to be bound, which articles shall state:

(1) The name, which shall include the words "Idaho Corporate Credit Union" and the city in which the proposed credit union is to have its principal place of business;

(2) The term of existence of the credit union, which shall be perpetual;

(3) The par value of shares of the Idaho corporate credit union, which shall be one hundred dollars (\$100);

(4) The names and addresses of the respective credit unions who are subscribers to the articles of incorporation and the number of shares subscribed by each; and

(c) Adopting bylaws for the general government of the credit union, consistent with provisions of this act and executing the same in duplicate.

(d) Forwarding the required charter fee, application, articles of incorporation and the bylaws to the director. If they conform to the statute, as determined by the director, he shall issue a certificate of approval to the articles and return a copy of the bylaws and the articles to the applicants or their representative, which shall be preserved in the permanent files of the credit union.

(e) The subscribers for the Idaho corporate credit union shall not transact any business until formal approval of the charter has been received. The director shall cause to be prepared a form of articles of incorporation and a form of bylaws consistent with this act which shall be used by the Idaho corporate credit union incorporators for their guidance.

**26-2172. AMENDMENTS -- IDAHO CORPORATE CREDIT UNION.** The articles of incorporation or the bylaws may be amended as provided in the bylaws and in accordance with section [26-2106](#), Idaho Code.

**26-2173. CORPORATE POWERS -- IDAHO CORPORATE CREDIT UNION.** The Idaho corporate credit union shall have the general rights and powers of any other credit union organized under the Idaho Credit Union Act and shall have the following additional powers:

(a) As authorized by its board of directors or executive committee, to deposit in federally insured state and national banks and deposit with or invest in shares of or loans to United States central credit union to an extent which shall not exceed its shares, and certificates of deposit.

(b) Receive investments from members in the form of shares or corporate deposits. Time deposits of surplus funds shall be evidenced by certificates of deposit having a maturity of not less than ninety (90) days. Surplus funds are those funds which are not needed to meet the member's loan needs or expenses.

(c) To pay and return on shares, share certificates and deposits at such rates as are determined by the board of directors, giving due consideration to the amount and time period of the savings or investment commitment.

(d) To borrow from any source except individuals provided that the total amount shall not exceed fifty percent (50%) of its members' shares, daily interest deposits and certificates of deposit. Provided that with prior written approval of the director of finance, the corporate credit union may exceed the fifty percent (50%) limitation.

(e) To make loans and to participate with the United States central credit union in making loans to members of the corporate credit union upon the terms and conditions determined by the board of directors.

(f) To make deposits in any member credit union in this state and the United States central credit union.

(g) To purchase the fixed assets of a member credit union if the board of directors of the corporate credit union determines it in the best interest of the member credit union.

(h) To develop and enter into agreement for the purpose of participation in any governmental agency liquidity or interlending system among credit unions and for the purpose of aiding credit unions in establishing concentrated lines of credit with other financial institutions, and to act as a depositor and transmitter of funds for the purpose of carrying out this power.

(i) To accept deposits from the United States central credit union in the form of certificates of deposit.

**26-2174. MEMBERSHIP IN THE IDAHO CORPORATE CREDIT UNION.** Membership in the Idaho corporate credit union shall be limited to and consist of the credit union subscribers to the articles of incorporation, credit unions organized under the Idaho credit union act or the federal credit union act, and organizations or associations of credit unions who have paid the membership fee, if any, as provided in the bylaws, have subscribed to and paid for one (1) or more shares as provided in the bylaws and have complied with such other requirements as the articles of incorporation or the bylaws may specify.

**26-2175. EXPULSION AND/OR WITHDRAWAL FROM THE FIELD OF MEMBERSHIP OF THE IDAHO CORPORATE CREDIT UNION.** A member of the Idaho corporate credit union may be expelled by the board of directors, but only after an opportunity has been given to the member to be heard for the purpose of such expulsion. A written notice of this hearing, setting forth the time, place, and date for such meeting shall be forwarded to the member by the board, together with the charges which serve as the basis for the expulsion. The member may be expelled for failure to meet the conditions of its membership, failure to carry out its obligation to the credit union, or refusal to comply with the provisions of the law or bylaws under which the corporate credit union operates or habitual neglect to pay obligations. Upon completion of the hearing, and if

the board of directors has voted to expel the member, the member shall remain liable for any sums owed to the Idaho corporate credit union for loans and/or other purposes. The Idaho corporate credit union may require twenty (20) days' written notice to withdraw shares and/or deposits by the member, as funds become available.

**26-2176. MEETINGS AND ELECTIONS OF THE IDAHO CORPORATE CREDIT UNION.** Meetings and elections shall be held as indicated in the bylaws. Each member shall have one (1) vote irrespective of shareholdings. No member may vote by proxy, but may vote through a duly authorized delegate appointed by the members of the board of directors or executive committee of each corporate member.

**26-2177. OFFICIAL FAMILY -- IDAHO CORPORATE CREDIT UNION.** The business affairs of the corporate credit union shall be managed by a board of directors of at least seven (7) directors. One (1) director shall be elected from the designated delegates of each of the seven (7) credit union chapters of the state, as defined by the Idaho credit union league structure. The board of directors may serve as the supervisory committee or may employ an auditor acceptable to the director and may delegate certain loan functions and preapproved lending limits to the manager of the corporate credit union.

**26-2178. OFFICERS -- IDAHO CORPORATE CREDIT UNION.** Within sixty (60) days following the organizational meeting and at each annual meeting, the directors shall elect from their own number a chairman, one (1) or more vice-chairmen, a treasurer and a secretary, of whom the last two (2) may be the same individual. An assistant treasurer may be appointed by the board of directors. The chairman and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors and members elected or appointed. The certificate of election shall be executed on a form approved by the department of finance and one (1) copy of each shall be filed with the department of finance within ten (10) days after such election or appointment. The terms of the officers shall be for such terms respectively as the bylaws provide, and until their successors are chosen and have been duly qualified.

**26-2179. BOARD OF DIRECTORS -- IDAHO CORPORATE CREDIT UNION.** The board of directors of the corporate credit union shall have the same general powers and duties as boards of directors of credit unions organized under the Idaho credit union act and in the corporate credit union bylaws.

**26-2180. LOANS TO MEMBER CREDIT UNIONS -- IDAHO CORPORATE CREDIT UNION.** The Idaho corporate credit union may loan to members upon such security and for purposes only as provided in its bylaws. Loans shall be evidenced by a written instrument and within limits set by board policy. No loan shall be made unless approved in writing by a majority of the board of directors or manager as delegated by the board of directors.

The board may establish lines of credit to member credit unions based on the financial statements of the member credit union. Where a line of credit has been approved, application for

loans need no further consideration as long as the aggregate obligation does not exceed the limits of such line of credit. The board of directors shall at least once a year review all lines of credit and any lines of credit shall expire if the member becomes more than sixty (60) days delinquent in its obligations to the Idaho corporate credit union.

**26-2181. COMPENSATION -- CORPORATE OFFICERS.** The officers of the corporate credit union shall have the same rights regarding compensation as officers of other credit unions organized under the Idaho credit union act. Nothing in this section is to be interpreted to preclude the corporate credit union officers from receiving an honorarium as established annually by the board of directors for each meeting plus their actual expenses.

**26-2182. SHARES AND DEPOSITS.** (a) A share is defined as a term applied to each one hundred dollars (\$100) standing to the share account of a member. The shares of a credit union shall all be common shares of one (1) class and shall have a par value of one hundred dollars (\$100) per share. No certificate shall be issued to denote ownership of a share in the credit union.

(b) In the event of default, the Idaho corporate credit union shall have and may exercise a lien on the shares of any member for any sum due the credit union from said member.

**26-2183. RESERVE ALLOCATIONS -- IDAHO CORPORATE CREDIT UNION.** No reserve shall be required for the corporate credit union except a special reserve may be required by the director of finance when an annual examination reflects need for such reserves for potential losses from investments. Loans one (1) month to six (6) months delinquent shall be required to have a reserve equal to ten percent (10%) of the unpaid balance of such loans. Loans over six (6) months delinquent shall be required to have a reserve equal to one hundred percent (100%) of the unpaid balance of such loans. The director may allow distribution of the special reserve if the losses do not materialize.

**26-2184. DIVIDENDS -- IDAHO CORPORATE CREDIT UNION.** (a) After allocations to the reserve account if required by the director, the board of directors may at the end of any dividend period duly established, declare a dividend from undivided earnings as the bylaws may provide.

(b) Dividends shall be paid on all fully paid shares outstanding at the close of the dividend periods.

(c) And provided further that the Idaho corporate credit union may pay interest on daily deposit balances of its members which are in excess of the capital share base requirement for membership.

(d) No dividend shall be declared or paid at a time when the corporation is insolvent.

**26-2185. APPLICABLE PROVISIONS OF THE IDAHO CREDIT UNION ACT.** The following provisions of the Idaho credit union act shall apply to the Idaho corporate credit union:

(a) Share reduction, section [26-2131](#), Idaho Code.

(b) Reports, section [26-2133](#), Idaho Code.

(c) Books and records, section [26-2135](#), Idaho Code.

- (d) Examinations, section [26-2136A](#), Idaho Code.
- (e) False reports, section [26-2137](#), Idaho Code.
- (f) Cease and desist orders, suspension, and liquidation, section [26-2140](#), Idaho Code.
- (g) Administration, rules and regulations, section [26-2144](#), Idaho Code.
- (h) Fiscal year, section [26-2112](#), Idaho Code.
- (i) Penalties for official misconduct, section [26-2117](#), Idaho Code.

**26-2186. TAXATION -- IDAHO CORPORATE CREDIT UNION.** The Idaho corporate credit union shall be deemed an institution for savings and, together with all the accumulations therein, shall not be subject to taxation except to real estate owned. The shares of a credit union shall not be subject to a stock transfer tax when issued by the corporation or when transferred from one (1) member to another.

**26-2187. CONSTRUCTION AGAINST REPEAL.** This chapter being a general chapter intended as unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

**26-2188. SEVERABILITY.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.