

## CHAPTER 259

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**FINANCIAL INSTITUTIONS**

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**HOUSE BILL 93-1275**

BY REPRESENTATIVES Salaz, Jerke, Allen, Hagedorn, and Kerns;  
also SENATORS Wattenberg, Mutzebaugh, Tebedo, and Traylor.

**AN ACT**

**CONCERNING THE AUTHORITY OF THE FINANCIAL SERVICES DIVISION OF THE STATE OF COLORADO,  
AND, IN CONNECTION THEREWITH, CREATING THE FINANCIAL SERVICES BOARD.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 11-30-101 (1) (b), (3), and (4), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**11-30-101. Definitions - organization - charter.** (1) (b) As used in this article:

(I) "BOARD" MEANS THE FINANCIAL SERVICES BOARD, CREATED IN SECTION 11-44-101.6.

⊕ (I.1) "Commissioner" means the state commissioner of financial services.

(II) "Division" means the division of financial services created in section 11-44-101.

(3) An application in such form as may be prescribed by the commissioner together with the articles of incorporation and the bylaws shall be filed with the commissioner in triplicate upon the payment of a filing fee, as determined from time to time by the commissioner, to cover the reasonable and necessary expense to the division attributable to such application. Within thirty days after such filing and payment of such fee, the commissioner shall determine whether the same conform to the provisions of this article and whether such a credit union would benefit the members and proposed members thereof, consistent with the purposes of this article, the general character and fitness of the incorporators, and the economic advisability of establishing the proposed credit union. EXCEPT FOR A COMMUNITY CHARTER

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

APPLICATION, WHICH APPLICATION SHALL BE SUBMITTED TO THE BOARD FOR HEARING PURSUANT TO SECTION 11-30-101.7, THE COMMISSIONER MAY APPROVE OR DENY AN APPLICATION WITHOUT NOTICE AND HEARING.

(4) Upon approval of ~~such~~ AN application and documents by the commissioner, ~~he~~ OR BY THE BOARD WITH RESPECT TO A COMMUNITY CHARTER APPLICATION, THE COMMISSIONER shall issue a certificate of approval in triplicate and attach a copy thereof to each copy of the said articles of incorporation. The incorporators shall then file approved articles with the secretary of state, and a copy of the articles, certified by the secretary of state, shall be filed with the commissioner. The incorporators shall pay to the secretary of state a fee for filing the articles of incorporation, and a fee for certifying the copy of articles of incorporation furnished by the incorporators for filing with the commissioner, both fees to be determined and collected pursuant to section 24-21-104 (3), C.R.S.

**SECTION 2.** Article 30 of title 11, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**11-30-101.7. Hearing procedures for community charter credit unions.**

(1) AN APPLICATION FOR A COMMUNITY CHARTER SHALL BE SUBJECT TO APPROVAL BY THE BOARD AFTER THE REQUIRED NOTICE AND HEARING REQUIREMENTS IN THIS SECTION ARE MET.

(2) UPON SUBMISSION BY THE COMMISSIONER PURSUANT TO SECTION 11-30-101 (3) OF A COMMUNITY CHARTER APPLICATION, THE BOARD SHALL HOLD A PUBLIC HEARING TO CONSIDER THE APPLICATION. SUCH HEARING SHALL BE SET BY THE BOARD WITHIN SIX MONTHS AFTER RECEIPT OF AN APPLICATION FROM A GROUP THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION; HOWEVER, THE BOARD MAY POSTPONE SUCH HEARING FOR VALID REASONS AND GOOD CAUSE.

(3) THE BOARD SHALL GIVE NOTICE OF A HEARING ON A COMMUNITY CHARTER APPLICATION AT LEAST THIRTY DAYS BEFORE THE HEARING DATE, BY REGISTERED OR CERTIFIED MAIL, TO THE APPLICANT, TO EACH CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, BANK, OR INDUSTRIAL BANK WITHIN THE NEIGHBORHOOD, COMMUNITY, OR RURAL DISTRICT SOUGHT TO BE SERVED BY THE PROPOSED COMMUNITY CREDIT UNION, AND TO SUCH OTHER PERSONS, CREDIT UNIONS, SAVINGS AND LOAN ASSOCIATIONS, BANKS, OR INDUSTRIAL BANKS AS THE BOARD MAY DESIGNATE. SUCH NOTICE SHALL BE IN THE FORM PRESCRIBED BY THE BOARD AND SHALL INCLUDE THE NAMES OF THE INCORPORATORS, THE NAME AND LOCATION OF THE PROPOSED COMMUNITY CREDIT UNION, THE DATE, TIME, AND PLACE OF THE HEARING, AND A STATEMENT THAT THE APPLICATION AND PROPOSED OR AMENDED ARTICLES OF INCORPORATION AND PROPOSED BYLAWS ARE AVAILABLE FOR INSPECTION IN THE OFFICE OF THE BOARD. THE BOARD SHALL ALSO CAUSE SUCH NOTICE TO BE PUBLISHED AT LEAST ONCE, NOT LESS THAN TWENTY DAYS PRIOR TO THE HEARING DATE, IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE NEIGHBORHOOD, COMMUNITY, OR RURAL DISTRICT IN WHICH THE PROPOSED CREDIT UNION IS TO BE LOCATED. NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SECTION TO THE CONTRARY, IF THE BOARD HAS GIVEN THE REQUIRED NOTICE OF A HEARING AND AS OF THE TENTH DAY PRIOR TO THE HEARING HAS RECEIVED NO WRITTEN PROTEST AGAINST SUCH APPLICATION, THE BOARD MAY GRANT SUCH CHARTER WITHOUT A HEARING IF THE APPLICANTS ARE KNOWN TO THE BOARD.

(4) ON HEARING, THE BOARD MAY ADMIT INTO EVIDENCE THE APPLICATION AND ANY OTHER RELEVANT INFORMATION IN THE FILES OF THE DIVISION. THE APPLICANT AND ALL OTHERS WHO RECEIVE NOTICE BY REGISTERED OR CERTIFIED MAIL PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE ENTITLED TO BE HEARD AND TO INTRODUCE TESTIMONY AT SUCH HEARING. THE BOARD MAY ENTERTAIN SUCH EVIDENCE OR TESTIMONY FROM OTHERS AS THE BOARD DETERMINES, IN ITS SOLE DISCRETION, TO BE NECESSARY.

(5) WITHIN NINETY DAYS FOLLOWING THE CONCLUSION OF A HEARING, THE BOARD SHALL ISSUE A WRITTEN ORDER GRANTING A CHARTER IF THE BOARD FINDS:

(a) THAT THE APPLICATION, ARTICLES OF INCORPORATION, AND BYLAWS CONFORM TO THE PROVISIONS OF THIS ARTICLE AND ANY RULES PROMULGATED BY THE BOARD;

(b) THAT THE CREDIT UNION WOULD BENEFIT ITS MEMBERS OR PROPOSED MEMBERS, CONSISTENT WITH THE PURPOSES OF THIS ARTICLE, THAT THE GENERAL CHARACTER AND FITNESS OF THE INCORPORATORS IS APPROPRIATE, AND THAT IT IS ADVISABLE FROM AN ECONOMIC STANDPOINT TO ESTABLISH THE PROPOSED CREDIT UNION;

(c) THAT THE NEIGHBORHOOD, COMMUNITY, OR RURAL DISTRICT IS POLITICALLY, GEOGRAPHICALLY, SOCIALLY, OR ECONOMICALLY WELL-DEFINED; AND

(d) THAT THE MEMBERS OF OTHER CREDIT UNIONS WITHIN THE NEIGHBORHOOD, COMMUNITY, OR RURAL DISTRICT ARE SPECIFICALLY EXCLUDED FROM MEMBERSHIP, EXCEPT AS OTHERWISE PROVIDED BY THE BOARD FOR GOOD CAUSE.

(6) A CREDIT UNION SEEKING TO ESTABLISH A COMMUNITY CHARTER AS PART OF A CONVERSION FROM A FEDERAL TO A STATE CHARTER IS SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF THIS SECTION.

**SECTION 3.** 11-30-103 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-30-103. Membership.** (2) Credit union organization and membership, other than those of a central credit union, shall be limited to groups having a common bond of employment or association or groups which reside within a well-defined neighborhood, community, or rural district having a population of no more than twenty-five thousand or as otherwise authorized by the ~~commissioner~~ BOARD. Small groups which ~~said~~ THE commissioner determines to lack the potential membership to organize their own credit union may be eligible for membership in an existing credit union if such small groups have a common bond of employment or association. A member of the immediate family of any person who, under the provisions of this article, is eligible for membership in a credit union may also be admitted to membership therein. "Immediate family" means persons related by blood, by marriage, or by adoption.

**SECTION 4.** Article 30 of title 11, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**11-30-103.5. Branches.** ANY CREDIT UNION WITH A COMMON BOND CONSISTING

OF GROUPS RESIDING WITHIN A WELL-DEFINED NEIGHBORHOOD, COMMUNITY, OR RURAL DISTRICT HAVING A POPULATION OF GREATER THAN ONE HUNDRED THOUSAND SHALL BE LIMITED TO ONE ADDITIONAL BRANCH OFFICE UNTIL JANUARY 1, 1997.

**SECTION 5.** 11-30-106 (3) and (7), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**11-30-106. Examinations - reports - powers of commissioner.** (3) The ~~commissioner~~ BOARD may issue rules and regulations necessary for the administration and enforcement of this article and shall reference the same to the sections of this article to which they apply. Such rules and regulations shall be promulgated pursuant to the provisions of article 4 of title 24, C.R.S., and a copy of such rules and regulations and of each order shall be mailed to each credit union in this state at least thirty days prior to the effective date thereof, except as to temporary or emergency rules.

(7) The commissioner may issue cease and desist orders if ~~he~~ THE COMMISSIONER determines from competent and substantial evidence that a credit union is engaged or has engaged, or when the commissioner has reasonable cause to believe the credit union is about to engage, in an unsafe or unsound practice or is violating or has violated, or when the commissioner has reasonable cause to believe the credit union is about to violate, a material provision of any law or regulation or any condition imposed in writing by the commissioner or any written agreement made with the commissioner. Any person aggrieved by a final order of the commissioner issued pursuant to this section may ~~obtain a review of the order in the district court of the city and county of Denver pursuant to the provisions of section 24-4-106, C.R.S. The commencement of such proceedings does not, unless specifically ordered by the court, operate as a stay of the commissioner's order~~ APPEAL SUCH ORDER TO THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.8.

**SECTION 6.** 11-30-106.5 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-30-106.5. Assessment of civil money penalties.** (2) Civil money penalties shall be assessed by written notice of assessment of a civil money penalty served upon the person to be assessed. The notice of assessment of a civil money penalty shall state the amount of the penalty, the period for payment, the legal authority for the assessment, and the matters of fact or law constituting the grounds for assessment. The notice of assessment of a civil money penalty ~~shall constitute a final order for purposes of judicial review pursuant to section 24-4-106, C.R.S.~~ MAY BE APPEALED TO THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.8.

**SECTION 7.** 11-30-117.5 (4), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-30-117.5. Share insurance required.** (4) Neither the commissioner, nor his deputy, nor any other person appointed by the commissioner, shall divulge any information acquired by him in the discharge of his duties, except insofar as the same may be rendered necessary by law or under order of court in an action involving the division or in criminal actions; EXCEPT THAT ANY PARTY ENTITLED TO APPEAR IN A HEARING ON AN APPLICATION FOR A COMMUNITY CREDIT UNION CHARTER SHALL HAVE

ACCESS TO THE APPLICANT'S PROPOSED ARTICLES OR AMENDED ARTICLES OF INCORPORATION, APPLICATION FOR CHARTER, AND PROPOSED BYLAWS. The commissioner may make available reports of condition and examination findings to the national credit union administration board, to any qualified insuring organization, to any liquidating agent appointed by the commissioner, or to any department or division of any other state having supervisory authority over credit unions, and may accept any report of examination made on behalf of such board, organization, liquidating agent, department, or division. Notwithstanding any provision of this article to the contrary, the commissioner may disclose any information in the records of the division or acquired by him in the discharge of his duties which is available from the national credit union administration board or the disclosure of which has been specifically authorized by the board of directors of the credit union to which such information relates.

**SECTION 8.** 11-30-122 (2) (c), (3), (4), and (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended to read:

**11-30-122. Merger.** (2) The merger shall thereupon be consummated in the following manner:

(c) The certificate above provided for and the bylaws, both executed in duplicate, shall be forwarded to the ~~commissioner~~ BOARD.

(3) The ~~commissioner~~ BOARD, within thirty days of receipt of said certificate and bylaws, shall determine whether they comply with the provisions of this article and whether or not the merger of the credit unions involved would benefit the members and be consistent with the purposes of this article.

(4) If the ~~commissioner~~ BOARD approves the merger, ~~he~~ IT shall so notify the representatives and shall issue a certificate of approval, attach it to the duplicate certificate, and return the same to the representatives of the participating credit unions together with the duplicate of the bylaws.

(5) The duplicate of the certificate of merger with the ~~commissioner's~~ BOARD'S certificate of approval attached shall be filed with the secretary of state who shall make a record of said certificate and return it, with his certificate of record attached, to the ~~commissioner~~ BOARD for permanent record. The fee for said filing shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

**SECTION 9.** Article 44 of title 11, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**11-44-101.4. Definition.** AS USED IN ARTICLES 30 AND 40 TO 46 OF THIS TITLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "BOARD" MEANS THE FINANCIAL SERVICES BOARD, CREATED IN SECTION 11-44-101.6.

**11-44-101.6. Financial services board - creation.** (1) THERE IS HEREBY ESTABLISHED IN THE DIVISION THE FINANCIAL SERVICES BOARD WHICH SHALL CONSIST OF FIVE MEMBERS.

(2) (a) THERE SHALL BE THREE MEMBERS WHO DURING THEIR TENURE ARE, AND SHALL REMAIN, EXECUTIVE OFFICERS OF STATE CREDIT UNIONS AND SHALL HAVE NOT LESS THAN FIVE YEARS' PRACTICAL EXPERIENCE AS AN ACTIVE EXECUTIVE OFFICER OF A CREDIT UNION.

(b) THERE SHALL BE ONE MEMBER WHO DURING SUCH MEMBER'S TENURE IS, AND SHALL REMAIN, THE EXECUTIVE OFFICER OF A STATE SAVINGS AND LOAN ASSOCIATION AND SHALL HAVE NOT LESS THAN FIVE YEARS' PRACTICAL EXPERIENCE AS AN ACTIVE EXECUTIVE OFFICER OF A SAVINGS AND LOAN ASSOCIATION.

(c) THERE SHALL ALSO BE ONE MEMBER TO SERVE AS A PUBLIC MEMBER OF THE BOARD WHO SHALL HAVE EXPERTISE IN FINANCE THROUGH CURRENT EXPERIENCE IN BUSINESS, INDUSTRY, AGRICULTURE, OR EDUCATION.

(d) NOT MORE THAN THREE MEMBERS SHALL BE OF THE SAME MAJOR POLITICAL PARTY. NO MEMBER OF THE BOARD SHALL HAVE ANY INTEREST, DIRECT OR INDIRECT, IN A FINANCIAL INSTITUTION IN WHICH ANOTHER MEMBER OF THE BOARD SHALL HAVE ANY SUCH INTEREST.

(3) MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE SENATE. APPOINTMENTS SHALL TAKE EFFECT ON JULY 1, 1993. THE TERM OF OFFICE OF EACH MEMBER SHALL BE FOUR YEARS WITH THE EXCEPTION OF THE FIRST APPOINTMENTS WHEREIN TWO MEMBERS SHALL BE APPOINTED FOR A TWO-YEAR TERM TO EFFECT THE STAGGERING OF TERMS. THE GOVERNOR MAY, AFTER NOTICE AND HEARING, REMOVE A MEMBER FOR CAUSE. ANY BOARD MEMBER WHO IS ABSENT FROM THREE CONSECUTIVE BOARD MEETINGS IS SUBJECT TO IMMEDIATE REMOVAL BY THE GOVERNOR.

(4) EACH MEMBER OF THE BOARD SHALL RECEIVE THE SAME PER DIEM COMPENSATION AND REIMBURSEMENT OF EXPENSES AS THOSE PROVIDED FOR MEMBERS OF BOARDS AND COMMISSIONS IN THE DIVISION OF REGISTRATIONS PURSUANT TO SECTION 24-34-102 (13), C.R.S. PAYMENT FOR ALL SUCH EXPENSES AND ALLOWANCES SHALL BE MADE UPON VOUCHERS THEREFOR, WHICH SHALL BE FILED WITH THE DIVISION OF ACCOUNTS AND CONTROL IN THE DEPARTMENT OF ADMINISTRATION.

(5) THE BOARD SHALL MEET AT LEAST ONCE EVERY THREE MONTHS. THE CHAIR OF THE BOARD MAY CALL ADDITIONAL MEETINGS OF THE BOARD UPON AT LEAST SEVENTY-TWO HOURS' NOTICE TO ALL MEMBERS OF THE BOARD AND SHALL DO SO UPON THE REQUEST OF TWO MEMBERS. ALL MEMBERS OF THE BOARD SHALL BE SUBJECT TO IMMEDIATE CALL IN THE EVENT OF AN EMERGENCY. THREE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM, AND ACTION TAKEN BY A MAJORITY OF THOSE PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT SHALL BE THE ACTION OF THE BOARD. UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THOSE PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT, ONE OR MORE MEMBERS MAY BE AUTHORIZED TO CONDUCT ANY HEARING REQUIRED UNDER ARTICLES 30 AND 40 TO 46 OF THIS TITLE. IN THE EVENT THAT LESS THAN A QUORUM OF THE BOARD IS PRESENT DURING THE CONDUCT OF THE HEARING, AT LEAST A QUORUM OF THE BOARD SHALL READ THE ENTIRE RECORD BEFORE VOTING THEREON. NO MEMBER WHO IS, OR WAS AT ANY TIME IN THE PRECEDING TWELVE MONTHS, A DIRECTOR, OFFICER, PARTNER, EMPLOYEE, MEMBER, OR STOCKHOLDER OF A CORPORATION, PARTNERSHIP,

OR UNINCORPORATED ASSOCIATION WHICH IS A PARTY TO A PROCEEDING BEFORE THE BOARD SHALL PARTICIPATE IN SUCH A PROCEEDING. A MEMBER MAY DISQUALIFY HIMSELF OR HERSELF FROM PARTICIPATING IN A PROCEEDING FOR ANY OTHER CAUSE DEEMED BY THE MEMBER TO BE SUFFICIENT.

(6) A QUORUM MAY BE ESTABLISHED BY MEANS OF A CONFERENCE TELEPHONE CALL WHICH SHALL BE RECORDED IN THE BOARD'S MINUTES. UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THOSE PRESENT AT ANY MEETING AT WHICH A QUORUM IS PRESENT, THE BOARD MAY HOLD AN EXECUTIVE SESSION TO CONSIDER CERTAIN MATTERS REQUIRED BY STATUTE TO BE KEPT CONFIDENTIAL UNDER ARTICLES 30 AND 40 TO 46 OF THIS TITLE. ANY AGENDA AND THE MINUTES OF EXECUTIVE SESSIONS SHALL BE KEPT CONFIDENTIAL BY THE BOARD.

(7) SUCH CLERICAL, TECHNICAL, AND LEGAL ASSISTANCE AS THE BOARD MAY REQUIRE SHALL BE PROVIDED BY THE DIVISION.

(8) THE MEMBERS OF THE BOARD SHALL, BEFORE ENTERING UPON THE DISCHARGE OF THEIR DUTIES, IN ADDITION TO ANY OATH REQUIRED BY THE STATE CONSTITUTION, TAKE AND SUBSCRIBE AN OATH TO KEEP SECRET ALL INFORMATION ACQUIRED BY THEM IN THE DISCHARGE OF THEIR DUTIES, EXCEPT AS MAY BE OTHERWISE REQUIRED BY LAW. ANY PERSON WHO WILLFULLY VIOLATES THIS OATH IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(9) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS TO SERVE FOR A TERM NOT EXCEEDING TWO YEARS, AS DETERMINED BY THE BOARD. NO CHAIR SHALL BE ELIGIBLE TO SERVE AS SUCH FOR MORE THAN TWO SUCCESSIVE TERMS. IN ADDITION TO THE AMOUNTS RECEIVED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE CHAIR SHALL RECEIVE PER DIEM COMPENSATION AND REIMBURSEMENT OF EXPENSES IN THE AMOUNTS PROVIDED BY SECTION 24-34-102 (13), C.R.S., FOR EACH DAY SPENT IN ATTENDING TO THE DUTIES OF THE BOARD.

(10) FOR THE FISCAL YEAR BEGINNING JULY 1, 1993, ALL MONEYS NECESSARY TO FUND THE BOARD, INCLUDING BUT NOT LIMITED TO PER DIEM COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR BOARD MEMBERS, SHALL BE TRANSFERRED FROM THE MONEYS ALLOCATED FOR TRAVEL EXPENSES FOR THE DIVISION.

**11-44-101.7. Powers of the financial services board.** (1) THE BOARD IS THE POLICY-MAKING AND RULE-MAKING AUTHORITY FOR THE DIVISION AND HAS THE POWER TO:

(a) REGULATE ITS OWN PROCEDURE AND PRACTICE; AND

(b) MAKE, MODIFY, REVERSE, AND VACATE RULES AND REGULATIONS FOR THE PROPER ENFORCEMENT AND ADMINISTRATION OF ARTICLES 30 AND 40 TO 46 OF THIS TITLE.

(2) IN ADDITION TO ANY OTHER POWERS CONFERRED ON IT BY ARTICLES 30 AND 40 TO 46 OF THIS TITLE, THE BOARD HAS THE POWER TO:

(a) MAKE ALL FINAL DECISIONS WITH RESPECT TO THE ORGANIZATION, CONVERSION, OR MERGER OF CREDIT UNIONS AND SAVINGS AND LOAN ASSOCIATIONS, LICENSING OF SMALL BUSINESS DEVELOPMENT CREDIT CORPORATIONS PURSUANT TO ARTICLE 36 OF THIS TITLE, AND ADMINISTRATION OF LIFE CARE INSTITUTIONS OR PROVIDERS PURSUANT TO ARTICLE 13 OF TITLE 12, C.R.S.;

(b) MAKE ALL FINAL DECISIONS WITH RESPECT TO THE SUSPENSION OR LIQUIDATION OF CREDIT UNIONS AND SAVINGS AND LOAN ASSOCIATIONS UNDER ARTICLE 30 OF THIS TITLE AND THIS ARTICLE; AND

(c) MAKE ALL FINAL DECISIONS WITH RESPECT TO THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE WITH RESPECT TO A SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION UNDER ARTICLE 36 OF THIS TITLE.

(3) THE BOARD HAS THE POWER TO:

(a) PROHIBIT THE TAKING OF SHARES OR DEPOSITS OR TO RESTRICT THE WITHDRAWAL OF SHARES OR DEPOSITS, OR BOTH, FROM ANY ONE OR MORE STATE CREDIT UNIONS OR SAVINGS AND LOAN ASSOCIATIONS WHEN THE BOARD FINDS THAT EXTRAORDINARY CIRCUMSTANCES MAKE SUCH A RESTRICTION NECESSARY FOR THE PROPER PROTECTION OF DEPOSITORS IN THE AFFECTED STATE CREDIT UNION OR SAVINGS AND LOAN ASSOCIATION;

(b) AUTHORIZE STATE CREDIT UNIONS AND SAVINGS AND LOAN ASSOCIATIONS TO ENGAGE IN ANY ACTIVITY IN WHICH SUCH FINANCIAL INSTITUTIONS COULD ENGAGE WHERE THEY ARE OPERATING UNDER A FEDERAL CHARTER OR CERTIFICATE OF APPROVAL AT THE TIME SUCH AUTHORITY IS GRANTED, SO LONG AS SUCH ACTIVITY IS NOT PROHIBITED BY STATE LAW AND TO THE EXTENT PERMISSIBLE UNDER THE RULES AND REGULATIONS OF THE BOARD;

(c) AFFIRM, MODIFY, REVERSE, VACATE, OR STAY THE ENFORCEMENT OF ANY ORDER, RULING, OR DETERMINATION MADE BY THE COMMISSIONER ACTING PURSUANT TO AUTHORITY DELEGATED BY THE BOARD;

(d) ISSUE A DECLARATORY ORDER WITH RESPECT TO THE APPLICABILITY OF ARTICLE 13 OF TITLE 12, C.R.S., ARTICLES 30, 36, AND 40 TO 46 OF THIS TITLE, OR ANY RULE AND REGULATION ISSUED BY THE BOARD TO ANY PERSON, PROPERTY, OR STATE OF FACTS UNDER SAID PROVISIONS;

(e) REVIEW AND COMMENT ON THE PRELIMINARY BUDGET DRAFT FOR THE DIVISION PRIOR TO ITS SUBMISSION TO THE DEPARTMENT OF REGULATORY AGENCIES;

(f) ANNUALLY ESTABLISH SUCH FEES AND ASSESSMENTS AND THE PERCENTAGES THEREOF AS ARE NECESSARY TO GENERATE THE MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DIVISION;

(g) COMMENT TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES ON WHO SHALL BE THE COMMISSIONER AND TO RECOMMEND TO SAID EXECUTIVE DIRECTOR THE TERMINATION OF THE COMMISSIONER FOR CAUSE;

(h) PERFORM ANY ACTS AND MAKE ANY DECISIONS INCIDENTAL TO OR NECESSARY

FOR CARRYING OUT ITS FUNCTIONS AS SET FORTH IN ARTICLE 13 OF TITLE 12, C.R.S., AND ARTICLES 30, 36, AND 40 TO 46 OF THIS TITLE;

(i) ISSUE SUBPOENAS AND REQUIRE ATTENDANCE OF ANY AND ALL OFFICERS, DIRECTORS, AND EMPLOYEES OF ANY CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION, OR LIFE CARE INSTITUTION OR PROVIDER, AND SUCH OTHER WITNESSES AS THE BOARD MAY DEEM NECESSARY IN RELATION TO ITS AFFAIRS, TRANSACTIONS, AND CONDITIONS, AND MAY REQUIRE SUCH WITNESSES TO APPEAR AND ANSWER SUCH QUESTIONS AS MAY BE PUT TO THEM BY THE BOARD, AND MAY REQUIRE SUCH WITNESSES TO PRODUCE SUCH BOOKS, PAPERS, OR DOCUMENTS IN THEIR POSSESSION AS MAY BE REQUIRED BY THE BOARD. UPON APPLICATION OF THE BOARD AND SUBJECT TO ANY PROTECTIVE ORDER WHICH MAY BE ENTERED BY A DISTRICT COURT, ANY PERSON SERVED WITH A SUBPOENA ISSUED BY THE BOARD MAY BE REQUIRED, BY ORDER OF THE DISTRICT COURT OF THE COUNTY WHERE THE CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION, OR LIFE CARE INSTITUTION OR PROVIDER HAS ITS PRINCIPAL OFFICE, TO APPEAR AND ANSWER SUCH QUESTIONS AS MAY BE PUT TO SUCH PERSON BY THE BOARD AND BE REQUIRED TO PRODUCE SUCH BOOKS, PAPERS, OR DOCUMENTS IN SUCH PERSON'S POSSESSION AS MAY BE REQUIRED BY THE BOARD.

(4) THE BOARD MAY ISSUE CEASE AND DESIST ORDERS, SUSPEND A DIRECTOR, OFFICER, OR EMPLOYEE OF A CREDIT UNION OR SAVINGS AND LOAN ASSOCIATION, OR ASSESS CIVIL MONEY PENALTIES, IN THE SAME MANNER AS PROVIDED IN SECTION 11-30-106 (7) AND (8), CONCERNING POWERS OF THE COMMISSIONER, AND SECTION 11-44-106.5, CONCERNING SUSPENSION OR REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES, AND AS PROVIDED IN SECTIONS 11-30-106.5 AND 11-44-123, CONCERNING ASSESSMENT OF CIVIL MONEY PENALTIES BY THE COMMISSIONER.

(5) EXCEPT WITH RESPECT TO THE ORGANIZATION OF COMMUNITY CHARTER CREDIT UNIONS, THE BOARD MAY, IN ITS DISCRETION, DELEGATE TO THE COMMISSIONER ANY OF ITS POWERS, DUTIES, AND FUNCTIONS.

(6) THE BOARD MAY, IN ITS DISCRETION, REQUIRE THE COMMISSIONER TO REPORT TO THE BOARD PERIODICALLY WITH RESPECT TO ANY POWERS DELEGATED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(7) THE BOARD SHALL HAVE THE POWER TO APPROVE OR DENY MERGER AGREEMENTS FOR CREDIT UNIONS AS PROVIDED IN SECTION 11-30-122. MERGERS INVOLVING A COMMUNITY CHARTER SHALL BE SUBJECT TO A PUBLIC HEARING PURSUANT TO SECTION 11-30-101.7.

(8) THE BOARD SHALL HAVE A SEAL OF OFFICE CONTAINING THE WORDS "FINANCIAL SERVICES BOARD OF COLORADO" IN THE FORM OF A CIRCLE AND THE WORD "SEAL" WITHIN THE CIRCLE.

**11-44-101.8. Review of commissioner actions by financial services board - judicial review.** (1) ANY CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION, OR LIFE CARE INSTITUTION OR PROVIDER, OR ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT, ADVISOR, OR VOLUNTEER THEREOF, MAY APPEAL TO THE BOARD ANY ACTIONS TAKEN PURSUANT TO AUTHORITY

DELEGATED BY THE BOARD PURSUANT TO SECTION 11-44-101.7 (5) OR AS OTHERWISE SPECIFICALLY PROVIDED BY STATUTE. NOTICE OF SUCH APPEAL SHALL BE FILED WITH THE COMMISSIONER WITHIN THIRTY DAYS AFTER SUCH FINDINGS, RULING, ORDER, DECISION, OR OTHER ACTION. SUCH NOTICE SHALL CONTAIN A BRIEF STATEMENT OF THE PERTINENT FACTS UPON WHICH SUCH APPEAL IS BASED. WITHIN SIXTY DAYS AFTER THE APPEAL IS FILED, THE BOARD SHALL FIX A DATE, TIME, AND PLACE FOR HEARING THE APPEAL AND SHALL NOTIFY THE CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION, OR LIFE CARE INSTITUTION OR PROVIDER AT LEAST THIRTY DAYS PRIOR TO THE DATE OF SAID HEARING. ANY SUCH ACTION OF THE COMMISSIONER MAY BE STAYED BY THE BOARD PENDING THE APPEAL TO THE BOARD. THE FINDINGS, ORDER, DECISION, RULING, OR OTHER ACTION OF THE BOARD SHALL BE DEEMED FINAL AGENCY ACTION.

(2) ANY CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, SMALL BUSINESS DEVELOPMENT CREDIT CORPORATION, OR LIFE CARE INSTITUTION OR PROVIDER, OR ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT, ADVISOR, OR VOLUNTEER THEREOF, AGGRIEVED OR DIRECTLY AFFECTED BY A FINAL ORDER OF THE BOARD MAY OBTAIN JUDICIAL REVIEW THEREOF BY FILING AN ACTION FOR REVIEW PURSUANT TO THE PROVISIONS OF SECTION 24-4-106, C.R.S., IN THE DISTRICT COURT OF THE COUNTY WHERE ANY SUCH ENTITY HAS ITS PRINCIPAL OFFICE OR THE DISTRICT COURT OF THE CITY AND COUNTY OF DENVER. THE COMMENCEMENT OF SUCH PROCEEDING DOES NOT, UNLESS SPECIFICALLY ORDERED BY THE COURT, OPERATE AS A STAY OF THE BOARD'S RULING, ORDER, DECISION, OR OTHER ACTION.

**SECTION 10.** 11-44-107, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-44-107. Not to divulge information.** Neither the commissioner, nor his deputy, nor any other person appointed by the commissioner shall divulge any information acquired by him in the discharge of his duties, except insofar as the same may be rendered necessary by law or under order of court in an action involving the division or in criminal actions; EXCEPT THAT ANY PARTY ENTITLED TO APPEAR IN A HEARING ON AN APPLICATION FOR A SAVINGS AND LOAN ASSOCIATION CHARTER OR APPROVAL OF A MERGER OF SAVINGS AND LOAN ASSOCIATIONS SHALL HAVE ACCESS TO THE APPLICANT'S PROPOSED ARTICLES OR AMENDED ARTICLES OF INCORPORATION, APPLICATION FOR CHARTER, AND PROPOSED BYLAWS. The commissioner may furnish information as to the condition of the savings and loan associations to the federal home loan bank board, or to the federal home loan bank or any of its agencies, or to the savings and loan departments of other states, or to an insurer authorized to insure obligations or accounts pursuant to articles 40 to 47.5 of this title, or to the executive director of the department of regulatory agencies and the division of banking. Notwithstanding any provision contained in this article to the contrary, the commissioner, his deputies, or other persons appointed by the commissioner may disclose any information in the record of the division of financial services or acquired by them in the discharge of their duties which is available from the home loan bank board or the disclosure of which has been specifically authorized by the board of directors of the association to which such information relates.

**SECTION 11.** 11-44-111, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**11-44-111. Appeal from commissioner's action.** When any association, of whose property, business, and assets the commissioner has taken possession, deems itself aggrieved thereby, IT MAY APPEAL TO THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.8 AND RECEIVE EXPEDITED CONSIDERATION AS SOON AS PRACTICABLE, AND if it has, within ten days after the commissioner took possession, served written notice on the commissioner of its intention to seek to enjoin in court ~~his~~ THE COMMISSIONER'S further proceedings, it may apply at any time within thirty days after such taking possession to the district court of the county in which the principal office of the association is located to enjoin further proceedings. After citing the commissioner to show cause why further proceedings should not be enjoined and hearing the evidence of the parties and determining the facts, the court may, upon the merits, dismiss such application or enjoin the commissioner from further proceedings and direct ~~him~~ THE COMMISSIONER to surrender such business, property, and assets to such association. An appeal from such judgment shall operate as a stay from the commissioner's taking possession, and no bond need be given if such appeal is taken by the commissioner; but, if such appeal is taken by such association, a bond shall be given as required by the court.

**SECTION 12.** 11-44-119, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**11-44-119. Association's right to resort to court.** Nothing in articles 40 to 46 of this title shall be construed to prevent an association or person affected by any order, ruling, proceeding, act, or action of the commissioner OR THE FINANCIAL SERVICES BOARD or any person acting ~~in his~~ ON behalf and at ~~his~~ THE instance OF THE COMMISSIONER OR THE FINANCIAL SERVICES BOARD, OR BOTH, from testing the validity of the same in any court of competent jurisdiction, through injunction, appeal, or other proper process or proceeding, mandatory or otherwise.

**SECTION 13.** 11-44-123 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-44-123. Assessment of civil money penalties.** (2) Civil money penalties shall be assessed by written notice of assessment of a civil money penalty served upon the person to be assessed. The notice of assessment of a civil money penalty shall state the amount of the penalty, the period for payment, the legal authority for the assessment, and the matters of fact or law constituting the grounds for assessment. The notice of assessment of a civil money penalty ~~shall constitute a final order for purposes of judicial review pursuant to section 24-4-106, C.R.S.~~ MAY BE APPEALED TO THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.8.

**SECTION 14.** 11-47-104, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**11-47-104. Administration - powers of commissioner and financial services board.** The provisions of this article shall be administered by the commissioner ~~who~~ UNDER THE SUPERVISION OF THE FINANCIAL SERVICES BOARD. THE FINANCIAL SERVICES BOARD AND THE COMMISSIONER shall have the authority to do all acts necessary and required to carry out the purpose of this article. To this end, ~~he~~ THE FINANCIAL SERVICES BOARD is empowered to make, amend, and rescind rules and regulations consistent with said provisions and to prescribe a standard form for the

statements and reports required to be made or filed by eligible public depositories and to require uniform use of the same. ACTS OF THE COMMISSIONER ARE SUBJECT TO APPEAL TO THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.8.

**SECTION 15.** 11-47-106 (3), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

**11-47-106. Minimum amount of eligible collateral required to be maintained as security for public deposits.** (3) The market value of eligible collateral maintained or pledged shall be determined and calculated in accordance with the rules and regulations prescribed by the ~~commissioner~~ FINANCIAL SERVICES BOARD from time to time. The market value of eligible collateral on any valuation date shall be presumed to be its market value to and until the next following valuation date.

**SECTION 16.** 11-47-109 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-47-109. Where collateral held - right of substitution - income derived.** (1) The eligible collateral required to be maintained as provided in sections 11-47-106 and 11-47-107 or required to be pledged as provided in section 11-47-108 shall be held in escrow by another savings and loan association in Colorado, by a state or national bank in Colorado, or by any federal home loan bank or branch thereof or any federal reserve bank or branch thereof approved by the commissioner, and held in such manner as the ~~commissioner~~ FINANCIAL SERVICES BOARD shall prescribe by rule and regulation. All collateral so held shall be clearly identified as being security maintained or pledged for the aggregate amount of public deposits accepted and held on deposit by said eligible public depository.

**SECTION 17.** 11-47-112 (6), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-47-112. Power and authority of commissioner.** (6) (a) The ~~commissioner~~ FINANCIAL SERVICES BOARD may promulgate regulations to require an eligible public depository to reduce or eliminate its uninsured public deposit liability if said depository's regulatory capital does not comply with the minimum requirement of the federal savings and loan insurance corporation. Notwithstanding any other provision in this article to the contrary, the ~~commissioner~~ FINANCIAL SERVICES BOARD also may promulgate regulations to require a depository to pledge eligible collateral having a market value in excess of one hundred percent of the aggregate amount of public deposits not insured by the federal savings and loan insurance corporation, if said depository's regulatory capital does not comply with the minimum requirement of the federal savings and loan insurance corporation. Notwithstanding any other provision in this article to the contrary, the ~~commissioner~~ FINANCIAL SERVICES BOARD may promulgate regulations to require an eligible public depository to pledge a minimum amount of eligible collateral.

(b) Repealed, L. 89, p. 615, § 13, effective April 19, 1989.

**SECTION 18.** 11-47-118 (3), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**11-47-118. Public moneys to be deposited only in eligible public depositories - penalty for violation.** (3) Notwithstanding any other provision of this section to the contrary, nothing shall be construed to prevent a savings and loan association which is an eligible public depository operating pursuant to the provisions of this article from being or acting as an agent in behalf of any public entity for the purposes of making investments as authorized by part 6 of article 75 of title 24, C.R.S. Any such savings and loan association shall maintain such accounting records as are necessary to readily distinguish between the activities authorized by said part 6 of article 75 of title 24, C.R.S., and the purposes of the public deposit protection requirements imposed upon it as a condition of being an eligible public depository. The ~~commissioner~~ FINANCIAL SERVICES BOARD may promulgate such rules and regulations as ~~he~~ IT deems desirable to ensure that the activities authorized under part 6 of article 75 of title 24, C.R.S., and the protection of public funds pursuant to this article are not commingled.

**SECTION 19.** 24-1-122 (2) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-1-122. Department of regulatory agencies - creation.** (2) The department of regulatory agencies shall consist of the following divisions:

(c) Division of financial services, the head of which shall be the state commissioner of financial services. ~~The financial services division of the state of Colorado and the office of state commissioner of financial services, created by article 44 of title 11, C.R.S., and their powers, duties, and functions are transferred by a **type 1** transfer to the department of regulatory agencies as the division of financial services THE FINANCIAL SERVICES BOARD, CREATED BY SECTION 11-44-101.6, C.R.S., AND ITS POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED AS IF BY A **TYPE 1** TRANSFER TO THE DEPARTMENT OF REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF FINANCIAL SERVICES. THE OFFICE OF STATE COMMISSIONER OF FINANCIAL SERVICES AND THE FINANCIAL SERVICES DIVISION OF THE STATE OF COLORADO, CREATED BY ARTICLE 44 OF TITLE 11, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF FINANCIAL SERVICES.~~

**SECTION 20. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 21. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993