

CHAPTER 42

FINANCIAL INSTITUTIONS

HOUSE BILL 04-1126

BY REPRESENTATIVE(S) McCluskey, Coleman, Harvey, Hodge, Hoppe, Larson, Marshall, Paccione, Rhodes, White, Wiens, and Williams T.;
also SENATOR(S) Taylor.

AN ACT

CONCERNING THE CONTINUED REGULATION OF INSTITUTIONS BY THE DIVISION OF FINANCIAL SERVICES, AND, IN CONNECTION THEREWITH, EXTENDING THE DIVISION OF FINANCIAL SERVICES.

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

SECTION 1. 11-30-101.7 (1), (2), and (3), the introductory portion to 11-30-101.7 (5), and 11-30-101.7 (6), Colorado Revised Statutes, are amended to read:

11-30-101.7. Hearing procedures for community field of membership credit unions. (1) An application for a community ~~charter~~ FIELD OF MEMBERSHIP 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~~ FIELD OF MEMBERSHIP 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,~~ EXCEPT THAT 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~~ FIELD OF MEMBERSHIP application at least thirty days before the hearing date, by registered or certified mail, ~~to the applicant,~~ to THE PRINCIPAL OFFICE OF 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 OR credit unions, savings and loan associations, banks, or industrial banks as the board may designate. Such notice shall be in the form

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

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~~ COMMUNITY FIELD OF MEMBERSHIP without a hearing if the applicants are known to the board.

(5) Within ninety days following the conclusion of a hearing, the board shall issue a written order granting a ~~charter~~ COMMUNITY FIELD OF MEMBERSHIP if the board finds:

(6) A credit union seeking to establish a community ~~charter~~ FIELD OF MEMBERSHIP as part of a conversion from a federal to a state charter is subject to the notice and hearing requirements of this section.

SECTION 2. 11-30-104 (1) (m) and (1) (n), Colorado Revised Statutes, are amended to read:

11-30-104. Powers. (1) A credit union has the following powers to:

(m) Make loans to, or permit the assumption of loans by, officers or employees of the division who are members of the credit union; ~~notwithstanding the provisions of section 11-102-501;~~

(n) Participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members ~~as determined by the board of directors of the credit union originating such a loan~~ WHEN THE BORROWER IS A MEMBER OF EITHER THE CREDIT UNION ORIGINATING THE LOAN OR THE CREDIT UNION PURCHASING A PARTICIPATION INTEREST IN THE LOAN;

SECTION 3. The introductory portion to 11-30-106 (8) (a) (I), Colorado Revised Statutes, is amended to read:

11-30-106. Examinations - reports - powers of commissioner. (8) (a) (I) The commissioner may suspend or remove any director, officer, or employee of a credit union ~~who in the opinion of the commissioner~~ WHEN THE COMMISSIONER DETERMINES SUCH PERSON has:

SECTION 4. 11-30-109 (1) (h), Colorado Revised Statutes, is amended to read:

11-30-109. Directors and officers - compensation. (1) At its first meeting after the annual election, the board of directors shall elect from its own number an executive officer, who may be designated as chair of the board or president; a vice-chair of the board or one or more vice-presidents; a treasurer; and a secretary. The offices of secretary and treasurer may be combined into one office known as

secretary-treasurer. The persons so elected shall be the executive officers of the corporation. The board of directors shall be responsible for the general management of the affairs of the credit union, and more specifically to:

(h) ~~Permit the destruction of old records and files after a period of six years has elapsed or after the same have been recorded on microfilm or other reproduction process~~ MAINTAIN RECORDS PURSUANT TO RULES PROMULGATED BY THE FINANCIAL SERVICES BOARD CONCERNING HOW LONG RECORDS SHOULD BE RETAINED AND IN WHAT MANNER;

SECTION 5. 11-30-108, Colorado Revised Statutes, is amended to read:

11-30-108. Elections. At the annual meeting, or by other proper balloting within thirty days before and twenty days after the annual meeting, the credit union members shall elect from the membership a board of directors of not less than five members. ~~elect a supervisory committee of not less than three members or authorize the board of directors to appoint~~ A supervisory committee of not less than three members and ~~elect a credit committee of not less than three members or authorize the board of directors to appoint a credit officer or a credit committee of not less than three members~~ A CREDIT OFFICER SHALL BE ELECTED BY THE CREDIT UNION MEMBERS OR APPOINTED BY THE BOARD OF DIRECTORS AS PROVIDED IN THE BYLAWS OF THE CREDIT UNION. All such persons shall hold office for such terms respectively as the bylaws provide and until successors are elected or appointed and qualify. In addition, one or more alternate members of the credit committee may be elected by the credit union members or appointed by the board of directors to serve in the absence of members of the credit committee. No member shall hold more than one elected office simultaneously. A record of the names and addresses of the members of the board and such committees, such alternates, and the officers shall be filed with the commissioner within twenty days after their election or appointment.

SECTION 6. 11-30-116, Colorado Revised Statutes, is amended to read:

11-30-116. Loans. A credit union may make loans to members subject to the provisions of this article and the bylaws of the credit union. A borrower may repay ~~his~~ A loan in whole or in part any day the office of the credit union is open for business. ~~except that, if a loan is secured by an interest in real property, the credit union may require that any partial prepayments be made on the date monthly installments are due and be in the amount of that part of one or more monthly installments which would be applicable to principal.~~ A credit union may make loans to its own directors, credit officers, or members of its own supervisory committee or credit committee, but no such loan or aggregate of loans to any one director, credit officer, or committee member ~~which~~ THAT exceeds twenty thousand dollars plus pledged shares may be made unless approved by the board of directors.

SECTION 7. 11-30-117, Colorado Revised Statutes, is amended to read:

11-30-117. Reserves. (1) ~~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 regulations prescribed under this article, sums in accordance with the following schedule:~~

~~(a) A credit union in operation for four or more years and having assets of five hundred thousand dollars or more shall set aside ten percent of gross income until the regular reserve shall equal four percent of the total of outstanding loans and risk assets, then five percent of gross income until the regular reserve shall equal ten percent of the total of outstanding loans and risk assets.~~

~~(b) A credit union in operation less than four years or having assets of less than five hundred thousand dollars shall set aside ten percent of gross income until the regular reserve shall equal seven and one-half percent of the total of outstanding loans and risk assets, then five percent of gross income until the regular reserve shall equal ten percent of the total of outstanding loans and risk assets.~~

~~(c) Whenever the regular reserve falls below the stated percent of the total of 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.~~

(2) The commissioner may decrease the reserve requirement set forth in subsection (1) of this section when in his opinion such a decrease is necessary or desirable. The ~~commissioner~~ BOARD may also require special reserves to protect the interest of members either by general rules, ~~and regulations or~~ INCLUDING RESERVE REQUIREMENTS FOR ANY PRIVATELY INSURED CREDIT UNION. IN ADDITION, THE COMMISSIONER MAY REQUIRE SPECIAL RESERVES by an order directed to an individual credit union in any special case.

SECTION 8. 11-30-117.5 (4), Colorado Revised Statutes, is amended to read:

11-30-117.5. Share insurance required. (4) Neither the commissioner, nor the commissioner's deputy, nor any other person appointed by the commissioner, shall divulge any information acquired in the discharge of the person's 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~~ FURNISH INFORMATION AS TO THE CONDITION OF A CREDIT UNION to the national credit union administration board, to any qualified insuring organization, to any liquidating agent appointed by the commissioner, A FEDERAL HOME LOAN BANK, A FEDERAL RESERVE BANK, THE DIVISION OF BANKING, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES, 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. In addition, the board, the commissioner, and their respective designees may exchange information obtained by the division as to possible criminal violations of ANY law relating to the activities of a credit union with the appropriate law enforcement agencies. Notwithstanding any provision of this article to the contrary, the commissioner may disclose any information in the records of the division or acquired by the commissioner in the discharge of the commissioner's duties that 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. Nothing in this section shall be construed to

authorize the board of directors of a credit union to waive any privileges that belong solely to the financial services board, the division, or its employees.

SECTION 9. 11-30-119 (3) and (4), Colorado Revised Statutes, are amended to read:

11-30-119. Expulsion or withdrawal of members - deceased members.

(3) All amounts paid on shares or as deposits of an expelled member or withdrawing member, together with any dividends or interest accredited thereto, to the date thereof, as funds become available and after deducting all amounts due from the member to the credit union, shall be paid to such member. The credit union may require sixty days' written notice of intention to withdraw shares and thirty days' written notice of intention to withdraw deposits. Withdrawing or expelled members shall have no further rights in the credit union but shall not, by such expulsion or withdrawal, be released from any remaining liability to the credit union. ~~If any expelled member cannot be located at his or her last-known address, his or her shares and deposit accounts may be closed and the funds therefrom transferred to an account payable, whereupon no dividends or interest shall further accrue. Shares or deposit accounts remaining in the name of a deceased member more than two years after the date of death may be closed and the funds therefrom transferred to an account payable, whereupon no dividends or interest shall further accrue. The credit union must make a reasonable effort to contact the heirs or assigns of the deceased member before such transfer is made.~~

~~(4) Funds held in an account payable pursuant to this section may be reclaimed within five years after the transfer to an account payable. Funds not claimed within said five-year period shall be transferred from accounts payable to regular reserve.~~

SECTION 10. 11-30-122 (1), (2), (3), (4), and (6), Colorado Revised Statutes, are amended to read:

11-30-122. Merger. (1) The method of merger of two or more credit unions shall be as follows:

(a) (I) THE BOARD OF DIRECTORS OF THE CONTINUING AND EACH MERGING CREDIT UNION SHALL:

(A) APPROVE A PLAN FOR THE PROPOSED MERGER; AND

(B) AUTHORIZE REPRESENTATIVES OF EACH CREDIT UNION TO ACT ON EACH CREDIT UNION'S BEHALF TO BRING ABOUT THE MERGER.

(II) THE PLAN SHALL INCLUDE SUCH INFORMATION AS THE BOARD DEEMS APPROPRIATE.

(b) UPON APPROVAL OF THE MERGER PLAN BY EACH BOARD OF DIRECTORS FOR EACH CREDIT UNION INVOLVED IN THE TRANSACTION, THE MERGER PLAN, TOGETHER WITH THE RESOLUTIONS OF EACH BOARD OF DIRECTORS, SHALL BE SUBMITTED TO THE BOARD. IF THE BOARD DETERMINES THAT THE MERGER PLAN COMPLIES WITH THE PROVISIONS OF THIS ARTICLE AND ANY APPLICABLE RULES THERETO, THE BOARD MAY APPROVE THE MERGER PLAN, SUBJECT TO SUCH OTHER SPECIFIC REQUIREMENTS AS

MAY BE PRESCRIBED TO FULFILL THE INTENDED PURPOSES OF THE PROPOSED MERGER.

(c) A meeting of the members of each MERGING credit union involved shall be called for the purpose of considering a merger. Notice of the meeting, including purpose, date, time, ~~and~~ place, AND BALLOT OF THE MERGER PLAN shall be given to the entire membership. At such meeting, at least two-thirds of the members present and voting must approve the proposed merger. ~~and authorize a committee composed of four or more representatives of their credit union to act in their behalf to bring about such merger.~~ If any member approves or disapproves the merger ~~and authorizes or refuses to authorize such committee in writing~~ BY RETURNING A BALLOT, signed by such member, ~~and delivered~~ to the secretary of the credit union at or before the meeting, such ~~writing~~ BALLOT for all purposes of this section shall be deemed equivalent to the vote of such member at such meeting, notwithstanding the member is not then present.

(2) The merger shall thereupon be consummated in the following manner:

(a) The duly authorized representatives of each credit union shall execute, in duplicate, a certificate OF MERGER stating that:

(I) THE BOARD OF DIRECTORS OF EACH CREDIT UNION HAVE APPROVED THE MERGER;

(II) More than two-thirds of the members of each MERGING credit union have approved the terms and conditions of the proposed merger, at a meeting of the members called for that purpose; ~~and have authorized such representatives to take proper action to complete the merger; and~~

(III) The name and location of the ~~new~~ CONTINUING credit union.

(b) ~~They~~ THE CONTINUING CREDIT UNION shall prepare and adopt ~~bylaws~~ ANY BYLAW AMENDMENTS REQUIRED BY THE BOARD, consistent with the provisions of this article, and execute the same in duplicate.

(c) The certificate above provided for and ~~the bylaws~~ ANY REQUIRED BYLAW AMENDMENTS, both executed in duplicate, shall be forwarded to the board.

(3) ~~The 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 board approves the ~~merger~~ CERTIFICATE AND BYLAW AMENDMENTS, it shall so notify the representatives and shall issue a certificate of approval, attach it to the duplicate certificate OF MERGER, and return the same to the representatives of the participating credit unions together with the duplicate of the ~~bylaws~~ BYLAW AMENDMENTS.

(6) Thereupon the participating credit unions shall be merged ~~and be a new credit union incorporated~~ in accordance with the provisions of this ~~article.~~ ~~Such new~~ SECTION. THE CONTINUING credit union shall take over the assets and assume all the

liabilities of ~~the merged~~ EACH MERGING credit unions UNION.

SECTION 11. Article 30 of title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

11-30-125. Notice of branch opening and closing. (1) ANY CREDIT UNION THAT HAS ITS PRINCIPAL PLACE OF BUSINESS IN THIS STATE, UPON THIRTY DAYS' PRIOR WRITTEN NOTICE TO THE STATE COMMISSIONER OF FINANCIAL SERVICES, MAY ESTABLISH ONE OR MORE DE NOVO BRANCHES ANYWHERE IN THIS STATE.

(2) NO LATER THAN NINETY DAYS PRIOR TO THE PROPOSED DATE OF ANY BRANCH CLOSING, A NOTICE OF BRANCH CLOSING SHALL BE FILED WITH THE COMMISSIONER. THE NOTICE OF BRANCH CLOSING SHALL INCLUDE A DETAILED STATEMENT OF THE REASONS FOR THE DECISION TO CLOSE THE BRANCH AND STATISTICAL OR OTHER INFORMATION IN SUPPORT OF SUCH REASONS.

SECTION 12. 11-40-106 (1) (a) (II) and (1) (a) (III), Colorado Revised Statutes, are amended to read:

11-40-106. Annual fees and assessments - fund. (1) Every domestic and foreign savings and loan association operating in this state shall pay annually to the division of financial services such fees for administration, supervision, and examination as the commissioner may determine sufficient to meet the budget of the division of financial services as appropriated by the general assembly for the fiscal year commencing July 1. The fees shall be determined as follows:

(a) (II) For the fiscal year beginning July 1, ~~1992~~ 2004, and for each fiscal year thereafter, the commissioner shall establish the division's annual assessment to be collected at least semiannually in such amounts as are sufficient to generate the moneys appropriated by the general assembly to the division for each such fiscal year.

(III) ~~In addition to each assessment established pursuant to subparagraphs (I) and (II) of this paragraph (a), for each fiscal year beginning July 1, 1992, and ending June 30, 1994, and for the period ending January 31, 1995, the commissioner shall collect a semiannual repayment of the fiscal year 1991-1992 general fund advance to the division in an amount equal to one-sixth of the amount of the commissioner's assessment that would have been collected in September 1992.~~

SECTION 13. 11-41-112 (1) (l) and (1) (m), Colorado Revised Statutes, are amended to read:

11-41-112. Powers of savings and loan associations. (1) Savings and loan associations have the following powers:

(l) To act as a trustee, custodian, or manager or in any other fiduciary capacity to the same extent authorized and permitted from time to time by the laws and regulations applicable to federal savings and loan associations in Colorado, and upon specific approval by the commissioner, by permission granted such federal associations by the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR, including specifically, but without limitation, the power to act as the trustee, custodian, or manager of any trust created or organized in the United States

and forming a part of a stock bonus, pension, profit-sharing, or retirement plan ~~which~~ THAT is qualified for specific tax treatment under the provisions of the federal "Self-employed Individuals Tax Retirement Act of 1962", as from time to time amended or supplemented, or under the provisions of any other act of congress enacted after June 2, 1971, as a substitute or replacement for the federal "Self-employed Individuals Tax Retirement Act of 1962" or under the provisions of the federal "Employee Retirement Income Security Act of 1974", 29 U.S.C. SEC. 1001 ET SEQ., as from time to time amended or supplemented. The association managing funds of any such plan, trust, or fund shall have, to the extent applicable to federal savings and loan associations in Colorado, all of the rights, powers, privileges, and immunities and shall be subject to the same obligations and duties as an individual fiduciary under like circumstances with power to make investments. All funds held in such fiduciary capacity by any association 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 paragraph (l). An association acting as a trustee may control accounts in or securities of such association pursuant to the exercise of its authority as a trustee. The exercise by an association of any authority vested in it shall not affect any other authority of such association.

(m) To, subject to the regulations of the United States treasury department and the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR, establish a tax and loan account and serve as a depository for federal taxes or as a treasury tax and loan depository, and to satisfy any requirement in connection therewith;

SECTION 14. 11-41-113 (1), Colorado Revised Statutes, is amended to read:

11-41-113. Federal home loan bank membership. (1) Any savings and loan association organized and incorporated under the laws of this state as a savings and loan association ~~which~~ THAT is eligible to become a member of the federal home loan bank, in accordance with the provisions of the act of congress known and cited as the "Federal Home Loan Bank Act", 12 U.S.C. SEC. 1421 ET SEQ., approved July 22, 1932, is authorized to subscribe for stock of the federal home loan bank for the district in which it is located and to invest its funds in such stock for the purpose and to the extent required and permitted by the provisions of the "Federal Home Loan Bank Act", 12 U.S.C. SEC. 1421 ET SEQ., or any amendment thereto, and is further authorized to furnish to the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR and to the federal home loan bank reports of examinations of such associations made by the commissioner, and is further authorized to consent to an examination to be made by the federal ~~home loan bank board~~ of OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR OR the federal home loan bank, and is further authorized to do all other things as may be required by the "Federal Home Loan Bank Act", 12 U.S.C. SEC. 1421 ET SEQ., or any amendment thereto, necessary to obtain and to continue membership in the federal home loan bank and to obtain advances therefrom or ~~which~~ THAT may be incidental to acquiring or holding membership and to obtaining advances therefrom, and is authorized to assume all the duties, obligations, responsibilities, and liabilities and become entitled to all the benefits provided in the "Federal Home Loan Bank Act", 12 U.S.C. SEC. 1421 ET SEQ.

SECTION 15. 11-41-117 (1), Colorado Revised Statutes, is amended to read:

11-41-117. Insurance of shares. (1) A savings and loan association shall obtain and maintain insurance of its shares with the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR as provided by ~~Title IV of the "National Housing Act"~~ THE "FEDERAL DEPOSIT INSURANCE ACT", 12 U.S.C. 1811, ET SEQ., and any amendments thereto. Notice of any such actions by associations shall be submitted to the division. ~~While the shares of an association are insured, the contingent reserve, as provided under section 11-42-111, may be designated as the federal insurance reserve to the extent such insurance reserve is required to be set up and maintained. Any action taken by any savings and loan association prior to May 17, 1939, while under the provisions of articles 40 to 46 of this title, in connection with obtaining insurance of its shares with the federal savings and loan insurance corporation, is ratified and confirmed.~~

SECTION 16. 11-41-117.5 (1), the introductory portion to 11-41-117.5 (2) (b), and 11-41-117.5 (2) (b) (I), Colorado Revised Statutes, are amended to read:

11-41-117.5. Insurance of obligations. (1) A savings and loan association shall obtain and maintain insurance of its obligations, including accounts, ~~as provided by Title IV of the "National Housing Act" and any amendments thereto~~ WITH THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ITS SUCCESSOR.

(2) (b) Any insurer insuring obligations pursuant to paragraph (a) of this subsection (2), other than ~~that created by Title IV of the "National Housing Act" or any amendments thereto~~, THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ITS SUCCESSOR shall be certified by the commissioner as having met the following:

(I) The contract of insurance contemplated is written upon substantially the same basis as to form, coverage, maturity, voluntary and involuntary termination, and other provisions as the insurance contract provided at that time ~~pursuant to said Title IV~~ BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ITS SUCCESSOR and complies with such further requirements for protection as the commissioner may promulgate by rule. ~~or regulation.~~

SECTION 17. Repeal. 11-41-120, Colorado Revised Statutes, is repealed as follows:

11-41-120. Branches. ~~Subject to the provisions of article 105 of this title, no association shall open, maintain, or conduct a branch without first applying for and obtaining from the commissioner a license for such branch. The application for such license shall be in such form as the commissioner requires and shall include an itemized statement of the estimated receipts and expenditures of such association in connection with such branch for the first year, or such longer period as the commissioner in his or her discretion requires, and a showing that the public convenience and advantage will be promoted by the operation of a branch. Such application shall be accompanied by a fee in the amount established by the commissioner. If satisfied that the operation of a branch is in the interest of the association and that the public convenience and advantage will be promoted by the operation, the commissioner shall issue its license; otherwise such license shall be refused.~~

SECTION 18. 11-41-121 (5), Colorado Revised Statutes, is amended to read:

11-41-121. Merger, consolidation, and transfer. (5) In the event any association involved in a proposed merger is a federal savings and loan association, the commissioner shall transmit to the federal ~~home loan bank board, Washington, D.C.~~, OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR, a copy of the proposed agreement of merger and shall not approve the agreement of merger unless and until he OR SHE has been advised in writing by the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR that said ~~board~~ OFFICE has no objection ~~thereto~~ TO THE AGREEMENT.

SECTION 19. 11-42-111 (14), Colorado Revised Statutes, is amended to read:

11-42-111. Reserves and distribution of earnings. (14) Notwithstanding any other provision of the Colorado "Savings and Loan Association Law", ARTICLE 40 OF THIS TITLE, any association may distribute earnings on its shares on such other dates, on such other bases, and in accordance with such other terms and conditions as may from time to time be authorized by regulations made by the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR or the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR for federal savings and loan associations when such regulations are approved by the commissioner.

SECTION 20. 11-44-101.5 (2), Colorado Revised Statutes, is amended to read:

11-44-101.5. Division subject to termination - repeal of article. (2) This article is repealed, effective July 1, ~~2004~~ 2013.

SECTION 21. 11-44-101.8 (1) (a), Colorado Revised Statutes, is amended to read:

11-44-101.8. Review of commissioner actions by financial services board - judicial review. (1) (a) 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.

SECTION 22. 11-44-102 (1), (2), and (5), Colorado Revised Statutes, are amended, and the said 11-44-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

11-44-102. Commissioner - duties - employees. (1) The head of the division

of financial services shall be the state commissioner of financial services, referred to in this article as the "commissioner". ~~The commissioner of savings and loan associations serving on July 1, 1989, shall continue in his office as the commissioner. The commissioner shall not be interested, directly or indirectly, either as a shareholder, stockholder, officer, employee, or borrower in any entity regulated by the division, except he may exercise full membership rights in a credit union. He~~ THE COMMISSIONER shall have had at least five years' practical experience in the operation or regulation of financial institutions or financial service operations. The commissioner shall be appointed by the executive director of the department of regulatory agencies, pursuant to section 13 of article XII of the state constitution.

(2) The commissioner may appoint, pursuant to section 13 of article XII of the state constitution, a deputy commissioner of financial services, a secretary, and such other employees as ~~he may deem~~ DEEMED necessary for the proper conduct of the division. ~~The deputy commissioner shall not be interested, directly or indirectly, either as a shareholder, stockholder, officer, employee, or borrower in any entity regulated by the division, except he may exercise full membership rights in a credit union.~~

(5) ~~The commissioner, his deputy, and all his employees shall devote their entire time and attention to the duties of their several positions and shall not during their terms of service receive any salary or compensation whatsoever from any savings and loan association.~~

(8) (a) NEITHER COMMISSIONER NOR ANY EMPLOYEE OF THE DIVISION SHALL:

(I) BE AN OFFICER, DIRECTOR, COMMITTEE MEMBER, ATTORNEY FOR, OR STOCKHOLDER IN ANY CREDIT UNION OR SAVINGS AND LOAN ASSOCIATION; OR

(II) RECEIVE, DIRECTLY OR INDIRECTLY, ANY PAYMENT, GRATUITY, OR COMPENSATION FROM ANY INSTITUTION OVER WHICH THE DIVISION HAS REGULATORY AUTHORITY.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (8) SHALL NOT PROHIBIT THE COMMISSIONER OR ANY EMPLOYEE OF THE DIVISION FROM BEING A DEPOSITOR, ACCOUNT HOLDER, BORROWER, OR USER OF OTHER AVAILABLE FINANCIAL SERVICES ON THE SAME TERMS AS ARE AVAILABLE TO THE GENERAL PUBLIC OR MEMBERSHIP.

(c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (8) TO THE CONTRARY, THIS SUBSECTION (8) SHALL NOT PROHIBIT THE CREDIT UNION OR SAVINGS AND LOAN MEMBERS OF THE FINANCIAL SERVICES BOARD PURSUANT TO SECTION 11-44-101.6 (2) (a) OR (2) (b) FROM:

(I) BEING EXECUTIVE OFFICERS IN CREDIT UNIONS OR SAVINGS AND LOAN ASSOCIATIONS; AND

(II) RECEIVING BONA FIDE COMPENSATION AS SUCH OFFICERS.

SECTION 23. Article 44 of title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

11-44-103.5. Record retention by the commissioner. THE COMMISSIONER SHALL RETAIN RECORDS PURSUANT TO PART 1 OF ARTICLE 80 OF TITLE 24, C.R.S., AND MAY, IN HIS OR HER DISCRETION, DESTROY RECORDS PURSUANT TO SAID PART 1.

SECTION 24. 11-44-109 (1.5), Colorado Revised Statutes, is amended to read:

11-44-109. Examination by commissioner - procedure - penalty. (1.5) In lieu of making his OR HER own examination, the commissioner may accept the examination report prepared by the federal ~~home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR or other appropriate regulatory authority.

SECTION 25. Repeal. 11-44-121, Colorado Revised Statutes, is repealed as follows:

11-44-121. Commissioner may destroy records. ~~The commissioner may in his discretion, at any time after the expiration of five years from the declaration of the final dividend and liquidation of any savings and loan association, destroy such files, records, documents, books of accounts, or other papers in his possession in connection with such liquidation which may appear to be obsolete or unnecessary for future reference.~~

SECTION 26. 11-45-101 (1) (c), Colorado Revised Statutes, is amended to read:

11-45-101. Conversion into federal association. (1) Any savings and loan association or other home-financing organization, by whatever name or style it may be designated, which is eligible to become a federal savings and loan association may convert itself into a federal savings and loan association by the following procedure:

(c) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, the association shall take such action as may be necessary to make it a federal savings and loan association, and, within ten days after receipt of the federal charter, there shall be filed in the office or division of this state having supervision of such association a copy of said charter issued to such association by the ~~federal home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR or a certificate showing the organization of such association as a federal savings and loan association certified by, or on behalf of, the ~~federal home loan bank board~~ OFFICE OF THRIFT SUPERVISION OR ITS SUCCESSOR. Upon the filing of such instrument, such association shall cease to be a state association and shall thereafter be a federal savings and loan association.

SECTION 27. 11-45-103 (1), Colorado Revised Statutes, is amended to read:

11-45-103. Conversion into state association. (1) Any federal savings and loan association may convert itself into an association under articles 40 to 46 of this title by the majority vote of all members present in person or by proxy at an annual meeting or at any special meeting called to consider such action. Copies of the minutes of the proceedings of such meeting of members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the commissioner and mailed to the ~~federal home loan bank board, Washington, D.C.~~ OFFICE OF THRIFT SUPERVISION, OR ITS SUCCESSOR, within ten days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be prima facie evidence

of the holding and action of such meeting.

SECTION 28. 11-47-102 (1), Colorado Revised Statutes, is amended to read:

11-47-102. Legislative declaration. (1) The general assembly declares that the purpose of this article is to provide protection of public moneys on deposit in state-chartered and federally chartered savings and loan associations in this state above and beyond the protection provided by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR and to ~~insure~~ ENSURE prompt payment of deposit liabilities to governmental units in the event of default or insolvency of any such association.

SECTION 29. 11-47-103 (9) and (10), Colorado Revised Statutes, are amended to read:

11-47-103. Definitions. As used in this article, unless the context otherwise requires:

(9) ~~"Maximum liability of an eligible public depository" means, with respect to any event of default, a sum equal to fifty percent of the average daily amount of public deposits, not insured by the federal savings and loan insurance corporation held by any eligible public depository during the six-month period ending on the valuation date next preceding the occurrence of such event of default.~~

(10) "Net deposit liability" means, with respect to a defaulting depository, the amount of its deposit liability to a governmental unit after deduction of any applicable federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR insurance with respect thereto.

SECTION 30. 11-47-105, Colorado Revised Statutes, is amended to read:

11-47-105. Acceptance of provisions - designation as eligible public depository. (1) Every state-chartered savings and loan association and every federally chartered savings and loan association having an office in this state ~~which~~ THAT is otherwise eligible to be an eligible public depository and ~~which~~ THAT desires to accept and hold ~~or to continue to accept and hold~~ public deposits in an amount in excess of the amount insured by the federal deposit insurance corporation or its successor shall ~~within ninety days after July 1, 1975,~~ file with the commissioner, on a form provided by him OR HER for such purpose, a statement signed and sworn to by an executive officer of such association electing to accept and become subject to the provisions of this article and setting forth the amount of its capital funds and the aggregate amount and nature of all public deposits held by it. ~~as of July 1, 1975.~~ Upon the filing of such statement and acceptance, the commissioner shall forthwith designate such savings and loan association as an eligible public depository and shall issue an appropriate certificate evidencing such designation.

(2) ~~Any state-chartered savings and loan association or any federally chartered savings and loan association having an office in this state which fails to file a statement and acceptance within the period of time provided for in this section but which thereafter desires to become an eligible public depository and any such association hereafter organized to carry on a savings and loan business in this state~~

which desires to become an eligible public depository may, at any time, file with the commissioner a statement signed and sworn to by an executive officer of such association stating the amount of its capital funds as of the date of said statement and declaring that it has elected to accept and become subject to all the provisions of this article, and, upon the filing of said statement and acceptance, the commissioner shall forthwith designate such association as an eligible public depository and shall issue an appropriate certificate evidencing such designation.

SECTION 31. Repeal. 11-47-106, Colorado Revised Statutes, is repealed as follows:

11-47-106. Minimum amount of eligible collateral required to be maintained as security for public deposits. ~~(1) When the commissioner certifies that at least one-fourth of the state-chartered or federally chartered savings and loan associations holding at least one-fourth of the total resources held by all savings and loan associations in the state of Colorado have elected to secure public deposits, as provided in this section and section 11-47-107, and have been designated as eligible public depositories or on and after the date of its designation as an eligible public depository, whichever is later, every eligible public depository shall thereafter maintain, as security for that portion of all public deposits accepted and held by it which is not insured by the federal savings and loan insurance corporation, eligible collateral as defined in section 11-47-103 (5) (a) and (5) (c) having a market value, at all times, equal to at least fifty percent of the average daily amount of the uninsured portion of said deposits accepted and held by it during the six-month period ending on the valuation date next preceding, unless it has elected to pledge eligible collateral as provided in section 11-47-108. Prior to the commissioner's certification as provided in the first sentence of this subsection (1), all eligible public depositories shall secure public deposits as provided in section 11-47-108, and the provisions of section 11-47-114 shall not apply pending such certification.~~

~~(2) In the case of an eligible public depository which held no public deposits during the preceding six-month period in excess of the amounts insured by the federal savings and loan insurance corporation but which accepts and holds such deposits during the ensuing six-month period, said depository shall maintain, as security therefor, eligible collateral as defined in section 11-47-103 (5) (a) and (5) (c) having a market value, at all times, equal to at least fifty percent of the average daily amount of public deposits, not insured by the federal savings and loan insurance corporation, accepted and held by it during said ensuing six-month period, unless it has elected to pledge eligible collateral as provided in section 11-47-108.~~

~~(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 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 32. Repeal. 11-47-107, Colorado Revised Statutes, is repealed as follows:

11-47-107. Eligible collateral - when required to be maintained. ~~(1) Any eligible public depository which accepts and holds public deposits not insured by the~~

~~federal savings and loan insurance corporation in an aggregate amount exceeding two hundred percent of its capital funds and which holds such excess amount of public deposits for more than thirty consecutive days shall secure such excess amount with additional eligible collateral having a market value equal to at least one hundred percent of such excess amount and shall maintain such additional collateral for so long as such excess amount continues to exist, unless it has elected to pledge eligible collateral as provided in section 11-47-108.~~

~~(2) The additional collateral required to be maintained under such circumstances shall be in addition to the amount of collateral required to be maintained as provided in section 11-47-106.~~

SECTION 33. 11-47-108, Colorado Revised Statutes, is amended to read:

11-47-108. Method of securing public deposits. (1) Except as provided in section 11-47-112 (6) (a), ~~in lieu of maintaining the amount of eligible collateral specified in sections 11-47-106 and 11-47-107;~~ any eligible public depository ~~may, at its option, elect to~~ SHALL secure public deposits accepted and held by it by pledging eligible collateral having a market value, at all times, equal to at least one hundred percent of the aggregate of said deposits not insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR.

~~(2) In such case;~~ The eligible collateral pledged shall be held ~~in the same manner and under the same conditions~~ as specified in section 11-47-109; except that the depository ~~so electing~~ shall be required to furnish each governmental unit whose deposit is so secured with a statement, signed under oath by an executive officer of said depository, certifying to said governmental unit that its deposit is secured in the manner specified in subsection (1) of this section and specifying where the collateral pledged is being held in custody.

SECTION 34. 11-47-109 (1), Colorado Revised Statutes, 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 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 35. Repeal. 11-47-110, Colorado Revised Statutes, is repealed as follows:

11-47-110. Subsequent elections upon approval of commissioner. ~~(1) Any eligible public depository maintaining eligible collateral as provided in sections 11-47-106 and 11-47-107 may, upon written approval by the commissioner, elect to change to the alternative method of pledging eligible collateral provided in section 11-47-108, but such change shall not become effective sooner than six months after~~

said approval.

~~(2) Any eligible public depository pledging eligible collateral as provided in section 11-47-108 may, upon written approval by the commissioner, revoke its previous election and elect to thereafter maintain eligible collateral as provided in sections 11-47-106 and 11-47-107.~~

SECTION 36. 11-47-112 (6) (a), Colorado Revised Statutes, is amended to read:

11-47-112. Power and authority of financial services board. (6) (a) The financial services board may promulgate ~~regulations~~ RULES 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~~ DEPOSIT insurance corporation OR ITS SUCCESSOR. Notwithstanding any other provision in this article to the contrary, the financial services board also may promulgate ~~regulations~~ RULES 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~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, if said depository's regulatory capital does not comply with the minimum requirement of the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR. Notwithstanding any other provision in this article to the contrary, the financial services board may promulgate ~~regulations~~ RULES to require an eligible public depository to pledge a minimum amount of eligible collateral.

SECTION 37. The introductory portion to 11-47-113 (1) and 11-47-113 (1) (b) and (1) (e), Colorado Revised Statutes, are amended to read:

11-47-113. Procedure when event of default occurs. (1) When the commissioner has determined that an event of default has occurred with respect to any eligible public depository and has determined and fixed the date of such occurrence, he OR SHE shall proceed in the following manner:

(b) Within twenty days ~~thereafter, he~~ AFTER SEIZING AND TAKING POSSESSION OF ALL ELIGIBLE COLLATERAL PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE COMMISSIONER shall ascertain the aggregate amount of public deposits held by the defaulting depository, as disclosed by the records of such depository, and the portion thereof ~~which~~ THAT is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, and shall notify each affected governmental unit of the amount of its deposit, as so disclosed, and the portion thereof ~~which~~ THAT is so insured, and shall require each affected governmental unit to provide him OR HER with a verified statement showing the amount of its deposit, as disclosed by its own records, within thirty days after receipt of such notification.

(e) In the event the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR is appointed and acts as liquidator or receiver of any eligible public depository under state or federal law, those duties specified in this section to be performed by the commissioner may, where the commissioner deems appropriate, be delegated by the commissioner to and performed by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR.

SECTION 38. Repeal. 11-47-114, Colorado Revised Statutes, is repealed as follows:

~~**11-47-114. Assessments made - exceptions.** (1) With respect to any defaulting depository maintaining eligible collateral as provided in sections 11-47-106 and 11-47-107, the commissioner shall determine the amount of the net deposit liability of the defaulting depository to all affected governmental units remaining after application of the proceeds realized from liquidation of the eligible collateral of the defaulting depository and shall thereupon assess said amount against all other eligible public depositories which held public deposits and which maintained eligible collateral security therefor as provided in sections 11-47-106 and 11-47-107 on the date upon which the event of default was determined to have occurred, in the proportion that the maximum liability of each such eligible public depository on the last preceding valuation date bears to the aggregate maximum liability of all such other eligible public depositories on said last preceding valuation date; but in no event shall the amount assessed against any such other eligible public depository exceed the amount of its own maximum liability on said last preceding valuation date, and this limitation on assessments shall be cumulative over the period in which any savings and loan association qualifies as an eligible public depository under sections 11-47-106 and 11-47-107.~~

~~(2) No assessment shall be made against any eligible public depository which had eligible collateral pledged to secure its public deposits in the manner provided in section 11-47-108 on the date upon which the event of default was determined to have occurred.~~

SECTION 39. Repeal. 11-47-115, Colorado Revised Statutes, is repealed as follows:

~~**11-47-115. When assessments payable - procedure if not paid.** (1) The amount of each assessment made pursuant to section 11-47-114 shall be payable to the commissioner on the fifth day following receipt of notice and demand therefor, sent by certified mail, return receipt requested.~~

~~(2) If any eligible public depository fails or refuses to pay the amount assessed against it, the commissioner has the authority to seize and take possession of so much of the eligible collateral maintained by said depository, wherever held in custody, as he deems necessary to cover said amount, and to liquidate the same, and to apply the amount realized from such liquidation in satisfaction of the amount of the assessment, rendering any excess to said depository; in such event, the commissioner may deny such depository the right to accept and hold any public deposits thereafter and may make public announcement of such denial.~~

SECTION 40. Repeal. 11-47-116, Colorado Revised Statutes, is repealed as follows:

~~**11-47-116. Disposition of assessments - subrogation of claims - expenses.** (1) The commissioner shall distribute the amount of the assessments collected to the affected governmental units in the proportion that the net deposit liability of the defaulting depository to each affected governmental unit bears to its aggregate net deposit liability to all affected governmental units.~~

~~(2) Upon full payment to each affected governmental unit, the commissioner shall be subrogated to all claims of such governmental unit against the defaulting depository and shall share in any distribution of the assets of said depository ratably with other depositors.~~

~~(3) The commissioner is authorized to take such action as he deems necessary and proper for the collection, compromise, or settlement of any claim arising out of an event of default to which he has been subrogated.~~

~~(4) All amounts received by the commissioner in distributions in liquidation of a defaulting depository shall be first paid to affected governmental units to the extent of any unpaid net deposit liability thereto, and any balance thereafter remaining shall be paid to the eligible public depositories against whom assessments were made and collected in proportion to the amount of such assessment.~~

~~(5) Any expenses incurred by the commissioner in enforcing payment of any subrogated claim shall be paid as a liquidating expense of the defaulting depository.~~

SECTION 41. Repeal. 11-47-117, Colorado Revised Statutes, is repealed as follows:

11-47-117. No impairment of obligations. Nothing contained in this article shall be construed so as to impair the obligation of any contract or agreement made and entered into prior to July 1, 1975.

SECTION 42. 11-47-118 (1), Colorado Revised Statutes, is amended to read:

11-47-118. Public moneys to be deposited only in eligible public depositories - penalty for violation. (1) ~~On and after January 1, 1976,~~ It shall be unlawful for any public moneys to be deposited in any state-chartered savings and loan association, or in any federally chartered savings and loan association having its principal office in this state, other than one ~~which~~ THAT has been designated by the commissioner as an eligible public depository, unless the entire amount of such deposit is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR.

SECTION 43. 11-47-120, Colorado Revised Statutes, is amended to read:

11-47-120. Authority to accept deposits - acceptance of insured deposits. Any state-chartered savings and loan association, or any federally chartered savings and loan association having its principal office in this state ~~which~~ THAT is authorized by the laws of this state or of the United States to accept deposit accounts or savings deposits is authorized to accept and hold, and any governmental unit is authorized to make and maintain in such association, deposits of public moneys as provided in this article. Any such association is authorized to accept and hold, and any governmental unit is authorized to make and maintain therein, deposits of public moneys to the extent that the full amount thereof is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, even though such association has not elected to be designated as an eligible public depository under the provisions of this article.

SECTION 44. Repeal. 11-105-601 (2), Colorado Revised Statutes, is repealed as follows:

11-105-601. Legislative declaration. (2) ~~In order to provide equality among financial institutions, the banking board and the financial services board shall monitor and require reports on the activities of each financial institution conducting business at a location in Colorado.~~

SECTION 45. 11-105-602 (3) (c), Colorado Revised Statutes, is amended to read:

11-105-602. Financial institutions - branches allowed - conversion of financial institutions to branches - acquisitions. (3) (c) The banking board and the ~~commissioner~~ FINANCIAL SERVICES BOARD shall adopt policies and procedures by rule no more restrictive than federal regulatory policies and procedures relative to application and approval NOTICE of branches to be established under this subsection (3).

SECTION 46. 11-105-605 (2) and (3), Colorado Revised Statutes, are amended to read:

11-105-605. Rule-making by banking board and financial services board. (2) The ~~state commissioner~~ of financial services BOARD shall promulgate and adopt such rules as are necessary to accomplish the purposes of this part 6.

(3) The banking board and the ~~state commissioner~~ of financial services BOARD shall coordinate their rule-making that implements the provisions of this part 6 so that the procedures and time periods are the same for each type of financial institution to ~~make application for~~ GIVE NOTICE OF a branch thereunder.

SECTION 47. 12-13-113, Colorado Revised Statutes, is amended to read:

12-13-113. Article does not apply to facilities licensed by department of public health and environment. The provisions of this article shall not apply to any hospital or other facility ~~which~~ THAT the department of public health and environment is authorized to license pursuant to part 1 of article 1 and part 1 of article 3 of title 25, C.R.S.; EXCEPT THAT NURSING CARE FACILITIES AND ASSISTED LIVING RESIDENCES THAT ARE PART OF THE FACILITY OF A PROVIDER AS DEFINED IN SECTION 12-13-101 SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

SECTION 48. Repeal. 24-34-104 (34) (c), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (34) The following agencies, functions, or both, shall terminate on July 1, 2004:

(c) ~~The division of financial services, created by article 44 of title 11, C.R.S.;~~

SECTION 49. 24-34-104 (44), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (44) The following agencies, functions, or both, shall terminate on July 1, 2013:

(g) THE DIVISION OF FINANCIAL SERVICES, CREATED BY ARTICLE 44 OF TITLE 11, C.R.S.

SECTION 50. 8-42-122, Colorado Revised Statutes, is amended to read:

8-42-122. Minor dependents - safeguarding payments. In all cases of death where the dependents are minor children, it shall be sufficient for the surviving spouse or a friend to make application and claim on behalf of the minor children. The director, for the purpose of protecting the rights and interests of any dependents whom the director deems incapable of fully protecting their own interests, may deposit the payments in any type of account in state or national banks insured by the federal deposit insurance corporation OR ITS SUCCESSOR, savings and loan associations ~~which~~ THAT are insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, or credit unions ~~which~~ THAT are insured by the national credit union share insurance fund and may otherwise provide for the manner and method of safeguarding the payments due such dependents in such manner as the director sees fit.

SECTION 51. 10-3-216 (1) (f) (II), Colorado Revised Statutes, is amended to read:

10-3-216. First liens on real property. (1) Domestic insurance companies may invest in loans secured by first liens on real property, subject to the following provisions:

(f) The entire obligation secured by a first lien on real estate shall be owned by the company; except that the company may own such an obligation in common with other participants if, at the time of the company's investment, each participant is:

(II) A savings and loan association whose members are insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation or any successor agency thereto;

SECTION 52. 10-15-108 (1), Colorado Revised Statutes, is amended to read:

10-15-108. Standard for investments by trustees. (1) Savings and loan associations acting as trustees under the terms of this article shall invest trust funds as otherwise authorized under the laws of this state relating to the investment of funds by savings and loan associations and the federal law governing such investments, but savings and loan associations shall accept trust funds only to the extent that the full amount thereof is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR.

SECTION 53. 11-40-102 (12.5), Colorado Revised Statutes, is amended to read:

11-40-102. Definitions. As used in articles 40 to 46 of this title, unless the context otherwise requires:

(12.5) "Net worth" includes the sum of all reserve accounts, undivided profits, permanent stock, preferred stock, and surplus, the principal amount of any subordinated debt securities, and any other account or item included as net worth by regulation of the commissioner or by any law, rule, regulation, order, or decision of the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR or any other state or federal agency that is applicable to federal savings and loan associations.

SECTION 54. 11-41-114 (1) (e) and (1) (f), Colorado Revised Statutes, are amended to read:

11-41-114. How funds invested. (1) Any savings and loan association may invest any portion of its funds in any of the following:

(e) Bonds or debentures issued by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR in accordance with the provisions of Title IV of the "National Housing Act", and any amendments thereto;

(f) Insured shares of savings and loan associations to the extent that each investment is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR and uninsured shares of savings and loan associations but not to exceed ten thousand dollars in any one uninsured association, if such associations are incorporated under the laws of this state or the federal government and are doing business in this state and if such associations are functioning and operating without any restrictions imposed by order of the commissioner or federal home loan bank administration;

SECTION 55. 11-41-119 (1), Colorado Revised Statutes, is amended to read:

11-41-119. Loans to members and other loans. (1) An association may invest any portion of its funds in loans to its members, secured by first lien trust deeds or mortgages upon improved real estate; except that additional loans or advances on the same property secured by additional encumbrances shall be deemed to be first liens for the purposes of articles 40 to 46 of this title, unless an intervening lien has been recorded, and upon the shares issued by such association, or upon both such securities; and except that, only in the case of an association not subject to regulation by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, no one loan can be made in excess of five percent of the gross assets of the association at the close of the preceding month, nor in any event shall the total of loans in excess of fifty thousand dollars exceed twenty percent of the gross assets of the association at the close of the preceding month.

SECTION 56. 11-41-121 (1.5) (a) (I), (1.5) (a) (II) (A), (1.5) (a) (II) (B), and (1.5) (a) (II) (C), Colorado Revised Statutes, are amended to read:

11-41-121. Merger, consolidation, and transfer. (1.5) (a) A domestic association may merge with a foreign association and, subject to the limitations specified in this subsection (1.5), notwithstanding any other provision of articles 40 to 46 of this title to the contrary, if the association proposing to merge with a domestic association is a foreign association, the foreign association shall, in addition to submitting all information pertinent to the evaluation of the application under this

section that the commissioner may require together with all applicable fees:

(I) The foreign association seeking the merger shall have deposits that it may hold insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR in accordance with the provisions of section 11-41-117; and

(II) The foreign association shall be in compliance with the capital requirements specified in this subparagraph (II) as follows:

(A) ~~On and after January 1, 1991, but prior to January 1, 1992, the foreign association shall have a ratio of total capital to total assets of not less than four percent or the prevailing regulatory capital requirement established by the federal savings and loan insurance corporation, whichever is greater;~~

(B) ~~On and after January 1, 1992, but prior to January 1, 1993, the foreign association shall have a ratio of total capital to total assets of not less than five percent or the prevailing regulatory capital requirements established by the federal savings and loan insurance corporation, whichever is greater;~~

(C) On and after January 1, 1993, the foreign association shall have a ratio of total capital to total assets of not less than six percent or the prevailing regulatory capital requirements established by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, whichever is greater; and

SECTION 57. The introductory portion to 11-41-133 (6) (a) and 11-41-133 (6) (a) (I), (6) (a) (II) (A), (6) (a) (II) (B), and (6) (a) (II) (C), Colorado Revised Statutes, are amended to read:

11-41-133. Acquisition of majority control over an existing association - definitions. (6) (a) A domestic association may, subject to any applicable regulations of the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, invest in an association ~~which~~ THAT is domiciled or conducts its principal operations in another state and acquire control of such association, and notwithstanding any other provision of articles 40 to 46 of this title to the contrary, if the entity proposing to acquire control of a domestic association is a foreign association, the foreign association shall, in addition to submitting all information pertinent to the evaluation of the application under this section that the commissioner may require together with all applicable fees, meet the following criteria:

(I) The foreign association seeking the acquisition shall have deposits that it may hold insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR in accordance with the provisions of section 11-41-117; and

(II) The foreign association shall be in compliance with the capital requirements specified in this subparagraph (II) as follows:

(A) ~~On and after January 1, 1991, but prior to January 1, 1992, the foreign association shall have a ratio of total capital to total assets of not less than four percent or the prevailing regulatory capital requirement established by the federal savings and loan insurance corporation, whichever is greater;~~

~~(B) On and after January 1, 1992, but prior to January 1, 1993, the foreign association shall have a ratio of total capital to total assets of not less than five percent or the prevailing regulatory capital requirements established by the federal savings and loan insurance corporation, whichever is greater;~~

(C) On and after January 1, 1993, the foreign association shall have a ratio of total capital to total assets of not less than six percent or the prevailing regulatory capital requirements established by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, whichever is greater; and

SECTION 58. Repeal. 11-42-111 (2), Colorado Revised Statutes, is repealed as follows:

~~**11-42-111. Reserves and distribution of earnings.** (2) Each savings and loan association whose accounts are insured by the federal savings and loan insurance corporation shall set up and maintain a federal insurance reserve as provided in the rules and regulations for insurance of accounts. In the event of termination of the status of an association as an insured institution, the federal insurance reserve shall be transferred to and become a part of the contingent reserve of the association.~~

SECTION 59. 11-42-125 (9), Colorado Revised Statutes, is amended to read:

11-42-125. Associations authorized to accept deposit accounts. (9) Savings deposits in a deposit association shall be evidenced by such certificates, account books, or passbooks as the association could issue or would be required to issue for a corresponding share account if it were not a deposit association; but any such certificate, account book, or passbook shall be modified so as to clearly reveal that the interest or obligation evidenced thereby is a savings deposit and not a share or share account in the issuing association. The term "invested capital", as applied to a deposit association, shall include the certificate values of all savings deposits therein. A deposit association may accept such one or more types of savings deposits as are permitted by the bylaws of the association, if such deposits are of a type and kind ~~which~~ THAT may be accepted by savings and loan associations insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation or its successor.

SECTION 60. 11-44-109 (1), Colorado Revised Statutes, is amended to read:

11-44-109. Examination by commissioner - procedure - penalty. (1) The commissioner, in person or by his deputy or one or more of his OR HER employees, at such intervals as ~~he~~ THE COMMISSIONER shall determine to be necessary or desirable in order to ascertain that each association is conducting its business in a safe and authorized manner, shall visit the home office and such branch offices as ~~he~~ THE COMMISSIONER deems necessary and examine into the affairs of every domestic association doing business in this state. ~~His~~ THE COMMISSIONER'S deputy or any employee of the commissioner, before being entitled to make such examination, shall produce under the hand and seal of the commissioner his OR HER authority to make such examination. The commissioner and his deputy have the power to administer oaths and to examine under oath any director, officer, employee, or agent of any association concerning the business and affairs thereof. If the association has neither been audited by a registered or certified public accountant, in such manner and by auditors satisfactory to the commissioner, within the twelve-month period

immediately preceding the date of such examination or within the period that has elapsed since such last preceding examination, whichever is greater, nor adopted and maintained an internal audit program acceptable to the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR and the division, the examination by the division shall include an audit. The cost, as computed by the division, of any such audit shall be paid by the association audited; except that there shall be no charge by the division for making an audit when such audit has been made by reason of collaboration as provided in section 11-41-117.

SECTION 61. 11-44-110.5, Colorado Revised Statutes, is amended to read:

11-44-110.5. Supervisory mergers. As a condition to allowing an association to resume business, the commissioner may require the association to merge with a domestic, foreign, or federal savings and loan association. In the case of such a supervisory merger initiated by the commissioner or the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, the provisions of section 11-43-101 shall not apply.

SECTION 62. 11-44-112, Colorado Revised Statutes, is amended to read:

11-44-112. Appointment of commissioner as receiver - assignment for benefit of creditors prohibited. Upon application to the district court, the commissioner may be appointed the receiver to operate a savings and loan association when such appointment is necessary to avoid the association's assets becoming impaired or when the association is operating in an unsafe manner. In lieu of the commissioner being appointed a receiver or liquidator, the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, or an insurer authorized to insure obligations or accounts pursuant to articles 40 to 47.5 of this title, may be tendered an appointment as receiver or liquidator. For the purposes of rule 98 of the Colorado rules of civil procedure, venue of the commissioner is in the city and county of Denver. No savings and loan association shall make an assignment for the benefit of creditors.

SECTION 63. 11-47-112 (1), Colorado Revised Statutes, is amended to read:

11-47-112. Power and authority of financial services board. (1) The commissioner shall have specific power and authority to require any eligible public depository to furnish, ~~him~~, at any time, such information as ~~he~~ THE COMMISSIONER may request or demand concerning the amount of public deposits held by it, the portion thereof ~~which~~ THAT is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, the amount of its capital funds, and the nature, amount, market value, and location of the eligible collateral maintained or pledged by it to secure said deposits.

SECTION 64. 12-12-109 (1), Colorado Revised Statutes, is amended to read:

12-12-109. Endowment care fund. (1) A cemetery authority of an endowment care cemetery shall establish an irrevocable endowment care fund for each endowment care cemetery owned, maintained, or operated by it in a state bank or trust company authorized to act as fiduciary and under the supervision of the banking board or in a national banking association authorized to act as fiduciary OR IN A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCIATION AUTHORIZED TO

ACT AS A FIDUCIARY. Such endowment care fund shall be invested in investments lawful for trustees, which shall not include investments in nor mortgages on property owned or contracted for by the cemetery authority or any owned or affiliated company.

SECTION 65. 23-3.1-216 (1), Colorado Revised Statutes, is amended to read:

23-3.1-216. Investment of funds. (1) Funds of the authority, including the moneys held in the Colorado student obligation bond authority fund created in section 23-3.1-205.4, may be invested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.; in certificates of deposit or time deposits constituting direct obligations of any bank or savings and loan association in Colorado that may be made only in those certificates of deposit or time deposits in banks or savings and loan associations that are insured by the federal deposit insurance corporation or ~~federal savings and loan insurance corporation~~ ITS SUCCESSOR and may not exceed the maximum of such insurance unless such banks or savings and loan associations are eligible public depositories and such excess is secured by a pledge of eligible collateral as required by either article 10.5 or article 47 of title 11, C.R.S.; or in obligations of the student loan marketing association or any successor organization. Any such securities may be purchased at the offering or market price at the time of such purchase. Funds of the authority may be invested with such maturities as determined by the state treasurer, based upon the advice and recommendations of the authority, if such maturities are on a date or dates prior to the time when, in the judgment of the state treasurer, based upon the advice and recommendations of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.

SECTION 66. 23-15-122, Colorado Revised Statutes, is amended to read:

23-15-122. Investment of funds. The authority may invest the proceeds from the sale of a series of bonds or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the series of bonds are authorized to be issued, including but not limited to the following: Bonds or other obligations of the United States; bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States; obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; obligations issued or guaranteed by any state of the United States or any political subdivision of any such state; prime commercial paper; prime finance company paper; bankers' acceptances drawn on and accepted by commercial banks; repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; or certificates of deposit or time deposits issued by commercial banks or savings and loan associations ~~which~~ THAT are insured by the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation, if then in existence~~ ITS SUCCESSOR. The authority may invest any other funds in the securities as provided in this section and with such maturities as the

authority shall determine if such maturities are on a date or dates prior to the time that, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time that any funds will be required for expenditure or be redeemable is final and conclusive.

SECTION 67. 24-36-112 (1), Colorado Revised Statutes, is amended to read:

24-36-112. Deposits in savings and loan associations. (1) Subject to the requirements of subsection (4) of this section, the state treasurer is authorized to deposit state moneys with any state-chartered savings and loan association, or federally chartered savings and loan association having its principal office in this state, for fixed periods of time not exceeding three years, at such rate of interest as may be negotiated from time to time, but in no event shall any such deposit be in excess of the amount insured by the federal ~~savings and loan~~ DEPOSIT insurance corporations OR ITS SUCCESSOR, unless such savings and loan association has been designated as an eligible public depository by the state commissioner of financial services, pursuant to the provisions of article 47 of title 11, C.R.S.

SECTION 68. 24-75-603 (1) and (2), Colorado Revised Statutes, are amended to read:

24-75-603. Depositories. (1) It is lawful for the state of Colorado and any of its institutions and agencies, counties, municipalities, and districts, and any other political subdivision of the state, and any department, agency, or instrumentality thereof, or any political or public corporation of the state, whenever any of the foregoing have funds, and for any bank, savings and loan association, industrial bank, credit union, fraternal benefit society, trust deposit and security company, trust company, or any other financial institution operating under the laws of this state having funds in their possession or custody, respectively, to deposit, or cause to be deposited either by or through the treasurer or such other custodian of funds as may be appointed, such funds so eligible for investment in any state bank, national bank, or state or federal savings and loan association in Colorado ~~which~~ THAT is, at the time the deposit is made, a member of the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation~~ ITS SUCCESSOR to the extent that the deposit is insured by the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation~~ ITS SUCCESSOR or is secured by pledge of eligible collateral as required by statute.

(2) Notwithstanding any provisions of law of this state or any rule or requirement of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond, or any other form, such security for deposits of public funds shall not be required to the extent said deposits are insured by the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation~~ ITS SUCCESSOR.

SECTION 69. 24-75-605 (1) (e) and (2) (c), Colorado Revised Statutes, are amended to read:

24-75-605. Legal investments - cities of twenty-five thousand or more population - limitation in class of investments. (1) Whenever cities having a population of twenty-five thousand or more, as determined by the last preceding

federal decennial census, have moneys in policemen's or firefighters' pension funds, or other special funds of said cities, including pension, endowment, and trust funds, whether or not administered by a board or similar authority, it is lawful to invest or reinvest these moneys as set forth in this section if the authorization to invest moneys as provided in this section does not affect the administration of or control over the various funds, to wit:

(e) Class 5. In share certificates for savings accounts in any state or federally chartered savings and loan association in Colorado if said association is a member of the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR and further if the full amount of each account is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR; and in any time certificate of deposit or savings account in any state or national bank in Colorado, which certificates of deposit or savings accounts are fully insured by the federal deposit insurance corporations OR ITS SUCCESSOR;

(2) Investments under this section shall be limited in their acquisition and retention in the above classes of securities so that the aggregate of all investments in each separate fund at any time shall be as follows:

(c) Class 5. In any amount ~~which~~ THAT is fully insured by ~~the federal savings and loan insurance corporation or~~ the federal deposit insurance corporation OR ITS SUCCESSOR.

SECTION 70. 24-91-102 (1) (d), Colorado Revised Statutes, is amended to read:

24-91-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Acceptable securities" means:

(d) Certificates of deposit from a state or national bank or a savings and loan association insured by the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation~~ ITS SUCCESSOR and having its principal office in this state.

SECTION 71. 25-25-122, Colorado Revised Statutes, is amended to read:

25-25-122. Investment of funds. The authority may invest the proceeds from the sale of a series of bonds or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the series of bonds are authorized to be issued, including but not limited to the following: Bonds or other obligations of the United States; bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States; obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; obligations issued or guaranteed by any state of the United States or any political subdivision of any such state; prime commercial paper; prime finance company paper; bankers acceptances drawn on and accepted by commercial banks; repurchase

agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by congress of the United States; or certificates of deposit or time deposits issued by commercial banks or savings and loan associations ~~which~~ THAT are insured by the federal deposit insurance corporation or ~~the federal savings and loan insurance corporation, if then in existence~~ ITS SUCCESSOR. The authority may invest any other funds in the securities as provided in this section and with such maturities as the authority shall determine if such maturities are on a date or dates prior to the time that, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time that any funds will be required for expenditure or be redeemable is final and conclusive.

SECTION 72. The introductory portion to 28-5-301 (1) (o) and 28-5-301 (1) (o) (I) and (1) (o) (III), Colorado Revised Statutes, are amended to read:

28-5-301. Legal investments. (1) It is lawful for any guardian or conservator of minor or incompetent beneficiaries of the veterans administration to invest the funds of the estate or trust or to permit such funds to remain invested in any of the following:

(o) Share, certificate, or savings accounts in any state or federally chartered ~~building~~ or savings and loan association in Colorado ~~which~~ THAT are insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR if:

(I) The full amount of the account is insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR;

(III) To the extent that the account ceases to be insured by the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR, the same is withdrawn or otherwise converted into cash as promptly as the terms of the account will permit. Such account may be evidenced by an entry in a passbook, or by a certificate of investment, or in such other manner as is acceptable to the federal ~~savings and loan~~ DEPOSIT insurance corporation OR ITS SUCCESSOR.

SECTION 73. 38-35-125 (1) (b), Colorado Revised Statutes, is amended to read:

38-35-125. Closing and settlement services - disbursement of funds. (1) As used in this section, unless the context otherwise requires:

(b) "Financial institution" means an entity that is authorized under the laws of this state, another state, or the United States to make loans and receive deposits and has its deposits insured by the federal deposit insurance corporation ~~the federal savings and loan insurance corporation~~ OR ITS SUCCESSOR or the national credit union share insurance fund.

SECTION 74. Effective date. This act shall take effect July 1, 2004.

SECTION 75. 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: March 17, 2004