

CHAPTER 1168
INSURANCE INSPECTORS LIABILITY

H. F. 570

AN ACT relating to inspections by insurance companies of any place of employment.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter five hundred seventeen (517), Code 1977, is amended by adding the following new section:

NEW SECTION. No inspection of any place of employment made by insurance company inspectors shall be the basis for the imposition of civil liability upon the inspector or upon the insurance company employing the inspector; but this provision refers only to liability arising out of the making of an inspection and shall not be construed to deny or limit the liability of any employer to his employees or the liability of any insurance carrier on its insurance policy.

Sec. 2. This Act is effective January 1, 1979.

Approved May 5, 1978

CHAPTER 1169
CREDIT UNIONS

S. F. 137

AN ACT relating to the operation and regulation of credit unions, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. Chapter five hundred thirty-three (533), Code 1977, is amended by adding sections two (2) through seventeen (17) of this Act.

Sec. 2. NEW SECTION. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Credit union" means a cooperative, nonprofit association, incorporated in accordance with the provisions of this chapter. A credit union is also a supervised financial organization as defined and used in the Iowa consumer credit code.

2. "Board" means the credit union review board, created

in section four (4) of this Act.

3. "Administrator" means the administrator appointed by the governor to direct and regulate credit unions pursuant to this chapter.

4. "Account insurance plan" means a plan providing account and share insurance which is of a type authorized under section fifteen (15) of this Act.

Sec. 3. NEW SECTION. DEPARTMENT CREATED. A credit union department of state government is created which shall consist of an administrator, a seven-member board and additional officers and employees as required.

Sec. 4. NEW SECTION. CREDIT UNION REVIEW BOARD.

1. A credit union review board is created. The board shall consist of seven members, each of whom shall have been a member in good standing for at least the previous five years of an Iowa state chartered credit union or a credit union chartered under the Federal Credit Union Act. Two of the members shall not be credit union directors or employees. Each member shall serve for a term of three years except that the terms of the members first appointed after the effective date of this Act shall expire, as designated by the governor at the time of appointment as follows:

- a. Two members on June 30, 1980.
- b. Two members on June 30, 1981.
- c. Three members expiring on June 30, 1982.

2. The members of the board shall be appointed by the governor with approval of the senate. The governor may appoint the members of the board from a list of nominees submitted to the governor by the credit unions located in the state of Iowa.

3. The board shall meet at least four times each year and shall hold special meetings at the call of the chairperson. Four members constitute a quorum.

4. Each member of the board shall receive actual and necessary expenses incurred in the discharge of official duties.

5. A member of the credit union review board shall not take part in any action or participate in any decision when the matter under consideration specifically relates to a credit union of which the board member is a member.

Sec. 5. NEW SECTION. POWERS AND DUTIES.

1. The board may adopt, amend, and repeal rules pursuant to chapter seventeen A (17A) of the Code or take other

action as it deems necessary or suitable, to effect the provisions of this Act.

*** 2. The board shall set the salary and prescribe the duties of the administrator who shall serve at the pleasure of the governor.***

Sec. 6. NEW SECTION. ADMINISTRATOR.

1. The administrator shall be appointed by the governor, subject to approval by the senate, and must possess a minimum of five years credit union experience.

2. The administrator may employ special assistants, examiners, and other employees as are necessary to carry out the provisions of this Act. The administrator shall, subject to approval by the board, establish salaries for the persons employed.

3. The administrator may make further rules as necessary, subject to the prior approval of the rules by the board.

Sec. 7. NEW SECTION. DEPUTY ADMINISTRATOR.

1. The administrator shall appoint a deputy administrator who shall assist the administrator in the performance of his or her office and who shall perform the duties of the administrator as directed by him or her during the absence or inability of the administrator.

2. The deputy administrator shall serve at the pleasure of the administrator. If the office of the administrator becomes vacant, the deputy administrator shall have all powers and duties of the administrator until a new administrator is appointed by the governor in accordance with the provisions of this chapter.

3. The deputy administrator shall receive a salary to be fixed by the board.

Sec. 8. NEW SECTION. EXPENSES. The administrator, deputy administrator, assistants, examiners and other employees of the credit union department are entitled to receive reimbursement for expenses incurred in the performance of their duties subject to approval by the board. The administrator, and when specifically authorized by the administrator, the deputy administrator, assistants, examiners and other employees of the credit union department, are entitled to receive reimbursement for expenses incurred while attending conventions, meetings, conferences, schools or seminars relating to the performance of their duties.

Sec. 9. NEW SECTION. INSURANCE AND SURETY BOND. The administrator shall acquire good and sufficient bond in a company authorized to do business in this state to insure

***Item veto

the faithful performance of the deputy administrator, assistants, examiners and all other employees of the credit union department and to insure against any liability which may accrue in case of the loss of property of a credit union, or of a member of a credit union or of any other person, in the course of an examination, investigation, or other function required or allowed by the laws of this state. The administrator shall be bonded in accordance with the provisions of chapter sixty-four (64) of the Code, provided that such bond shall be in the amount of one hundred thousand dollars.

Sec. 10. NEW SECTION. SUBPOENA--CONTEMPT.

1. The administrator, the deputy administrator, and upon the approval of the administrator, any assistant or examiner shall have the power to subpoena witnesses, to compel their attendance, to administer oaths, to examine any person under oath and to require the production of relevant books or papers. The examination may be conducted on any subject relating to the duties imposed upon, or powers vested in, the administrator under the provisions of this chapter.

2. When a person subpoenaed pursuant to subsection one (1) of this section neglects or refuses to obey the terms of the subpoena, or to produce books or papers or to give testimony, as required, the administrator may apply to the district court of Polk county for the enforcement of the subpoena or for the issuance of an order compelling compliance as the court directs.

3. The refusal without reasonable cause of a person to obey an order of the district court, issued pursuant to subsection two (2) of this section, shall be considered contempt of court.

Sec. 11. NEW SECTION. RECORDS OF CREDIT UNION DEPARTMENT.

1. Records of the credit union department are public records subject to the provisions of chapter sixty-eight A (68A) of the Code, except that papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of a specific credit union or of other persons by the administrator pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

2. The credit union review board or the administrator may notify the Iowa credit union league of the name of any

credit union which the board or administrator has reasonable cause to believe may have violated any of the provisions of this chapter or may be in danger of becoming insolvent or which has been the subject of a report of examination which the board or administrator deems unsatisfactory in any respect, and thereafter the administrator may, with the written consent of the credit union, give information secured from or about that credit union to the Iowa credit union league.

3. The administrator, deputy administrator, assistants or examiners shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating to the supervision and regulation of a specific credit union or persons by the administrator pursuant to the laws of this state, nor shall the records of the credit union department which relate to the supervision and regulation of a specific credit union or persons be offered in evidence in a court or subject to subpoena by a party except where relevant:

a. In actions or proceedings brought by the administrator.

b. In matters in which an interested and proper party seeks review of a decision of the administrator.

c. In actions or proceedings which arise out of the criminal provisions of the laws of this state or of the United States.

d. In actions brought as shareholder derivative suits against a credit union.

e. In actions brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation or misuse of credit union funds.

Sec. 12. NEW SECTION. ANNUAL REPORT OF ADMINISTRATOR.

1. The administrator shall make a report in writing annually to the governor in the manner and within the time required by chapter seventeen (17) of the Code. A copy of the report shall be furnished by the administrator to each credit union and to the Iowa credit union league and its affiliates.

2. In addition to the matters required by chapter seventeen (17) of the Code, the annual report of the administrator shall contain:

a. A summary of applications approved or denied by the administrator pursuant to this chapter since the last previous report.

b. A summary of the assets, liabilities and capital structures of all credit unions, and a summary of the volume of consumer installment credit outstanding per credit union, as of June thirtieth of the year for which the report is made.

c. A statement of the receipts and disbursements of funds of the administrator during the calendar year ending on the preceding December thirty-first and of the funds on hand on that December thirty-first, including an estimate of the disbursements of department funds for consumer credit protection during the year for which the report is made.

d. Other information the administrator deems appropriate and advisable to fairly disclose the discharge of the duties imposed upon him or her by this chapter.

e. Information which the administrator of the Iowa consumer credit code may require to be included.

Sec. 13. NEW SECTION. EXAMINATION AND SUPERVISION FEES--PENALTIES.

1. Each credit union shall pay to the administrator an annual filing fee which shall be submitted with the annual report. The fee shall be based upon the actual operating costs of the department, exclusive of examination expenses, and shall be established and promulgated as a rule by the administrator. The administrator shall assess against a credit union the actual and necessary expenses of the agency incidental to any examination of that credit union made pursuant to the provisions of this Act or to an order of the administrator.

2. Failure of a credit union to pay an annual filing fee or examination fee shall result in a penalty of five dollars per day, or for any part of a day, during which the credit union is delinquent, and may be the grounds for revocation of the charter of the credit union which failed to make payment.

3. All expenses required in the discharge of the duties and responsibilities imposed upon the administrator and the board by the laws of this state shall be paid from funds appropriated from the general fund of the state. The administrator shall pay all fees and other money received by the administrator to the treasurer of state within the same time required by section twelve point ten (12.10) of the Code. The treasurer of state shall deposit such funds in the general fund of the state. Funds appropriated to the credit union department shall be subject at all times to the warrant of the state comptroller, drawn upon written

requisition of the administrator or a designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the credit union department.

4. The administrator, deputy or employees of the department shall not be members of nor have any business dealings with a credit union. Credit unions shall not accept moneys for deposit and shall not have any business transaction with the administrator, deputy or an employee of the credit union department. If a person willfully receives or accepts a deposit or undertakes to establish a business dealing contrary to this section, upon conviction that person shall be guilty of a serious misdemeanor, and shall be permanently disqualified from acting as an officer, director or employee of a state chartered credit union and permanently disqualified from acting as administrator, deputy or employee of the state credit union department.

Sec. 14. NEW SECTION. FALSE STATEMENTS--PENALTIES.

1. A director, officer or employee of a credit union shall not intentionally publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning rates, terms or conditions on which loans are made, or deposits or share installments are received, or concerning any charge which the credit union is authorized to impose pursuant to this chapter, or concerning the financial condition of the credit union. Any director, officer, or employee of a credit union who violates the provisions of this section commits fraudulent practice.

2. Any person who maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any credit union which imputes or tends to impute insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of deposits from such credit union, or which may otherwise injure or tend to injure the business or good will of such credit union, shall be guilty of a simple misdemeanor.

Sec. 15. NEW SECTION. ACCOUNT INSURANCE. Every credit union organized under this chapter, as a condition of maintaining its privilege of organization after December 31, 1980, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. Such insurance shall be obtained from the national credit union administrator or from

some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the administrator of the credit union department. Every credit union not so insured as of the effective date of this Act shall submit an application for share and deposit insurance not later than July 1, 1979.

The administrator may furnish to any official of an insurance plan by which the accounts of a credit union are insured, any information relating to examinations and reports of the status of that credit union for the purpose of availability of insurance to that credit union.

Sec. 16. NEW SECTION. FALSE STATEMENT FOR CREDIT. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person or any other person in which such person is interested or for whom such person is acting with the intent that such statement shall be relied upon by a credit union for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

Sec. 17. NEW SECTION. CENTRAL CREDIT UNIONS. Credit unions known as "central credit unions" may exist for the purpose of serving members of dissolved credit unions, directors, officers and employees of credit unions, employee groups as defined in subsection thirteen (13) of section five hundred thirty-three point four (533.4) of the Code, and such other persons as the administrator shall approve.

Sec. 18. Section five hundred twenty-seven point two (527.2), subsection six (6), Code 1977, is amended to read as follows:

6. "Administrator" means and includes ~~both~~ the superintendent of banking and, the supervisor of savings and loan associations within the office of the auditor of state, and the administrator of the credit union department. However, the powers of administration and enforcement of this chapter shall be exercised only as provided in section ~~twelve-(42)~~ of this chapter five hundred twenty-seven point three (527.3) of the Code.

Sec. 19. Section five hundred twenty-seven point three (527.3), subsection one (1), Code 1977, is amended to read as follows:

1. For purposes of this chapter the superintendent of banking only shall have the power to issue rules applicable to, to accept and approve or disapprove applications or informational statements from, to conduct hearings and revoke any approvals relating to, and to exercise all other supervisory authority created by this chapter with respect to banks ~~and credit unions~~. The; the supervisor of savings and loan associations only shall have and exercise such powers and authority with respect to savings and loan associations; and the administrator of the credit union department only shall have and exercise such powers and authority with respect to credit unions.

Sec. 20. Section five hundred thirty-three point one (533.1), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

ADMINISTRATION. The administrator shall have the supervisory and regulatory authority of all state chartered credit unions and shall be charged with the administration and execution of the laws of this state relating to credit unions. Subject to the approval of the credit union review board, the administrator shall have power to adopt such rules as in his or her opinion are necessary to properly and effectively safeguard the interests of depositors and shareholders of credit unions, and otherwise to carry out and enforce the provisions of this chapter.

Sec. 21. Section five hundred thirty-three point one (533.1), unnumbered paragraphs three (3), four (4) and five (5), Code 1977, are amended to read as follows:

ORGANIZATION. Any seven residents of the state of Iowa may apply to the ~~superintendent of banking~~ administrator for permission to organize a credit union.

A credit union is organized in the following manner:

1. The applicants shall execute in duplicate articles of incorporation by the terms of which they agree to be bound. The articles shall state:

- a. The name and location of the proposed credit union.
- b. The names and addresses of the subscribers to the articles and the number of shares subscribed by each.
- c. The par value of the shares of the credit union which shall not exceed twenty-five dollars each and shall be established by the board of directors. A credit union may have more than one class of shares.

2. Said applicants shall prepare and adopt bylaws for

the general government of the credit union consistent with the provisions of this chapter, and execute the same in duplicate.

3. The articles and the bylaws, both executed in duplicate, shall be forwarded with a fee of ten dollars to the ~~superintendent-of-banking~~ administrator.

4. The ~~superintendent~~ administrator shall, within thirty days of the receipt of said articles and bylaws, determine whether they conform with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit ~~the~~ its members ~~of-it~~ and be consistent with the purposes of this chapter.

5. The ~~superintendent~~ administrator shall thereupon notify the applicants of his or her decision. If ~~it~~ the decision is favorable ~~he~~ the administrator shall issue a certificate of approval, which shall be attached to the duplicate articles of incorporation and the administrator shall return the same, together with the duplicate bylaws to the applicants.

6. The applicants shall thereupon file ~~the-said this~~ duplicate of the articles of incorporation, ~~with~~ and the attached certificate of approval ~~attached-thereto,~~ with the county recorder of the county within which the credit union is to ~~de~~ have its principal place of business, ~~where.~~ The county recorder shall record and index the same and return it, with his or her certificate of record attached ~~thereto,~~ to the ~~said-superintendent-of-banking~~ administrator for permanent record.

7. The applicants shall thereupon become and be a credit union, incorporated in accordance with the provisions of this chapter.

In order to simplify the organization of credit unions, the ~~superintendent-of-banking,~~ ~~upon-the-taking-effect-of-this~~ ~~chapter,~~ ~~or-as-seen-thereafter-as-sufficient-fees-shall-have~~ ~~accumulated-to-liquidate-the-cost-of-same,~~ administrator shall cause to be prepared an approved form of articles of incorporation and a form of bylaws, consistent with this chapter which may be used by credit union incorporators for their guidance, and on written application of any seven residents of the state, shall supply them without charge with blank articles of incorporation and a copy of ~~said~~ this form of suggested bylaws.

Sec. 22. Section five hundred thirty-three point two (533.2), Code 1977, is amended to read as follows:

533.2 AMENDMENTS. The articles of incorporation or the

bylaws may be amended by a favorable vote of a majority of the members present at any meeting, which number must constitute a quorum provided the proposed amendment was contained in the notice of the meeting. Any and all such amendments must be approved by the superintendent-of-banking administrator before they become effective.

Sec. 23. Section five hundred thirty-three point four (533.4), subsection five (5), paragraph e, subsection twelve (12), subsection thirteen (13) and subsection seventeen (17), Code 1977, are amended to read as follows:

e. Purchase of notes of liquidating credit unions with the approval of the superintendent-of-banking administrator.

12. Apply ~~to the administrator of the national credit union administration~~ for credit union share account and deposit account insurance which meets the requirements of this chapter under Title II of the federal Credit Union Act as amended by Public Law 94-468 and take all actions necessary to maintain an insured status ~~thereunder~~.

13. Upon the approval of the superintendent-of-banking administrator, serve an employee group having an insufficient number of members to form or conduct the affairs of a separate credit union. There shall be no requirement for the existence of a common bond relationship between the said small employee group and the credit union effecting such service.

17. Subject to the prior approval of the superintendent administrator, acquire and hold shares in a corporation engaged in providing and operating facilities through which a credit union and its members may engage, by means of either the direct transmission of electronic impulses to and from the credit union or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the credit union, in transactions in which such credit union is otherwise permitted to engage pursuant to applicable law.

Sec. 24. Section five hundred thirty-three point four (533.4), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Establish one or more offices other than its main office, subject to the approval and regulation of the administrator, if such offices shall be reasonably necessary to furnish service to its membership. A credit union office may furnish all credit union services ordinarily furnished to the membership at the principal place of business of the credit union which operates the office. All transactions of a credit union office shall be transmitted

daily to the principal place of business of the credit union which operates the office, and no current record keeping functions shall be maintained at a credit union office except to the extent the credit union which operates the office deems it desirable to keep at the office duplicates of the records kept at the principal place of business of the credit union. The central executive and official business functions of a credit union shall be exercised only at the principal place of business.

A credit union office shall not be opened without the prior written approval of the administrator. Upon application by a credit union in the form prescribed by the administrator, the administrator shall determine, after notice and hearing, if the establishment of the credit union office is reasonably necessary for service to, and is in the best interests of, the members of the credit union.

NEW SUBSECTION. Purchase insurance or make the purchase of insurance available for members.

NEW SUBSECTION. Notwithstanding the provisions of unnumbered paragraph one (1) of subsection four (4) of section five hundred thirty-three point sixteen (533.16) of the Code, a credit union may take a second mortgage on real property to secure a loan made by the credit union, subject to rules promulgated by the administrator.

Sec. 25. Section five hundred thirty-three point four (533.4), subsection sixteen (16), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

16. Sell, participate in, or discount the obligations of its members without recourse. Purchase the obligations of Iowa credit union members, provided the obligations meet the requirements of this chapter.

Sec. 26. Section five hundred thirty-three point five (533.5), Code 1977, is amended to read as follows:

533.5 MEMBERSHIP. Credit union membership shall consist of the incorporators and ~~such~~ other persons as who may be elected to membership and subscribe for at least one share, and who pay the installment thereon and the entrance fee, if any. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups having of individuals who have a common bond of occupation or association, or to groups of

individuals who reside within a well-defined neighborhood, community, or rural district. However, membership also may be extended to persons related to a member within the common bond by the first or second degree of consanguinity or affinity, including foster children and adopted children, and to such relatives of a deceased member. If adopted as a policy by the board of directors of a credit union, members ~~who are no longer included in the common bond of association~~ cease to meet the qualifications of membership may retain their credit union membership and all membership privileges.

Sec. 27. Section five hundred thirty-three point six (533.6), Code 1977, is amended to read as follows:

533.6 REPORTS--EXAMINATIONS.

1. Credit unions organized under this chapter shall report annually on or before the first day of February to the ~~superintendent of banking annually on or before the first day of February~~ administrator on blanks supplied by ~~him~~ the administrator for that purpose. Additional reports may be required. If any report remains in arrears for more than five days, a fine of five dollars for each day such report remains in arrears may be levied against ~~such the~~ the offending credit union in addition to the fine for failure to pay the annual fee. If such report is not returned within thirty days of the due date, the ~~superintendent of banking ad-~~ administrator may, after written notice to the president of ~~such the~~ the credit union ~~of his intention to de-se~~, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution.

2. The ~~superintendent of banking~~ administrator shall annually examine, or cause to be examined, each credit union annually. Each credit union and all of its officers and agents shall give to the representatives of ~~said superintendent~~ the administrator free access to all books, papers, securities, records and other sources of information under their control, ~~and for the purposes of such examination said representatives shall have the power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.~~ A report of such examination shall be forwarded to the ~~president~~ chairperson of each credit union within thirty days after the completion of the examination. Within thirty days of the receipt of ~~such this~~ this report, a meeting of the directors shall be called to consider matters contained in the report and the action taken shall be set forth in the

minutes of the board. ~~The superintendent may furnish to the administrator or any other official of the national credit union administration any information or report relating to examinations and reports of the status of any state credit union insured by the national credit union administration.~~ The superintendent of banking administrator may accept, in lieu of the annual examination of a credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent of banking administrator. The cost of the audit shall be paid by the credit union.

3. The superintendent of banking administrator may require any credit union, whose records are inadequate or whose books have not been balanced as of the end of the month not less than thirty days previously or whose affairs are in an unfavorable condition, to submit to an additional examination each year.

~~4. Each credit union shall pay to the superintendent of banking a fee for making examinations, based on the actual cost of the operation of the credit union division of the department of banking and the proportionate share of administrative expenses in the operation of the department of banking, attributable to credit unions, to be determined by the superintendent of banking, in accordance with chapter 47A.~~

5 4. If it shall appear that any credit union is insolvent or that it has violated any of the provisions of this chapter, the superintendent of banking administrator may, after a hearing or giving after an opportunity for a hearing is given, order such that credit union to correct such the condition and. The administrator shall grant it the credit union not less than sixty days within which to comply and failure to with the order. Failure to do comply shall afford the said superintendent administrator grounds to revoke the certificate of approval and shall afford the administrator the authority to apply to the district court of the district in which such this credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the superintendent administrator of the credit union department as receiver unless the superintendent administrator of the credit union department has tendered the appointment to the administrator of the national credit union administration plan by which the accounts of the credit union are insured.

~~The~~ Either administrator as receiver shall possess the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither ~~the-superintendent-nor-the~~ administrator shall be required to furnish bond as receiver of a state credit union.

5. When the administrator has reason to believe that an officer, director, or employee of a credit union has violated any law relating to a credit union or has continued an unsafe or unsound practice in conducting the business of a credit union after having been warned by the administrator to discontinue or correct such violation or unsafe or unsound practice, the administrator may cause notice to be served upon the officer, director, or employee to appear before the administrator to show cause why he or she should not be removed from office or employment. A copy of such notice shall be sent by restricted delivery mail to each director of the credit union affected. If, after granting the accused reasonable opportunity to be heard, the administrator finds that the accused has violated a law relating to a credit union or has continued an unsafe or unsound practice in conducting the business of a credit union after having been warned by the administrator, the administrator in his or her discretion may order that the accused be removed from office and from any position of employment with the credit union. A copy of the order shall be served upon the accused and upon the credit union affected, at which time the accused shall cease to be an officer, director, or employee of the credit union.

Sec. 28. Section five hundred thirty-three point eight (533.8), Code 1977, is amended to read as follows:

533.8 ELECTIONS. At the organization meeting there shall be elected a board of directors of not less than nine members to hold office for such terms as the bylaws provide and until successors are elected and qualify. At each annual meeting there shall be elected one member to fill each position vacated by reason of expiring terms or other causes. A record of the names and addresses of the directors, officers and committee persons shall be filed with the ~~superintendent-of~~ banking administrator within ten days following each election.

Sec. 29. Section five hundred thirty-three point sixteen (533.16), Code 1977, is amended to read as follows:

533.16 LOANS.

1. A credit union may loan to ~~members---loans-must-be~~ a member for a provident or productive purpose ~~and-are-made.~~ Loans shall be subject to the conditions contained in this

section and in the bylaws. A-borrower-may-repay-his-loan
A loan may be repaid by the borrower, in whole or in part,
any day the office of the credit union is open for business.
Every loan shall be pursuant to an application with supportive
credit information. Any credit or financial information which
is required shall be updated by the credit union or by the
member not less frequently than every eighteen months for
re-financed loans or for periodic advances made under an open-
end credit plan.

2. A credit union shall not lend in the aggregate to any
one member more than one hundred dollars or ten percent of
its capital, whichever is greater.

3. A director of a credit union may borrow from that
credit union under the provisions of this chapter, but the
loan shall not be made on terms more favorable than those
extended to other members. A director of a credit union may
borrow from that credit union to the extent and in the amount
of such director's holdings in the credit union in shares
and deposits. A director desiring to borrow from the credit
union an amount in excess of the director's holdings in shares
and deposits shall first submit application for approval by
the board of directors at a regular or special meeting. The
director making application for the loan shall not be in
attendance at the time the board of directors considers the
application and shall not take part in the consideration.
Prior to consideration of such loan, the director must have
submitted to the board a detailed current financial statement.
The aggregate amount of director loans shall not exceed twenty
percent of the assets of the credit union.

4. Loans secured by a mortgage or deed of trust upon real
property may be made only on unencumbered property located
in Iowa and in bordering counties of adjacent states and every
such loan shall comply with one of the following conditions:

4 a. If the terms of the instrument securing such loan
call for payment at maturity the loan shall not be for a
period in excess of five years and the amount loaned shall
not exceed fifty percent of the appraised value of the property
given as security.

2 b. If the terms of the instrument securing such loan
call for installment payments which are sufficient to retire
at least forty percent of the principal of the loan within
ten years the amount loaned shall not exceed sixty percent
of the appraised value of the property given as security and
shall not be for a period in excess of ten years.

3 c. If the terms of the instrument securing such loan call for monthly installment payments, including principal and interest, at least equal to one percent of the principal of the loan, the amount loaned shall not exceed eighty percent of the appraised value of the property given as security.

~~The foregoing restrictions or limitations shall not prevent the renewal or extension of loans and shall not apply to loans which are secured under the provisions of the national housing Act, as amended, or to loans made to families of low or moderate income as a part of programs authorized in sections 220.1 to 220.36 and approved by the Iowa housing finance authority. The board of directors of a credit union possessing assets of at least five hundred thousand dollars may set maturity schedules for real property loans not to exceed twenty-five years. The value of the property given as security must be determined by an independent appraiser and the maximum loan must not exceed ninety percent of the appraised value. However, the maximum real property loan balances of this type in the credit union shall not exceed fifteen percent of the aggregate total of the member share and deposit accounts.~~

d. The board of directors of a credit union possessing assets of at least five hundred thousand dollars may set maturity schedules for real property loans not to exceed thirty years, if the terms of the instrument securing such loans require substantially equal payments of principal or of principal and interest at successive intervals of not more than one year. The value of the property given as security must be determined by an independent appraiser and the maximum loan must not exceed ninety percent of the appraised value. However, the maximum real property loan balances of this type in the credit union shall be established by rule by the administrator.

5. Loans which are not secured by real property shall be subject to the following conditions:

a. Loans to any one member which in the aggregate exceed the unsecured loan limit established by the board of directors of a credit union shall be secured by one or more cosigners or guarantors, or, by a first lien on collateral having a value which is approximately equal to the amount in excess of such unsecured loan limit. Every cosigner or guarantor shall furnish the credit union with evidence of financial responsibility.

b. Nothing contained in this subsection shall be deemed

to preclude a credit committee or loan officer from requiring security for any loan.

c. A credit union may make loans insured under the provisions of Title twenty (XX), United States Code, section one thousand seventy-one (1071) through section one thousand eighty-seven (1087) or similar state programs, loans insured by the federal housing administration under Title twelve (XII), United States Code, section one thousand seven hundred three (1703), and loans to families of low or moderate income as a part of programs authorized in sections two hundred twenty point one (220.1) to two hundred twenty point thirty-six (220.36) of the Code.

d. The restrictions and limitations contained in this subsection shall not apply to loans made to a member credit union by a corporate central credit union.

6. Nothing contained in this section shall prevent the renewal or extension of loans.

7. The administrator may impose a penalty on a credit union for each loan made in violation of this section. If a credit union, after notice in writing, and opportunity for hearing, fails to satisfactorily resolve the matter within sixty days from receipt of such notice, the administrator may impose a fine against such credit union in an amount not to exceed one hundred dollars per day per violation for each day the violation remains unresolved.

8. ~~No credit union shall loan to any one member more than one hundred dollars or ten percent of its total assets whichever is greater.~~ The provisions of the Iowa consumer credit code shall apply to consumer loans made by a credit union, and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan.

Sec. 30. Section five hundred thirty-three point seventeen (533.17), subsection one (1), paragraph b, and subsection three (3), Code 1977, are amended to read as follows:

b. Five percent of gross income until the legal reserve equals ten percent of the total of outstanding loans and risk assets.

Whenever the legal reserve falls below ten percent or seven and one-half percent of the total of outstanding loans and risk assets, as the case may be, the difference shall be replaced by regular contributions in order to maintain the seven and one-half percent or ten percent reserve. Any entrance fees, charges and transfer fees shall, after payment

of organization expenses, be added to the legal reserve. The legal reserve shall belong to the credit union and shall be used to meet losses except those resulting from an excess of expenses over income. The reserve shall not be distributed except on liquidation of the credit union or in accordance with a plan approved by the superintendent-of-banking administrator.

3. The superintendent-of-banking administrator may require a credit union to set aside additional amounts as a special reserve if an examination of its assets should disclose that its legal reserve is inadequate.

Sec. 31. Section five hundred thirty-three point twenty (533.20), Code 1977, is amended to read as follows:

533.20 VOLUNTARY DISSOLUTION. The process of voluntary dissolution shall be as follows:

1. At a special meeting called for ~~the~~ that purpose, ~~notice-of-which-purpose-must-be-contained-in-the-call,~~ a credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting. Notice of the meeting's purpose shall be contained in the meeting's notice. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in the form approved by the superintendent-of-banking-and-the administrator. This vote shall have the same force and effect as if cast at the meeting.

2. The credit union shall cease to do business except for the purposes of liquidation immediately upon ~~the~~ giving of notice of the special meeting ~~of-the~~ called for the members to vote on dissolution ~~and-the.~~ The board of directors shall immediately notify the superintendent-of-banking administrator of the intention of the credit union to dissolve. The credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members ~~shall~~ have revoked prior affirmative action to dissolve as provided for in subsection 4 of this section.

3. The board of directors shall have power to terminate and settle the affairs of a credit union in voluntary dissolution. The credit union shall continue in existence for the purpose of discharging its liabilities, collecting and distributing its assets, and doing all acts required in order to terminate its affairs. The credit union may sue

and be sued for the purpose of enforcing such liabilities and for the purpose of collecting its assets until its affairs are fully settled. During the course of dissolution proceedings, the credit union shall make such reports and shall be subject to such examinations as the ~~superintendent of-banking~~ administrator may require. If at any time, after the affirmative vote of a majority of the members of a credit union to dissolve the credit union, the ~~superintendent-of banking~~ administrator finds that the credit union is not making reasonable progress toward terminating its affairs or finds that the credit union is insolvent, he the administrator may apply to the district court for a appointment of a receiver to-be-appointed to terminate the affairs of the credit union.

4. ~~A-credit-union-may,-at~~ At any time prior to any distribution of its assets, a credit union may revoke the voluntary dissolution proceedings ~~upon~~ by the affirmative vote of a majority of its members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws. The board of directors shall immediately notify the ~~superintendent-of banking~~ administrator of any such action to revoke voluntary dissolution proceedings.

5. Upon such proof as is satisfactory to the ~~superintendent of-banking~~ administrator that all assets have been liquidated from which there is a reasonable expectance of realization, that the liabilities of the credit union have been discharged and distribution made to its members, and that the liquidation has been completed, the ~~superintendent-of-banking~~ administrator shall issue a certificate of dissolution, which certificate shall be filed and recorded in the county in which the credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded. Upon the issuance of a certificate of dissolution, the existence of the credit union shall cease.

6. The board of directors may appoint by resolution any responsible person as defined in section four point one (4.1) of the Code, whose appointment has been approved by the administrator, to exercise its powers to terminate and settle the affairs of the credit union pursuant to this section. The administrator is authorized to promulgate rules pursuant to chapter seventeen A (17A) of the Code establishing the qualifications which must be met by such appointees, including but not limited to filing a surety bond with the administrator.

Sec. 32. Section five hundred thirty-three point twenty-one (533.21), subsections one (1) through three (3), Code 1977, are amended to read as follows:

1. In all situations in which the superintendent administrator has been appointed as receiver as provided in ~~section-533-6-and-section-533-20-he~~ this chapter, the administrator shall make a diligent effort to collect and realize on the assets of the credit union, and shall make distribution of the proceeds from time to time to those entitled thereto in the order provided for by law. The ~~superintendent administrator may execute as receiver, or after the receivership has terminated,~~ assignments, releases, and satisfactions to effectuate sales and transfers ~~as-receiver or-after-the-receivership-has-terminated.~~ Upon the order of the court in which the receivership is pending, the ~~superintendent administrator~~ administrator may sell or compound all bad or doubtful debts, ~~and, on a like order,~~ Upon the order of the court in which the receivership is pending, the administrator may sell all the real and personal property of the credit union, on such terms as the court shall direct.

2. All expenses of the receivership and dissolution shall be ~~fixed~~ determined by the superintendent administrator, subject to the approval of the district court, and shall be paid out of the assets of the credit union.

3. At the termination of the receivership, the superintendent administrator shall file ~~his~~ a final report ~~containing which shall contain~~ the details of his or her actions ~~therein, together with~~ and such additional facts as the court may require.

Sec. 33. Section five hundred thirty-three point twenty-two (533.22), subsection three (3), Code 1977, is amended to read as follows:

3. The ~~superintendent-of-banking~~ administrator shall assume custody of the records of a credit union dissolved pursuant to this chapter and shall retain ~~them~~ these records in accordance with the provisions of section 533.26. The superintendent administrator may cause film, photographic, photostatic, or other copies of ~~such~~ these records to be made and the administrator shall retain ~~such~~ these copies in lieu of the original records.

Sec. 34. Section five hundred thirty-three point twenty-three (533.23), Code 1977, is amended to read as follows:

533.23 CHANGE IN PLACE OF BUSINESS. A credit union may change its place of business on written notice to the

~~superintendent-of-banking administrator.~~

Sec. 35. Section five hundred thirty-three point twenty-seven (533.27), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

For the purpose of assisting credit unions in the retention of only necessary records and files, or for the destruction of those which are obsolete or unnecessary, credit unions are authorized to destroy such records and files or classes thereof within the period of limitation of actions upon the joint recommendation of the ~~superintendent-of-banking administrator~~ and a the credit union review board ~~relating to records consisting of the directors of the Iowa credit union league.~~

Sec. 36. Section five hundred thirty-three point thirty (533.30), subsections one (1), three (3), and four (4), Code 1977, are amended to read as follows:

1. A credit union may~~, with the approval of the superintendent-of-banking,~~ merge with another credit union under the existing organization of the other credit union if the merger receives approval of the administrator and if the merger is pursuant to a plan agreed upon by the majority of the board of directors of each credit union joining in the merger and which plan is approved by the affirmative vote of a majority of the members of the merging credit unions.

3. The certificate and a copy of the agreed plan of merger agreed-upon shall be forwarded to the ~~superintendent-of-banking administrator~~, certified by him or her, and returned to both credit unions within thirty days of the date of receipt by the administrator.

4. Upon return of the certificates from the ~~superintendent-of-banking administrator~~, all property, property rights, and members' interest of the merged credit union shall vest in the surviving credit union without ~~deed, endorsement~~ the legal need for deeds, endorsements or other ~~instrument instruments~~ of transfer, and all debts, obligations and liabilities of the merged credit union ~~are~~ shall be assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges of the members of the merged credit union shall remain intact. Credit union membership in the surviving credit union shall be available to persons within the field of membership of the merged credit union.

Sec. 37. Section five hundred thirty-three point thirty-three (533.33), Code 1977, is amended to read as follows:

533.33 ~~ADMINISTRATION-OF-NATIONAL-UNION~~ ADMINISTRATOR
OF ACCOUNT INSURANCE PLAN AS RECEIVER.

1. The superintendent administrator of the credit union department may tender to the administrator of ~~the-national credit-union-administration~~ an account insurance plan approved under this chapter the appointment as receiver for an insured credit union. If the insurance plan administrator accepts the appointment as receiver, the rights of the members and other creditors of the insured credit union shall be determined in accordance with the laws of this state.

2. The administrator of ~~the-national-credit-union administration~~ an account insurance plan as receiver shall possess the powers, rights, and privileges given to the superintendent administrator of the credit union department as provided by law.

3. If the administrator of ~~the-national-credit-union administration~~ an account insurance plan pays or makes available for payment the insured liabilities of a state credit union, he or she shall be subrogated by operation of law to all rights of the members against the insured credit union in the same manner and to the same extent as ~~the subrogation of-the-administrator-of-the-national-credit-union administration~~ is provided for in applicable laws ~~of-the United-States~~ in the case of a closed federal credit union or closed state credit union.

Sec. 38. Section five hundred thirty-three point thirty-four (533.34), Code 1977, is amended to read as follows:

533.34 CONVERSION OF STATE CREDIT UNION INTO FEDERAL CREDIT UNION.

1. A state credit union may convert into a federal credit union ~~upon~~ with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of its the credit union's members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose and shall be in the manner prescribed by the bylaws and-with-the-approval-of-the-administrator-of-the-national-credit-union-administration. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of conversion by signing a statement in a form satisfactory to the ~~superintendent-of-banking-and-the administrator of the credit union department.~~ This vote shall have the same force and effect as if cast at the meeting.

2. The board of directors of the state credit union shall notify the ~~superintendent-of-banking~~ administrator of the credit union department of any proposed conversion and of any abandonment or disapproval of the conversion by the members or by the administrator of the national credit union administration. The board of directors of the state credit union shall file with the ~~superintendent~~ administrator of the credit union department appropriate evidence of approval of the conversion by the administrator of the national credit union administration and shall notify the ~~superintendent~~ administrator of the credit union department of the date on which the conversion is to be effective.

3. Upon receipt of satisfactory proof that the state credit union has complied with all applicable laws of this state and of the United States, the ~~superintendent~~ administrator of the credit union department shall issue a certificate of conversion which shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.

Sec. 39. Section five hundred thirty-three point thirty-five (533.35), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. A federal credit union may convert into a state credit union upon by compliance with the laws of the United States and upon the approval by of the ~~superintendent-of-banking~~ administrator of the credit union department. Application for approval of the conversion to a state credit union shall be submitted to the ~~superintendent~~ administrator of the credit union department in the form prescribed by the ~~superintendent~~ administrator, together with the articles of incorporation and bylaws as required by section 533.1. The ~~superintendent of-banking~~ administrator of the credit union department may cause an examination to be made of any converting federal credit union ~~and-the.~~ The credit union shall pay to the ~~superintendent~~ administrator the same examination fee as paid for examinations of state credit unions.

2. If the ~~superintendent-shall~~ administrator of the credit union department should approve the application of a federal credit union for conversion to a state credit union, he or she shall cause the articles of incorporation of the resulting state credit union to be filed and recorded in the county in which the credit union has its principal place of business and he or she shall issue a certificate of authority to do

business under the laws of this state to the resulting state credit union ~~to-de-business-under-the-laws-of-this-state~~.

The credit union shall then become a state credit union subject to the laws of this state. The superintendent administrator of the credit union department shall furnish a copy of the certificate to the administrator of the national credit union administration.

Sec. 40. Section five hundred thirty-three point thirty-six (533.36), Code 1977, is amended by striking the section.

Sec. 41. Section five hundred thirty-three point thirty-seven (533.37), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

533.37 ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

1. The administrator of the credit union department shall enforce the Iowa consumer credit code with respect to credit unions, as provided in sections five hundred thirty-seven point two thousand three hundred three (537.2303), five hundred thirty-seven point two thousand three hundred five (537.2305) and five hundred thirty-seven point six thousand one hundred five (537.6105) of the Code.

2. The administrator of the credit union department shall cooperate with the administrator of the Iowa consumer credit code as designated in section five hundred thirty-seven point six thousand one hundred three (537.6103) of the Code, and shall assist that administrator whenever necessary to provide for the discharge of the duties of that administrator.

3. Notwithstanding other provisions of this chapter to the contrary, the administrator of the credit union department shall authorize to be furnished to the administrator of the Iowa consumer credit code, access to or copies of records in the custody of the credit union department which relate to a credit union, when necessary to enable the administrator of the Iowa consumer credit code to enforce chapter five hundred thirty-seven (537) of the Code.

Sec. 42. Section five hundred thirty-three point thirty-eight (533.38), subsection two (2), Code 1977, is amended to read as follows:

2. It may buy or sell investment securities and corporate bonds which are evidences of indebtedness. However, the buying and selling of such investment securities and corporate bonds shall be limited to buying and selling without recourse to marketable obligations evidencing indebtedness of any corporation or state or federal agency, under further definitions of the term "investment securities" as

prescribed by the superintendent administrator. The total amount of the investment securities of any one obligor or maker held by the credit union shall at no time exceed five percent of the shares, undivided earnings and reserves of the credit union except that this limit shall not apply to obligations of the federal government. The aggregate total of the investment securities held by the credit union shall not exceed fifteen percent of the shares, undivided earning and reserves of said credit union.

Sec. 43. Effective January 1, 1979, all of the jurisdiction, authorities, powers, records, duties and reserves conferred and imposed upon the superintendent of banking by the laws of this state which are in existence as of December 31, 1978, and which pertain to credit unions shall be transferred to the credit union department. All funds held in the general fund as of January 1, 1979 for the use of the superintendent of banking which pertain to credit union supervision and examination fees shall be transferred to the credit union department effective January 1, 1979.

All department of banking personnel who are assigned to the credit union division may transfer to the credit union department created by section three (3) of this Act effective January 1, 1979. However, no person shall be transferred in a supervisory capacity. Supervisory personnel shall be appointed at the discretion of the administrator.

Sec. 44. This Act shall take effect January 1, 1979.

Approved June 26, 1978, except the item designated as Subsection 2 of Section 5 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit Senate File 137, an act relating to the operation and regulation of credit unions, and providing penalties.

Senate File 137 is approved June 26, 1978, with the following exception which I hereby disapprove.

I am unable to approve the item designated in the Act as Subsection 2 of Section 5 which reads as follows:

2. The board shall set the salary and prescribe the duties of the administrator who shall serve at the pleasure of the governor.

This provision authorizes the Credit Union Review Board to set the salary of the administrator of the Credit Union Department and to prescribe the duties of the administrator. This provision runs counter to the concept of effective executive management.

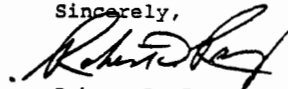
Our department heads carry out the policies of the executive branch of government. The Iowa Constitution establishes the Governor to be the chief executive to whom our department heads are accountable. Their accountability to the people is through the Governor. Therefore, it is logical that not only should the Governor appoint a director, but also the salary and duties should be prescribed as well.

The Governor sets the salaries of other department heads, including the Superintendent of Banking who currently regulates credit unions. The new Credit Union Department will be a regular, full-fledged state agency and should be governed by the same basic rules.

Since Section 43 specifically directs the transfer of funds earlier appropriated to the Banking Department to the new Credit Union Department on January 1, 1979, this bill is, therefore, an appropriation bill subject to the item veto.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 137 are hereby approved as of this date.

Sincerely,



Robert D. Ray
Governor