

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3116

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1998

Received

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## AN ACT

To address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Examination Parity  
5 and Year 2000 Readiness for Financial Institutions Act”.

6 **SEC. 2. YEAR 2000 READINESS FOR FINANCIAL INSTITU-**  
7 **TIONS.**

8        (a) FINDINGS.—The Congress finds that—

9            (1) the Year 2000 computer problem poses a  
10 serious challenge to the American economy, includ-  
11 ing the Nation’s banking and financial services in-  
12 dustries;

13            (2) thousands of banks, savings associations,  
14 and credit unions rely heavily on internal informa-  
15 tion technology and computer systems, as well as  
16 outside service providers, for mission-critical func-  
17 tions, such as check clearing, direct deposit, account-  
18 ing, automated teller machine networks, credit card  
19 processing, and data exchanges with domestic and  
20 international borrowers, customers, and other finan-  
21 cial institutions; and

22            (3) Federal financial regulatory agencies must  
23 have sufficient examination authority to ensure that  
24 the safety and soundness of the Nation’s financial  
25 institutions will not be at risk.

1 (b) DEFINITIONS.—For purposes of this section—

2 (1) the terms “depository institution” and  
3 “Federal banking agency” have the same meanings  
4 as in section 3 of the Federal Deposit Insurance  
5 Act;

6 (2) the term “Federal home loan bank” has the  
7 same meaning as in section 2 of the Federal Home  
8 Loan Bank Act;

9 (3) the term “Federal reserve bank” means a  
10 reserve bank established under the Federal Reserve  
11 Act;

12 (4) the term “insured credit union” has the  
13 same meaning as in section 101 of the Federal  
14 Credit Union Act; and

15 (5) the term “Year 2000 computer problem”  
16 means, with respect to information technology, any  
17 problem which prevents such technology from accu-  
18 rately processing, calculating, comparing, or se-  
19 quencing date or time data—

20 (A) from, into, or between—

21 (i) the 20th and 21st centuries; or

22 (ii) the years 1999 and 2000; or

23 (B) with regard to leap year calculations.

24 (c) SEMINARS AND MODEL APPROACHES TO YEAR  
25 2000 COMPUTER PROBLEM.—

## 1 (1) SEMINARS.—

2 (A) IN GENERAL.—Each Federal banking  
3 agency and the National Credit Union Adminis-  
4 tration Board shall offer seminars to all deposi-  
5 tory institutions and insured credit unions  
6 under the jurisdiction of such agency on the im-  
7 plication of the Year 2000 computer problem  
8 for—

9 (i) the safe and sound operations of  
10 such depository institutions and credit  
11 unions; and

12 (ii) transactions with other financial  
13 institutions, including Federal reserve  
14 banks and Federal home loan banks.

15 (B) CONTENT AND SCHEDULE.—The con-  
16 tent and schedule of seminars offered pursuant  
17 to subparagraph (A) shall be determined by  
18 each Federal banking agency and the National  
19 Credit Union Administration Board taking into  
20 account the resources and examination prior-  
21 ities of such agency.

## 22 (2) MODEL APPROACHES.—

23 (A) IN GENERAL.—Each Federal banking  
24 agency and the National Credit Union Adminis-  
25 tration Board shall make available to each de-

1           depository institution and insured credit union  
2           under the jurisdiction of such agency model ap-  
3           proaches to common Year 2000 computer prob-  
4           lems, such as model approaches with regard to  
5           project management, vendor contracts, testing  
6           regimes, and business continuity planning.

7           (B) VARIETY OF APPROACHES.—In devel-  
8           oping model approaches to the Year 2000 com-  
9           puter problem pursuant to subparagraph (A),  
10          each Federal banking agency and the National  
11          Credit Union Administration Board shall take  
12          into account the need to develop a variety of ap-  
13          proaches to correspond to the variety of deposi-  
14          tory institutions or credit unions within the ju-  
15          risdiction of the agency.

16          (3) COOPERATION.—In carrying out this sec-  
17          tion, the Federal banking agencies and the National  
18          Credit Union Administration Board may cooperate  
19          and coordinate their activities with each other, the  
20          Financial Institutions Examination Council, and ap-  
21          propriate organizations representing depository insti-  
22          tutions and credit unions.

1 **SEC. 3. REGULATION AND EXAMINATION OF SERVICE PRO-**  
2 **VIDERS.**

3 (a) REGULATION AND EXAMINATION OF SAVINGS AS-  
4 SOCIATION SERVICE COMPANIES.—

5 (1) AMENDMENT TO HOME OWNERS' LOAN  
6 ACT.—Section 5(d) of the Home Owners' Loan Act  
7 (12 U.S.C. 1464(d)) is amended by adding at the  
8 end the following:

9 “(7) REGULATION AND EXAMINATION OF SAV-  
10 INGS ASSOCIATION SERVICE COMPANIES, SUBSIDI-  
11 ARIES, AND SERVICE PROVIDERS.—

12 “(A) GENERAL EXAMINATION AND REGU-  
13 LATORY AUTHORITY.—A service company or  
14 subsidiary that is owned in whole or in part by  
15 a savings association shall be subject to exam-  
16 ination and regulation by the Director to the  
17 same extent as that savings association.

18 “(B) EXAMINATION BY OTHER BANKING  
19 AGENCIES.—The Director may authorize any  
20 other Federal banking agency that supervises  
21 any other owner of part of the service company  
22 or subsidiary to perform an examination de-  
23 scribed in subparagraph (A).

24 “(C) APPLICABILITY OF SECTION 8 OF  
25 THE FEDERAL DEPOSIT INSURANCE ACT.—A  
26 service company or subsidiary that is owned in

1 whole or in part by a saving association shall be  
2 subject to the provisions of section 8 of the  
3 Federal Deposit Insurance Act as if the service  
4 company or subsidiary were an insured deposi-  
5 tory institution. In any such case, the Director  
6 shall be deemed to be the appropriate Federal  
7 banking agency, pursuant to section 3(q) of the  
8 Federal Deposit Insurance Act.

9 “(D) SERVICE PERFORMED BY CONTRACT  
10 OR OTHERWISE.—Notwithstanding subpara-  
11 graph (A), if a savings association, a subsidiary  
12 thereof, or any savings and loan affiliate or en-  
13 tity, as identified by section 8(b)(9) of the Fed-  
14 eral Deposit Insurance Act, that is regularly ex-  
15 amined or subject to examination by the Direc-  
16 tor, causes to be performed for itself, by con-  
17 tract or otherwise, any service authorized under  
18 this Act or, in the case of a State savings asso-  
19 ciation, any applicable State law, whether on or  
20 off its premises—

21 “(i) such performance shall be subject  
22 to regulation and examination by the Di-  
23 rector to the same extent as if such serv-  
24 ices were being performed by the savings  
25 association on its own premises; and

1           “(ii) the savings association shall no-  
2           tify the Director of the existence of the  
3           service relationship not later than 30 days  
4           after the earlier of—

5                       “(I) the date on which the con-  
6                       tract is entered into; or

7                       “(II) the date on which the per-  
8                       formance of the service is initiated.

9           “(E) ADMINISTRATION BY THE DIREC-  
10           TOR.—The Director may issue such regulations  
11           and orders, including those issued pursuant to  
12           section 8 of the Federal Deposit Insurance Act,  
13           as may be necessary to enable the Director to  
14           administer and carry out this paragraph and to  
15           prevent evasion of this paragraph.

16           “(8) DEFINITIONS.—For purposes of this sec-  
17           tion—

18                       “(A) the term ‘service company’ means—

19                               “(i) any corporation—

20                                       “(I) that is organized to perform  
21                                       services authorized by this Act or, in  
22                                       the case of a corporation owned in  
23                                       part by a State savings association,  
24                                       authorized by applicable State law;  
25                                       and

1                   “(II) all of the capital stock of  
2                   which is owned by 1 or more insured  
3                   savings associations; and

4                   “(ii) any limited liability company—

5                   “(I) that is organized to perform  
6                   services authorized by this Act or, in  
7                   the case of a company, 1 of the mem-  
8                   bers of which is a State savings asso-  
9                   ciation, authorized by applicable State  
10                  law; and

11                  “(II) all of the members of which  
12                  are 1 or more insured savings associa-  
13                  tions;

14                  “(B) the term ‘limited liability company’  
15                  means any company, partnership, trust, or  
16                  similar business entity organized under the law  
17                  of a State (as defined in section 3 of the Fed-  
18                  eral Deposit Insurance Act) that provides that  
19                  a member or manager of such company is not  
20                  personally liable for a debt, obligation, or liabil-  
21                  ity of the company solely by reason of being, or  
22                  acting as, a member or manager of such com-  
23                  pany; and

24                  “(C) the terms ‘State savings association’  
25                  and ‘subsidiary’ have the same meanings as in

1 section 3 of the Federal Deposit Insurance  
2 Act.”.

3 (2) CONFORMING AMENDMENTS TO SECTION 8  
4 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
5 tion 8 of the Federal Deposit Insurance Act (12  
6 U.S.C. 1818) is amended—

7 (A) in subsection (b)(9), by striking “to  
8 any service corporation of a savings association  
9 and to any subsidiary of such service corpora-  
10 tion”;

11 (B) in subsection (e)(7)(A)(ii), by striking  
12 “(b)(8)” and inserting “(b)(9)”; and

13 (C) in subsection (j)(2), by striking  
14 “(b)(8)” and inserting “(b)(9)”.

15 (b) REGULATION AND EXAMINATION OF SERVICE  
16 PROVIDERS FOR CREDIT UNIONS.—Title II of the Federal  
17 Credit Union Act (12 U.S.C. 1781 et seq.) is amended  
18 by inserting after section 206 the following new section:

19 **“SEC. 206A. REGULATION AND EXAMINATION OF CREDIT**  
20 **UNION ORGANIZATIONS AND SERVICE PRO-**  
21 **VIDERS.**

22 “(a) REGULATION AND EXAMINATION OF CREDIT  
23 UNION ORGANIZATIONS.—

24 “(1) GENERAL EXAMINATION AND REGU-  
25 LATORY AUTHORITY.—A credit union organization

1 shall be subject to examination and regulation by the  
2 Board to the same extent as that insured credit  
3 union.

4 “(2) EXAMINATION BY OTHER BANKING AGEN-  
5 CIES.—The Board may authorize to make an exam-  
6 ination of a credit union organization in accordance  
7 with paragraph (1)—

8 “(A) any Federal regulator agency that su-  
9 pervises any activity of a credit union organiza-  
10 tion; or

11 “(B) any Federal banking agency that su-  
12 pervises any other person who maintains an  
13 ownership interest in a credit union organiza-  
14 tion.

15 “(b) APPLICABILITY OF SECTION 206.—A credit  
16 union organization shall be subject to the provisions of  
17 section 206 as if the credit union organization were an  
18 insured credit union.

19 “(c) SERVICE PERFORMED BY CONTRACT OR OTHER-  
20 WISE.—Notwithstanding subsection (a), if an insured  
21 credit union or a credit union organization that is regu-  
22 larly examined or subject to examination by the Board,  
23 causes to be performed for itself, by contract or otherwise,  
24 any service authorized under this Act, or in the case of

1 a State credit union, any applicable State law, whether  
2 on or off its premises—

3 “(1) such performance shall be subject to regu-  
4 lation and examination by the Board to the same ex-  
5 tent as if such services were being performed by the  
6 insured credit union or credit union organization  
7 itself on its own premises; and

8 “(2) the insured credit union or credit union or-  
9 ganization shall notify the Board of the existence of  
10 the service relationship not later than 30 days after  
11 the earlier of—

12 “(A) the date on which the contract is en-  
13 tered into; or

14 “(B) the date on which the performance of  
15 the service is initiated.

16 “(d) ADMINISTRATION BY THE BOARD.—The Board  
17 may issue such regulations and orders as may be nec-  
18 essary to enable the Board to administer and carry out  
19 this section and to prevent evasion of this section.

20 “(e) DEFINITIONS.—For purposes of this section—

21 “(1) the term ‘credit union organization’ means  
22 any entity that—

23 “(A) is not a credit union;

1           “(B) is an entity in which an insured cred-  
2           it union may lawfully hold an ownership inter-  
3           est or investment; and

4           “(C) is owned in whole or in part by an in-  
5           sured credit union; and

6           “(2) the term ‘Federal banking agency’ has the  
7           same meaning as in section 3 of the Federal Deposit  
8           Insurance Act.

9           “(f) EXPIRATION OF AUTHORITY.—This section and  
10          all powers and authority of the Board under this section  
11          shall cease to be effective as of December 31, 2001.”.

        Passed the House of Representatives February 24,  
1998.

Attest:

ROBIN H. CARLE,  
*Clerk.*