

105TH CONGRESS  
2D SESSION

# S. 1671

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.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1998

Mr. BENNETT (for himself and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

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”.

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

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

4 (1) the Year 2000 computer problem poses a  
5 serious challenge to the American economy, includ-  
6 ing the Nation’s banking and financial services in-  
7 dustries;

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

17 (3) Federal financial regulatory agencies must  
18 have sufficient examination authority to ensure that  
19 the safety and soundness of the Nation’s financial  
20 institutions will not be at risk.

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

22 (1) the terms “depository institution” and  
23 “Federal banking agency” have the same meanings  
24 as in section 3 of the Federal Deposit Insurance  
25 Act;

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

4           (3) the term “Federal reserve bank” means a  
5 reserve bank established under the Federal Reserve  
6 Act;

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

10           (5) the term “Year 2000 computer problem”  
11 means, with respect to information technology, any  
12 problem which prevents such technology from accu-  
13 rately processing, calculating, comparing, or se-  
14 quencing date or time data—

15           (A) from, into, or between—

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

17                   (ii) the years 1999 and 2000; or

18           (B) with regard to leap year calculations.

19           (c) SEMINARS AND MODEL APPROACHES TO YEAR  
20 2000 COMPUTER PROBLEM.—

21           (1) SEMINARS.—

22           (A) IN GENERAL.—Each Federal banking  
23 agency and the National Credit Union Adminis-  
24 tration Board shall offer seminars to all deposi-  
25 tory institutions and insured credit unions

1 under the jurisdiction of such agency on the im-  
2 plication of the Year 2000 computer problem  
3 for—

4 (i) the safe and sound operations of  
5 such depository institutions and credit  
6 unions; and

7 (ii) transactions with other financial  
8 institutions, including Federal reserve  
9 banks and Federal home loan banks.

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

17 (2) MODEL APPROACHES.—

18 (A) IN GENERAL.—Each Federal banking  
19 agency and the National Credit Union Adminis-  
20 tration Board shall make available to each de-  
21 pository institution and insured credit union  
22 under the jurisdiction of such agency model ap-  
23 proaches to common Year 2000 computer prob-  
24 lems, such as model approaches with regard to

1 project management, vendor contracts, testing  
2 regimes, and business continuity planning.

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

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

19 **SEC. 3. REGULATION AND EXAMINATION OF SERVICE PRO-**  
20 **VIDERS.**

21 (a) REGULATION AND EXAMINATION OF SAVINGS AS-  
22 SOCIATION SERVICE COMPANIES.—

23 (1) AMENDMENT TO HOME OWNERS' LOAN  
24 ACT.—Section 5(d) of the Home Owners' Loan Act

1 (12 U.S.C. 1464(d)) is amended by adding at the  
2 end the following:

3 “(7) REGULATION AND EXAMINATION OF SAV-  
4 INGS ASSOCIATION SERVICE COMPANIES, SUBSIDI-  
5 ARIES, AND SERVICE PROVIDERS.—

6 “(A) GENERAL EXAMINATION AND REGU-  
7 LATORY AUTHORITY.—A service company or  
8 subsidiary that is owned in whole or in part by  
9 a savings association shall be subject to exam-  
10 ination and regulation by the Director to the  
11 same extent as that savings association.

12 “(B) EXAMINATION BY OTHER BANKING  
13 AGENCIES.—The Director may authorize any  
14 other Federal banking agency that supervises  
15 any other owner of part of the service company  
16 or subsidiary to perform an examination de-  
17 scribed in subparagraph (A).

18 “(C) APPLICABILITY OF SECTION 8 OF  
19 THE FEDERAL DEPOSIT INSURANCE ACT.—A  
20 service company or subsidiary that is owned in  
21 whole or in part by a saving association shall be  
22 subject to the provisions of section 8 of the  
23 Federal Deposit Insurance Act as if the service  
24 company or subsidiary were an insured deposi-  
25 tory institution. In any such case, the Director

1 shall be deemed to be the appropriate Federal  
2 banking agency, pursuant to section 3(q) of the  
3 Federal Deposit Insurance Act.

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

16 “(i) such performance shall be subject  
17 to regulation and examination by the Di-  
18 rector to the same extent as if such serv-  
19 ices were being performed by the savings  
20 association on its own premises; and

21 “(ii) the savings association shall no-  
22 tify the Director of the existence of the  
23 service relationship not later than 30 days  
24 after the earlier of—

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

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

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

12                  “(8) DEFINITIONS.—For purposes of this sec-  
13                  tion—

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

15                  “(i) any corporation—

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

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

25                  “(ii) any limited liability company—

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

7                   “(II) all of the members of which  
8                   are 1 or more insured savings associa-  
9                   tions;

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

20                   “(C) the terms ‘State savings association’  
21                   and ‘subsidiary’ have the same meanings as in  
22                   section 3 of the Federal Deposit Insurance  
23                   Act.”.

24                   (2) CONFORMING AMENDMENTS TO SECTION 8  
25                   OF THE FEDERAL DEPOSIT INSURANCE ACT.—Sec-

1 tion 8 of the Federal Deposit Insurance Act (12  
2 U.S.C. 1818) is amended—

3 (A) in subsection (b)(9), by striking “to  
4 any service corporation of a savings association  
5 and to any subsidiary of such service corpora-  
6 tion”;

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

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

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

15 **“SEC. 206A. REGULATION AND EXAMINATION OF CREDIT**  
16 **UNION ORGANIZATIONS AND SERVICE PRO-**  
17 **VIDERS.**

18 “(a) REGULATION AND EXAMINATION OF CREDIT  
19 UNION ORGANIZATIONS.—

20 “(1) GENERAL EXAMINATION AND REGU-  
21 LATORY AUTHORITY.—A credit union organization  
22 shall be subject to examination and regulation by the  
23 Board to the same extent as that insured credit  
24 union.

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

5                   “(A) any Federal regulator agency that su-  
6                   pervises any activity of a credit union organiza-  
7                   tion; or

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

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

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

24                   “(1) such performance shall be subject to regu-  
25                  lation and examination by the Board to the same ex-

1 tent as if such services were being performed by the  
2 insured credit union or credit union organization  
3 itself on its own premises; and

4 “(2) the insured credit union or credit union or-  
5 ganization shall notify the Board of the existence of  
6 the service relationship not later than 30 days after  
7 the earlier of—

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

10 “(B) the date on which the performance of  
11 the service is initiated.

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

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

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

19 “(A) is not a credit union;

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

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

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

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

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