



# Networth News

State of Utah, Department of Financial Institutions, First Quarter 2008

## COMMISSIONER'S COMMENTS

G. Edward Leary, Commissioner

### **STATES ROLL-OUT THE NATIONAL MORTGAGE LICENSING SYSTEM (NMLS)**

With the mortgage crisis dominating news lately, I thought it would be useful to introduce the **National Mortgage Licensing System (NMLS)** that the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) rolled-out on January 2, 2008.

The NMLS is an Internet-based system that will

continued on page 2 . . .

## **2008 LEGISLATIVE UPDATE**

PAUL ALLRED, DEPUTY COMMISSIONER

The 2008 Utah Legislature passed 436 bills during the General Session. Governor Huntsman signed 412 into law. In this article, the Department's annual legislative review, three bills will be highlighted. Each of these bills will impact financial institutions and other entities under the jurisdiction of the Department of Financial Institutions.

### **S. B. 83 - Check Cashing and Deferred Deposit Lending Registration Act**

Senate Bill 83 amends Chapter 23 of title 7. This bill was brought by the payday lending industry and was sponsored by Senator Karen Mayne, widow of the late Senator Ed Mayne. The bill renames Chapter 23 by adding the words "Deferred Deposit Lending" to the title. Amendments were also made to the definitions of "check casher" and "deferred deposit lending." The bill prohibits a Deferred Deposit Lender from extending a new loan to a person on the same business day that the person makes a payment on a loan that is at least 12 weeks old. In addition, when renewing a registration, a Deferred Deposit Lender has to provide the following information from the preceding year: 1) the average loan amount extended; 2) the average number of days before the extended loans are paid in full; 3) the minimum and maximum amount of interest or fees charged on a loan: a) of \$100; and b) extended for one week; and 4) the total number of loans rescinded by the lender at the request of the customer pursuant to Subsection 7-23-401(3)(b). Finally, the Commissioner must report

continued on page 7 . . .

## **Inside This Issue . . .**

- 3 Application Activity Report**
- 7 Title 7, Chapter 9 Amendments**
- 8 Chiefly Speaking**

... **Leary**, continued from page 1

serve as the foundation of the coordinated state mortgage regulation. While Utah DFI only has regulation over mortgage servicers and those mortgage lenders associated with depository institutions, the Department has supported the development of the NMLS. The primary Utah regulator of mortgage brokers and lenders is the Division of Real Estate within the Commerce Department.

The mortgage turmoil demanded a response by the states as its primary regulator or the industry's supervision would likely have been assumed by the federal government. Fortunately, CSBS and AARMR were anticipating this regulatory crisis and over a four-year period had laid the foundation for a new and more unified approach to supervision and consumer protection.

The primary objective of this system is to enhance consumer protection, strengthen supervision, and streamline the regulatory process. The state-based approach of NMLS has the benefits of localized accountability and an on-the-ground regulatory system combined with the efficiencies of a nationwide framework.

The NMLS has dramatically changed the way the mortgage industry is regulated and will drive standardization of state licensing and lending requirements.

The major goal of NMLS is to enhance accountability among mortgage brokers and non-depository lenders by having one system, accessible by all state regulators, that tracks licensure, affiliations, and employment history and/or enforcement actions for affected parties.

Plans call for consumers to have access to the system's public licensing and enforcement

information in 2009, enabling them to make a more informed decision when selecting a mortgage loan officer and lender.

NMLS is modeled upon the registry used to regulate securities brokers and dealers.

On January 2, 2008, the states of Idaho, Iowa, Kentucky, Massachusetts, Nebraska, New York and Rhode Island commenced operations under the NMLS with the states of Arizona, Connecticut, Louisiana, Mississippi, North Carolina, New Hampshire, Vermont, Washington and Wyoming coming on-line later this year. Today, 42 state agencies representing mortgage regulators in 40 states have indicated their intent to transition onto the system, citing the following reasons to:

- Improve the efficiency and effectiveness of state supervision of the mortgage industry;
- Enhance consumer protection;
- Fight mortgage fraud and predatory lending that costs consumers and the mortgage industry hundreds of millions of dollars in losses each year;
- Increase accountability among mortgage industry professionals; and
- Unify and streamline state license processes for mortgage lenders and mortgage brokers.

Eventually, it is expected that all 50 states will transition onto the System. CSBS and AARMR project enrollment on more than 500,000 company and professional licenses eventually to be registered through the NMLS repository.

Through the System, mortgage companies will apply for and manage their licenses electronically. In addition, NMLS is designed to reduce industry and department costs for processing licenses and will streamline the licensing application and renewal process for companies and professionals and

continued on page 5 . . .

## Networth News

### Application Activity Report Utah Department of Financial Institutions For quarter ending March 31, 2008

<b>Branch Approval</b>	<b>Address</b>	<b>Received</b>	<b>Status</b>
Moroni Feed Credit Union	1050 S State, Mt Pleasant UT	4/24/07	Approved 5/2/07
Americanwest Bank	9080 Village Shop Dr, Sandy UT	5/9/07	Accepted 5/23/07
Americanwest Bank	10757 S River Front Pkwy, S Jordan	6/11/07	Opened 2/4/08
Central Bank	2000 W Pleasant Grove Blvd, PG UT	7/13/07	Approved 8/14/07
America West Bank	5510 S 900 E, Murray UT	7/17/07	Opened 3/18/08
Utah Central Credit Union	7990 S 1300 E, Sandy UT	7/17/07	Approved 8/13/07
Pacific Horizon Credit Union	375 E 300 S, Spanish Fork UT	8/27/07	Approved 9/4/07
Alpine Credit Union	10831 N Alpine Hwy, Alpine UT	9/18/07	Approved 10/9/07
American Bank of Commerce	50 W Main, Santaquin UT	9/21/07	Approved 10/18/07
Mountain West Bank	6531 N Landmark Dr, Park City UT	1/2/08	Accepted 1/8/08
Members First Credit Union	260 N Main, Brigham City UT	1/30/08	Approved 2/11/08
Members First Credit Union	120 S 1000 W, Tremonton UT	1/30/08	Approved 2/26/08
Goldman Sachs Bank	100 Crescent Ct, Dallas TX	1/24/08	Approved 2/27/08
Bank of American Fork	1543 N Redwood RD, Saratoga Sp UT	1/20/08	Accepted 2/11/08
<b>Relocations</b>	<b>Address</b>	<b>Received</b>	<b>Status</b>
Transwest Credit Union	<i>from</i> 37 W 1700 S, Salt Lake City UT <i>to</i> 39 W 2100 S, Salt Lake City UT	3/30/07	Opened 2/4/08
Republic Bank	<i>from</i> 801 N 500 W #103, Btfl UT <i>to</i> 1560 Renaissance Town Dr #260	5/15/07	Approved 7/12/07
First Electronic Bank	<i>from</i> 11781 S Lone Peak Pkwy <i>to</i> 280 W 10200 S Ste 200, Sandy UT	8/14/07	Approved 9/20/07
Merrill Lynch Bank USA	<i>from</i> 15 W South Temple <i>to</i> 200 S Main 2 <sup>nd</sup> fl, SLC UT	10/2/07	Approved 10/22/07
<b>Mergers Credit Union</b>	<b>merging with</b>	<b>Received</b>	<b>Status</b>
Balance Rock Credit Union	Utah Power Credit Union	11/15/07	Approved 12/12/07
Primary Hospital Credit Union	Health Care Credit Union	11/16/07	Accepted 11/20/07

continued on page 4 . . .

## Networth News

... Application, continued from page 3

<b>De Novo Charter</b>	<b>Address</b>	<b>Accepted</b>	<b>Status</b>
ComData	500 N Market Place Dr. #250 Centerville UT	9/25/03	Approved 12/19/03
<b>Extension</b>		11/19/04	Approved 12/23/04
<b>Extension</b>		5/27/05	Approved 6/15/05
<b>Extension</b>		12/6/05	Approved 12/14/05
<b>Extension</b>		5/9/06	Approved 6/7/06
<b>Extension</b>		5/9/07	Approved 6/14/07
<b>Extension</b>		11/19/07	Approved 12/12/07
Daimler Chrysler	268 S State St, Ste 200 Salt Lake City UT	7/6/05	Approved 4/6/06
<b>Extension</b>		3/13/07	Approved 4/3/07
<b>Extension</b>		9/24/07	Approved 10/5/07
CapitalSource Bank	2180 S 1300 E Ste 300 Salt Lake City UT	8/16/05	Approved 12/18/05
<b>Extension</b>		12/11/06	Approved 12/13/06
<b>Extension</b>		5/25/07	Approved 6/20/07
<b>Extension</b>		12/3/07	Approved 12/10/07
Marlin Business Bank	2795 E Cottonwood Pkwy Ste 120 Salt Lake City UT	1/10/06	Approved 2/28/08 Opened 3/12/08
American Pioneer Bank	39 Jamestowne Ct Baton Rouge LA	2/13/06	Accepted 2/13/06
Blue Healthcare Bank	200 W Civic Center Dr Sandy UT	5/30/06	Accepted 5/30/06
Town & Country Bank	20 N Main #306 St George UT	9/29/06	Opened 2/19/08
ARCUS Financial Services	2825 E Cottonwood Pkwy #150 Salt Lake City UT	2/2/07	Accepted 6/7/07
<b>Loan Production Office</b>	<b>Location</b>	<b>Received</b>	<b>Status</b>
American Bank of Commerce	500 W 12300 S Draper UT	9/5/06	Ext Approved 10/12/07
Sterling Savings Bank	480 E 6400 S #140 Murray UT	3/3/08	Approved 3/4/08
Celtic Bank	31255 Cedar Valley Dr #207 Westlake Village CA	11/6/07	Opened 12/24/07
<b>Field of Membership Expansion</b>	<b>Amend Bylaws to Include</b>	<b>Received</b>	<b>Status</b>
National NAACL Credit Union	add residents of Salt Lake County	1/25/08	Approved 3/3/08
Utah Central Credit Union	add employees of UltraDent	2/20/08	Accepted 2/21/08

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thereby reduce industry costs. It also will centralize redundant state agency operations through the use of more uniform mortgage licensing requirements.

Also, NMLS will provide greater efficiency to state regulators in the processing of license applications and enhance accountability on the part of brokers and non-depository lenders, with one system, accessible by all regulators, that tracks licenses, affiliations and employment history and/or enforcement actions for affected parties.

More can be learned through viewing the NMLS website located at <http://www.stateregulatoryregistry.org/NMLS>

The following answers to **frequently asked questions** are provided:

**What does the project entail?** The CSBS and AARMR have committed to develop a national licensing system and database that will provide uniform applications for residential mortgage lenders and loan brokers, as well as a central repository of information about licensing and publicly adjudicated enforcement actions. The Financial Industry Regulatory Authority (FINRA), formerly the National Association of Securities Dealers (NASD), was selected to design and implement the system, to be available over the Internet.

**What was the impetus behind this project?** Two years ago, the Conference of State Bank Supervisors recognized a need for more consistent regulation and supervision of the mortgage lending industry. CSBS also discovered that no government or self-regulatory organization now exists to provide state regulatory agencies, consumers, businesses and law enforcement organizations with comprehensive information on a regional or national basis about mortgage lenders, brokers and loan officers. Initially, the project envisioned the development of a uniform mortgage application for every state. A joint task force consisting of more than 20 agencies representing state regulators began meeting two years ago and developed a set of uniform mortgage applications for companies, branches and individuals. A taskforce is now in the process of developing a uniform renewal form and report that can also be used by each state agency. As the

idea evolved, participants seemed interested in taking it further, to enable applications to be processed online through a single portal, along with the development of a comprehensive licensing and supervisory repository.

**What are the objectives of the project?** The primary objectives of the system are to streamline the licensing process for regulators and industry, reduce regulatory burden, provide accountability to industry professionals, and reduce fraud. Specifically, the system is designed to centralize redundant state agency operations; streamline the licensing process; reduce regulatory burdens; increase consumer protection through enhanced financial safety and soundness, industry accountability, fraud reduction, and easy access to license and enforcement actions.

**Why are CSBS and AARMR taking the lead?**

Essentially, it's because most mortgage lending is licensed and regulated at the state level. Individual states license, regulate and supervise mortgage lenders and brokers under their own systems, which vary according to each state's needs. State regulation has increased significantly with 48 states now regulating mortgage lenders, brokers and/or loan officers. Surveys conducted by CSBS and AARMR earlier this year showed that 44 state agencies use paper applications for prospective licensees while only six collect new applications electronically. Thirty state agencies indicated they will mandate the use of the system. Seven agencies will make the system available on a voluntary basis, and five agencies indicated that they will not participate in the system at this time.

**What is the timeline for implementation?** CSBS deployed the system on January 2, 2008. Approximately 10-12 states will participate during 2008, and more than 30 states are expected to join in 2009 and 2010.

**Why was FINRA chosen?** CSBS solicited and reviewed proposals from a number of companies to develop the system. Of these firms, CSBS selected FINRA (formerly NASD) to develop and operate the system. FINRA, a self-regulatory organization for the U.S. securities industry, operates two national licensing systems for state regulators in the securities and investment advisory industries: the Central Registration Depository (CRD) used to register broker-dealer firms and the securities professionals who work for them; and the Investment Adviser Registration Depository (IARD) system to

continued on page 6...



... Leary, continued from page 5

provide a secure, web-based, electronic filing, registration, and regulation system for investment adviser firms and registered advisers. It also provides regulatory examiners and investigators with compliance and enforcement tools.

**How will the system work?** The system's basic features will be a secure web-based central licensing system and repository containing licensing information, enforcement actions and background data for every participating state-licensed mortgage broker, loan originator and lender. The system will be accessible over the Internet, allowing prospective and current licensees to apply for or renew licenses for one or more jurisdictions over the Internet through a secure website. The system will also collect licensing fees at the time of application or renewal and disburse these to the respective state agencies. The system will only process license applications or renewals. Each state agency will retain its regulatory authority to approve, deny, suspend or revoke a license.

**What information will be in the database?** The database will contain licensing information, enforcement actions and background data for every state-licensed mortgage broker, loan originator, and lender. Mortgage lenders, brokers and loan originators operating in states without licensing requirements will have the opportunity to submit information voluntarily.

**Who will be able to access the database?** Three general groups will have access to the system: state regulators, licensees and consumers. Regulators will have access to licensing, enforcement, criminal, and other background information and annual report data as a part of the licensing approval and ongoing regulation process. Licensed lenders and brokers will have access to their license data. Eventually, consumers will have access to public licensing and enforcement actions related to licensed mortgage lenders, brokers and loan officers. Both regulators and licensees will be able to generate standard reports from the central licensing repository. Access will vary by group, with regulators having the broadest system-access entitlements.

**What will it cost?** The national licensing system will be developed in multiple phases. Phase one includes development of the core system that will accommodate new licensing applications, annual renewals and annual reports, and central collection of state licensing fees. The estimated cost to develop phase one is \$4.3 million.

Annual operating costs are projected to be between \$6.5 and \$7.5 million over the next five years. Development costs for subsequent phases are included in the annual operating expenses.

**Who is paying for the development of the system?** CSBA has committed to the mortgage industry that the development costs will be born by the states, and operating costs will be paid for by the industry in the form of set-up and processing fees. CSBS secured funds from state regulators to fund the system.

**How will the system benefit state regulators, consumers, industry participants and the economy?** State regulators will benefit from the system by capitalizing on current technology, centralizing duplicative functions, providing a central point of contact for submitting license applications and assisting the industry in policing itself. Consumers benefit by having convenient access to critical information about the providers of the most important financial transaction of their lives, and reduced potential for mortgage fraud through increased industry accountability. Industry participants will benefit from a more streamlined mortgage-licensing and fee-collection process. Eventually, the system will be expanded to offer a call center, a national repository of public enforcement actions, documentation collection (financial statements, SOS, etc.), fingerprinting and criminal checks, background checks, and surety bond and continuing education reporting.

The economy benefits by reallocating resources that are made available from a more efficient system, making it easier for regulators, law-enforcement agencies and industry participants to identify and punish fraudulent and incompetent behavior by companies and industry professionals.

The uniform applications and the use of current technology will make the state licensing process more efficient for state mortgage regulatory agencies as well as licensed companies and individuals. Companies and professionals will only have to complete one online application when applying for licenses in one or more jurisdictions. Both groups will benefit from access to a national licensing and enforcement repository and more homogeneous state regulations that will likely result from the uniform applications.~

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annually the 4 items mentioned above in aggregate. The bill was signed by the Governor and became effective on May 5, 2008.

**S.B. 171 - Repeal of Certain Reporting by Financial Institutions**

Senate Bill 171 amends title 76. This bill removes a requirement on depository institutions to file Suspicious Activity Reports (“SAR”) or Currency Transaction Reports (“CTR”) with the State Bureau of Investigation. Some Federally chartered depository institutions have not been filing them with SBI because of federal preemption. This bill removes the requirement from all depository institutions. The bill was signed by the Governor and became effective on May 5, 2008.

**S.B. 296 - Financial Institutions Amendments**

Senate Bill 296 addresses concerns raised by the Credit Union industry. The bill represents a compromise between the Banks and Credit Unions. There are three amendments to Chapter 9 of title 7. The lending limit is raised from 1% to 4%. The 6 month member requirement for Member Business Loans is repealed. Finally, yearly adjustments on the Member Business Loan limit will be made following the Consumer Price Index. The bill was signed by the Governor and became effective on May 5, 2008.~

**Title 7, Chapter 9 Amendments**

Orla Beth Peck, Supervisor of Credit Unions

Pursuant to the passage of Senate Bill 296 (see Legislative Update on page 1), Utah DFI is providing the following letter to all state-chartered credit unions in explanation of the changes brought by the Bill.

April 9, 2008

TO THE CREDIT UNION ADDRESSED

During the general session of the 2008 Legislature Senate Bill 296 was passed, it makes three amendments to Title 7 Chapter 9, known as the credit union act.

1. For credit unions over \$2,000,000 in capital and surplus, the legal lending limit for consumer loans will be increased to the greater of \$25,000, 4% of capital and surplus, or 25% of the regular reserve. Capital and surplus is defined as shares, deposits, undivided earnings and regular reserves. For example, a credit union with \$10,000,000 in capital and surplus of which \$700,000 is evenly split between Undivided Earnings and Regular Reserve; the legal lending limit would be the greater of:

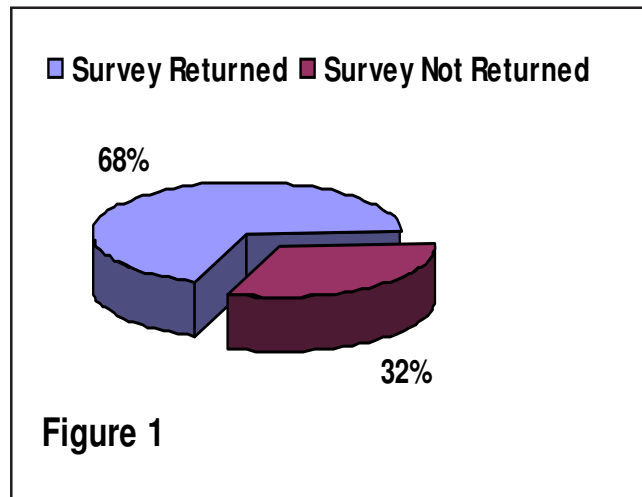
\$25,000  
4% of \$10,000,000 or \$400,000  
or 25% of \$350,000 or \$87,500

continued on page 10 . . .

## Chiefly Speaking

Michael Jones, Chief Examiner

### Quality Assurance Surveys for 2007



With the close of the year's first quarter, it's time to review and summarize the responses the Department received on the post-examination surveys returned in 2007.

Last year, 63 Quality Assurance Surveys were issued and 43 were returned, for a 68 percent response rate (shown in Figure 1 above). This response is better than our five-year average. Over the last five years, 337 surveys have sent out and 201 have been returned, for a response rate of 60 percent. Below is a summary of the survey responses for 2003 through 2007 and for the Quality Assurance Surveys that were returned in 2007.

Of the surveys returned in 2007, 67 percent of the respondents were comfortable in identifying themselves, while only 21 percent of the respondents felt it necessary to provide a narrative comment along with their survey assessments. These numbers are fairly consistent with the Department's five-year average, where 66 percent of the respondents identify themselves and 22 percent provided a comment.

Assessments on our 2007 surveys continued to be good, as shown in Table 1. On a scale of 1 to 5, the aggregate average rating on the first ten survey statements was 1.55. This rating has varied from 1.41 to 1.70 between 2003 and 2007, with the five-year average being 1.55. A review of the individual assessments for 2007 showed that, while ratings declined between 2 and 40 basis points on 15 out of 19 survey assessments requested, the overall satisfaction with the examination process remained steady at 1.60 percent. The only assessments that improved in 2007 were for statement #6, examination disruption, which went from 1.72 to 1.63, and statement #11, in the area of Management, which went from 1.72 in 2006 to 1.57 in 2007. The assessments given on statement #4, maintaining contact with management, and statement # 10, noted above, were unchanged. Assessments for statement #5, the effectiveness of the Examiner-in-Charge in communicating examination findings, and statement #7, the courtesy and professionalism of the examiners, continue to receive the highest ratings. The least favorable rating received continues to be for statement # 3, the length of time needed to conduct the examination, which also had one of the largest drops in satisfaction in 2007 (35 basis points).

continued on page 9 . . .



... Jones, continued from page 8

**Table 1**

Survey Statements	2003 through 2007 Summary			2007
	Agree or Strongly Agree	Disagree or Strongly Disagree	Average Numeric Rating	Average Numeric Rating
1. Entry letter was clear and concise.	92%	3%	1.54	1.44
2. Lead time was adequate.	92%	4%	1.49	1.56
3. Length of examination was appropriate.	77%	9%	1.88	1.91
4. Management contact was maintained.	91%	3%	1.50	1.48
5. Examiner-in-Charge communicated findings	94%	3%	1.36	1.30
6. Examination conducted with little disruption.	87%	4%	1.65	1.63
7. Examiners' were courteous and professional.	93%	4%	1.36	1.35
8. Report accurately reflected conditions.	90%	4%	1.69	1.67
9. Report was easy to read and understand.	95%	1%	1.48	1.53
10. Overall satisfaction with examination.	91%	3%	1.59	1.60
11. Examiners effectiveness in examining the following key areas:	Excellent/ Good	Poor/ Fair		
a. Overall Condition	94%	6%	1.55	1.57
b. Capital Adequacy	96%	4%	1.45	1.48
c. Asset Quality	93%	7%	1.54	1.50
d. Reserve of Loan Loss	92%	8%	1.54	1.65
e. Management	89%	11%	1.64	1.57
f. Earnings	94%	6%	1.61	1.55
g. Liquidity	93%	7%	1.54	1.57
h. Internal Operations	91%	9%	1.66	1.69
i. Sensitivity	92%	8%	1.60	1.77

While the overall assessment of the survey responses remains positive, the declines in 2007 tell us that there are areas where we need to improve the quality of our supervisory efforts. The length of examinations, the disruption they cause (though there was improvement), and the accuracy of the report are all areas in our examination process that need improvement.

The Department again thanks those who took the time to complete surveys over the last five years. For 2008, we are working to develop separate Quality Assurance Surveys for the Bank Holding Company examination reports and the Deferred Deposit Lender/Title Lender examination reports the Department issues. This will establish a post-examination survey program for two specialty areas and provide the Department some additional feedback. Look for a Quality Assurance Survey with your next Department-issued Report of Examination.~

## *Networth News*

... Peck, continued from page 7

Before the passage of SB 296 the legal lending limit for consumer loans was 1% of capital and surplus or \$100,000.

2. The requirement for an individual or business to be a member of the credit union for six months prior to the credit union granting a Member Business Loan has been repealed. This also allows a credit union to enter into a business loan participation agreement with another credit union without an owner of the business being a member of both credit unions for at least six months.
3. The limit of \$250,000 to an individual or business for a Member Business Loan will be increased once each year by the amount of the increase in the Consumer Price Index for All Urban Consumers (CPI-U). The Department will determine the percentage and notify the credit unions as soon as the final numbers are released by the United States Department of Labor. For year ending December 31, 2007, the Consumer Price Index increased by 4.1%.

Beginning on May 5, 2008 the individual limit for a member business loan will increase to \$260,250. This limit will remain in effect until the final Consumer Price Index statistics become available in January of 2009. The Department will notify the credit unions by the end of January 2009 of the new individual limit. Credit unions may verify the CPI-U at [www.bls.gov/cpi/](http://www.bls.gov/cpi/). The annual adjustment does not go into effect until the Department has determined the percentage and notified the credit unions by letter.

If you have any questions about the changes brought about by the passage of Senate Bill 296, please call me at (801) 538-8840.

Sincerely

Orla Beth Peck  
Supervisor of Credit Unions

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Please contact the  
Department at  
801-538-8830  
with questions,  
comments,  
or suggestions.