

4567--B

2011-2012 Regular Sessions

I N S E N A T E

April 12, 2011

Introduced by Sens. GRIFFO, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- recommitted to the Committee on Banks in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to credit union memberships and general powers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 451 of the banking law, as
2 amended by chapter 660 of the laws of 2004, is amended to read as
3 follows:
4 2. The qualifications for membership.
5 [(a) Membership shall be limited to:
6 (1) persons having a common employer;
7 (2) persons and organizations who are members of the same trade,
8 industry, profession, club, union, society or other association;
9 (3) in the case of a credit union incorporated under this chapter as
10 of the effective date of this subdivision, and with the approval of the
11 superintendent, which approval shall not be given if it would be
12 destructive of competition within a municipality, more than one common
13 employer; provided, however, that an employer group with under three
14 thousand employees may be added upon receipt of a notice as provided in
15 subdivision two of section four hundred seventy-eight of this article;
16 (4) with the approval of the superintendent, and subject to the
17 provisions of paragraph (b) of this subdivision, more than one group
18 each of which has, within the group, a common bond of occupation,
19 including a common employer, or association; provided, however, that a
20 group of less than three thousand members, which is within reasonable

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD10800-07-2

1 proximity to the credit union's service area or areas, may be added upon
2 receipt of a notice as provided in subdivision two of section four
3 hundred seventy-eight of this article; or

4 (5) persons and organizations within a well-defined local community,
5 neighborhood or rural district and who in the judgment of the super-
6 intendent have such a community of interest as will insure proper admin-
7 istration.

8 (b) In considering an application to add a group to a credit union
9 authorized under subparagraph four of paragraph (a) of this subdivision,
10 the superintendent shall not approve the addition unless the group is
11 within reasonable proximity to the credit union's service area or areas.
12 If the group has more than three thousand members, the superintendent
13 shall not approve such addition unless he or she determines that the
14 group could not feasibly or reasonably establish a new single common
15 bond credit union because:

16 (1) the group lacks sufficient volunteer and other resources to
17 support the efficient and effective operation of a credit union;

18 (2) the group does not meet the criteria which the superintendent has
19 determined to be important for the likelihood of success in establishing
20 and managing a new credit union, including demographic characteristics
21 such as geographical location of members, diversity of ages and income
22 levels, and other factors that may affect the financial viability and
23 stability of a credit union;

24 (3) the group would be unlikely to operate a safe and sound credit
25 union; or

26 (4) the group has been transferred from another credit union in
27 connection with a merger or consolidation recommended by a state or
28 federal regulator based on safety and soundness concerns or by the board
29 of the National Credit Union Administration in its capacity as conserva-
30 tor or liquidating agent.

31 (c) With the approval of the superintendent, a credit union may extend
32 membership to persons and organizations in an underserved local communi-
33 ty, neighborhood or rural district, where such area is determined by the
34 superintendent to be an "investment area" as defined in the federal
35 Community Development Banking and Financial Institutions Act of 1994 (12
36 U.S.C. 4703(16)) and any other requirements imposed by the superinten-
37 dent, including a requirement that the credit union establish and main-
38 tain an office or facility in such area.

39 (d) To the extent not expressly prohibited by the bylaws of the credit
40 union:

41 (1) in each instance where a person is a member or is directly eligi-
42 ble for membership, members of his or her immediate family or household
43 shall be eligible for membership. For the purposes of this subparagraph,
44 "immediate family" means a person's spouse, and their lineal ancestors
45 and descendants, including persons so related by adoption, siblings,
46 stepparents, stepchildren, and stepsiblings; and "household" means
47 persons living in the same residence and maintaining a single economic
48 unit;

49 (2) any employee of the credit union shall be eligible to membership;
50 and

51 (3) any member who leaves the field of membership and who has not
52 withdrawn or been expelled may retain membership.

53 (e) To the extent not expressly prohibited by the bylaws of the credit
54 union, any incorporated or unincorporated organization composed princi-
55 pally of persons eligible to membership in the credit union and the

1 organization's employees shall be eligible to membership in the credit
2 union.

3 (f) Any person who is eligible for membership by reason of the fact
4 that he or she is an employee either of a common employer or of a credit
5 union shall not become ineligible, after the termination of such employ-
6 ment, as long as he or she receives a pension or annuity from, or under,
7 a plan or other arrangement established by such common employer or cred-
8 it union.

9 (g) The provisions of this subdivision shall not apply to a corporate
10 credit union.] QUALIFICATIONS FOR MEMBERSHIP SHALL BE PURSUANT TO
11 SECTION FOUR HUNDRED FIFTY-ONE-A OF THIS ARTICLE AND SHALL NOT APPLY TO
12 A CORPORATE CREDIT UNION.

13 S 2. The banking law is amended by adding a new section 451-a to read
14 as follows:

15 S 451-A. QUALIFICATIONS FOR MEMBERSHIP. 1. THE MEMBERSHIP OF A CREDIT
16 UNION SHALL BE DETERMINED BY THE BOARD OF DIRECTORS OF SUCH CREDIT UNION
17 AND SHALL CONSIST OF PERSONS WITHIN THE CREDIT UNION'S FIELD OF MEMBER-
18 SHIP WHO HAVE BEEN DULY ADMITTED MEMBERS.

19 2. A CREDIT UNION'S FIELD OF MEMBERSHIP SHALL INCLUDE ONE OR MORE OF
20 THE FOLLOWING CATEGORIES:

21 (A) PERSONS:

22 (1) WITHIN THE SAME OCCUPATION OR FROM MULTIPLE GROUPS EACH REPRESENT-
23 ING A DIFFERENT OCCUPATION;

24 (2) WITHIN THE SAME ASSOCIATION OR INTEREST OR FROM MULTIPLE GROUPS
25 EACH REPRESENTING A DIFFERENT ASSOCIATION OR INTEREST;

26 (3) WHO RESIDE, WORK, WORSHIP OR ATTEND SCHOOL WITHIN A GEOGRAPHIC
27 AREA, IDENTIFIABLE NEIGHBORHOOD, COMMUNITY OR RURAL DISTRICT; OR

28 (4) WITHIN A COMBINATION OF THESE THREE CATEGORIES DESCRIBED IN THIS
29 SUBDIVISION; OR

30 (B) BUSINESSES, ASSOCIATIONS OR ORGANIZATIONS LOCATED WITHIN A
31 GEOGRAPHIC AREA; OR

32 (C) FAMILY MEMBERS OF SUCH PERSONS DESCRIBED IN PARAGRAPH (A) OF THIS
33 SUBDIVISION. FOR THE PURPOSES OF THIS PARAGRAPH, "FAMILY MEMBER" MEANS A
34 PERSON RELATED BY BLOOD, MARRIAGE OR LIVING IN THE SAME HOUSEHOLD WITH A
35 PERSON WITHIN THE FIELD OF MEMBERSHIP AND THEIR LINEAL ANCESTORS AND
36 DESCENDANTS INCLUDING PERSONS SO RELATED BY ADOPTION, SIBLINGS, STEPPAR-
37 ENTS, STEPCHILDREN AND STEPSIBLINGS; AND "HOUSEHOLD" MEANS PERSONS
38 LIVING IN THE SAME RESIDENCE AND MAINTAINING A SINGLE ECONOMIC UNIT; OR

39 (D) ANY EMPLOYEE OF THE CREDIT UNION; OR

40 (E) ANY MEMBER WHO LEAVES THE FIELD OF MEMBERSHIP AND WHO HAS NOT
41 WITHDRAWN OR BEEN EXPELLED MAY RETAIN MEMBERSHIP; OR

42 (F) ANY INCORPORATED OR UNINCORPORATED ORGANIZATION COMPOSED PRINCI-
43 PALLY OF PERSONS ELIGIBLE TO MEMBERSHIP IN THE CREDIT UNION AND THAT
44 ORGANIZATION'S EMPLOYEES.

45 3. ANY PERSON WHO IS ELIGIBLE FOR MEMBERSHIP BY REASON OF THE FACT
46 THAT HE OR SHE IS AN EMPLOYEE OF A COMMON EMPLOYER OR OF A CREDIT UNION
47 SHALL NOT BECOME INELIGIBLE, AFTER THE TERMINATION OF SUCH EMPLOYMENT,
48 AS LONG AS HE OR SHE RECEIVES A PENSION OR ANNUITY FROM, OR UNDER, A
49 PLAN OR OTHER ARRANGEMENT ESTABLISHED BY SUCH COMMON EMPLOYER OR CREDIT
50 UNION.

51 4. A CREDIT UNION MAY EXTEND MEMBERSHIP TO PERSONS AND ORGANIZATIONS
52 IN AN UNDERSERVED LOCAL COMMUNITY, NEIGHBORHOOD OR RURAL DISTRICT WHERE
53 SUCH AREA IS CONSIDERED AN "INVESTMENT AREA" AS DEFINED IN THE FEDERAL
54 COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1994 (12
55 U.S.C. 4703(16)).

1 S 3. Subparagraph (i) of paragraph (a) of subdivision 18 of section
2 454 of the banking law, as amended by chapter 679 of the laws of 2003,
3 is amended to read as follows:

4 (i) Those securities authorized as permissible investments for savings
5 banks by subdivisions one, two, three, four, SIX, SUBPARAGRAPH FIVE OF
6 PARAGRAPH (A) OF SUBDIVISION NINE, twelve, [paragraph] PARAGRAPHS (a)
7 AND (B) of subdivision twelve-a, [and] subdivisions fifteen, seventeen,
8 PARAGRAPH (A) OF SUBDIVISION TWENTY, SUBPARAGRAPHS ONE AND ONE-A OF
9 PARAGRAPH (A) OF SUBDIVISION TWENTY-ONE, AND SUBDIVISIONS TWENTY-FOUR-D,
10 twenty-seven [and], TWENTY-EIGHT, twenty-eight-a, TWENTY-NINE AND THIRTY
11 of section two hundred thirty-five of this chapter AND SUCH OTHER
12 INVESTMENTS AS THE SUPERINTENDENT DEEMS PERMISSIBLE.

13 S 4. Subdivision 18 of section 454 of the banking law is amended by
14 adding a new paragraph (d) to read as follows:

15 (D) ALL INVESTMENT ACTIVITIES AND INVESTMENTS AUTHORIZED FOR FEDERAL
16 CREDIT UNIONS UNDER 12 CFR PART 703.13 AND 703.14.

17 S 5. Subdivision 21 of section 454 of the banking law, as amended by
18 chapter 679 of the laws of 2003, is amended to read as follows:

19 21. To purchase, hold, lease and convey a plot whereon there is or may
20 be erected a building suitable for the transaction of its business, from
21 portions of which not required for its own use a revenue may be derived,
22 and a plot whereon parking accommodations are or are to be provided,
23 with or without charge, primarily for its members or employees or both;
24 provided that the net aggregate of all investments of any credit union
25 in such plots and building shall be limited to [six] FORTY per centum of
26 the capital and retained earnings of such credit union, except with the
27 approval of the superintendent.

28 S 6. Section 454 of the banking law is amended by adding a new subdi-
29 vision 37 to read as follows:

30 37. TO EXERCISE INCIDENTAL POWERS APPROVED BY THE NATIONAL CREDIT
31 UNION ADMINISTRATION AS SET FORTH IN 12 C.F.R. 721.

32 S 7. Section 479 of the banking law, as added by chapter 608 of the
33 laws of 1996, is amended to read as follows:

34 S 479. Credit union not liable for taxation. Any credit union subject
35 to the provisions of this article shall be deemed an institution for
36 savings within the meaning of the law which exempts such institutions
37 from taxation. No law which taxes corporations in any form, or the
38 shares thereof or the accumulations therein, OR THEIR PROPERTY, THEIR
39 FRANCHISES, CAPITAL, RESERVES, SURPLUSES, AND OTHER FUNDS, OR THEIR
40 INCOME, shall apply to corporations doing business in accordance with
41 the provisions of this article, unless such corporations are specif-
42 ically named in said law, EXCEPT THAT ANY REAL AND TANGIBLE PERSONAL
43 PROPERTY OF SUCH CORPORATION SHALL BE SUBJECT TO TAXATION TO THE SAME
44 EXTENT AS OTHER SIMILAR PROPERTY IS TAXED.

45 S 8. This act shall take effect immediately.