S T A T E O F N E W Y O R K

260--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PERALTA, GREENE, N. RIVERA, PHEFFER -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, ERRIGO, PERRY, WEISENBERG -- read once and referred to the Committee on Banks -- 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:

Section 1. Subdivision 2 of section 451 of the banking law, as amended by chapter 660 of the laws of 2004, is amended to read as follows:

2. The qualifications for membership.

[(a) Membership shall be limited to:

(1) persons having a common employer;

(2) persons and organizations who are members of the same trade, industry, profession, club, union, society or other association;

(3) in the case of a credit union incorporated under this chapter as of the effective date of this subdivision, and with the approval of the superintendent, which approval shall not be given if it would be destructive of competition within a municipality, more than one common employer; provided, however, that an employer group with under three thousand employees may be added upon receipt of a notice as provided in subdivision two of section four hundred seventy-eight of this article;

(4) with the approval of the superintendent, and subject to the provisions of paragraph (b) of this subdivision, more than one group each of which has, within the group, a common bond of occupation, including a common employer, or association; provided, however, that a group of less than three thousand members, which is within reasonable proximity to the credit union's service area or areas, may be added upon

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

LBD00056-03-9

receipt of a notice as provided in subdivision two of section four hundred seventy-eight of this article; or

(5) persons and organizations within a well-defined local community, neighborhood or rural district and who in the judgment of the superintendent have such a community of interest as will insure proper administration.

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

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

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

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

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

(c) With the approval of the superintendent, a credit union may extend membership to persons and organizations in an underserved local community, neighborhood or rural district, where such area is determined by the superintendent to be an "investment area" as defined in the federal Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(16)) and any other requirements imposed by the superintendent, including a requirement that the credit union establish and maintain an office or facility in such area.

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

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

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

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

(e) To the extent not expressly prohibited by the bylaws of the credit union, any incorporated or unincorporated organization composed principally of persons eligible to membership in the credit union and the organization's employees shall be eligible to membership in the credit union.

(f) Any person who is eligible for membership by reason of the fact that he or she is an employee either of a common employer or of a credit union shall not become ineligible, after the termination of such employment, as long as he or she receives a pension or annuity from, or under, a plan or other arrangement established by such common employer or credit union.

(g) The provisions of this subdivision shall not apply to a corporate credit union.] THE MEMBERSHIP OF A CREDIT UNION SHALL BE DETERMINED BY THE BOARD OF DIRECTORS OF SUCH CREDIT UNION AND SHALL CONSIST OF PERSONS WHO HAVE BEEN DULY ADMITTED MEMBERS.

S 2. Subparagraph (i) of paragraph (c) of subdivision 6 of section 454 of the banking law, as added by chapter 660 of the laws of 2004, is amended to read as follows:

(i) [No credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under 12 U.S.C. 1790d(c)(1)(A) for a credit union to be well capitalized.] (A) NO CREDIT UNION SHALL MAKE ANY MEMBER A BUSINESS LOAN THAT WOULD RESULT IN THE NET MEMBER BUSINESS LOAN BALANCE TO ANY ONE MEMBER EXCEEDING THE GREATER OF

(1) TWENTY-FIVE PERCENT OF THE CREDIT UNION'S NET WORTH, OR

(2) TWO HUNDRED FIFTY THOUSAND DOLLARS.

(B) THE AGGREGATE LIMIT ON A CREDIT UNION'S NET BUSINESS LOAN BALANCES SHALL BE THE GREATER OF:

(1) TWENTY-FIVE PERCENT OF THE CREDIT UNION'S TOTAL ASSETS, OR

(2) THE LIMIT ESTABLISHED FOR FEDERAL CREDIT UNIONS.

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

(i) Those securities authorized as permissible investments for savings banks by subdivisions one, two, three, four, twelve, [paragraph] PARAGRAPHS (a) AND (B) of subdivision twelve-a, [and] SUBPARAGRAPH FIVE OF PARAGRAPH (A) OF SUBDIVISION NINE, subdivisions fifteen, seventeen, PARAGRAPH (A) OF SUBDIVISION TWENTY, SUBPARAGRAPHS ONE AND ONE-A OF PARAGRAPH (A) OF SUBDIVISION TWENTY-ONE, SUBDIVISIONS TWENTY-FOUR-D, twenty-seven [and], TWENTY-EIGHT, twenty-eight-a, TWENTY-NINE AND THIRTY of section two hundred thirty-five of this chapter.

S 4. Subdivision 2 of section 461 of the banking law, as added by chapter 608 of the laws of 1996, is amended to read as follows:

2. Subject to such regulations as the superintendent may adopt, any credit union, may open and maintain within or without the state, in any locality in which [a substantial portion of] its actual potential membership is employed, ATTENDING SCHOOL or residing, one or more stations for the conduct of its business [provided that before any such station or stations shall be opened or maintained or removed to a new location:

(a) Its board of directors shall submit to the superintendent a written application setting forth the reasons therefor and the proposed location of such station or stations.

(b) The superintendent shall have given his written approval thereto].

S 5. Subdivision 1 of section 454 of the banking law, as amended by chapter 679 of the laws of 2003, is amended to read as follows:

1. To issue and receive payments on, shares, share drafts, and share certificates, subject to such terms, rates, and conditions as are established by its board of directors, from:

(A) its members;

(B) NONMEMBERS WHO OR WHICH MAY BE NATURAL PERSONS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS OR OTHER LEGAL ENTITIES;

(C) AN OFFICER, EMPLOYEE OR AGENT OF THOSE NONMEMBER UNITS OF THE FEDERAL, STATE, INDIAN TRIBAL OR LOCAL GOVERNMENTS AND POLITICAL SUBDIVISIONS; and

(D) from other credit unions, both state and federally chartered.

A member may designate any person or persons to own shares or share certificates with him or her in joint tenancy with the right of survivorship, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he or she is within the field of membership and is a qualified member.

S 6. This act shall take effect immediately.