

1488

2011-2012 Regular Sessions

I N S E N A T E

January 7, 2011

Introduced by Sens. PARKER, PERALTA, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

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

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

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1 intendent have such a community of interest as will insure proper admin-  
2 istration.

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

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

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

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

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

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

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

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

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

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

48 (e) To the extent not expressly prohibited by the bylaws of the credit  
49 union, any incorporated or unincorporated organization composed princi-  
50 pally of persons eligible to membership in the credit union and the  
51 organization's employees shall be eligible to membership in the credit  
52 union.

53 (f) Any person who is eligible for membership by reason of the fact  
54 that he or she is an employee either of a common employer or of a credit  
55 union shall not become ineligible, after the termination of such employ-  
56 ment, as long as he or she receives a pension or annuity from, or under,

1 a plan or other arrangement established by such common employer or cred-  
2 it union.

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

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

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

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

19 (2) TWO HUNDRED FIFTY THOUSAND DOLLARS.

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

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

23 (2) THE LIMIT ESTABLISHED FOR FEDERAL CREDIT UNIONS.

24 S 3. Subparagraph (i) of paragraph (a) of subdivision 18 of section  
25 454 of the banking law, as amended by chapter 679 of the laws of 2003,  
26 is amended to read as follows:

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

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

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

44 (a) Its board of directors shall submit to the superintendent a writ-  
45 ten application setting forth the reasons therefor and the proposed  
46 location of such station or stations.

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

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

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

53 (A) its members;

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

1 (C) AN OFFICER, EMPLOYEE OR AGENT OF THOSE NONMEMBER UNITS OF THE  
2 FEDERAL, STATE, INDIAN TRIBAL OR LOCAL GOVERNMENTS AND POLITICAL SUBDI-  
3 VISIONS; and

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

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

10 S 6. This act shall take effect immediately.