

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

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I N A S S E M B L Y

June 2, 2011

Introduced by M. of A. JEFFRIES, WEPRIN, BRINDISI, ESPINAL, RODRIGUEZ, ROBINSON -- Multi-Sponsored by -- M. of A. SIMANOWITZ -- read once and referred to the Committee on Banks -- recommitted to the Committee on Banks in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- 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

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

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1 each of which has, within the group, a common bond of occupation,
2 including a common employer, or association; provided, however, that a
3 group of less than three thousand members, which is within reasonable
4 proximity to the credit union's service area or areas, may be added upon
5 receipt of a notice as provided in subdivision two of section four
6 hundred seventy-eight of this article; or

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

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

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

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

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

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

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

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

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

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

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

1 (e) To the extent not expressly prohibited by the bylaws of the credit
2 union, any incorporated or unincorporated organization composed princi-
3 pally of persons eligible to membership in the credit union and the
4 organization's employees shall be eligible to membership in the credit
5 union.

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

12 (g) The provisions of this subdivision shall not apply to a corporate
13 credit union.] SUCH QUALIFICATIONS FOR MEMBERSHIP SHALL BE ESTABLISHED
14 IN ACCORDANCE WITH THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-ONE-A OF
15 THIS ARTICLE, EXCEPT THAT SUCH SECTION SHALL NOT APPLY TO A CORPORATE
16 CREDIT UNION.

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

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

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

25 (A) PERSONS:

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

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

30 (3) WHO RESIDE, WORK, WORSHIP OR ATTEND SCHOOL WITHIN A WELL-DEFINED
31 GEOGRAPHIC AREA, IDENTIFIABLE NEIGHBORHOOD, COMMUNITY OR RURAL DISTRICT
32 AND WHO, IN THE JUDGMENT OF THE SUPERINTENDENT, HAVE SUCH A COMMUNITY OF
33 INTEREST AS WILL ENSURE PROPER ADMINISTRATION; OR

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

36 (B) BUSINESSES, ASSOCIATIONS OR ORGANIZATIONS LOCATED WITHIN A
37 WELL-DEFINED GEOGRAPHIC AREA AND WHICH, IN THE JUDGMENT OF THE SUPER-
38 INTENDENT, HAVE SUCH A COMMUNITY OF INTEREST AS WILL ENSURE PROPER
39 ADMINISTRATION; OR

40 (C) FAMILY MEMBERS OF SUCH PERSONS DESCRIBED IN PARAGRAPH (A) OF THIS
41 SUBDIVISION. FOR THE PURPOSES OF THIS PARAGRAPH, "FAMILY MEMBER" MEANS A
42 PERSON RELATED BY BLOOD, MARRIAGE OR LIVING IN THE SAME HOUSEHOLD WITH A
43 PERSON WITHIN THE FIELD OF MEMBERSHIP AND THEIR LINEAL ANCESTORS AND
44 DESCENDANTS INCLUDING PERSONS SO RELATED BY ADOPTION, SIBLINGS, STEPPAR-
45 ENTS, STEPCHILDREN AND STEPSIBLINGS; AND "HOUSEHOLD" MEANS PERSONS
46 LIVING IN THE SAME RESIDENCE AND MAINTAINING A SINGLE ECONOMIC UNIT; OR

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

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

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

53 3. ANY PERSON WHO IS ELIGIBLE FOR MEMBERSHIP BY REASON OF THE FACT
54 THAT HE OR SHE IS AN EMPLOYEE OF A COMMON EMPLOYER OR OF A CREDIT UNION
55 SHALL NOT BECOME INELIGIBLE, AFTER THE TERMINATION OF SUCH EMPLOYMENT,
56 AS LONG AS HE OR SHE RECEIVES A PENSION OR ANNUITY FROM, OR UNDER, A

1 PLAN OR OTHER ARRANGEMENT ESTABLISHED BY SUCH COMMON EMPLOYER OR CREDIT
2 UNION.

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

8 S 3. Subparagraph (i) of paragraph (a) of subdivision 18 of section
9 454 of the banking law, as amended by chapter 679 of the laws of 2003,
10 is amended to read as follows:

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

20 S 4. Subdivision 21 of section 454 of the banking law, as amended by
21 chapter 679 of the laws of 2003, is amended to read as follows:

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

31 S 5. Section 454 of the banking law is amended by adding a new subdi-
32 vision 37 to read as follows:

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

35 S 6. This act shall take effect on the ninetieth day after it shall
36 have become a law.