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

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I N S E N A T E

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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 -- 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

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

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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 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.] SUCH QUALIFICATIONS FOR MEMBERSHIP SHALL BE ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-ONE-A OF THIS ARTICLE, EXCEPT THAT SUCH SECTION SHALL NOT APPLY TO A CORPORATE CREDIT UNION.

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

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

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

(A) PERSONS:

(1) WITHIN THE SAME OCCUPATION OR FROM MULTIPLE GROUPS EACH REPRESENTING A DIFFERENT OCCUPATION;

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

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

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

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

(C) FAMILY MEMBERS OF SUCH PERSONS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS PARAGRAPH, "FAMILY MEMBER" MEANS A PERSON RELATED BY BLOOD, MARRIAGE OR LIVING IN THE SAME HOUSEHOLD WITH A PERSON WITHIN THE FIELD OF MEMBERSHIP 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; OR

(D) ANY EMPLOYEE OF THE CREDIT UNION; OR

(E) ANY MEMBER WHO LEAVES THE FIELD OF MEMBERSHIP AND WHO HAS NOT WITHDRAWN OR BEEN EXPELLED MAY RETAIN MEMBERSHIP; OR

(F) ANY INCORPORATED OR UNINCORPORATED ORGANIZATION COMPOSED PRINCIPALLY OF PERSONS ELIGIBLE TO MEMBERSHIP IN THE CREDIT UNION AND THAT ORGANIZATION'S EMPLOYEES.

3. ANY PERSON WHO IS ELIGIBLE FOR MEMBERSHIP BY REASON OF THE FACT THAT HE OR SHE IS AN EMPLOYEE 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.

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

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, SIX, SUBPARAGRAPH FIVE OF PARAGRAPH (A) OF SUBDIVISION NINE, twelve, [paragraph] PARAGRAPHS (a) AND (B) of subdivision twelve-a, [and] subdivisions fifteen, seventeen, PARAGRAPH (A) OF SUBDIVISION TWENTY, SUBPARAGRAPHS ONE AND ONE-A OF PARAGRAPH (A) OF SUBDIVISION TWENTY-ONE, AND 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 AND SUCH OTHER INVESTMENTS AS THE SUPERINTENDENT DEEMS PERMISSIBLE.

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

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

S 5. Section 454 of the banking law is amended by adding a new subdivision 37 to read as follows:

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

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