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2013-2014 Regular Sessions

I N S E N A T E

January 10, 2013

Introduced by Sen. GRIFFO -- 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  
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  
21 proximity to the credit union's service area or areas, may be added upon  
22 receipt of a notice as provided in subdivision two of section four  
23 hundred seventy-eight of this article; or  
24 (5) persons and organizations within a well-defined local community,  
25 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.] SUCH QUALIFICATIONS FOR MEMBERSHIP SHALL BE ESTABLISHED  
5 IN ACCORDANCE WITH THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-ONE-A OF  
6 THIS ARTICLE, EXCEPT THAT SUCH SECTION SHALL NOT APPLY TO A CORPORATE  
7 CREDIT UNION.

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

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

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

16 (A) PERSONS:

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

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

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

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

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

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

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

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

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

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

50 4. A CREDIT UNION MAY EXTEND MEMBERSHIP TO PERSONS AND ORGANIZATIONS  
51 IN AN UNDERSERVED LOCAL COMMUNITY, NEIGHBORHOOD OR RURAL DISTRICT WHERE  
52 SUCH AREA IS CONSIDERED AN "INVESTMENT AREA" AS DEFINED IN THE FEDERAL  
53 COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1994 (12  
54 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 21 of section 454 of the banking law, as amended by  
14 chapter 679 of the laws of 2003, is amended to read as follows:

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

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

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

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