

SENATE 2470:

AN ACT MODERNIZING THE CREDIT UNION LAWS

(summary reflects text as redrafted)

SPONSORS:

Senator Eldridge

**LEGISLATIVE
HISTORY:**

1/23/2020 Reported from the Committee on Financial Services;
new draft of S581; bill reported favorably by
committee and referred to the Committee on Senate
Ways and Means

**EXISTING LAWS
AFFECTED:**

M.G.L. c. 167A § 3; M.G.L. c. 167C § 5; M.G.L. c. 167D § 16;
M.G.L. c. 167H §§ 2 & 7; M.G.L. c. 167I § 4; M.G.L. c. 167J § 11;
M.G.L. c. 168 § 6; M.G.L. c. 170 § 6; M.G.L. c. 171 §§ 1 to 4,
inclusive, 6, 6A, 8, 9 to 19, inclusive, 21, 26, 30, 32A to 35,
inclusive, 39, 41, 42, 44, 45, 49, 50, 53 to 57, inclusive, 59 to 62,
inclusive, 64, 65E to 67, inclusive, 73 to 75, inclusive, 76, 78, 79, 82
to 84, inclusive; and M.G.L. c. 172 § 6

**PROPOSED
LEGISLATION:**

- Exempts a bank holding company, or a company or a banking institution that would become a bank holding company from having to acquire prior written approval for certain acquisitions if the Commissioner of Banks determines that said company or institution meets the reciprocity, age of institution and deposit cap requirements.
- Allows the Commissioner of Administration and Finance to differentiate between banks, and between credit unions, to determine the investigation fee for establishing a bank or credit union branch office
- Provides that the fee for establishing a bank branch office must be consistent with and equal to the fee for establishing a credit union branch office.
- Allows a bank or credit union to transfer funds to extinguish a defaulted debt of a depositor or shareholder when the debt is the result of consumer credit granted under the Truth in Lending Act subject to federal notice requirements.
- Requires a mutual banking institution to provide a certificate of authority and articles of organization to the Secretary of State in order to become a mutual holding company.

- Allows a mutual holding company to acquire an out-of-state bank in mutual form through consolidation or merger.
- Amends the period of time covered by a bank's quarterly report summarizing its transactions.
- Grants an applicant to form a savings bank, cooperative bank, credit union or trust company the ability to receive not more than 1 extension if the applicant has not formed said savings bank, cooperative bank, credit union or trust company within 1 year of receiving the certificate to do so.
- Permits a credit union to be designated or chartered as a low-income credit union consistent with federal law and subject to the approval of the Commissioner of Banks.
- Codifies current regulations that include limited partnerships, limited liability partnerships and limited liability companies in the definition of "organizational member."
- Allows incorporators of a credit union to reside outside of Massachusetts, if a majority of the incorporators are Massachusetts residents.
- Excludes certain personal information from the required information for a credit union agreement of association.
- Permits certain required actions of the board of directors of a credit union to be conducted electronically.
- Repeals the requirement that the Commissioner of Banks file proposed regulations with the legislature not less than 90 days before the regulations are to take effect.
- Makes the formation of a credit committee optional.
- Allows an amendment to the by-laws that change the location or name of a credit union to become operative without prior written approval by the Commissioner of Banks.

- Repeals the requirement that members of a credit union fix the maximum amount that may be loaned to any 1 member at the annual meeting.
- Decreases the minimum required number of directors of a credit union from 9 to 7.
- Authorizes a credit union to limit the number of employees that may serve as directors.
- Allows the board of directors of a credit union to delegate their duty to act upon applications for membership and determine the rate of interest to be paid on deposits.
- Makes the duty to declare dividends, and fill vacancies non-delegable.
- Allows the board of directors of a credit union to appoint uncompensated, non-voting associate directors.
- Allows the board of directors of a credit union and its committees to take action by unanimous consent without a meeting.
- Revises the list of actions for which the board of directors of a credit union may expel a member.
- Requires the automatic expulsion of a director of a credit union if the director becomes insolvent or bankrupt.
- Allows the investment committee of a credit union to have members who are not on the board of directors.
- Authorizes the board of directors of a credit union to appoint employees to an executive committee and revises the reporting requirements of such executive committee.
- Eases the requirements of the auditing committee of a credit union and allows such committee to select a person to

conduct an examination and audit without approve by the Commissioner of Banks.

- Eases the reporting requirements of the credit committee of a credit union and allows the credit committee to delegate its duties without an annual review by the board of directors.
- Requires the investment committee to hold 1 meeting per month and allows it to delegate its duties to employees.
- Prevents a director or other officer of a state-chartered savings and loan association from being a director or officer of a credit union.
- Allows a director or other officer of a mortgage company owned by a bank to serve as a director or officer of a credit union.
- Requires only changes to a credit union's officer or employee bonds be approved by the Commissioner of Banks.
- Authorizes the Commissioner of Banks to determine what information shall be included in a credit union's annual report.
- Repeals language governing limited access deposit accounts and updates language pertaining to pre-paid funeral trust accounts.
- Repeals the sections governing club deposits and special notice accounts.
- Repeals the deposit limitation on retirement accounts.
- Clarifies credit union membership of surviving owners of joint accounts.
- Clarifies that payments to minors and deceased depositors may be made by policy or by officers of a credit union.

- Repeals the sections governing the method of returning shareholder or depositor vouchers and the notification of deposits of retirement funds.
- Authorizes an duly authorized officer of a credit union to make a transfer, assignment or credit of shares or accounts in a foreclosure or other proceeding.
- Repeals sections governing credit union advertisements and telephonic customer service.
- Allows applications for loans to be made electronically.
- Repeals outdated statutory loan requirements pertaining to personal, credit card, home improvement, manufactured housing, boats, campers, trailers and installment loans.
- Allows a credit union to make participation mortgage loans on properties in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.
- Clarifies incidental powers of credit unions that are reasonably necessary to exercise fully its powers according to common customs and usages.
- Repeals the limitation that a credit union may only make a mortgage loan on real estate property situated in Massachusetts or within 100 miles of the main office of the credit union.
- Repeals the limitation on the percent of a credit union's assets it may have in mortgages based on the size of its total assets.
- Authorizes the board of directors of a credit union to borrow money for and on behalf of the credit union without the approval of the Commissioner of Banks and repeals certain reporting requirements associated with such borrowing.

- Allows the sale, transfer, or assignment of loans, investments or other assets to another credit union chartered in Massachusetts without prior written approval from the Commissioner of Banks.
- Allows a well-capitalized or adequately capitalized credit union to invest in fixed assets in an amount not more than 5% of the credit union's shares and retained earnings without advance regulatory authority.
- Repeals the limitations on the amount a credit union of a certain size may invest in single parcels of real estate and the purchasing of electronic processing equipment.
- Repeals the provision allowing credit unions to collect payments on bills to utility companies.
- Allows a credit union to become a member of a corporate credit union without the approval of the Commissioner of Banks.
- Allows a credit union to consolidate with and into a federal credit union.
- Repeals the limits on the number and size of credit unions that may form the Credit Union Employees Retirement Association, CUERA.
- Repeals the geographical requirements for membership in the CUERA.
- Removes the limit of 15% of an employee's compensation that may be contributed to the CUERA and replaces that limitation with those established under the Internal Revenue Code.
- Broadens the benefits that the CUERA may provide subject to the limits of the Internal Revenue Code.

- Repeals the requirement that administrative expenses of the CUERA be paid by members on a proportionate basis.
- Requires that the CUERA file any reports required by the Commissioner of Banks.
- Exempts CUERA from insurance company and retirement association statutory provisions.

ESTIMATED
FISCAL
IMPACT:

This legislation has no cost to the Commonwealth.

(JGB)