

CREDIT UNION BRANCHING AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: James R. Gowans

This act modifies the Utah Credit Union Act to remove certain restrictions on establishing, relocating, and changing the physical location of branches or main offices of credit unions.

This act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

7-9-39, as last amended by Chapter 329, Laws of Utah 1999

7-9-53, as enacted by Chapter 329, Laws of Utah 1999

7-9-54, as enacted by Chapter 329, Laws of Utah 1999

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **7-9-39** is amended to read:

7-9-39. Voluntary merger.

(1) Any credit union may merge with another credit union under the existing charter of the other credit union when all of the following have occurred:

(a) the majority of the directors of each merging credit union votes in favor of the merger plan;

(b) the commissioner approves the merger plan;

(c) the majority of the members of each merging credit union present at a meeting called for the purpose of considering the merger plan votes to approve the merger plan, but a vote of the membership of the surviving credit union is not required if its board of directors determines that the merger will not have any significant effect on the organization, membership, or financial condition of the credit union; and

(d) (i) the National Credit Union Administration or its successor federal deposit insurance agency approves the merger plan and commits to insure deposits of the surviving credit union; or



28 (ii) the commissioner approves the surviving credit union to operate without federal
29 deposit insurance in accordance with Section 7-9-45.

30 (2) Upon merger, the chair of the board and secretary of each credit union shall execute,
31 and file with the department, a certificate of merger setting forth:

32 (a) the time and place of the meeting of the board of directors at which the plan was
33 approved;

34 (b) the vote by which the directors approved the plan;

35 (c) a copy of the resolution or other action by which the plan was approved;

36 (d) the time and place of the meeting of the members at which the plan was approved;

37 (e) the vote by which the members approved the plan; and

38 (f) the effective date of the merger, which shall be:

39 (i) the date on which the last approval or vote required under Subsection (1) was obtained;

40 or

41 (ii) a later date specified in the merger plan.

42 (3) On the effective date of any merger:

43 (a) all property, property rights, and interests of the merged credit union shall vest in the
44 surviving credit union without deed, endorsement, or other instrument of transfer; and

45 (b) all debts, obligations, and liabilities of the merged credit union are considered to have
46 been assumed by the surviving credit union.

47 (4) Except as provided in Subsection (5)(b), if the surviving credit union is chartered under
48 this chapter, the residents of a county in the limited field of membership of the merging credit
49 union may not be added to the limited field of membership of the surviving credit union, except
50 that the surviving credit union:

51 (a) may admit as a member any member of the merging credit union that is not in the
52 limited field of membership of the surviving credit union if the member of the merging credit
53 union was a member of that credit union at the time of merger; and

54 (b) may service any member-business loan of the merging credit union until the
55 member-business loan is paid in full.

56 (5) (a) This section shall be interpreted, whenever possible, to permit a credit union
57 chartered under this chapter to merge with a credit union chartered under any other law if the
58 preservation of membership interest is concerned.

59 (b) The commissioner may under Subsection (1)(b) approve a merger plan that includes
 60 the addition of the residents of a county in the limited field of membership of the merging credit
 61 union to the limited field of membership of the surviving credit union if the commissioner finds
 62 that:

63 (i) the expansion of the limited field of membership of the surviving credit union is
 64 necessary for that credit union's safety and soundness; and

65 (ii) the expanded limited field of membership of the surviving credit union meets the
 66 criteria stated in Subsection 7-9-52(3)(c).

67 (6) If the commissioner approves a merger plan under Subsection (5)(b) under which the
 68 surviving credit union's limited field of membership after the merger will include residents of more
 69 than one county, Subsections (6)(a) through ~~[(e)]~~ (c) apply to the surviving credit union.

70 (a) The domicile-county of the surviving credit union is:

71 (i) if the credit union does not have a limited field of membership under Subsection
 72 7-9-53(2)(c) or (2)(d), the county in which the credit union has located the greatest number of
 73 branches as of the date the merger is effective; or

74 (ii) if the credit union has a limited field of membership under Subsection 7-9-53(2)(c) or
 75 (2)(d), the county that is the domicile-county of the surviving credit union under Section 7-9-53[;].

76 ~~[(b) Within the surviving credit union's domicile-county, the surviving credit union may
 77 establish, relocate, or otherwise change the physical location of the credit union's:]~~

78 ~~[(i) main office; or]~~

79 ~~[(ii) branch.]~~

80 ~~[(c) Within a county other than the domicile-county that is in the limited field of
 81 membership of the surviving credit union after the merger, the surviving credit union may not:]~~

82 ~~[(i) establish a main office or branch if the main office or branch was not located in the
 83 county as of the date that the merger is effective;]~~

84 ~~[(ii) participate in a service center in which it does not participate as of the date that the
 85 merger is effective; or]~~

86 ~~[(iii) relocate the surviving credit union's main office or a branch located in the county as
 87 of the date that the merger is effective unless the commissioner finds that the main office or branch
 88 is being relocated within a three-mile radius of the original location of the main office or branch.]~~

89 ~~[(d)]~~ (b) After the merger, the surviving credit union may admit as a member:

90 (i) a person in the surviving credit union's limited field of membership after the date that
91 the merger is effective; or

92 (ii) a person belonging to an association that:

93 (A) is added to the limited field of membership of the credit union; and

94 (B) resides in the domicile-county of the surviving credit union, as defined in Section
95 7-9-53.

96 [~~(e) In addition to any requirement under this Subsection (6), a]~~

97 (c) A surviving credit union shall comply with any requirement under this title for the
98 establishment, relocation, or change in the physical location of a main office or branch of a credit
99 union.

100 Section 2. Section 7-9-53 is amended to read:

101 **7-9-53. Grandfathering.**

102 (1) As used in this section and Section 7-9-54:

103 (a) "Association that resides in a domicile-county" means an association that:

104 (i) operates a place of business or other physical location in the domicile-county; or

105 (ii) has at least 100 members that are residents of the domicile-county.

106 (b) "Domicile-county" means the county:

107 (i) in the limited field of membership of the credit union as of January 1, 1999; and

108 (ii) in which the credit union has located the greatest number of branches as of January 1,
109 1999.

110 (c) "Grandfathered limited field of membership" means the limited field of membership
111 as of May 3, 1999, of a credit union described in Subsection (2)(d).

112 (2) For each credit union formed before January 1, 1999, its limited field of membership
113 as of May 3, 1999, is determined as follows:

114 (a) if the limited field of membership stated in the bylaws of the credit union as of January
115 1, 1999, complies with Section 7-9-51, the credit union's limited field of membership is the limited
116 field of membership indicated in its bylaws;

117 (b) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
118 in Subsection (2)(b)(ii) if:

119 (A) the limited field of membership stated in the bylaws of the credit union as of January
120 1, 1999, includes the residents of more than one county; and

121 (B) as of January 1, 1999, the credit union's main office and any of its branches are located
122 in only one county in its limited field of membership;

123 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
124 Subsection (2)(b)(i) is:

125 (A) the immediate family of a member of the credit union;

126 (B) the employees of the credit union;

127 (C) residents of the one county in which the credit union has its main office or branches
128 as of January 1, 1999, and

129 (D) any association that as of January 1, 1999, is in the limited field of membership of the
130 credit union;

131 (c) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
132 in Subsection (2)(c)(ii) if:

133 (A) the limited field of membership of a credit union stated in the bylaws of the credit
134 union as of January 1, 1999, includes residents of more than one county;

135 (B) as of January 1, 1999, the credit union has a main office or branch in more than one
136 county; and

137 (C) as a result of a merger pursuant to a supervisory action under Chapter 2 or 19 that is
138 effective on or after January 1, 1983, but before January 1, 1994, the credit union acquired a branch
139 in a county in the limited field of membership of the credit union and the credit union did not have
140 a branch in the county before the merger;

141 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
142 Subsection (2)(c)(i) is the same limited field of membership that the credit union would have had
143 under Subsection (2)(d) except that the credit union:

144 (A) is not subject to Subsection (3); and

145 (B) is subject to Subsection (4)(b); and

146 (d) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
147 in Subsection (2)(d)(ii) if:

148 (A) the limited field of membership stated in the bylaws of the credit union as of January
149 1, 1999, includes the residents of more than one county; and

150 (B) as of January 1, 1999, the credit union has a main office or branch in more than one
151 county;

152 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
153 Subsection (2)(d)(i) is:

154 (A) the immediate family of a member of the credit union;

155 (B) the employees of the credit union;

156 (C) residents of the credit union's domicile-county;

157 (D) the residents of any county other than the domicile-county:

158 (I) if, as of January 1, 1999, the county is in the limited field of membership of the credit
159 union; and

160 (II) in which, as of January 1, 1994, the credit union had located its main office or a
161 branch; and

162 (E) any association that as of January 1, 1999, is in the limited field of membership of the
163 credit union.

164 (3) If a credit union's limited field of membership is as described in Subsection (2)(d),
165 beginning May 3, 1999, the credit union may only admit as a member:

166 [~~(a) within the credit union's domicile-county, may establish, relocate, or otherwise change
167 the physical location of the credit union's:]~~

168 [~~(i) main office; or]~~

169 [~~(ii) branch;]~~

170 [~~(b) within a county other than a domicile-county that is in the credit union's grandfathered
171 limited field of membership, may not:]~~

172 [~~(i) establish a main office or branch that:]~~

173 [~~(A) was not located in the county as of January 1, 1999; or]~~

174 [~~(B) for which the credit union has not received by January 1, 1999, approval or
175 conditional approval of a site plan for the main office or branch from the planning commission of
176 the municipality where the main office or branch will be located;]~~

177 [~~(ii) participate in a service center in which it does not participate as of January 1, 1999;
178 or]~~

179 [~~(iii) relocate the credit union's main office or a branch located in the county as of January
180 1, 1999, unless the commissioner finds that the main office or branch is relocated within a
181 three-mile radius of where it was originally located; and]~~

182 [~~(c) may only admit as a member:]~~

183 ~~[(i)]~~ (a) a person in the credit union's grandfathered limited field of membership; or

184 ~~[(ii)]~~ (b) a person belonging to an association that:

185 ~~[(A)]~~ (i) is added to the limited field of membership of the credit union; and

186 ~~[(B)]~~ (ii) resides in the domicile-county of the credit union.

187 (4) (a) If a credit union's limited field of membership is as described in Subsection (2)(b),
188 as of May 3, 1999, the credit union may operate as a credit union having a limited field of
189 membership under Section 7-9-51.

190 (b) If a credit union's limited field of membership is as described in Subsection (2)(c), as
191 of May 3, 1999, the credit union may only admit as a member:

192 ~~[(i) within the credit union's domicile-county, may establish, relocate, or otherwise change
193 the physical location of the credit union's:]~~

194 ~~[(A) main office; or]~~

195 ~~[(B) branch;]~~

196 ~~[(ii) within a county other than its domicile-county that is in the credit union's limited field
197 of membership under Subsection (2)(c), may not:]~~

198 ~~[(A) establish a main office or branch that was not located in the county as of January 1,
199 1999;]~~

200 ~~[(B) participate in a service center in which it does not participate as of January 1, 1999;
201 or]~~

202 ~~[(C) relocate the credit union's main office or a branch located in the county as of January
203 1, 1999, unless the commissioner finds that the main office or branch is relocated within a
204 three-mile radius of where it was originally located; and]~~

205 ~~[(iii) may only admit as a member:]~~

206 ~~[(A)]~~ (i) a person in the credit union's limited field of membership under Subsection (2)(c);

207 or

208 ~~[(B)]~~ (ii) a person belonging to an association that is added to the limited field of
209 membership of the credit union, regardless of whether the association resides in the
210 domicile-county of the credit union.

211 (5) (a) Notwithstanding Subsections (1) through (4), after May 3, 1999, a credit union
212 described in Subsection (2)(c) or (2)(d) may:

213 (i) operate an office or branch that is operated by the credit union on May 3, 1999, but that

214 is not located in a county that is in the credit union's limited field of membership as of May 3,
215 1999; and

216 (ii) serve a member who is not in a credit union's limited field of membership as of May
217 3, 1999, if the member is a member of the credit union as of March 15, 1999.

218 (b) Subsection (5)(a) does not authorize ~~[a credit union to: (i) establish a branch in a~~
219 ~~county that is not in the credit union's limited field of membership as of May 3, 1999, unless the~~
220 ~~branch meets the requirements under this title for establishing a branch; or (ii) for]~~ a credit union
221 described in Subsection (2)(d), to include in its limited field of membership an association that:

222 [~~A~~] (i) as of January 1, 1999, is not included in the credit union's limited field of
223 membership; and

224 [~~B~~] (ii) does not reside within the credit union's domicile-county.

225 (6) A credit union shall amend its bylaws in accordance with Section 7-9-11 by no later
226 than August 3, 1999, to comply with this section.

227 (7) ~~[In addition to any requirement under this section, a]~~ A credit union shall comply with
228 any requirement under this title for the establishment, relocation, or change in the physical location
229 of a main office or branch of a credit union.

230 Section 3. Section **7-9-54** is amended to read:

231 **7-9-54. Electing to terminate grandfathering.**

232 (1) (a) In accordance with this section, a credit union that has a grandfathered limited field
233 of membership under Section 7-9-53 may terminate the grandfathering of the credit union's
234 grandfathered limited field of membership if, by no later than August 3, 1999, the credit union has
235 received approval from the commissioner in accordance with Section 7-9-11 of an amendment to
236 the bylaws of the credit union that establishes a limited field of membership in compliance with
237 Section 7-9-51.

238 (b) Notwithstanding Subsection (1)(a), a credit union seeking to terminate its
239 grandfathered limited field of membership may not amend its bylaws to include in the limited field
240 of membership of the credit union after termination of the grandfathering a county other than the
241 domicile-county of the credit union.

242 (2) On receipt of a request under Subsection (1) to approve an amendment to the bylaws
243 of a credit union, the commissioner shall give notice of the request in the manner and to the extent
244 the commissioner considers appropriate to institutions subject to the jurisdiction of the department

245 that:

246 (a) are located in a county within the credit union's grandfathered limited field of
247 membership; or

248 (b) may be affected by the termination of the grandfathering.

249 (3) The commissioner may approve the amendment to the bylaws described in Subsection
250 (1) if the commissioner:

251 (a) has given the notice required by Subsection (2); and

252 (b) finds that any harm the termination of the grandfathering may have on other institutions
253 subject to the jurisdiction of the commissioner does not clearly outweigh the probable beneficial
254 effect of the termination.

255 (4) In accordance with Section 7-1-309, the commissioner may hold a hearing on the
256 termination of the grandfathering of a credit union.

257 (5) Beginning on the date the commissioner approves the amendments to the bylaws of
258 a credit union under Subsection (3), the credit union:

259 (a) may not admit as a member a resident of a county for which grandfathering is
260 terminated;

261 (b) may admit as a member a person belonging to an association regardless of whether the
262 association resides in the domicile-county within the limited field of membership of the credit
263 union;

264 (c) may serve a member of the credit union who is not in the credit union's grandfathered
265 limited field of membership, if the member is a member of the credit union on the day that the
266 grandfathering terminates; and

267 (d) may operate a main office or branch that is located outside the limited field of
268 membership of a credit union after grandfathering terminates but is operated by the credit union
269 on the day that the grandfathering terminates~~[-and]~~.

270 ~~[(e) may establish, relocate, or otherwise change the physical facilities of the credit union's~~
271 ~~main office or of a branch in the domicile-county of the credit union if that county is included in~~
272 ~~the limited field of membership of the credit union after termination of the grandfathering.]~~

273 (6) ~~[In addition to any requirement under this section, a]~~ A credit union shall comply with
274 any requirement under this title for the establishment, relocation, or change in the physical location
275 of a main office or branch of a credit union.

Legislative Review Note
as of 2-8-01 8:10 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel