

CREDIT UNION ACT AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies the Financial Institutions Code to amend provisions related to credit unions including making technical and conforming amendments. The act amends definitions. The act eliminates certain restrictions on advertising. The act amends provisions related to membership after mergers. This act expands what can be included in the limited field of membership of a credit union. The act addresses how the limited field of membership may be expanded. The act addresses how credit union offices and branches may be established, located, or otherwise changed. The act addresses the treatment of credit union with grandfathered limited fields of memberships.

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

AMENDS:

- 7-9-3**, as last amended by Chapter 329, Laws of Utah 1999
- 7-9-5**, as last amended by Chapter 329, Laws of Utah 1999
- 7-9-6**, as last amended by Chapter 329, Laws of Utah 1999
- 7-9-11**, as last amended by Chapter 329, Laws of Utah 1999
- 7-9-39**, as last amended by Chapter 329, Laws of Utah 1999
- 7-9-51**, as enacted by Chapter 329, Laws of Utah 1999
- 7-9-52**, as enacted by Chapter 329, Laws of Utah 1999
- 7-9-53**, as enacted by Chapter 329, Laws of Utah 1999

ENACTS:

- 7-9-55**, Utah Code Annotated 1953

REPEALS:

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

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



28 Section 1. Section 7-9-3 is amended to read:

29 **7-9-3. Definitions.**

30 As used in this chapter:

31 (1) "Association" means a group of persons that:

32 (a) has a similar:

33 (i) interest;

34 (ii) profession;

35 (iii) occupation; or

36 (iv) formal association with an identifiable purpose; or

37 (b) is employed by a common employer.

38 (2) "Capital and surplus" means:

39 (a) shares;

40 (b) deposits;

41 (c) reserves; and

42 (d) undivided earnings.

43 (3) "Corporate credit union" means any credit union organized pursuant to any state or

44 federal act for the purpose of serving other credit unions.

45 (4) "Deposits" means that portion of the capital paid into the credit union by members on

46 which a specified rate of interest will be paid.

47 (5) "Domicile-county" means the county:

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

49 (b) in which the credit union has located the greatest number of branches as of January 1,

50 1999.

51 (6) "Eligible persons within a county" means persons who within a county:

52 (a) reside;

53 (b) work; or

54 (c) attend school.

55 (7) "Grandfathered limited field of membership" means the limited field of membership

56 as of May 3, 1999, of a credit union described in Subsection 7-9-53(1)(d).

57 ~~(5)~~ (8) "Immediate family" means any of the following in relationship to a member:

58 (a) parents[;];

- 59 (b) spouse[;];
- 60 (c) surviving spouse[;];
- 61 (d) children[;]; and
- 62 (e) siblings [~~of the member~~].

63 [~~(6)~~] (9) "Limited field of membership" means persons designated as eligible for credit
 64 union membership [~~in accordance with Section 7-9-51 or 7-9-53~~];

65 (a) in the bylaws of the credit union approved by the commissioner under Section 7-9-11;
 66 and

67 (b) subject to the requirements of this chapter.

68 [~~(7)~~] (10) (a) "Member-business loan" means any loan, line of credit, or letter of credit,
 69 the proceeds of which will be used for:

- 70 (i) a commercial purpose;
- 71 (ii) other business investment property or venture purpose; or
- 72 (iii) an agricultural purpose.

73 (b) "Member-business loan" does not include an extension of credit:

74 (i) that is fully secured by a lien on a one- to four- family dwelling that is the primary
 75 residence of a member;

76 (ii) that is fully secured by:

- 77 (A) shares or deposits in the credit union making the extension of credit; or
- 78 (B) deposits in other financial institutions;

79 (iii) the repayment of which is fully insured or fully guaranteed by, or where there is an
 80 advance commitment to purchase in full by, an agency of:

- 81 (A) the federal government;
- 82 (B) a state; or
- 83 (C) a political subdivision of a state; or
- 84 (iv) that is granted by a corporate credit union to another credit union.

85 [~~(8)~~] "~~Service center~~" means a single location at which multiple credit unions can provide
 86 ~~products or services directly to their members.~~]

87 [(9)] (11) "Share drafts," "deposit drafts," and "transaction accounts" mean accounts from
 88 which owners are permitted to make withdrawals by negotiable or transferable instruments or other
 89 orders for the purpose of making transfers to other persons or to the owner.

90 [~~(10)~~] (12) "Shares" means that portion of the capital paid into the credit union by
91 members on which dividends may be paid.

92 Section 2. Section **7-9-5** is amended to read:

93 **7-9-5. Powers of credit unions.**

94 In addition to the powers specified elsewhere in this chapter, a credit union may:

95 (1) make contracts;

96 (2) sue and be sued;

97 (3) acquire, lease, or hold fixed assets, including real property, furniture, fixtures, and
98 equipment as the directors consider necessary or incidental to the operation and business of the
99 credit union, but the value of the real property may not exceed 7% of credit union assets, unless
100 approved by the commissioner;

101 (4) pledge, hypothecate, sell, or otherwise dispose of real or personal property, either in
102 whole or in part, necessary or incidental to its operation;

103 (5) incur and pay necessary and incidental operating expenses;

104 (6) require an entrance or membership fee;

105 (7) receive the funds of its members in payment for:

106 (a) shares;

107 (b) share certificates;

108 (c) deposits;

109 (d) deposit certificates;

110 (e) share drafts;

111 (f) NOW accounts; and

112 (g) other instruments;

113 (8) allow withdrawal of shares and deposits, as requested by a member orally to a third
114 party with prior authorization in writing, including, but not limited to, drafts drawn on the credit
115 union for payment to the member or any third party, in accordance with the procedures established
116 by the board of directors, including, but not limited to, drafts, third-party instruments, and other
117 transaction instruments, as provided in the bylaws;

118 (9) charge fees for its services;

119 (10) extend credit to its members, at rates established in accordance with the bylaws or by
120 the board of directors;

- 121 (11) extend credit secured by real estate;
- 122 (12) make loan participation arrangements with other credit unions, credit union
123 organizations, or financial organizations in accordance with written policies of the board of
124 directors, if the credit union that originates a loan for which participation arrangements are made
125 retains an interest of at least 10% of the loan;
- 126 (13) sell and pledge eligible obligations in accordance with written policies of the board
127 of directors;
- 128 (14) engage in activities and programs of the federal government or this state or any
129 agency or political subdivision of the state, when approved by the board of directors and not
130 inconsistent with this chapter;
- 131 (15) act as fiscal agent for and receive payments on shares and deposits from the federal
132 government, this state, or its agencies or political subdivisions not inconsistent with the laws of
133 this state;
- 134 (16) borrow money and issue evidence of indebtedness for a loan or loans for temporary
135 purposes in the usual course of its operations;
- 136 (17) discount and sell notes and obligations;
- 137 (18) sell all or any portion of its assets to another credit union or purchase all or any
138 portion of the assets of another credit union;
- 139 (19) invest funds as provided in this title and in its bylaws;
- 140 (20) maintain deposits in insured depository institutions as provided in this title and in its
141 bylaws;
- 142 (21) (a) hold membership in corporate credit unions organized under this chapter or under
143 other state or federal statutes; and
144 (b) hold membership or equity interest in associations and organizations of credit unions,
145 including credit union service organizations;
- 146 (22) declare and pay dividends on shares, contract for and pay interest on deposits, and pay
147 refunds of interest on loans as provided in this title and in its bylaws;
- 148 (23) collect, receive, and disburse funds in connection with the sale of negotiable or
149 nonnegotiable instruments and for other purposes that provide benefits or convenience to its
150 members, as provided in this title and in its bylaws;
- 151 (24) make donations for the members' welfare or for civic, charitable, scientific, or

152 educational purposes as authorized by the board of directors or provided in its bylaws;

153 (25) act as trustee of funds permitted by federal law to be deposited in a credit union as
154 a deferred compensation or tax deferred device, including, but not limited to, individual retirement
155 accounts as defined by Section 408, Internal Revenue Code;

156 (26) purchase reasonable disability insurance, including accidental death benefits, for
157 directors and committee members through insurance companies licensed in this state as provided
158 in its bylaws;

159 (27) provide reasonable protection through insurance or other means to protect board
160 members, committee members, and employees from liability arising out of consumer legislation
161 such as, but not limited to, truth-in-lending and equal credit laws and as provided in its bylaws;

162 (28) reimburse directors and committee members for reasonable and necessary expenses
163 incurred in the performance of their duties;

164 (29) participate in systems which allow the transfer, withdrawal, or deposit of funds of
165 credit unions or credit union members by automated or electronic means and hold membership in
166 entities established to promote and effectuate these systems, if:

167 (a) the participation is not inconsistent with the law and rules of the department; and

168 (b) any credit union participating in any system notifies the department as provided by law;

169 (30) issue credit cards and debit cards to allow members to obtain access to their shares,
170 deposits, and extensions of credit;

171 (31) provide any act necessary to obtain and maintain membership in the credit union;

172 (32) exercise incidental powers necessary to carry out the purpose for which a credit union
173 is organized;

174 (33) undertake other activities relating to its purpose as its bylaws may provide;

175 (34) engage in other activities, exercise other powers, and enjoy other rights, privileges,
176 benefits, and immunities authorized by rules of the commissioner; and

177 (35) act as trustee, custodian, or administrator for Keogh plans, individual retirement
178 accounts, credit union employee pension plans, and other employee benefit programs[; and].

179 [~~(36) advertise to the general public the products and services offered by the credit union
180 if the advertisement prominently discloses that to use the products or services of the credit union
181 a person is required to:~~]

182 [~~(a) be eligible for membership in the credit union; and~~]

183 ~~[(b) become a member of the credit union.]~~

184 Section 3. Section **7-9-6** is amended to read:

185 **7-9-6. Formation of corporation to conduct credit union -- Approval of**
186 **commissioner.**

187 (1) (a) Ten or more incorporators belonging to the same group of 200 persons or more
188 having a limited field of membership may, with the approval of the commissioner, form a
189 corporation to conduct a credit union under:

190 (i) this chapter;

191 (ii) Title 16, Chapter 10a, Utah Revised Business Corporation Act; and

192 (iii) Chapter 1.

193 (b) This chapter takes precedence over conflicting provisions of other state law governing:

194 (i) the formation of the corporation; and

195 (ii) the duties and obligations of:

196 (A) the corporation;

197 (B) the corporation's officers; and

198 (C) the corporation's shareholders or members.

199 (2) The commissioner may grant the approval referenced in Subsection (1) if the
200 commissioner finds that:

201 (a) the proposed limited field of membership is favorable to the success of the credit
202 union;

203 (b) the standing of the proposed membership will give assurance that its affairs will be
204 administered in accordance with this chapter;

205 (c) the proposed credit union has a reasonable promise of financial viability; and

206 (d) formation of the credit union would not result in a substantial adverse financial impact
207 on an existing credit union having the same or substantially the same limited field of membership.

208 (3) (a) Except as provided in Subsection (3)(b) and in addition to the requirements of
209 Subsections (1) and (2), Section 7-1-704 governs the formation of a credit union.

210 (b) Notwithstanding Subsection (3)(a):

211 (i) if the proposed credit union has a limited field of membership that does not base
212 eligibility on residence ~~[in]~~ or beginning on July 1, 2001, the persons being eligible persons within
213 a county, the persons seeking formation of the proposed credit union are not required to provide

214 the notice required under Subsection 7-1-704(3); and

215 (ii) a credit union may not be required to obtain federal insurance if the credit union
216 complies with Subsection 7-9-45(2).

217 Section 4. Section **7-9-11** is amended to read:

218 **7-9-11. Bylaws and amendments to be approved.**

219 (1) A credit union may not receive payments on shares, deposits, or certificates, or make
220 any loans or other transactions, until its bylaws have been approved in writing by the
221 commissioner.

222 (2) An amendment to a credit union's bylaws does not become operative until the
223 amendment to the bylaws is approved by the commissioner.

224 (3) (a) If the amendment to the bylaws of a credit union expands the limited field of
225 membership of a credit union as described in Subsection 7-9-52(1), the commissioner's approval
226 of the amendment is subject to Section 7-9-52.

227 [~~(b) If the amendment to the bylaws of a credit union terminates the grandfathering of a~~
228 ~~limited field of membership under Section 7-9-54, the commissioner's approval of the amendment~~
229 ~~is subject to Section 7-9-54.]~~

230 [(~~c~~)] (b) If the bylaws or an amendment to the bylaws of a credit union adds an association
231 to the limited field of membership of the credit union, the commissioner may require that the credit
232 union [~~provide written confirmation from the association that the association has agreed to be~~
233 ~~served by the credit union.] certify to the commissioner that the association has agreed that the
234 credit union may add to the limited field of membership of the credit union:~~

235 (i) members of the association;

236 (ii) employees of the association; or

237 (iii) persons served by the association.

238 Section 5. Section **7-9-39** is amended to read:

239 **7-9-39. Voluntary merger.**

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

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

244 (b) the commissioner approves the merger plan;

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

250 (d) (i) the National Credit Union Administration or its successor federal deposit insurance
251 agency;

252 (A) approves the merger plan; and

253 (B) commits to insure deposits of the surviving credit union; or

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

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

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

260 (b) the vote by which the board of directors approved the plan;

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

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

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

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

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

266 or

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

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

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

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

273 (4) (a) [~~Except as provided in~~] Subject to Subsection (5)[~~(b)~~], if the surviving credit union
274 is chartered under this chapter, the [~~residents of~~] eligible persons within a county in the limited
275 field of membership of the merging credit union may [~~not~~] be added to the limited field of

276 membership of the surviving credit union~~[, except that the surviving credit union:]~~.

277 (b) The surviving credit union:

278 ~~[(a)]~~ (i) may admit as a member any member of the merging credit union that is not in the
279 limited field of membership of the surviving credit union if the member of the merging credit
280 union was a member of that credit union at the time of merger; and

281 ~~[(b)]~~ (ii) may service any member-business loan of the merging credit union until the
282 member-business loan is paid in full.

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

286 (b) Notwithstanding Subsection (4), a surviving credit union may not serve a limited field
287 of membership that is larger than the limited field of membership that the surviving credit union
288 could serve through expansion of the limited field of membership under Section 7-9-52 if the
289 merger is considered as a request under Section 7-9-52 to expand the credit union's limited field
290 of membership filed on the date the merger becomes effective.

291 ~~[(b) The]~~ (c) Notwithstanding Subsection (5)(b), the commissioner may under Subsection
292 (1)(b) approve a merger plan that includes [the addition of the residents of a county in the limited
293 field of membership of the merging credit union to the] a limited field of membership of the
294 surviving credit union that is larger than permitted under Subsection (5)(b) if the commissioner
295 finds that:

296 (i) the expansion of the limited field of membership of the surviving credit union is
297 necessary for that credit union's safety and soundness; ~~and]~~

298 (ii) the expanded limited field of membership of the surviving credit union meets the
299 criteria stated in Subsection 7-9-52(3)(c)~~[-]; and~~

300 (iii) the limited field of membership to be approved by the commissioner is not larger than
301 the combined limited field of memberships of the merging and surviving credit unions.

302 (6) If the commissioner approves a merger plan under Subsection (5)~~[(b)]~~(c) ~~[under]~~ which
303 includes a limited field of membership for the surviving credit [union's limited field of
304 membership after the merger will include residents of more than one county] union that is larger
305 than permitted under Subsection (5)(b), Subsections (6)(a) [through (e)] and (b) apply to the
306 surviving credit union.

307 ~~[(a) The domicile-county of the surviving credit union is:]~~

308 ~~[(i) if the credit union does not have a limited field of membership under Subsection~~
309 ~~7-9-53(2)(c) or (2)(d), the county in which the credit union has located the greatest number of~~
310 ~~branches as of the date the merger is effective; or]~~

311 ~~[(ii) if the credit union has a limited field of membership under Subsection 7-9-53(2)(c)~~
312 ~~or (2)(d), the county that is the domicile-county of the surviving credit union under Section~~
313 ~~7-9-53;]~~

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

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

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

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

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

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

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

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

328 ~~[(i) a person in the surviving credit union's limited field of membership after the date that~~
329 ~~the merger is effective; or]~~

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

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

332 ~~[(B) resides in the domicile-county of the surviving credit union, as defined in Section~~
333 ~~7-9-53.]~~

334 ~~[(e) In addition to any requirement under this Subsection (6), a surviving credit union shall~~
335 ~~comply with any requirement under this title for the establishment, relocation, or change in the~~
336 ~~physical location of a main office or branch of a credit union.]~~

337 (a) The surviving credit union may establish, relocate, or otherwise change the physical

338 location of the credit union's main office or branches in accordance with Section 7-9-55.

339 (b) If the surviving credit union's limited field of membership is a grandfathered limited
 340 field of membership, the surviving credit union may only admit as a member a person who:

341 (i) is in the credit union's limited field of membership; or

342 (ii) is a member, employee, or served by an association that:

343 (A) resides in the domicile-county of the surviving county; and

344 (B) is added to the limited field of membership of the credit union in accordance with
 345 Section 7-9-52.

346 Section 6. Section **7-9-51** is amended to read:

347 **7-9-51. Limited field of membership.**

348 (1) ~~[Except as provided in Subsection (3)]~~ Beginning July 1, 2001, the limited field of
 349 membership of a credit union may include only the following:

350 (a) the immediate family of a member of the credit union;

351 (b) the employees of the credit union;

352 (c) ~~[residents of]~~ eligible persons within a single county; ~~[and]~~

353 (d) eligible persons within a county that the credit union adds to its limited field of
 354 membership in accordance with Section 7-9-52;

355 ~~[(d)]~~ (e) the following in relation to one or more associations[-]:

356 (i) members of the one or more associations;

357 (ii) employees of the one or more associations; or

358 (iii) persons served by the one or more associations; and

359 (f) for a credit union formed before July 1, 2001, the limited field of membership of that
 360 credit union stated in the bylaws of the credit union determined in accordance with this chapter.

361 (2) A credit union may have a limited field of membership that is more restrictive than the
 362 limited field of membership described in Subsection (1).

363 ~~[(3) A credit union may have a limited field of membership that is less restrictive than the~~
 364 ~~limited field of membership described in Subsection (1) if the limited field of membership of the~~
 365 ~~credit union:]~~

366 ~~[(a) is determined under Subsection 7-9-53(2)(c) or (2)(d);]~~

367 ~~[(b) is approved by the commissioner after a merger under Subsection 7-9-39(5); or]~~

368 ~~[(c) is permitted by the commissioner after a merger in accordance with Section 7-9-39.5.]~~

369 ~~[(4) If a credit union includes the residents of one county in its limited field of~~
 370 ~~membership, the credit union may not change its limited field of membership to include a different~~
 371 ~~county than the county that is first included in the limited field of membership of the credit union.]~~

372 Section 7. Section **7-9-52** is amended to read:

373 **7-9-52. Expansion of a limited field of membership.**

374 (1) The commissioner shall comply with ~~[Subsection (2)]~~ this section if the commissioner
 375 receives a request to approve an amendment to the bylaws of a credit union that expands the credit
 376 union's limited field of membership ~~[to include:]~~.

377 ~~[(a) residents of one county; or]~~

378 ~~[(b) an association consisting of 50 or more persons.]~~

379 ~~[(2) If the conditions of Subsection (1) are met, the commissioner shall:]~~

380 (2) If the credit union requests to add eligible persons within a county of the fourth, fifth,
 381 or sixth class as classified in Section 17-50-501, the commissioner:

382 (a) may approve the addition of the eligible persons within the county at any time;

383 (b) may approve the eligible persons within more than one county of the fourth, fifth, or
 384 sixth class in any one calendar year;

385 (c) is not subject to the requirements of Subsection (3) or (4) in approving the amendment
 386 to the bylaws; and

387 (d) shall approve the amendment if the commissioner finds:

388 (i) the credit union is adequately capitalized; and

389 (ii) the credit union has the financial capacity to serve the financial needs of the expanded
 390 limited field of membership in a safe and sound manner.

391 (3) If the credit union requests to add eligible persons within a county of the first, second,
 392 or third class as classified in Section 17-50-501, the commissioner:

393 (a) in any one calendar year may:

394 (i) if the credit union is not a credit union with a grandfathered limited field of
 395 membership, approve the addition of eligible persons within only one county of the first, second,
 396 or third class; or

397 (ii) if the credit union is a credit union with a grandfathered limited field of membership:

398 (A) approve the addition of eligible persons within only one county of the first, second,
 399 or third class; or

400 (B) remove the restrictions on establishing, relocating, or changing the physical location
401 of a main office or branch in only one county of the first, second, or third class as provided in
402 Subsection (5); and

403 (b) shall:

404 ~~[(a)]~~ (i) give notice of the request in the manner and to the extent the commissioner
405 considers appropriate to [institutions] each credit union subject to the jurisdiction of the
406 department that [:] has in its limited field of membership eligible persons within the county to be
407 added by the proposed amendment to the bylaws to expand the limited field of membership of the
408 requesting credit union; and

409 ~~[(i) are located in the county, if the limited field of membership is being expanded to~~
410 ~~include residents of a county; or]~~

411 ~~[(ii) serve or may serve the association described in Subsection (1)(b), if that association~~
412 ~~is being added to the limited field of membership; and]~~

413 ~~[(b)]~~ (ii) cause a supervisor to examine and submit written findings and recommendations
414 to the commissioner as to:

415 ~~[(i)]~~ (A) whether the credit union is adequately capitalized;

416 ~~[(ii)]~~ (B) whether the credit union has the financial capacity to serve the financial needs
417 of the expanded limited field of membership in a safe and sound manner;

418 ~~[(iii)]~~ (C) whether the credit union has the managerial expertise to serve the financial needs
419 of the expanded limited field of membership in a safe and sound manner;

420 ~~[(iv)]~~ (D) any potential harm the expansion of the limited field of membership may have
421 on the [institutions] credit unions described in Subsection [(2)(a)] (3)(b)(i); and

422 ~~[(v)]~~ (E) the probable beneficial effect of the expansion.

423 ~~[(3)]~~ (4) The commissioner may approve the amendment to the bylaws described in
424 Subsection [(1)] (3) if the commissioner:

425 (a) has given the notice required under Subsection [(2)(a)] (3)(b)(i);

426 (b) received the written findings and recommendations of the supervisor under Subsection
427 [(2)] (3)(b)(ii); and

428 (c) finds that:

429 (i) the credit union is adequately capitalized;

430 (ii) the credit union has the financial capacity to serve the financial needs of the expanded

431 limited field of membership in a safe and sound manner;

432 (iii) the credit union has the managerial expertise to serve the financial needs of the
433 expanded limited field of membership in a safe and sound manner; and

434 (iv) any potential harm the expansion of the limited field of membership may have on
435 other ~~[institutions]~~ credit unions subject to the jurisdiction of the department does not clearly
436 outweigh the probable beneficial effect of the expansion.

437 (5) If a credit union with a grandfathered limited field of membership requests to remove
438 the restrictions on establishing, relocating, or changing the physical location of a main office or
439 branch under Section 7-9-55 in a county of the first, second, or third class, the commissioner:

440 (a) in any one calendar year:

441 (i) may approve the removal of the restrictions of only one county of the first, second, or
442 third class; and

443 (ii) may not approve the addition of eligible persons within a county of the first, second,
444 or third class to the limited field of membership of the credit union in addition to removing
445 restrictions on a county; and

446 (b) is not subject to the requirements of Subsection (3) or (4) in approving the request to
447 remove the restrictions.

448 (6) If the credit union requests to add an association, the commissioner:

449 (a) may approve the addition of more than one association in any calendar year;

450 (b) is not subject to the requirements of Subsection (3) or (4) in approving the amendment
451 to the bylaws; and

452 (c) shall approve the amendment if the commissioner finds:

453 (i) the credit union is adequately capitalized;

454 (ii) the credit union has the financial capacity to serve the financial needs of the expanded
455 limited field of membership in a safe and sound manner; and

456 (iii) if the credit union is a credit union with a grandfathered limited field of membership,
457 that the association resides in the domicile-county of the credit union.

458 ~~[(4)]~~ (7) In accordance with Section 7-1-309, the commissioner may hold a hearing on the
459 expansion of a credit union's limited field of membership.

460 ~~[(5) This section may not be interpreted to permit a credit union to:]~~

461 ~~[(a) expand its limited field of membership to include residents of more than one county;~~

462 or]

463 [~~(b) change the county included in the limited field of membership of a credit union, if~~

464 any;]

465 (8) (a) A credit union with a grandfathered limited field of membership may only admit

466 as a member:

467 (i) a person who is in the credit union's limited field of membership; or

468 (ii) a person who is a member, employee, or served by an association:

469 (A) that resides in the domicile-county of the credit union; and

470 (B) is added to the limited field of membership of the credit union.

471 (b) For purposes of the chapter, an association resides in a domicile-county if that

472 association:

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

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

475 (9) An amendment to the bylaws filed under this section is considered approved by the

476 commissioner for purposes of this section and Section 7-9-11, 60 days from the day the request

477 is received by the commissioner if the commissioner does not deny the request within 60 days of

478 the day the request is received by the commissioner.

479 Section 8. Section **7-9-53** is amended to read:

480 **7-9-53. Grandfathering and limited field of membership.**

481 [~~(1) As used in this section and Section 7-9-54:~~]

482 [~~(a) "Association that resides in a domicile-county" means an association that:~~]

483 [~~(i) operates a place of business or other physical location in the domicile-county; or]~~

484 [~~(ii) has at least 100 members that are residents of the domicile-county;]~~

485 [~~(b) "Domicile-county" means the county:]~~

486 [~~(i) in the limited field of membership of the credit union as of January 1, 1999; and]~~

487 [~~(ii) in which the credit union has located the greatest number of branches as of January~~

488 ~~1, 1999;]~~

489 [~~(c) "Grandfathered limited field of membership" means the limited field of membership~~

490 ~~as of May 3, 1999, of a credit union described in Subsection (2)(d).]~~

491 [~~(2)~~] (1) For each credit union formed before January 1, 1999, its limited field of

492 membership as of May 3, 1999, is determined as follows:

493 (a) if the limited field of membership stated in the bylaws of the credit union as of January
494 1, 1999, complies with Section 7-9-51 as in effect on May 3, 1999, the credit union's limited field
495 of membership is the limited field of membership indicated in its bylaws;

496 (b) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
497 in Subsection ~~[(2)]~~ (1)(b)(ii) if:

498 (A) the limited field of membership stated in the bylaws of the credit union as of January
499 1, 1999, includes the residents of more than one county; and

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

502 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
503 Subsection ~~[(2)]~~ (1)(b)(i) is:

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

505 (B) the employees of the credit union;

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

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

510 (c) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
511 in Subsection ~~[(2)]~~ (1)(c)(ii) if:

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

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

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

520 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
521 Subsection ~~[(2)]~~ (1)(c)(i) is ~~[the same limited field of membership that the credit union would have~~
522 ~~had under Subsection (2)(d) except that the credit union]~~:

523 ~~[(A) is not subject to Subsection (3); and]~~

524 ~~[(B) is subject to Subsection (4)(b); and]~~
525 (A) the immediate family of a member of the credit union;
526 (B) the employees of the credit union;
527 (C) the residents of the one county in which as of January 1, 1999, the credit union had:
528 (I) its main office; or
529 (II) a branch;
530 (D) the residents of a county described in Subsection (1)(c)(i)(A); and
531 (E) any association that as of January 1, 1999, is in the limited field of membership of the
532 credit union;
533 (d) (i) the limited field of membership of a credit union as of May 3, 1999, is as provided
534 in Subsection ~~[(2)]~~ (1)(d)(ii) if:
535 (A) the limited field of membership stated in the bylaws of the credit union as of January
536 1, 1999, includes the residents of more than one county; and
537 (B) as of January 1, 1999, the credit union has a main office or branch in more than one
538 county;
539 (ii) as of May 3, 1999, the limited field of membership of a credit union described in
540 Subsection ~~[(2)]~~ (1)(d)(i) is:
541 (A) the immediate family of a member of the credit union;
542 (B) the employees of the credit union;
543 (C) residents of the credit union's domicile-county;
544 (D) the residents of any county other than the domicile-county:
545 (I) if, as of January 1, 1999, the county is in the limited field of membership of the credit
546 union; and
547 (II) in which, as of January 1, 1994, the credit union had located its main office or a
548 branch; and
549 (E) any association that as of January 1, 1999, is in the limited field of membership of the
550 credit union.
551 ~~[(3) If a credit union's limited field of membership is as described in Subsection (2)(d);~~
552 ~~beginning May 3, 1999, the credit union:]~~
553 ~~[(a) within the credit union's domicile-county, may establish, relocate, or otherwise change~~
554 ~~the physical location of the credit union's:]~~

555 ~~[(i) main office; or]~~
556 ~~[(ii) branch;]~~
557 ~~[(b) within a county other than a domicile-county that is in the credit union's grandfathered~~
558 ~~limited field of membership, may not:]~~
559 ~~[(i) establish a main office or branch that:]~~
560 ~~[(A) was not located in the county as of January 1, 1999; or]~~
561 ~~[(B) for which the credit union has not received by January 1, 1999, approval or~~
562 ~~conditional approval of a site plan for the main office or branch from the planning commission of~~
563 ~~the municipality where the main office or branch will be located;]~~
564 ~~[(ii) participate in a service center in which it does not participate as of January 1, 1999;~~
565 ~~or]~~
566 ~~[(iii) relocate the credit union's main office or a branch located in the county as of January~~
567 ~~1, 1999, unless the commissioner finds that the main office or branch is relocated within a~~
568 ~~three-mile radius of where it was originally located; and]~~
569 ~~[(c) may only admit as a member:]~~
570 ~~[(i) a person in the credit union's grandfathered limited field of membership; or]~~
571 ~~[(ii) a person belonging to an association that:]~~
572 ~~[(A) is added to the limited field of membership of the credit union; and]~~
573 ~~[(B) resides in the domicile-county of the credit union.]~~
574 ~~[(4) (a) If a credit union's limited field of membership is as described in Subsection (2)(b);~~
575 ~~as of May 3, 1999, the credit union may operate as a credit union having a limited field of~~
576 ~~membership under Section 7-9-51.]~~
577 ~~[(b) If a credit union's limited field of membership is as described in Subsection (2)(c), as~~
578 ~~of May 3, 1999, the credit union:]~~
579 ~~[(i) within the credit union's domicile-county, may establish, relocate, or otherwise change~~
580 ~~the physical location of the credit union's:]~~
581 ~~[(A) main office; or]~~
582 ~~[(B) branch;]~~
583 ~~[(ii) within a county other than its domicile-county that is in the credit union's limited field~~
584 ~~of membership under Subsection (2)(c), may not:]~~
585 ~~[(A) establish a main office or branch that was not located in the county as of January 1,~~

586 1999;]

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

588 ~~or]~~

589 [~~(C) relocate the credit union's main office or a branch located in the county as of January~~

590 ~~1, 1999, unless the commissioner finds that the main office or branch is relocated within a~~

591 ~~three-mile radius of where it was originally located; and]~~

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

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

594 ~~or]~~

595 [~~(B) a person belonging to an association that is added to the limited field of membership~~

596 ~~of the credit union, regardless of whether the association resides in the domicile county of the~~

597 ~~credit union.]~~

598 [~~(5)(a) (2) Notwithstanding [Subsections] Subsection (1) [through (4)], after May 3,~~

599 ~~1999, a credit union described in Subsection [(2)] (1)(c) or [(2)] (1)(d) may:~~

600 [~~(i) (a) operate an office or branch that is operated by the credit union on May 3, 1999,~~

601 ~~but that is not located in a county that is in the credit union's limited field of membership as of May~~

602 ~~3, 1999; and~~

603 [~~(i) (b) serve a member who is not in [a] the credit union's limited field of membership~~

604 ~~as of May 3, 1999, if the member is a member of the credit union as of March 15, 1999.~~

605 [~~(b) Subsection (5)(a) does not authorize a credit union to:]~~

606 [~~(i) establish a branch in a county that is not in the credit union's limited field of~~

607 ~~membership as of May 3, 1999, unless the branch meets the requirements under this title for~~

608 ~~establishing a branch; or]~~

609 [~~(ii) for a credit union described in Subsection (2)(d), include in its limited field of~~

610 ~~membership an association that:]~~

611 [~~(A) as of January 1, 1999, is not included in the credit union's limited field of~~

612 ~~membership; and]~~

613 [~~(B) does not reside within the credit union's domicile county:]~~

614 [~~(6) A credit union shall amend its bylaws in accordance with Section 7-9-11 by no later~~

615 ~~than August 3, 1999, to comply with this section.]~~

616 [~~(7) In addition to any requirement under this section, a credit union shall comply with any~~

617 requirement under this title for the establishment, relocation, or change in the physical location of
618 a main office or branch of a credit union.]

619 (3) Beginning July 1, 2001, a limited field of membership of a credit union described in
620 Subsection (1) is not limited to residents of a county but includes eligible persons within a county
621 in a credit union's limited field of membership provided under Subsection (1).

622 (4) A limited field of membership described in this section may be expanded in accordance
623 with Sections 7-9-51 and 7-9-52.

624 Section 9. Section 7-9-55 is enacted to read:

625 **7-9-55. Establishing, relocating, or changing the physical location of an office or**
626 **branch.**

627 (1) A credit union other than a credit union with a grandfathered limited field of
628 membership may establish, relocate, or otherwise change the physical location of the credit
629 union's:

630 (a) main office; or

631 (b) branches.

632 (2) A credit union with a grandfathered limited field of membership under Section 7-9-53:

633 (a) within the credit union's domicile-county, may establish, relocate, or otherwise change
634 the physical location of the credit union's:

635 (i) main office; or

636 (ii) branches;

637 (b) within a county of the fourth, fifth, or sixth class within which the eligible persons
638 within the county are in the credit union's limited field of membership, may establish, relocate, or
639 otherwise change the physical location of the credit union's:

640 (i) main office; or

641 (ii) branches;

642 (c) within a county of the first, second, or third class within which the eligible persons
643 within the county were added to the limited field of membership of the credit union after July 1,
644 2001, may establish, relocate, or otherwise change the physical location of the credit union's:

645 (i) main office; or

646 (ii) branches;

647 (d) within a county of the first, second, or third class that is not the credit union's

648 domicile-county but that is in the credit union's grandfathered limited field of membership, the
649 credit union may not:

650 (i) establish a main office or branch that:

651 (A) was not located in the county as of January 1, 1999; or

652 (B) for which the credit union has not received by January 1, 1999, approval or conditional
653 approval of a site plan for the main office or branch from the planning commission of the
654 municipality where the main office or branch will be located; or

655 (ii) relocate the credit union's main office or a branch located in the county as of January
656 1, 1999, unless the commissioner finds that the main office or branch is relocated within a
657 three-mile radius of where it was originally located;

658 (e) within a county within which eligible persons within the county are not within the
659 limited field of membership of the credit union but in which it had its main office or branch as of
660 January 1, 1999, the credit union may relocate the main office or the branch within a three-mile
661 radius of where the main office or branch was located as of January 1, 1999; and

662 (f) may not establish a main office or branch in a county within which:

663 (i) eligible persons within the county are not within the limited field of membership of the
664 credit union; and

665 (ii) a main office or branch did not exist as of January 1, 1999.

666 (3) In addition to any requirement under this section, a credit union shall comply with any
667 requirement under this title for the establishment, relocation, or change in the physical location of
668 a main office or branch of a credit union.

669 **Section 10. Repealer.**

670 This act repeals:

671 **Section 7-9-54, Electing to terminate grandfathering.**

Legislative Review Note

as of 2-7-01 4:42 PM

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

Office of Legislative Research and General Counsel