

**CREDIT UNION AND ASSOCIATION****CONVERSIONS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Dan R. Eastman**

**This act modifies the Financial Institutions Code to provide for the designation of credit unions as credit associations and the conversion of credit associations to mutual associations.**

**This act modifies definitions. This act addresses restrictions on names of certain financial institutions. This act allows state mutual associations converted from credit associations to have one vote per member. This act provides the procedure for a credit union to be designated as a credit association. This act provides operational restrictions on credit associations and methods for expanding the limited field of membership of credit associations. This act provides triggers requiring conversion of a credit association to a state mutual association, the procedure to convert, and the impact of failing to convert.**

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

**AMENDS:**

**7-1-701**, as last amended by Chapter 19, Laws of Utah 1997

**7-7-2**, as last amended by Chapter 49, Laws of Utah 1995

**7-7-3.3**, as last amended by Chapter 49, Laws of Utah 1995

**7-7-6**, as last amended by Chapter 49, Laws of Utah 1995

**7-7-7**, as last amended by Chapter 200, Laws of Utah 1994

**7-7-10**, as last amended by Chapter 244, Laws of Utah 1985

**7-9-3**, as last amended by Chapter 329, Laws of Utah 1999

**7-9-11**, as last amended by Chapter 329, Laws of Utah 1999

**7-9-12**, as last amended by Chapter 329, Laws of Utah 1999

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

**7-9-39.5**, as enacted by Chapter 329, Laws of Utah 1999



28           **7-9-51**, as enacted by Chapter 329, Laws of Utah 1999

29           **7-9-52**, as enacted by Chapter 329, Laws of Utah 1999

30           **7-9-53**, as enacted by Chapter 329, Laws of Utah 1999

31 ENACTS:

32           **7-9-55**, Utah Code Annotated 1953

33           **7-9-56**, Utah Code Annotated 1953

34           **7-9-57**, Utah Code Annotated 1953

35           **7-9-58**, Utah Code Annotated 1953

36           **7-9-59**, Utah Code Annotated 1953

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

38           Section 1. Section **7-1-701** is amended to read:

39           **7-1-701. Representation and transacting business as financial institution restricted**

40 **-- Restricted names -- Penalty.**

41           (1) As used in this section, "transact business" includes:

42           (a) advertising;

43           (b) representing oneself in any manner as being engaged in transacting business;

44           (c) registering an assumed name under which to transact business; or

45           (d) using an assumed business name, sign, letterhead, business card, promotion, or other  
46 indication that one is transacting business.

47           (2) Unless authorized by the department or an agency of the federal government to do so,  
48 it is unlawful for any person to:

49           (a) transact business as a:

50           (i) bank;

51           (ii) savings and loan association;

52           (iii) savings bank;

53           (iv) industrial loan corporation;

54           (v) credit union;

55           (vi) trust company; or

56           (vii) other financial or depository institution; or

57           (b) engage in any other activity subject to the jurisdiction of the department.

58           (3) (a) Except as provided in Subsections (3)(b) through (d), only the following may

transact business in this state under a name that includes "bank," "banker," "banking," "banque," "banc," "banco," "bancorp," "bancorporation," any derivative of these words, or any other word or combination of words reasonably identifying the business of a bank:

(i) a national bank;

(ii) a bank authorized to do business under Chapter 3, Banks;

(iii) a bank holding company; or

(iv) an industrial loan corporation authorized to:

(A) conduct business under Chapter 8, Industrial Loan Corporations; and

(B) accept or hold deposit accounts insured by a federal deposit insurance agency.

(b) A person authorized to operate in this state as a credit card bank, as defined in Section 7-3-3, may transact business under the name "credit card bank" and may not transact business under the name of "bank" unless it is immediately preceded by "credit card."

(c) A nonbank subsidiary of a bank holding company may transact business under a name restricted in Subsection (3)(a) if the name is also part of the name of its parent holding company or is used for a group of subsidiaries of the parent holding company.

(d) The Utah Bankers Association or other bona fide trade association of authorized banks may transact its affairs in this state under a name restricted under Subsection (3)(a) if it does not operate and does not hold itself out to the public as operating a depository or financial institution.

(4) (a) Except as provided in Subsection (4)(b) or (b), only the following may transact business in this state under a name that includes "savings association," "savings and loan association," "building and loan association," "building association," any derivative of these words, or any other word or combination of words reasonably identifying the business of a savings and loan association:

(i) a federal savings and loan association;

(ii) a federal savings bank; or

(iii) a savings and loan association authorized to do business under Chapter 7, Savings and Loan Associations Act.

(b) A national bank may transact business under a name restricted in Subsection (4)(a) if the restricted words are part of the bank's corporate name.

(c) Notwithstanding Subsection (4)(a), a credit association that, to comply with Section 7-9-58, converts to a state mutual association authorized to do business under Chapter 7, Savings

90 and Loan Associations, may transact business in this state under a name that includes "credit  
91 association."

92 (5) Only the following may transact business under the name "savings bank":

93 (a) a depository institution listed in Subsection (3)(a);

94 (b) a depository institution listed in Subsection (4)(a); or

95 (c) a depository institution authorized under state law to operate in this state as a savings  
96 bank.

97 (6) Only an industrial loan corporation authorized to do business under Chapter 8,  
98 Industrial Loan Corporations, may transact business in this state under a name that includes  
99 "industrial loan corporation," "ILC," "thrift," or any other word, combination of words, or  
100 abbreviation reasonably identifying the business of an industrial loan corporation.

101 (7) (a) Except as provided in Subsection (7)(b), only a credit union authorized to do  
102 business under the laws of the United States or Chapter 9, Utah Credit Union Act, may transact  
103 business in this state under a name that includes "credit union" or any other word or combination  
104 of words reasonably identifying the business of a credit union.

105 (b) The restriction in Subsection (7)(a) does not apply to the Utah League of Credit  
106 Unions, any credit union chapter, or any other association affiliated with the Utah League of Credit  
107 Unions that restricts its services primarily to credit unions.

108 (8) (a) Except as provided in Subsection (8)(b), only a person granted trust powers under  
109 Chapter 5, Trust Business, may transact business in this state under a name that includes "trust,"  
110 "trustee," "trust company," or any other word or combination of words reasonably identifying the  
111 business of a trust company.

112 (b) A business entity organized as a business trust, as defined in Section 7-5-1, may use  
113 "business trust" in its name if it does not hold itself out as being a trust company.

114 (9) The restrictions of Subsections (3) through (8) do not apply to:

115 (a) the name under which an out-of-state depository institution operates a loan production  
116 office in this state, if the commissioner approves the name as not being reasonably likely to  
117 mislead the public;

118 (b) the name under which a service organization of a financial institution transacts  
119 business, if the commissioner approves the name as not being reasonably likely to mislead the  
120 public;

(c) the name under which a subsidiary of a depository or financial institution transacts business, if the commissioner approves the name as not being reasonably likely to mislead the public; or

(d) a trade association or other nonprofit organization composed of members of a particular class of financial institutions using words applicable to that class.

(10) (a) Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that the use of an otherwise restricted name or word is not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a depository or financial institution or is conducting a business subject to the jurisdiction of the department.

(b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or condition the use of the name or word or the activities of the person or business as the commissioner considers necessary to protect the public.

(11) (a) Each person, corporation, association, or other business entity and each principal and officer of a business entity violating this section is guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.

(b) In addition to a criminal penalty imposed under Subsection (11)(a), the commissioner may issue a cease and desist order against a person violating this section. The commissioner may impose a civil penalty of up to \$500 for each day the person fails to comply with the cease and desist order.

Section 2. Section 7-7-2 is amended to read:

**7-7-2. Definitions.**

As used in this chapter:

(1) (a) "Association" means subject to this chapter:

(i) a mutual or capital stock savings association[;];

(ii) a savings and loan association[;];

(iii) a mutual or capital stock savings bank[;]; or

(iv) a building and loan association [~~subject to the provisions of this chapter, including~~ all].

(b) "Association" includes an out-of-state [~~associations~~] association qualified to do business in this state.

(2) "Credit association" means a credit union that is designated as a credit association pursuant to Section 7-9-55.

~~[(2)]~~ (3) "Federal association" means ~~[a savings association, a savings and loan association, or a savings bank,]~~ any of the following chartered by the Office of Thrift Supervision or successor federal agency[-];

(a) a savings association;

(b) a savings and loan association; or

(c) a savings bank.

~~[(3)]~~ (4) "Impaired condition" means a condition in which the assets of an association in the aggregate do not have a fair value equal to the aggregate amount of liabilities of the association to its creditors, including the holders of its savings accounts and all other persons.

~~[(4)]~~ (5) "Insured association" means an association the deposit accounts of which are insured by the Federal Deposit Insurance Corporation or any successor agency of the federal government.

~~[(5)]~~ (6) (a) "Liquid assets" means cash on hand and cash on deposit in federal home loan banks, federal reserve banks, state banks performing similar reserve functions, or in commercial banks, which cash is withdrawable upon not more than 30 days notice and which is not pledged as security for indebtedness.

(b) Any deposits in a financial institution under the control or in the possession of any supervisory authority ~~[shall]~~ may not be considered as liquid assets.

(c) "Liquid assets" also means obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States, the Federal National Mortgage Association, the Government National Mortgage Association, any federal home loan bank, or this state, which obligations will mature in five years or less, and any other assets readily convertible into cash.

~~[(6)]~~ (7) "Out-of-state association" means an association whose home state is not Utah.

~~[(7)]~~ (8) (a) "Real estate loan" means:

(i) any loan or other obligation secured by a lien on real estate in any state held in fee or in a leasehold[-]; and

(ii) any transaction out of which a lien or its equivalent is created against real estate[-] ~~including~~.

(b) "Real estate loan" includes:

(i) the purchase of real estate in fee by an association; and

(ii) the concurrent or immediate sale of the real estate on installment contract.

~~[(8)]~~ (9) "Savings liability" means the aggregate amount of savings accounts of depositors, including earnings credited to those accounts, less redemptions and withdrawals.

~~[(9)]~~ (10) "Service organization" means an organization substantially all the activities of which consist of the following performed primarily for financial institutions:

(a) originating, purchasing, selling, or servicing loans and participating interests ~~[therein, or];~~

(b) clerical, bookkeeping, accounting, statistical, or other similar functions ~~[or any];~~

(c) a combination ~~[thereof performed primarily for financial institutions, plus such]~~ of activities described in Subsection (10)(a) or (b); or

(d) other activities ~~[as]~~ approved by the commissioner ~~[may approve].~~

~~[(10)]~~ (11) "Supervisor" means the supervisor of savings and loan associations.

~~[(11)]~~ (12) "Surplus" means:

(a) the aggregate amount of the undistributed net income of an association held as undivided profits or unallocated reserves for general corporate purposes~~;~~; and

(b) any paid-in surplus held by an association.

~~[(12)]~~ (13) "Withdrawal value" means the amount credited to a savings account less lawful deductions, as shown by the records of the association.

Section 3. Section **7-7-3.3** is amended to read:

**7-7-3.3. Deposit insurance required.**

An association or branch may accept or hold deposits only if its accounts are insured by ~~[a federal deposit insurance agency]~~ the Federal Deposit Insurance Corporation or successor federal agency.

Section 4. Section **7-7-6** is amended to read:

**7-7-6. Name requirements -- Establishment or changing location of offices.**

(1) (a) The name of every association shall include the words:

(i) "savings association" ~~[or];~~

(ii) "savings and loan~~;~~" ~~[or];~~

(iii) "savings bank~~;~~"; or

(iv) for a state mutual association that is converted from a credit association to comply

with Section 7-9-58, "credit association."

(b) The name of an association;

(i) may be changed from time to time ~~[but]~~;

(ii) may not be the same as, or deceptively similar to, the name of:

(A) an existing association or federal association doing business in this state; or

(B) a bank or national bank; and

(iii) is subject to the other requirements for corporate names in Section 16-10a-401. ~~[This prohibition]~~

(c) Subsections (1)(b)(ii) and (iii) applies only to:

(i) a domestic association formed after June 30, 1981~~[-]~~; and

(ii) an out-of-state association issued a certificate of authority after June 30, 1981.

~~[(b)]~~ (d) Without the prior approval of the commissioner, ~~[no]~~ an association may not change its name from that fixed in ~~[its]~~ the association's certificate of authority.

(2) (a) Without the prior approval of the commissioner, as provided in this chapter, ~~[no]~~ an association may not establish or maintain any office other than its home office~~[-, which]~~.

(b) The home office of an association shall be in the location specified in the certificate of authority.

~~[(b)]~~ (c) ~~[No office of an]~~ An association may ~~[be moved]~~ not move an office from its immediate vicinity~~[-, nor may]~~ or the location of the home office of an association ~~[be changed]~~;

(i) unless approved by the commissioner~~[-]~~;

(ii) after notice to any other association that may be adversely effected by the change~~[-]~~;

and

(iii) after an opportunity for a hearing.

Section 5. Section ~~7-7-7~~ is amended to read:

**7-7-7. Conversion of associations.**

(1) ~~[Any]~~ (a) In accordance with this section:

(i) a state or federal mutual association and ~~[any]~~ a federal capital stock association may convert to a state capital stock association~~[-, and any]~~; and

(ii) a state or federal capital stock association and ~~[any]~~ a federal mutual association may convert to a state mutual association.

(b) A conversion described in Subsection (1)(a) shall be:



(i) upon an equitable basis; and

(ii) subject to;

(A) the laws and rules governing the converting association[;];

(B) the approval of the commissioner[;];

(C) the approval of the members or stockholders of the converting association[;]; and

(D) any rules adopted by the commissioner under this Subsection (1)(b).

~~[(a) Upon receipt of the approval of a proposed conversion from the commissioner, a]~~

(c) A credit association may convert to a state mutual association governed by this chapter by complying with the requirements of Section 7-9-58.

(2) (a) A converting association may~~[, under the supervision of the supervisor,]~~ carry out the plan of conversion[;];

(i) upon receipt of the approval of the proposed conversion from the commissioner; and

(ii) under the supervision of the supervisor.

(b) A record of all acts and proceedings taken by the board of directors of the converting association in carrying out the proposed conversion shall be filed with the supervisor.

~~[(b)]~~ (3) Upon the issuance to an applicant of a certificate of conversion, [the] Subsection (3) applies.

(a) The corporate existence of the converting applicant [shall] may not terminate, but the applicant shall be a continuation of the entity so converted.

(b) (i) All property of the converting applicant, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of the converted applicant~~[, and the same].~~

(ii) The converting applicant shall have, hold, and enjoy [that] the property described in Subsection (3)(b)(i) in its own right as fully and to the same extent as that property was possessed, held, and enjoyed by the converting applicant before the conversion~~[, and the].~~

(c) The converted applicant, upon issuance of the certificate of the conversion, shall continue to have and succeed to all the rights, obligations, and relations of the converting applicant.

(d) (i) Pending actions and other judicial proceedings to which the converting applicant is a party shall not be abated or discontinued by reason of the conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if conversion had not occurred, and the converted applicant may continue the actions in its new corporate name.

(ii) Any judgment, order, or decree may be rendered for or against [it] the converted applicant which might have been rendered for or against the converting applicant involved before the conversion in the proceedings.

~~[(e)]~~ (4) A conversion carried out under ~~[this]~~ Subsection (1) is effective on the date that: (a) all provisions of this chapter and the rules adopted under [it] this chapter have been complied with; and

(b) a certificate of conversion has been issued by the commissioner.

~~[(f)]~~ (5) (a) In adopting rules or issuing orders in connection with the conversion of an association, the commissioner shall ensure that:

(i) accurate and adequate disclosure of the terms and effects of plans of conversion are provided to purchasers of capital stock in resulting associations, including account holders of converting mutual associations;

(ii) adjustments are made in plans of conversion to be effected by way of merger or holding company acquisition necessary or appropriate to accomplish the purposes of this section;

(iii) plans of conversion and proxy statements, offering circulars and related instruments and actions implementing those plans are subject to review and approval by the appropriate supervisory authorities;

(iv) the capital stock issued as a part of conversion is fairly and independently valued and priced;

(v) the capital stock is allocated and distributed fairly and without employment of manipulative or deceptive devices;

(vi) appropriate provision is made regarding fractional share interest and minimum capital stock purchase requirements; and

(vii) plans of conversion are adopted and implemented in such form and manner that stability and continuity of management are encouraged and that the stability, safety, and soundness of associations and other financial institutions are not impaired. ~~[In no event shall any]~~

(b) A rule or order issued by the commissioner regarding the conversion of an association

307 may not make it more difficult for an association subject to those rules or orders to implement  
308 conversion than for an association subject only to federal laws and regulations.

309 ~~[(e)]~~ (6) (a) A conversion proposed by a domestic association shall, after approval by the  
310 commissioner, be submitted to the members or stockholders at an annual meeting or at a special  
311 meeting called to consider that action.

312 (b) The conversion must have the approval of a majority of the total votes eligible to be  
313 cast by members or stockholders at the meeting.

314 (c) (i) Notice shall be given of any meeting at which a conversion is to be considered.

315 (ii) The notice required by Subsection (6)(c)(i) shall:

316 (A) expressly state that a proposed conversion will be submitted for approval or  
317 disapproval~~[-]~~;

318 (B) include:

319 (I) a full and accurate description of the plan of conversion; and

320 (II) all other matters to be brought before the meeting~~[-]~~;

321 (C) state that a proxy for the meeting given previously is revocable~~[-and]~~;

322 (D) state the time, date, and place of the meeting~~[-The notice shall]~~; and

323 (E) be mailed at least 20 days prior to the date of the meeting to each voting member or  
324 stockholder of the converting association addressed to ~~[his]~~ the member's address shown on the  
325 records of the association and to the supervisor or commissioner.

326 (d) Notwithstanding the other provisions of this Subsection (6), a credit association that  
327 converts to a state mutual association to comply with Section 7-9-58 is not subject to this  
328 Subsection (6).

329 ~~[(f)]~~ (7) If the commissioner finds that a conversion proceeding has been completed in  
330 accordance with the requirements of this section and any other applicable law and rules, ~~[he]~~ the  
331 commissioner shall:

332 (a) issue to the applicant a certificate of conversion, attaching as a part of the certificate:

333 (i) a copy of the charter~~[-]~~;

334 (ii) articles of incorporation~~[-]~~;

335 (iii) articles of association~~[-]~~; or

336 (iv) similar instrument~~[- The commissioner shall also cause the same to be filed]~~; and

337 (b) file the documents described in Subsection (7)(a) with the Division of Corporations

and Commercial Code.

~~[(2)]~~ (8) Any state mutual association, including a credit association that converts to a state mutual association to comply with Section 7-9-58, or state capital stock association eligible under federal law or regulations to become a federal association, may convert to a federal association by following the procedure outlined in this Subsection ~~[(2)]~~ (8).

(a) At any regular meeting or at any special meeting of the members or stockholders of the association called to consider the action and held in accordance with the laws governing the association, the members or stockholders by majority vote of those present or voting by proxy may declare by resolution the determination to convert the association into a federal association.

(b) (i) A copy of the minutes of the meeting of the members or shareholders verified by the affidavit of the president or vice president and the secretary of the meeting shall be, within ten days after the meeting, filed with the commissioner. ~~[This]~~

(ii) The verified copy of the minutes of the meeting described in Subsection (8)(b)(i), when so filed, shall be presumptive evidence of:

(A) the holding of the meeting; and ~~[of]~~

(B) the action ~~[there]~~ taken by the members or stockholders at the meeting.

(c) (i) Within a reasonable time and without any unnecessary delay after the adjournment of the meeting of shareholders, the association shall take such action as may be necessary under requirements of the Office of Thrift Supervision or other federal agency to ~~[make it a]~~ obtain a federal charter or certificate as a federal association~~[-and within].~~

(ii) Within ten days after receipt of the federal charter ~~[there shall be filed]~~ or certificate, the association shall file with the commissioner a copy of the charter or ~~[a]~~ certificate showing the organization of the association as a federal association, certified by or on behalf of the Office of Thrift Supervision or other federal agency.

(iii) Upon the filing of ~~[these]~~ the instruments described in this Subsection (8)(c) the association shall cease to be a state association and shall ~~[thereafter]~~ after the filing required by Subsection (8)(c)(ii) be a federal association.

(d) Upon completion of a conversion to a federal association~~[-]~~ the provisions of this Subsection (8)(d) apply.

(i) The corporate existence of the converting association ~~[shall]~~ may not terminate, but the association shall be a continuation of the entity so converted.

(ii) (A) All property of the converting association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of the converted association~~[, and the same]~~.

(B) The converting association shall have, hold, and enjoy ~~[that]~~ the property described in Subsection (8)(d)(i)(A) in its own right as fully and to the same extent as that property was possessed, held, and enjoyed by the converting association~~[, and the]~~.

(C) The converted association shall continue to have and succeed to all the rights, obligations, and relations of the converting association.

(iii) All pending actions and other judicial proceedings to which the converting association is a party shall not be abated or discontinued by reason of the conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if the conversion had not been made, and the converted association may continue the actions in its new corporate name.

(iv) Any judgment, order, or decree may be rendered for or against ~~[it]~~ the converting association which might have been rendered for or against the converting association before the conversion involved in the proceedings.

(e) Upon the completion of a conversion to a federal association, the converted association shall cease to be supervised by the commissioner or by this state except as a federal association.

Section 6. Section **7-7-10** is amended to read:

**7-7-10. Meetings of mutual association members -- Voting -- Notice.**

(1) (a) An annual meeting of the members of each mutual association shall be held at the time and place fixed in the bylaws of the association.

(b) Special meetings may be called as provided in the bylaws.

(2) (a) The members entitled to vote at any meeting of the members shall be those who are members of record at the end of the calendar month next preceding the date of the meeting of members, except those who have ceased to be members.

(b) The number of votes which members shall be entitled to cast shall be in accordance with the books on the date determinative of entitlement to vote.

(3) ~~[In]~~ (a) Subject to Subsection (3)(b), in the determination of all questions requiring

action by the members, each member shall be entitled to cast one vote, plus an additional vote for each \$100 or fraction ~~[thereof]~~ of \$100 of the withdrawal value of savings accounts, if any, held by the member. ~~[No]~~

(b) A member~~[, however,]~~ may not cast more than 50 votes.

(c) Notwithstanding the other provisions of this Subsection (3), a state mutual association that is converted from a credit association to comply with Section 7-9-58 may provide that each member of the state mutual association shall have only one vote regardless of the amount of:

(i) the member's deposited funds; or

(ii) the withdrawal value of the member's savings accounts.

(4) (a) At any meeting of the members, voting may be in person or by proxy, but ~~[no]~~ a proxy ~~[shall]~~ may not be eligible to be voted at any meeting unless the proxy has been filed with the secretary of the association, for verification, at least five days before the date of the meeting.

(b) Every proxy shall:

(i) be in writing ~~[and];~~

(ii) be signed by the member or ~~[his]~~ the member's duly authorized attorney in fact; ~~and~~ ~~;~~

(iii) when filed with the secretary, ~~[shall,]~~ if so specified in the proxy, continue in force from year to year until;

(A) revoked by a writing duly delivered to the secretary; or ~~[until]~~

(B) superseded by subsequent proxies.

(5) (a) At an annual meeting or at any special meeting of the members, any number of members present in person or by proxy eligible to be voted constitutes a quorum.

(b) A majority of all votes cast at any meeting of members shall determine any question unless this chapter specifically provides otherwise.

(6) (a) [No notice] Notice of annual meetings of members need not be given to members.

(b) Notice of each special meeting of members shall:

(i) state the purpose for which the meeting is called ~~;~~ ~~;~~

(ii) the place of meeting ~~;~~ ~~and~~ ~~;~~

(iii) the time when ~~[it]~~ the meeting shall convene ~~;~~ ~~and shall~~ ~~;~~ and

(iv) be published once a week for two consecutive calendar weeks ~~[(in each instance,)]~~ ~~;~~

(A) on any day of the week ~~;~~ ~~;~~

(B) before the date on which the special meeting shall convene ~~;~~ ~~;~~ and

(C) in a newspaper of general circulation in the county in which the home office of the association is located.

(c) In addition to publication of the notice, a copy of the notice shall be posted in a conspicuous place in all offices of the association during the 30 days immediately preceding the date on which the special meeting convenes[; provided, however, that].

(d) Notwithstanding the other provisions of this Subsection (6), if all the members entitled to vote, vote in favor of an action at any meeting of the members, [no] notice need not be given.

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

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

As used in this chapter:

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

(a) has a similar:

(i) interest;

(ii) profession;

(iii) occupation; or

(iv) formal association with an identifiable purpose; or

(b) is employed by a common employer.

(2) "Capital and surplus" means:

(a) shares;

(b) deposits;

(c) reserves; and

(d) undivided earnings.

(3) "Corporate credit union" means any credit union organized pursuant to any state or federal act for the purpose of serving other credit unions.

(4) "Credit association" means a credit union that is designated as a credit association pursuant to Section 7-9-55.

[~~(4)~~] (5) "Deposits" means that portion of the capital paid into the credit union by members on which a specified rate of interest will be paid.

[~~(5)~~] (6) "Immediate family" means any of the following in relationship to a member:

(a) parents[;];

(b) spouse[;];

(c) surviving spouse[;];

(d) children[;]; and

(e) siblings [~~of the member~~].

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

~~[(7)]~~ (8) (a) "Member-business loan" means any loan, line of credit, or letter of credit, the proceeds of which will be used for:

(i) a commercial purpose;

(ii) other business investment property or venture purpose; or

(iii) an agricultural purpose.

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

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

(ii) that is fully secured by:

(A) shares or deposits in the credit union making the extension of credit; or

(B) deposits in other financial institutions;

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

(A) the federal government;

(B) a state; or

(C) a political subdivision of a state; or

(iv) that is granted by a corporate credit union to another credit union.

~~[(8)]~~ (9) "Service center" means a single location at which multiple credit unions can provide products or services directly to their members.

~~[(9)]~~ (10) "Share drafts," "deposit drafts," and "transaction accounts" mean accounts from which owners are permitted to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to other persons or to the owner.

~~[(10)]~~ (11) "Shares" means that portion of the capital paid into the credit union by members on which dividends may be paid.

Section 8. Section **7-9-11** is amended to read:

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



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

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

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

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

(c) If the bylaws or an amendment to the bylaws of a credit union adds an association to the limited field of membership of the credit union including a credit union designated as a credit association, the commissioner may require that the credit union provide written confirmation from the association that the association has agreed to be served by the credit union.

(d) If an amendment to the bylaws of a credit union designated as a credit association expands the limited field of membership of the credit association as provided in Section 7-9-57, the commissioner's approval of the amendment is subject to Section 7-9-57.

Section 9. Section **7-9-12** is amended to read:

**7-9-12. Contents of bylaws.**

The bylaws of a credit union shall specify at least the following:

(1) the name of the credit union;

(2) the purpose for which it was formed;

(3) a limited field of membership of the credit union that:

(a) complies with Section 7-9-51 or 7-9-53; or

(b) if the credit union is designated as a credit association under Section 7-9-55, complies with Section 7-9-57 in addition to Section 7-9-51 or 7-9-53;

(4) the number of directors and procedures for their election;

(5) the term of directors;

(6) whether a credit manager, credit committee, or combination of both shall be responsible for credit functions of the credit union;

- (7) the duties of the officers;
- (8) the time of year of the annual meeting of members;
- (9) the manner in which members shall be notified of meetings;
- (10) the number of members which shall constitute a quorum at meetings;
- (11) the manner of amending;
- (12) the manner in which officers may act as surety; and
- (13) such other matters, rules, and regulations as the board of directors consider necessary.

Section 10. 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  
(ii) the commissioner approves the surviving credit union to operate without federal deposit insurance in accordance with Section 7-9-45.
- (2) Upon merger, the chair of the board and secretary of each credit union shall execute, and file with the department, a certificate of merger setting forth:
- (a) the time and place of the meeting of the board of directors at which the plan was approved;
  - (b) the vote by which the directors approved the plan;
  - (c) a copy of the resolution or other action by which the plan was approved;
  - (d) the time and place of the meeting of the members at which the plan was approved;
  - (e) the vote by which the members approved the plan; and

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

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

or

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

(3) On the effective date of any merger:

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

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

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

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

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

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

(b) If the surviving credit union is designated as a credit association in accordance with Section 7-9-55 before the merger, the surviving credit association may not serve a limited field of membership that is larger than the limited field of membership that the surviving credit association could serve through expansion of its limited field of membership under Section 7-9-57 if the merger is considered as a request under Section 7-9-57 to expand the surviving credit association's limited field of membership filed on the date the merger becomes effective.

~~[(b) The]~~ (c) (i) If the commissioner makes the finding described in Subsection (5)(c)(ii), the commissioner may under Subsection (1)(b) approve a merger plan that:

(A) includes the addition of the residents of a county in the limited field of membership of the merging credit union to the limited field of membership of the surviving credit union; or

(B) if the surviving credit union is designated as a credit association in accordance with Section 7-9-55 before the merger, includes a limited field of membership of the surviving credit association that is larger than is permitted under Subsection (5)(b).

(ii) The commissioner may take an action described in Subsection (5)(c)(i), if the commissioner finds that:

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

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

(6) [~~H~~] (a) This Subsection (6) applies to the surviving credit union if:

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

(ii) the surviving credit union is not designated as a credit association in accordance with Section 7-9-55.

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

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

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

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

(i) main office; or

(ii) branch.

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

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

(ii) participate in a service center in which it does not participate as of the date that the

merger is effective; or

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

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

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

(ii) a person belonging to an association that:

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

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

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

(7) (a) This Subsection (7) applies to the surviving credit association if the commissioner approves a merger plan under Subsection (5)(c)(i)(B).

(b) (i) Within a county other than a county described in Subsection (7)(b)(ii), the surviving credit association may not:

(A) establish a main office or branch if the main office or branch was not located in the county as of the date the merger is effective;

(B) participate in a service center in which the surviving credit association did not participate as of the date the merger is effective; or

(C) relocate a main office or branch of the surviving credit association that was located in a county within the limited field of membership of the surviving credit association as of the date of the merger is effective unless the commissioner finds that the main office or branch is being relocated within a three-mile radius of the original location of the main office or branch.

(ii) Subsection (7)(b)(i) does not apply to:

(A) the credit association's domicile-county, if the credit association has a grandfathered limited field of membership;

(B) a county whose residents are added to the limited field of membership of the credit association pursuant to Section 7-9-57; or

648 (C) a county from which the restrictions on branching under Section 7-9-53 within the  
649 county have been removed under Section 7-9-57.

650 (c) After the merger, the surviving credit association may admit as a member a person in  
651 the surviving credit association's limited field of membership after the date the merger is effective.

652 (d) In addition to any requirement under this Subsection (7), a surviving credit association  
653 shall comply with any requirement under this title for the establishment, relocation, or change in  
654 the physical location of a main office or branch of a credit union.

655 Section 11. Section **7-9-39.5** is amended to read:

656 **7-9-39.5. Supervisory merger.**

657 If a credit union is merged with another credit union as a result of a supervisory action  
658 under Chapter 2 or 19, the commissioner may permit the surviving credit union to have a limited  
659 field of membership that is larger than a limited field of membership permitted:

660 (1) under Section 7-9-51[-]; or

661 (2) with respect to a credit union designated as a credit association in accordance with  
662 Section 7-9-55, under Section 7-9-51 or 7-9-57.

663 Section 12. Section **7-9-51** is amended to read:

664 **7-9-51. Limited field of membership.**

665 (1) Except as provided in Subsection (3), the limited field of membership of a credit union  
666 may include only the following:

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

668 (b) the employees of the credit union;

669 (c) residents of a single county; and

670 (d) one or more associations.

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

673 (3) A credit union may have a limited field of membership that is less restrictive than the  
674 limited field of membership described in Subsection (1) if the limited field of membership of the  
675 credit union:

676 (a) is determined under Subsection 7-9-53(2)(c) or (2)(d);

677 (b) is approved by the commissioner after a merger under ~~[Subsection]~~ Section  
678 7-9-39[(-5)]; [or]

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

(d) is expanded under Section 7-9-57 for a credit union that is designated as a credit association.

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

Section 13. Section **7-9-52** is amended to read:

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

(1) ~~[The]~~ Except as otherwise permitted in Section 7-9-57 with respect to a credit union designated as a credit association, the commissioner shall comply with Subsection (2) if the commissioner receives a request to approve an amendment to the bylaws of a credit union that expands the credit union's limited field of membership to include:

(a) residents of one county; or

(b) an association consisting of 50 or more persons.

(2) If the conditions of Subsection (1) are met, the commissioner shall:

(a) give notice of the request in the manner and to the extent the commissioner considers appropriate to institutions subject to the jurisdiction of the department that:

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

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

(b) cause a supervisor to examine and submit written findings and recommendations to the commissioner as to:

(i) whether the credit union is adequately capitalized;

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

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

(iv) any potential harm the expansion of the limited field of membership may have on the institutions described in Subsection (2)(a); and

(v) the probable beneficial effect of the expansion.

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

(a) has given the notice required under Subsection (2)(a);

(b) received the written findings and recommendations of the supervisor under Subsection (2)(b); and

(c) finds that:

(i) the credit union is adequately capitalized;

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

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

(iv) any potential harm the expansion of the limited field of membership may have on other institutions subject to the jurisdiction of the department does not clearly outweigh the probable beneficial effect of the expansion.

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

(5) ~~[This]~~ (a) Except as provided in Subsection (5)(b), this section may not be interpreted to permit a credit union to:

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

~~[(b)]~~ (ii) change the county included in the limited field of membership of a credit union, if any.

(b) This section does not limit the right of a credit union to:

(i) elect to be designated as a credit association in accordance with Section 7-9-55; or

(ii) after a credit union is designated as a credit association, to expand its limited field of membership in accordance with Section 7-9-57.

Section 14. Section **7-9-53** is amended to read:

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

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

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



- 741 (i) operates a place of business or other physical location in the domicile-county; or  
742 (ii) has at least 100 members that are residents of the domicile-county.

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

- 744 (i) in the limited field of membership of the credit union as of January 1, 1999; and  
745 (ii) in which the credit union has located the greatest number of branches as of January 1,  
746 1999.

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

749 (d) "Restrictions on branching" means a restriction under this section on:

750 (i) establishing, relocating, or changing the physical location of a main office or branch  
751 of a credit union; or

752 (ii) participating in a service center.

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

755 (a) if the limited field of membership stated in the bylaws of the credit union as of January  
756 1, 1999, complies with Section 7-9-51, the credit union's limited field of membership is the limited  
757 field of membership indicated in its bylaws;

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

760 (A) the limited field of membership stated in the bylaws of the credit union as of January  
761 1, 1999, includes the residents of more than one county; and

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

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

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

767 (B) the employees of the credit union;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the employees of the credit union;

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

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

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

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

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

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

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

(i) main office; or

(ii) branch;

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

(i) establish a main office or branch that:

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

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

(ii) participate in a service center in which it does not participate as of January 1, 1999;

or

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

(c) may only admit as a member:

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

(ii) a person belonging to an association that:

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

(B) resides in the domicile-county of the credit union.

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

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

(i) within the credit union's domicile-county, may establish, relocate, or otherwise change

834 the physical location of the credit union's:

835 (A) main office; or

836 (B) branch;

837 (ii) within a county other than its domicile-county that is in the credit union's limited field

838 of membership under Subsection (2)(c), may not:

839 (A) establish a main office or branch that was not located in the county as of January 1,

840 1999;

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

842 or

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

844 1, 1999, unless the commissioner finds that the main office or branch is relocated within a

845 three-mile radius of where it was originally located; and

846 (iii) may only admit as a member:

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

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

849 of the credit union, regardless of whether the association resides in the domicile-county of the

850 credit union.

851 (5) (a) Notwithstanding Subsections (1) through (4), after May 3, 1999, a credit union

852 described in Subsection (2)(c) or (2)(d) may:

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

854 is not located in a county that is in the credit union's limited field of membership as of May 3,

855 1999; and

856 (ii) serve a member who is not in a credit union's limited field of membership as of May

857 3, 1999, if the member is a member of the credit union as of March 15, 1999.

858 (b) Subsection (5)(a) does not authorize a credit union to:

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

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

861 establishing a branch; or

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

863 membership an association that:

864 (A) as of January 1, 1999, is not included in the credit union's limited field of membership;

and

(B) does not reside within the credit union's domicile-county.

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

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

(8) This section does not limit the right of a credit union to:

(a) elect to be designated as a credit association in accordance with Section 7-9-55; or

(b) after the credit union is designated as a credit association, to:

(i) expand its limited field of membership in accordance with Section 7-9-57; or

(ii) remove restrictions on branching in accordance with Section 7-9-57.

Section 15. Section **7-9-55** is enacted to read:

**7-9-55. Designation as a credit association.**

(1) In accordance with this section, a credit union may elect to be designated as a credit association:

(a) through an affirmative vote of its members; and

(b) subject to approval from the commissioner.

(2) (a) If the board of directors seeks to have a credit union be designated as a credit association, the board of directors shall initiate a proposition by a written resolution of the board of directors.

(b) If one or more members of a credit union seek to have a credit union be designated as a credit association, the one or more members of the credit union shall initiate a proposition by submitting to the board of directors a petition signed by at least the lesser of:

(i) 50 members of the credit union; or

(ii) 5% of the credit union membership.

(3) Subject to Subsection (4), the proposition initiated under Subsection (2) shall:

(a) be subject to the vote of the full membership of the credit union; and

(b) submitted to the credit union membership:

(i) pursuant to any applicable procedures under federal law governing the National Credit Union Association for a membership vote to convert to a state mutual association; or

896 (ii) in the absence of procedures described in Subsection (3)(b)(i), pursuant to:  
897 (A) this chapter;  
898 (B) the procedures of the credit union for membership votes; and  
899 (C) the rules made by the commissioner for membership votes of a credit union.  
900 (4) (a) A credit union shall notify its members of the vote on the proposition initiated  
901 under Subsection (2).  
902 (b) The notice required under this Subsection (4) shall:  
903 (i) be in a form:  
904 (A) approved by the National Credit Union Association;  
905 (B) approved by the commissioner; and  
906 (C) required by federal law for a conversion vote; and  
907 (ii) shall include:  
908 (A) the proposition that the credit union be designated as a credit association; and  
909 (B) an explanation that after designation as a credit association, the credit association may  
910 be:  
911 (I) required to convert to a state mutual association in accordance with Section 7-9-58; and  
912 (II) if the credit association converts to a state mutual association, the newly converted  
913 state mutual association is subject to taxation under Title 59, Chapter 7, Corporate Franchise and  
914 Income Taxes.  
915 (5) If at the time of the proposition initiated under Subsection (2) the credit union would  
916 be required to convert to a state mutual association under Section 7-9-58 if it were a credit  
917 association:  
918 (a) contemporaneously with the vote required by Subsection (3) the credit union shall  
919 conduct any vote required under Section 7-9-58; and  
920 (b) the date the proposition is initiated under Subsection (3) shall be considered the day  
921 on which the commissioner receives information of an event requiring conversion under  
922 Subsection 7-9-58(2).  
923 (6) (a) If the proposition is approved by a vote of the credit union membership, the credit  
924 union shall submit an application to be designated as a credit association to the commissioner in  
925 a form prescribed by the commissioner.  
926 (b) The application shall include the following:

927 (i) evidence that the credit union is adequately capitalized;  
928 (ii) evidence that the credit union has the financial capacity to serve the financial needs of  
929 the limited field of membership in a safe and sound manner;  
930 (iii) evidence that the credit union has the managerial expertise to serve the financial needs  
931 of the expanded limited field of membership in a safe and sound manner; and  
932 (iv) any other information the commissioner considers material to determining whether  
933 to approve the application.

934 (c) The commissioner shall approve the application:  
935 (i) after accepting it as complete; and  
936 (ii) finding that the credit union:  
937 (A) is adequately capitalized;  
938 (B) has the financial capacity to serve the financial needs of the limited field of  
939 membership in a safe and sound manner; and  
940 (C) has the managerial expertise to serve the financial needs of the expanded limited field  
941 of membership in a safe and sound manner.

942 (d) To protect the safety and soundness of the application, the commissioner may:  
943 (i) approve an application subject to the terms and conditions the commissioner considers  
944 necessary; or  
945 (ii) disapprove an application.

946 Section 16. Section **7-9-56** is enacted to read:

947 **7-9-56. Operations of credit associations.**

948 (1) A credit union designated as a credit association, unless it converts to a state mutual  
949 association governed by Chapter 7, Savings and Loan Associations, shall:

950 (a) comply with this chapter as a credit union except where the chapter expressly provides  
951 for a credit association; and  
952 (b) is a credit union under this chapter that may obtain and maintain insurance on its shares  
953 and deposits from the National Credit Union Association.

954 (2) If under Section 7-9-55 the credit union is designated as a credit association, within 90  
955 days of the day the credit union is designated as a credit association:

956 (a) the name of the credit association shall be changed to replace the words "credit union"  
957 with "credit association";

(b) an amendment to the credit union's articles of incorporation indicating the name change shall be filed with the Division of Corporations and Commercial Code; and

(c) the credit association is prohibited from using the words "credit union" in its:

(i) advertisement;

(ii) signage;

(iii) solicitation for members; or

(iv) in any other correspondence and communication intended for members of the public.

Section 17. Section **7-9-57** is enacted to read:

**7-9-57. Expansion of credit association.**

(1) The commissioner shall comply with this section if the commissioner receives a request to approve an amendment to the bylaws of a credit union designated as a credit association that:

(a) expands the credit association's limited field of membership; or

(b) removes restrictions on branching if the credit association has a grandfathered limited field of membership.

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

(i) may approve the addition of the residents within the county of the fourth, fifth, or sixth class at any time;

(ii) may approve the addition of residents within more than one county of the fourth, fifth, or sixth class in any one calendar year; and

(iii) shall comply with Subsection (4).

(b) If the credit association has a grandfathered limited field of membership and requests the removal on the restrictions on branching under Section 7-9-53 on a county of the fourth, fifth, or sixth class of county, the commissioner:

(i) may approve the removal of the restriction on branching within a county of the fourth, fifth, or sixth class at any time;

(ii) may approve the removal of the restrictions on branching within more than one county of the fourth, fifth, or sixth class in any one calendar year;

(iii) may approve the removal of the restrictions on branching regardless of whether the commissioner has approved the addition of residents of a county of the fourth, fifth, or sixth class



to the limited field of membership of the credit association; and

(iv) shall comply with the requirements under this title for the establishment, relocation, or change in the physical location of a main office or branch of a credit union to determine whether to approve the removal of the restrictions on branching.

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

(i) in any one calendar year may:

(A) for a credit association that does not have a grandfathered limited field of membership, approve the addition of residents within only one county of the first, second, or third class; or

(B) if the credit association is a credit association with a grandfathered limited field of membership:

(I) approve the addition of residents within only one county of the first, second, or third class; or

(II) remove the restrictions on branching in only one county of the first, second, or third class as provided in Subsection (3)(b); and

(ii) shall comply with Subsection (4).

(b) If the credit association has a grandfathered limited field of membership and requests the removal on the restrictions on branching under Section 7-9-53 on a county of the first, second, or third class, the commissioner:

(i) may approve the removal of the restrictions on only one county of the first, second, or third class in any one calendar year;

(ii) may not approve the addition of residents within a county of the first, second, or third class to the limited field of membership of the credit association in the same calendar year the commissioner removes the restrictions on branching in the county of the first, second, or third class; and

(iii) shall comply with the requirements under this title for the establishment, relocation, or change in the physical location of a main office or branch of a credit union to determine whether to approve the removal of the restrictions on branching.

(4) (a) If the commissioner receives a request to add the residents within a county to the limited field of membership of a credit association, the commissioner shall:

(i) give notice of the request in the manner and to the extent the commissioner considers

1020 appropriate to institutions subject to the jurisdiction of the department that are located in the  
1021 applicable county; and

1022 (ii) cause a supervisor to examine and submit written findings and recommendations to  
1023 the commissioner as to:

1024 (A) whether the credit association is adequately capitalized;

1025 (B) whether the credit association has the financial capacity to serve the financial needs  
1026 of the expanded limited field of membership in a safe and sound manner;

1027 (C) whether the credit association has the managerial expertise to serve the financial needs  
1028 of the expanded limited field of membership in a safe and sound manner;

1029 (D) any potential harm the expansion of the limited field of membership may have on the  
1030 institutions described in Subsection (4)(a)(i); and

1031 (E) the probable beneficial effect of the expansion.

1032 (b) The commissioner may approve the amendment to the bylaws described in Subsection  
1033 (1) or (2) if the commissioner:

1034 (i) gives the notice required under this Subsection (4);

1035 (ii) receives the written findings and recommendations of the supervisor under this  
1036 Subsection (4); and

1037 (iii) finds that:

1038 (A) the credit association is adequately capitalized;

1039 (B) the credit association has the financial capacity to serve the financial needs of the  
1040 expanded limited field of membership in a safe and sound manner;

1041 (C) the credit association has the managerial expertise to serve the financial needs of the  
1042 expanded limited field of membership in a safe and sound manner; and

1043 (D) any potential harm the expansion of the limited field of membership may have on  
1044 other institutions subject to the jurisdiction of the department does not clearly outweigh the  
1045 probable beneficial effect of the expansion.

1046 (5) If the credit union requests to add an association, the commissioner:

1047 (a) may approve the addition of more than one association in any calendar year; and

1048 (b) (i) if the association consists of 50 or more persons, shall comply with the procedure  
1049 under Section 7-9-52 for adding an association to a credit union; or

1050 (ii) (A) if the association consists of less than 50 persons, is not subject to Section 7-9-52

1051 in approving the addition of an association; and  
1052 (B) shall approve the amendment if the commissioner finds:  
1053 (I) the credit association is adequately capitalized;  
1054 (II) the credit association has the financial capacity to serve the financial needs of the  
1055 expanded limited field of membership in a safe and sound manner;  
1056 (III) the credit association has the managerial expertise to serve the financial needs of the  
1057 expanded limited field of membership in a safe and sound manner; and  
1058 (IV) if the credit association is a credit association with a grandfathered limited field of  
1059 membership, that the association resides in the domicile-county of the credit association.  
1060 (6) In accordance with Section 7-1-309, the commissioner may hold a hearing on the  
1061 expansion of a credit association's limited field of membership.  
1062 (7) This section may not be interpreted to permit a credit union that has not been  
1063 designated as a credit association to:  
1064 (a) expand its limited field of membership to include residents of more than one county;  
1065 or  
1066 (b) change the county included in the limited field of membership of a credit union, if any.  
1067 Section 18. Section **7-9-58** is enacted to read:  
1068 **7-9-58. Conversion to mutual association.**  
1069 (1) A credit association designated pursuant to Section 7-9-55 is required to convert to a  
1070 state mutual association governed by Chapter 7, Savings and Loan Associations, if one or more  
1071 of the following events occur on or after the date the credit association is designated as a credit  
1072 association:  
1073 (a) the credit association exceeds \$75,000,000 in total assets;  
1074 (b) the credit association exceeds \$6,750,000 in capital;  
1075 (c) the credit association exceeds 30,000 in membership;  
1076 (d) the credit association extends a member-business loan in violation of the limits on  
1077 member-business loans under this chapter including in Section 7-9-20; or  
1078 (e) (i) the credit association establishes branches in two or more counties whose residents  
1079 are included in the credit association's limited field of membership; and  
1080 (ii) the total number of the branches described in Subsection (1)(e)(i) is equal or greater  
1081 than six.

(2) Within 30 days after the day on which the commissioner receives information demonstrating that an event described in Subsection (1) occurs, the commissioner shall give written notice to the credit association stating that the credit association is required to convert to a state mutual association governed by Chapter 7, Savings and Loan Associations, in accordance with this section.

(3) By no later than 30 days after the day the commissioner gives the credit association written notice under Subsection (2):

(a) if a vote to convert to a mutual association governed by Chapter 7, Savings and Loan Associations, is required by federal law governing the National Credit Union Association, the board of directors of the credit association shall:

(i) set a date for the vote of the members to approve the conversion in compliance with the federal law; and

(ii) submit the initial notice of the vote as may be required by federal law; or

(b) submit to the National Credit Union Association any required notice or information of the required conversion as may be required by federal law;

(c) submit an application for deposit insurance for the state mutual association with the Federal Deposit Insurance Corporation; and

(d) submit to the commissioner all materials that may be:

(i) required by Section 7-7-7;

(ii) required by applicable federal law governing the National Credit Union Association;

or

(iii) otherwise requested by the commissioner to complete the conversion under this section.

(4) (a) If a vote is required by federal law governing the National Credit Union Association:

(i) the credit association shall conduct a vote of the credit association's members to approve the conversion under this section; and

(ii) the conversion to a state mutual association under this section is subject to the affirmative vote of the membership as measured pursuant to the federal law that requires the vote.

(b) The vote required by this Subsection (4) shall be conducted pursuant to the terms of the federal law that requires the vote.

(c) If a membership vote is not required by federal law, the affirmative vote by the members for the credit association designation under Section 7-9-55 is considered an affirmative vote for the credit association's conversion to a state mutual association under this section.

(5) A credit association may not convert to a state mutual association governed by Chapter 7, Savings and Loan Association, without the approval of the commissioner.

(6) Prior to the issuance of the conversion certificate by the commissioner and the filing of the documents required by Section 7-7-7, the credit association shall:

(a) continue to be a credit association chartered under this chapter; and

(b) remain eligible for deposit insurance through the National Credit Union Association.

Section 19. Section **7-9-59** is enacted to read:

**7-9-59. Failure to convert.**

(1) A credit association is subject to Subsection (2) if the credit association is required to convert under Section 7-9-58 and the credit association has not completed its conversion within one year from:

(a) the date the proposition is initiated under Subsection 7-9-55(2) if at the time of the proposition the credit union would be required to convert to a state mutual association under Section 7-9-58 if it were a credit association;

(b) the date the commissioner gives written notice of the requirement to convert under Subsection 7-9-58(2); or

(c) the date on which the credit association receives a final determination that it cannot obtain insurance from the Federal Deposit Insurance Corporation or its successor federal agency.

(2) (a) Subject to Subsections (2)(b) and (c), on the day described in Subsection (1), the credit association:

(i) shall lose its designation as a credit association;

(ii) may not seek any additional members in any county whose residents were added to the credit association's limited field of membership pursuant to Section 7-9-57;

(iii) shall be governed by Sections 7-9-51 through 7-9-53 with respect to its limited field of membership; and

(iv) shall be subject to the chapter as if the designation as a credit association had not been made.

(b) By no later than ten days before a credit association fails to meet the deadline under

1144 Subsection (1), the credit association shall:  
1145 (i) notify the commissioner of the credit association's failure to meet the deadline;  
1146 (ii) submit a plan for:  
1147 (A) the closure and divestiture of all branches or offices of the credit association obtained  
1148 or opened in connection with a county whose residents were added to the limited field of  
1149 membership of the credit association under Section 7-9-57; and  
1150 (B) returning the limited field of membership of the credit association to a limited field  
1151 of membership under Section 7-9-51 or 7-9-53; and  
1152 (iii) obtain the commissioner's approval of the plan.  
1153 (c) Under the supervision of the commissioner, the credit association shall implement the  
1154 plan approved by the commissioner under Subsection (2)(b) within 180 days from the day  
1155 described in Subsection (1).

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**Legislative Review Note**  
**as of 2-14-01 7:49 AM**

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

**Office of Legislative Research and General Counsel**