

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

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

62 (i) a national bank;

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

64 (iii) a bank holding company; or

65 (iv) an industrial loan corporation authorized to:

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

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

68 (b) A person authorized to operate in this state as a credit card bank, as defined in Section
69 7-3-3, may transact business under the name "credit card bank" and may not transact business
70 under the name of "bank" unless it is immediately preceded by "credit card."

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

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

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

82 (i) a federal savings and loan association;

83 (ii) a federal savings bank; or

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

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

88 (c) Notwithstanding Subsection (4)(a), a credit association that, to comply with Section
89 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;

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

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

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

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

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

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

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

142 **7-7-2. Definitions.**

143 As used in this chapter:

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

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

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

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

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

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

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

154 ~~[(2)]~~ (3) "Federal association" means [~~a savings association, a savings and loan~~
155 ~~association, or a savings bank,~~] any of the following chartered by the Office of Thrift Supervision
156 or successor federal agency[-];

157 (a) a savings association;

158 (b) a savings and loan association; or

159 (c) a savings bank.

160 ~~[(3)]~~ (4) "Impaired condition" means a condition in which the assets of an association in
161 the aggregate do not have a fair value equal to the aggregate amount of liabilities of the association
162 to its creditors, including the holders of its savings accounts and all other persons.

163 ~~[(4)]~~ (5) "Insured association" means an association the deposit accounts of which are
164 insured by the Federal Deposit Insurance Corporation or any successor agency of the federal
165 government.

166 ~~[(5)]~~ (6) (a) "Liquid assets" means cash on hand and cash on deposit in federal home loan
167 banks, federal reserve banks, state banks performing similar reserve functions, or in commercial
168 banks, which cash is withdrawable upon not more than 30 days notice and which is not pledged
169 as security for indebtedness.

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

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

176 ~~[(6)]~~ (7) "Out-of-state association" means an association whose home state is not Utah.

177 ~~[(7)]~~ (8) (a) "Real estate loan" means:

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

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

182 (b) "Real estate loan" includes:

183 (i) the purchase of real estate in fee by an association; and
 184 (ii) the concurrent or immediate sale of the real estate on installment contract.
 185 ~~[(8)]~~ (9) "Savings liability" means the aggregate amount of savings accounts of depositors,
 186 including earnings credited to those accounts, less redemptions and withdrawals.

187 ~~[(9)]~~ (10) "Service organization" means an organization substantially all the activities of
 188 which consist of the following performed primarily for financial institutions:

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

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

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

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

195 ~~[(10)]~~ (11) "Supervisor" means the supervisor of savings and loan associations.

196 ~~[(11)]~~ (12) "Surplus" means:

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

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

200 ~~[(12)]~~ (13) "Withdrawal value" means the amount credited to a savings account less lawful
 201 deductions, as shown by the records of the association.

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

203 **7-7-3.3. Deposit insurance required.**

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

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

208 **7-7-6. Name requirements -- Establishment or changing location of offices.**

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

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

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

212 (iii) "savings bank~~[-]~~"; or

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

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

215 (b) The name of an association;

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

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

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

219 (B) a bank or national bank; and

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

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

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

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

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

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

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

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

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

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

235 and

236 (iii) after an opportunity for a hearing.

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

238 **7-7-7. Conversion of associations.**

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

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

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

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

245 (i) upon an equitable basis; and
246 (ii) subject to:
247 (A) the laws and rules governing the converting association[-];
248 (B) the approval of the commissioner[-];
249 (C) the approval of the members or stockholders of the converting association[-]; and
250 (D) any rules adopted by the commissioner under this Subsection (1)(b).
251 ~~[(a) Upon receipt of the approval of a proposed conversion from the commissioner, a]~~
252 (c) A credit association may convert to a state mutual association governed by this chapter
253 by complying with the requirements of Section 7-9-58.
254 (2) (a) A converting association may[-, under the supervision of the supervisor,] carry out
255 the plan of conversion[-];
256 (i) upon receipt of the approval of the proposed conversion from the commissioner; and
257 (ii) under the supervision of the supervisor.
258 (b) A record of all acts and proceedings taken by the board of directors of the converting
259 association in carrying out the proposed conversion shall be filed with the supervisor.
260 ~~[(b)]~~ (3) Upon the issuance to an applicant of a certificate of conversion, ~~[the]~~ Subsection
261 (3) applies.
262 (a) The corporate existence of the converting applicant [shall] may not terminate, but the
263 applicant shall be a continuation of the entity so converted.
264 (b) (i) All property of the converting applicant, including its rights, titles, and interests in
265 and to all property of whatever kind, whether real, personal, or mixed, things in action, and every
266 right, privilege, interest and asset of any conceivable value or benefit then existing, or pertaining
267 to it, or which would inure to it, immediately, by operation of law and without any conveyance or
268 transfer and without any further act or deed, shall vest in and remain the property of the converted
269 applicant~~[-, and the same].~~
270 (ii) The converting applicant shall have, hold, and enjoy [that] the property described in
271 Subsection (3)(b)(i) in its own right as fully and to the same extent as that property was possessed,
272 held, and enjoyed by the converting applicant before the conversion[-, and the].
273 (c) The converted applicant, upon issuance of the certificate of the conversion, shall
274 continue to have and succeed to all the rights, obligations, and relations of the converting
275 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

306 (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

338 and Commercial Code.

339 ~~[(2)]~~ (8) Any state mutual association, including a credit association that converts to a state
340 mutual association to comply with Section 7-9-58, or state capital stock association eligible under
341 federal law or regulations to become a federal association, may convert to a federal association by
342 following the procedure outlined in this Subsection ~~[(2)]~~ (8).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

390 **7-7-10. Meetings of mutual association members -- Voting -- Notice.**

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

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

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

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

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

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

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

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

407 (i) the member's deposited funds; or

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

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

412 (b) Every proxy shall:

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

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

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

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

418 (B) superseded by subsequent proxies.

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

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

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

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

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

426 (ii) the place of meeting~~[-and]~~;

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

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

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

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

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

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

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

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

439 **7-9-3. Definitions.**

440 As used in this chapter:

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

442 (a) has a similar:

443 (i) interest;

444 (ii) profession;

445 (iii) occupation; or

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

447 (b) is employed by a common employer.

448 (2) "Capital and surplus" means:

449 (a) shares;

450 (b) deposits;

451 (c) reserves; and

452 (d) undivided earnings.

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

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

457 [~~(4)~~] (5) "Deposits" means that portion of the capital paid into the credit union by members
458 on which a specified rate of interest will be paid.

459 [~~(5)~~] (6) "Immediate family" means any of the following in relationship to a member:

460 (a) parents[;];

461 (b) spouse[;];

462 (c) surviving spouse[;];

463 (d) children[;]; and

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

465 [~~(6)~~] (7) "Limited field of membership" means persons designated as eligible for credit
466 union membership in accordance with Section 7-9-51 or 7-9-53.

467 [~~(7)~~] (8) (a) "Member-business loan" means any loan, line of credit, or letter of credit, the
468 proceeds of which will be used for:

469 (i) a commercial purpose;

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

471 (iii) an agricultural purpose.

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

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

475 (ii) that is fully secured by:

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

477 (B) deposits in other financial institutions;

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

480 (A) the federal government;

481 (B) a state; or

482 (C) a political subdivision of a state; or

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

484 [~~(8)~~] (9) "Service center" means a single location at which multiple credit unions can
485 provide products or services directly to their members.

486 [~~(9)~~] (10) "Share drafts," "deposit drafts," and "transaction accounts" mean accounts from
487 which owners are permitted to make withdrawals by negotiable or transferable instruments or other
488 orders for the purpose of making transfers to other persons or to the owner.

489 [~~(10)~~] (11) "Shares" means that portion of the capital paid into the credit union by
490 members on which dividends may be paid.

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

492 **7-9-11. Bylaws and amendments to be approved.**

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

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

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

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

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

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

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

512 **7-9-12. Contents of bylaws.**

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

514 (1) the name of the credit union;

515 (2) the purpose for which it was formed;

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

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

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

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

521 (5) the term of directors;

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

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

531 Section 10. Section **7-9-39** is amended to read:

532 **7-9-39. Voluntary merger.**

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

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

537 (b) the commissioner approves the merger plan;

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

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

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

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

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

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

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

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

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

555 (f) the effective date of the merger, which shall be:
556 (i) the date on which the last approval or vote required under Subsection (1) was obtained;
557 or
558 (ii) a later date specified in the merger plan.

559 (3) On the effective date of any merger:
560 (a) all property, property rights, and interests of the merged credit union shall vest in the
561 surviving credit union without deed, endorsement, or other instrument of transfer; and
562 (b) all debts, obligations, and liabilities of the merged credit union are considered to have
563 been assumed by the surviving credit union.

564 (4) Except as provided in Subsection (5)~~(f)~~, if the surviving credit union is chartered
565 under this chapter, the residents of a county in the limited field of membership of the merging
566 credit union may not be added to the limited field of membership of the surviving credit union,
567 except that the surviving credit union:
568 (a) may admit as a member any member of the merging credit union that is not in the
569 limited field of membership of the surviving credit union if the member of the merging credit
570 union was a member of that credit union at the time of merger; and
571 (b) may service any member-business loan of the merging credit union until the
572 member-business loan is paid in full.

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

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

582 ~~[(b) The]~~ (c) (i) If the commissioner makes the finding described in Subsection (5)(c)(ii),
583 the commissioner may under Subsection (1)(b) approve a merger plan that:
584 (A) includes the addition of the residents of a county in the limited field of membership
585 of the merging credit union to the limited field of membership of the surviving credit union; or

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

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

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

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

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

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

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

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

603 (i) if the credit union does not have a limited field of membership under Subsection
604 7-9-53(2)(c) or (2)(d), the county in which the credit union has located the greatest number of
605 branches as of the date the merger is effective; or

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

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

610 (i) main office; or

611 (ii) branch.

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

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

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

617 merger is effective; or

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

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

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

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

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

626 (B) resides in the domicile-county of the surviving credit union, as defined in Section
627 7-9-53.

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

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

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

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

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

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

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

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

646 (B) a county whose residents are added to the limited field of membership of the credit
647 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~~]

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

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

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

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

687 **7-9-52. Expansion of a limited field of membership.**

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

692 (a) residents of one county; or

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

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

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

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

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

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

703 (i) whether the credit union is adequately capitalized;

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

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

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

- 710 (v) the probable beneficial effect of the expansion.
- 711 (3) The commissioner may approve the amendment to the bylaws described in Subsection
- 712 (1) if the commissioner:
- 713 (a) has given the notice required under Subsection (2)(a);
- 714 (b) received the written findings and recommendations of the supervisor under Subsection
- 715 (2)(b); and
- 716 (c) finds that:
- 717 (i) the credit union is adequately capitalized;
- 718 (ii) the credit union has the financial capacity to serve the financial needs of the expanded
- 719 limited field of membership in a safe and sound manner;
- 720 (iii) the credit union has the managerial expertise to serve the financial needs of the
- 721 expanded limited field of membership in a safe and sound manner; and
- 722 (iv) any potential harm the expansion of the limited field of membership may have on
- 723 other institutions subject to the jurisdiction of the department does not clearly outweigh the
- 724 probable beneficial effect of the expansion.
- 725 (4) In accordance with Section 7-1-309, the commissioner may hold a hearing on the
- 726 expansion of a credit union's limited field of membership.
- 727 (5) ~~[This]~~ (a) Except as provided in Subsection (5)(b), this section may not be interpreted
- 728 to permit a credit union to:
- 729 ~~[(a)]~~ (i) expand its limited field of membership to include residents of more than one
- 730 county; or
- 731 ~~[(b)]~~ (ii) change the county included in the limited field of membership of a credit union,
- 732 if any.
- 733 (b) This section does not limit the right of a credit union to:
- 734 (i) elect to be designated as a credit association in accordance with Section 7-9-55; or
- 735 (ii) after a credit union is designated as a credit association, to expand its limited field of
- 736 membership in accordance with Section 7-9-57.
- 737 Section 14. Section **7-9-53** is amended to read:
- 738 **7-9-53. Grandfathering.**
- 739 (1) As used in this ~~[section and Section 7-9-54]~~ chapter:
- 740 (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;

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

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

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

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

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

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

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

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

789 (A) the limited field of membership stated in the bylaws of the credit union as of January
790 1, 1999, includes the residents of more than one county; and

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

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

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

796 (B) the employees of the credit union;

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

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

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

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

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

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

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

809 (i) main office; or

810 (ii) branch;

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

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

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

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

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

819 or

820 (iii) relocate the credit union's main office or a branch located in the county as of January
821 1, 1999, unless the commissioner finds that the main office or branch is relocated within a
822 three-mile radius of where it was originally located; and

823 (c) may only admit as a member:

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

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

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

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

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

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

833 (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;

865 and

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

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

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

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

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

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

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

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

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

878 **7-9-55. Designation as a credit association.**

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

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

882 (b) subject to approval from the commissioner.

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

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

889 (i) 50 members of the credit union; or

890 (ii) 5% of the credit union membership.

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

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

893 (b) submitted to the credit union membership:

894 (i) pursuant to any applicable procedures under federal law governing the National Credit
895 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";

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

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

961 (i) advertisement;

962 (ii) signage;

963 (iii) solicitation for members; or

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

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

966 **7-9-57. Expansion of credit association.**

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

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

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

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

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

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

979 (iii) shall comply with Subsection (4).

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

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

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

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

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

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

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

995 (i) in any one calendar year may:

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

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

1000 (I) approve the addition of residents within only one county of the first, second, or third
1001 class; or

1002 (II) remove the restrictions on branching in only one county of the first, second, or third
1003 class as provided in Subsection (3)(b); and

1004 (ii) shall comply with Subsection (4).

1005 (b) If the credit association has a grandfathered limited field of membership and requests
1006 the removal on the restrictions on branching under Section 7-9-53 on a county of the first, second,
1007 or third class, the commissioner:

1008 (i) may approve the removal of the restrictions on only one county of the first, second, or
1009 third class in any one calendar year;

1010 (ii) may not approve the addition of residents within a county of the first, second, or third
1011 class to the limited field of membership of the credit association in the same calendar year the
1012 commissioner removes the restrictions on branching in the county of the first, second, or third
1013 class; and

1014 (iii) shall comply with the requirements under this title for the establishment, relocation,
1015 or change in the physical location of a main office or branch of a credit union to determine whether
1016 to approve the removal of the restrictions on branching.

1017 (4) (a) If the commissioner receives a request to add the residents within a county to the
1018 limited field of membership of a credit association, the commissioner shall:

1019 (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.

1082 (2) Within 30 days after the day on which the commissioner receives information
1083 demonstrating that an event described in Subsection (1) occurs, the commissioner shall give
1084 written notice to the credit association stating that the credit association is required to convert to
1085 a state mutual association governed by Chapter 7, Savings and Loan Associations, in accordance
1086 with this section.

1087 (3) By no later than 30 days after the day the commissioner gives the credit association
1088 written notice under Subsection (2):

1089 (a) if a vote to convert to a mutual association governed by Chapter 7, Savings and Loan
1090 Associations, is required by federal law governing the National Credit Union Association, the
1091 board of directors of the credit association shall:

1092 (i) set a date for the vote of the members to approve the conversion in compliance with the
1093 federal law; and

1094 (ii) submit the initial notice of the vote as may be required by federal law; or

1095 (b) submit to the National Credit Union Association any required notice or information
1096 of the required conversion as may be required by federal law;

1097 (c) submit an application for deposit insurance for the state mutual association with the
1098 Federal Deposit Insurance Corporation; and

1099 (d) submit to the commissioner all materials that may be:

1100 (i) required by Section 7-7-7;

1101 (ii) required by applicable federal law governing the National Credit Union Association;

1102 or

1103 (iii) otherwise requested by the commissioner to complete the conversion under this
1104 section.

1105 (4) (a) If a vote is required by federal law governing the National Credit Union
1106 Association:

1107 (i) the credit association shall conduct a vote of the credit association's members to
1108 approve the conversion under this section; and

1109 (ii) the conversion to a state mutual association under this section is subject to the
1110 affirmative vote of the membership as measured pursuant to the federal law that requires the vote.

1111 (b) The vote required by this Subsection (4) shall be conducted pursuant to the terms of
1112 the federal law that requires the vote.

1113 (c) If a membership vote is not required by federal law, the affirmative vote by the
1114 members for the credit association designation under Section 7-9-55 is considered an affirmative
1115 vote for the credit association's conversion to a state mutual association under this section.

1116 (5) A credit association may not convert to a state mutual association governed by Chapter
1117 7, Savings and Loan Association, without the approval of the commissioner.

1118 (6) Prior to the issuance of the conversion certificate by the commissioner and the filing
1119 of the documents required by Section 7-7-7, the credit association shall:

1120 (a) continue to be a credit association chartered under this chapter; and

1121 (b) remain eligible for deposit insurance through the National Credit Union Association.
1122 Section 19. Section **7-9-59** is enacted to read:

1123 **7-9-59. Failure to convert.**

1124 (1) A credit association is subject to Subsection (2) if the credit association is required to
1125 convert under Section 7-9-58 and the credit association has not completed its conversion within
1126 one year from:

1127 (a) the date the proposition is initiated under Subsection 7-9-55(2) if at the time of the
1128 proposition the credit union would be required to convert to a state mutual association under
1129 Section 7-9-58 if it were a credit association;

1130 (b) the date the commissioner gives written notice of the requirement to convert under
1131 Subsection 7-9-58(2); or

1132 (c) the date on which the credit association receives a final determination that it cannot
1133 obtain insurance from the Federal Deposit Insurance Corporation or its successor federal agency.

1134 (2) (a) Subject to Subsections (2)(b) and (c), on the day described in Subsection (1), the
1135 credit association:

1136 (i) shall lose its designation as a credit association;

1137 (ii) may not seek any additional members in any county whose residents were added to the
1138 credit association's limited field of membership pursuant to Section 7-9-57;

1139 (iii) shall be governed by Sections 7-9-51 through 7-9-53 with respect to its limited field
1140 of membership; and

1141 (iv) shall be subject to the chapter as if the designation as a credit association had not been
1142 made.

1143 (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).

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