

HOUSE No. 1053

By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty relative to credit union branching. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CREDIT UNION BRANCHING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 8 of chapter 171 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 striking out the entire section and inserting in place thereof the
4 following:—

5 Section 8. With the written consent of the commissioner, the loca-
6 tion of the main office of a credit union may be changed.

7 After such notice and hearing as the commissioner may require
8 and with his written permission and under such conditions as he may
9 approve, a credit union may establish and maintain one or more
10 branch offices or depots at such locations determined by the com-
11 missioner to be reasonably necessary to furnish service to its mem-
12 bers within the commonwealth, or on a site in one of the states of
13 Connecticut, Maine, New Hampshire, Rhode Island or Vermont, if in
14 the opinion of the commissioner, the public would benefit by the
15 establishment of additional credit union facilities. The establishment
16 and maintenance of branch offices or depots in any one of the fore-
17 going states shall also be established and maintained in accordance
18 with the laws of such state. Any of the usual business transacted by
19 a credit union at its main office may be transacted at a branch office.
20 The business at a depot shall be transacted only on such days as may
21 be designated by the board of directors and shall be limited to the
22 receipt of deposits and the collection of moneys due or payable to
23 the credit union, and such business shall be subject to such other
24 conditions, if any, as may be prescribed by the commissioner.

25 With the written consent of the commissioner a branch office or
26 depot may be closed, or its location may be changed.

27 The offices of any credit union consolidating or merging under
28 section seventy-eight may be maintained as branch offices of such
29 credit union, with the written permission of and under such condi-
30 tions, if any, as may be approved by the commissioner.

31 Mobile branch banking may be authorized by the Commissioner
32 under conditions as said commissioner may approve and subject to
33 such regulations as said commissioner may establish.

1 SECTION 2. Chapter 171 of the General Laws, as so appearing,
2 is further amended by inserting after section 8 the following new
3 sections:—

4 Section 8A: Any foreign credit union or out-of-state federal credit
5 union, as defined in section one of this chapter, doing a business
6 similar to any business referred to in section two of this chapter, may
7 establish and maintain branch offices or depots in the common-
8 wealth, if such foreign credit union or out-of-state federal credit
9 union is expressly authorized to do so by the laws under which it is
10 organized and operates; provided that the laws of the state in which
11 such entities have their principal place of business expressly autho-
12 rize, under conditions no more restrictive than those imposed by this
13 chapter as determined by the commissioner, Massachusetts credit
14 unions to establish and maintain branches and depots in such state.
15 Such foreign credit unions and out-of-state federal credit unions
16 shall establish and maintain branches or depots in the state, in accor-
17 dance with the same laws which govern such activities by Massa-
18 chusetts credit unions; provided, that the initial branch office other
19 than one established pursuant to chapter one hundred and sixty-
20 seven B, or, if more than one, the branch deemed to be the initial
21 office by such entities, shall be considered the main office in the
22 commonwealth for the purposes of determining the geographical
23 limitations on the establishment of branch offices.

24 For purposes of this section and sections eight B through eight G
25 of this chapter, inclusive, the terms “foreign credit union” and “out-
26 of-state federal credit union” shall mean a credit union with its prin-
27 cipal place of business in one of the states of Connecticut, Maine,
28 New Hampshire, Rhode Island or Vermont.

29 Section 8B: Any credit union, federal credit union, foreign credit
30 union, or out-of-state federal credit union with a branch office in the
31 commonwealth may establish educational credit union training pro-

32 grams, student savings deposit programs and school branch office
33 programs. A credit union, federal credit union, foreign credit union
34 or out-of-state federal credit union with a branch office in the com-
35 monwealth shall conduct any such program under such terms and
36 conditions as the commissioner may establish. A federal credit
37 union or out-of-state federal credit union with a branch office in the
38 commonwealth shall conduct any such program in compliance with
39 applicable federal law and regulations.

40 Section 8C: A foreign credit union or out-of-state federal credit
41 union, if such credit union does not operate a branch in the common-
42 wealth, may, upon approval by the commissioner of an application
43 thereof in prescribed manner and form, establish and maintain a
44 branch de novo in the commonwealth; provided, however, that in
45 each instance the laws of the jurisdiction in which such credit union
46 has its principal place of business expressly authorize, under condi-
47 tions no more restrictive than those imposed by this chapter as so
48 determined by the commissioner, a Massachusetts credit union to
49 establish therein a branch de novo. Any such foreign credit union or
50 out-of-state federal credit union shall operate the same as a Massa-
51 chusetts branch under the supervision of the commissioner and in
52 accordance with all applicable laws which govern such activities by
53 Massachusetts credit unions.

54 Any out-of-state federal credit union shall operate the same as a
55 federal branch which shall be subject to all laws of the common-
56 wealth relative to community reinvestment, consumer protection,
57 fair lending, establishment of intra-state branches, including but not
58 limited to, sections one to fourteen A, inclusive, of chapter ninety-
59 three, and the applicable sections of chapters ninety-three A, one
60 hundred and sixty-seven, one hundred and sixty-seven B, one hun-
61 dred and seventy-one, one hundred and eighty-three and one hun-
62 dred and eighty-four, including all rules and regulations promulgated
63 thereunder, and to such other laws of the commonwealth as are
64 applicable to a federal credit union with its main office in the com-
65 monwealth.

66 Section 8D: The commissioner shall, in the manner prescribed in
67 chapter one hundred and sixty-seven, section two, examine every
68 foreign credit union and any out-of-state federal credit union which
69 operates a Massachusetts branch and shall inspect and examine the
70 affairs of any such foreign credit union or out-of-state federal credit

71 union, to the extent of its operations in the commonwealth, to ascer-
72 tain its financial condition and whether it has complied with all
73 applicable law. The lawful charges incurred by reason of any such
74 examination shall be paid by such credit union examined. The com-
75 missioner shall preserve a full record of each such examination.
76 Such records and information contained in the report of any such
77 examination, other than information required by law to be published
78 or to be open to the inspection of the public, shall be open only to
79 the inspection of the commissioner, his examiners and assistants, and
80 such other officers of the commonwealth as may have occasion and
81 authority to inspect them in the performance of their official duties.
82 Nothing in this section shall be construed to prohibit the required
83 production of such records, and information contained in examina-
84 tion reports, before any court of this commonwealth or any master or
85 auditor appointed by any such court, in any criminal or civil pro-
86 ceeding therein pending, affecting such Massachusetts or out-of-
87 state branch, its officers, directors or employees.

88 Copies of reports of such examinations shall be furnished to the
89 parent credit union of the branch examined for its use only and shall
90 not be exhibited to any other person, organization or agency without
91 the prior written approval of the commissioner. The commissioner
92 may, in his discretion, furnish to any credit union regulatory agency
93 or law enforcement agency, or the banking departments of other
94 states, such information, reports and statements relating to the insti-
95 tutions under his supervision as he deems appropriate.

96 Notwithstanding the foregoing, the commissioner may enter into
97 cooperative agreements with credit union regulators in jurisdictions
98 other than the commonwealth to facilitate the regulatory supervision
99 of Massachusetts and out-of-state branches including agreements
100 relative to the coordination of examinations or joint participation in
101 examinations of said branches, and may accept reports of examina-
102 tions by such regulators pursuant to such agreements. The commis-
103 sioner may also enter into such agreements providing for
104 enforcement actions against Massachusetts and out-of-state
105 branches. Any such agreement may include provisions relative to
106 the amount and assessment of fees for any such examination or
107 enforcement actions. Nothing in this section shall be construed as
108 limiting in any way the authority of the commissioner to indepen-

109 dently conduct examinations of and enforcement actions against any
110 Massachusetts or out-of-state branch.

111 Section 8E: Each foreign credit union and out-of-state federal
112 credit union which operates a Massachusetts branch shall register
113 with the commissioner on forms prescribed by him which shall
114 include such information with respect to the financial condition,
115 operations, and management of such credit union and related matters
116 as he may deem necessary or appropriate to carry out the purposes of
117 this chapter.

118 The commissioner, from time to time, may require reports under
119 oath to keep him informed as to whether the provisions of this
120 chapter and the rules and regulations established thereunder have
121 been complied with.

122 Section 8F: For the purposes of section eight E of this chapter,
123 the commissioner or the person making the examination shall have
124 free access to the vaults, books and papers of any such foreign credit
125 union and out-of-state federal credit union, and may summon the
126 directors, officers or agents thereof, and such other witnesses as
127 deemed necessary for examination relative to the affairs, transac-
128 tions and condition of such credit unions, and for that purpose is
129 empowered to administer oaths.

130 Section 8G: If, upon examination, it appears that any such for-
131 eign credit union or out-of-state federal credit union is insolvent, or
132 that its capital is impaired, or that its condition is such as to render
133 the continuance of business hazardous to the public or to those
134 having funds in its custody, the commissioner shall apply, or if any
135 such credit union appears to have exceeded its powers or failed to
136 comply with any provision of applicable law may apply, to the
137 supreme judicial court, which shall have jurisdiction in equity on
138 such application, to issue an injunction restraining any such credit
139 union, in whole or in part, from further proceeding with its business,
140 and to make further orders or decrees as justice and equity may
141 require. The court may appoint one or more receivers to take pos-
142 session of its property and effects, subject to such directions as may
143 from time to time be prescribed by the court.

1 SECTION 3. Section 79 of said chapter 171, as so appearing, is
2 hereby amended by striking out the second paragraph.