

No. 1989-95

AN ACT

SB 548

Amending the act of September 20, 1961 (P.L.1548, No.658), entitled "An act to provide for the organization, incorporation, operation and supervision of cooperative savings and credit associations, to be termed credit unions; designating such credit unions as corporations and defining their powers and duties; conferring certain powers and duties on the Department of Banking; and providing penalties," adding definitions; further providing for investments and for structure, ownership and management of credit unions; further providing for merger and for regulation by the department; further providing for the business of credit unions; and providing for out-of-State credit unions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of September 20, 1961 (P.L.1548, No.658), known as the Credit Union Act, amended July 6, 1984 (P.L.611, No.126), is amended to read:

Section 2. Definition and Purpose.—The term "credit union," as used in this act, means a cooperative association incorporated under this act or under the act of May 26, 1933 (P.L.1076, No.260), its amendments and supplements, for the purpose of promoting thrift among its members, creating a source of credit for such members at reasonable rates of interest and providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.

The term "Department of Banking," as used in this act, means the Pennsylvania Department of Banking.

The term "out-of-State credit union," as used in this act, means a credit union incorporated under the laws of another state.

The term "activity," as used in this act, means a transaction by a member on a loan, share account, share draft account or certificate or a verbal or written communication between the member and the credit union in which the member indicates an awareness or interest in funds deposited by the member in the credit union.

The term "branch," as used in this act, means a subsidiary office of the credit union which is capable of offering the same or approximately the same level of service to members that can be found at the principal office of the credit union. The term includes a branch credit union, branch office, branch agency, additional office other than a service facility and branch place of business.

The term "service facility," as used in this act, means a subsidiary office of the credit union which is not capable of offering the same or approximately the same level of service that can be found at the principal office of the credit union.

The term "volunteer," as used in this act, means an individual who receives no compensation. Reasonable health, accident and similar insurance

protection and the reimbursement of reasonable expenses incurred in the discharge of the duties of the volunteer's position are not compensation.

A central or corporate credit union formed primarily to serve other credit unions, including Federal credit unions and credit unions chartered under the laws of any other state, may be incorporated under this act and shall be subject to all provisions of this act not inconsistent with provisions specifically applicable to central or corporate credit unions. The purposes for which a corporate or central credit union may be incorporated are:

- (1) To accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services.
- (2) To act as an intermediary for credit union funds between members and other corporate credit unions.
- (3) To obtain liquid funds from other credit union organizations, financial intermediaries and other sources.
- (4) To foster and promote, in cooperation with other state, regional and national corporate credit unions and credit union organizations or associations, the economic security, growth and development of member credit unions.

Section 2. Section 4 of the act is amended to read:

Section 4. Amendment of Articles.—The articles of incorporation may be amended at any regular or special meeting of the credit union, provided written notice of the meeting and of the proposed amendment or amendments is furnished each member at least ten days prior to the meeting at which such amendment or amendments will be considered. ***Notwithstanding statutory provisions to the contrary, the articles of incorporation may alternatively be amended by the members through mail ballot voting as provided in the bylaws.*** Amendments to the articles of incorporation must be approved by ***[two-thirds] a majority*** of the members present at any meeting at which the amendments are considered***[, and the] or, in the case of a mail ballot, by a majority of the members responding by mail ballot.*** The proposed amendments shall be acted upon only in the event a quorum of the members, as provided in the bylaws, is present ***or, in the case of a mail ballot vote, a number of returned mail ballots equal to the quorum of the members, as provided in the bylaws, exists.*** Articles of amendment shall be filed with the Department of Banking. If the Department of Banking finds that the articles of amendment conform to law, it shall endorse its approval thereon and forward the articles of amendment to the Department of State. Upon receipt of the articles of amendment, the Department of State shall file the same and issue to the credit union a certificate of amendment.

The articles of amendment shall be signed and verified by the president and secretary of the association, and shall set forth:

- (1) The name and principal place of business of the credit union.
- (2) The amendment or amendments as adopted by the members.
- (3) The date of the meeting at which the amendment, or amendments, was adopted.
- (4) That notice of the meeting at which the amendment, or amendments, was considered, was given to each member as provided in this act.

(5) That at the meeting at which the amendment, or amendments, was considered, a quorum of the members was present as provided in the bylaws.

(6) That the amendment, or amendments, was approved by **[two-thirds]** a majority of the members **[then present]** voting.

Section 3. Clauses (1), (4) and (7) of subsection B of section 5 of the act, amended December 14, 1982 (P.L.1240, No.283), are amended and the section is amended by adding a subsection to read:

Section 5. Powers.—***

B. **[A]** Except as set forth in subsection B.1, a credit union shall have the following special powers:

(1) To receive the savings of its members as payments, *representing equity*, on shares, *share draft accounts and share certificates*.

(4) To make *purchase money mortgage* loans to members secured by mortgages which are first liens on improved real property situated within **[this Commonwealth, or within one hundred miles of a boundary thereof]** the United States, the improvement being an established dwelling house for not more than four families which is owned by the member of the credit union making the mortgage and occupied or to be occupied in whole or in part by such member. **[Such]** *Purchase money* mortgages shall not exceed ninety per centum of the fair market value of the property: Provided, That shares of the credit union owned by the mortgagor may be assigned or pledged as additional collateral security for the mortgage loan and, in such event, the mortgage loan granted upon such property may be increased by the withdrawal value of the additional pledged shares to an amount not to exceed a maximum total mortgage loan of one hundred per centum of the fair market value of such real property and the credit union may release this additional collateral whenever the mortgage loan meets all of the requirements of this act and could be made legally at the time of release without the requirement of additional collateral. **[Mortgage]** *Purchase money mortgage* loans shall be amortized by approximately equal payments sufficient in amount to pay all interest and effect full repayment of principal within a period not in excess of thirty years. **[Mortgage]** *Purchase money mortgage* loans on any one property shall not exceed ninety per centum of the fair market value of the property, except as provided heretofore in this subsection, or five per centum of the paid-in capital of the credit union, whichever is lesser. The aggregate total of mortgage loans shall not exceed **[twenty-five]** *fifty* per centum of the paid-in capital of the credit union.

Without regard to the limitations as to the amount and term of **[any]** a *purchase money* mortgage loan or the aggregate amount of all mortgage loans set forth in this clause, a credit union may grant any mortgage loan which is insured or guaranteed, in whole or in part, by the United States or any instrumentality thereof, or if there is a commitment to so insure or guarantee.

(7) To invest its funds in the following investments:

(a) Securities, obligations or other instruments of or fully guaranteed as to principal and interest by the United States of America or any agency thereof or in any trust established for investing directly or collectively in the same[, **provided such trust is created and fully controlled by credit unions or credit union organizations or wholly owned subsidiaries thereof**];

(b) Bonds or other interest-bearing obligations of the Commonwealth of Pennsylvania or any county, city, borough, township, incorporated town or school district thereof or an authority which has been created as a body corporate and politic under any law of this Commonwealth;

(c) Shares of any building and loan, savings and loan association or credit union, organized under the laws of this Commonwealth, or of any Federal savings and loan association or Federal credit union, to the extent to which the withdrawal or repurchase value of such shares is insured by any agency of the United States or any other insurer approved by the Pennsylvania Department of Banking;

(d) Bonds and notes of the Pennsylvania Housing Agency created by the act of December 3, 1959 (P.L.1688, No.621), known as the "Housing Finance Agency Law."

(e) Capital stock, obligations or other securities of any service corporation organized under the laws of the Commonwealth of Pennsylvania, or under the laws of any other State and duly qualified to do business in the State of Pennsylvania, if the entire capital stock of such corporation is available for purchase only by credit unions, organized and existing under the laws of the Commonwealth of Pennsylvania and by Federal credit unions or association of credit unions. A complete description of the service corporation and its activities must be furnished to the Secretary of Banking and his approval obtained by the credit union before investing in such corporation. No credit union may make an investment in a service corporation if its then aggregate outstanding investments under this paragraph of this section would exceed one per centum of its assets.

The provisions of this clause shall not apply to any investments lawfully owned by a credit union upon the effective date of this act.

* * *

B.1. No funds of a credit union shall be invested in any stock or obligation of any corporation doing business, either by itself or through any subsidiary or affiliate, in the Republic of South Africa or Namibia. This prohibition shall have prospective effect from the date of enactment and shall not affect existing investments.

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Section 4. Section 7 of the act, amended May 31, 1974 (P.L.312, No.100), repealed in part April 28, 1978 (P.L.202, No.53) and amended December 14, 1982 (P.L.1240, No.283), is amended to read:

Section 7. **[Reports and Examination] Powers of Department of Banking.—A.** Credit unions shall be under the supervision of the Department of Banking of the Commonwealth. The Department of Banking is hereby authorized and empowered to issue general rules and regulations and specific orders for the protection of members of credit unions for insuring

the conduct of the business of credit unions on a safe and sound basis and for the effective enforcement of this act. Credit unions shall report to the Department of Banking as often as may be required by it and at least annually on blanks supplied by the department for that purpose. Supplementary reports may be required by the department from time to time. Credit unions shall be examined as often as may be required by the department and at least annually, and the department may use such other methods of assuring itself of the condition of the credit unions as it shall deem advisable. The cost of all such examinations and inspections shall be paid by the credit union. A credit union shall also pay annually its proportionate share of the overhead expense of the Department of Banking determined by general rule or regulation of the department. For failure to file reports when due, unless excused for cause, a credit union shall pay to the Department of Banking five dollars (\$5) for each day of its delinquency.

B. If, in the opinion of the Department of Banking, a director, officer or committee member of a credit union has committed a violation of a statute, regulation or cease and desist order which has become final or has engaged in an unsafe or unsound practice involving the credit union or has breached a fiduciary duty and if the Department of Banking determines that the credit union has suffered or will suffer substantial financial loss or other damage or that the interests of its members could be seriously prejudiced by reason of the violation, practice or breach, the Department of Banking may suspend the director, officer or committee member upon written notice, pending a hearing to determine whether removal is required. The notice shall contain a statement of the facts constituting grounds for removal and shall indicate a time and place for a hearing. The hearing shall be fixed for a date between thirty and sixty days from the date of service of notice, unless an earlier or later date is set by the Department of Banking at the request of the director, officer or committee member.

C. If the department determines that a credit union (i) is violating any of the provisions of this act or any rule or regulation of the department issued under and within the authority of this act, (ii) is conducting its business in an unsafe manner, (iii) is in an unsafe and unsound condition to transact its business, or (iv) is insolvent, the department may serve written notice of its intention to take possession of the credit union. If the condition continues for a period of fifteen days after the giving of such notice, the department may, in its discretion, take possession of the business and property of the credit union and retain possession until such time as the condition predicated such action is remedied or until the affairs of the credit union are finally liquidated. The department may take similar action if any report is not filed within a period of fifteen days after it is due.

D. Any person aggrieved by the action of the Department of Banking in taking possession of a credit union may, appeal whereupon the matter shall be set down for hearing de novo.

E. Whenever the shares of a credit union are insured by the National Credit Union Share Insurance Fund or any other share insurance fund approved by the Pennsylvania Department of Banking, the Department of

Banking is authorized to furnish to the Administrator of the National Credit Union Administration or to any other approved insurer any reports of examination made by the Department of Banking under this section.

F. If a Pennsylvania credit union conducts business in another state through the establishment and operation of additional branch offices and service facilities under section 25, the Department of Banking is authorized to furnish to the financial regulatory agency of that state reports of examination made by the Department of Banking for the particular credit union.

Section 5. Section 10 of the act, amended October 12, 1984 (P.L.939, No.183), is amended to read:

Section 10. Elections.—At the organization meeting and at all subsequent annual meetings, the credit union members shall elect from the membership of the credit union a board of directors of not less than five members, a credit committee of not less than three members *if the bylaws so provide*, and a supervisory committee of not less than three nor more than five members *if the bylaws so provide*, all to hold office for such terms respectively, as the bylaws provide and until successors are duly qualified. A member shall not serve on more than one of the committees. Not more than one member of the board, who shall not be the treasurer or an assistant treasurer, may serve as a member of the credit committee. A member of the board of directors, treasurer or an assistant treasurer may not serve on the supervisory committee. A statement in writing of the names and addresses of the members of the board and the committees and the officers shall be filed with the Department of Banking within ten days after their election and qualification. For failure to file such statements when due, unless excused for cause, the credit union shall pay to the Department of Banking five dollars (\$5) for each day of its delinquency.

Section 6. The introductory paragraph and clause (6) of subsection A of section 12 of the act, amended June 23, 1978 (P.L.525, No.88), are amended and the section is amended by adding subsections to read:

Section 12. Directors and Officers.—A. At their organizational meeting and within thirty days following each annual meeting of the members, the directors shall elect from their own number: *either* a president[,] *and* one or more vice presidents *or a chairman and one or more vice chairmen*, a treasurer[,] *and* a secretary [*and may elect a chairman of the board*]. The same individual may be both treasurer and secretary. The directors may appoint one or more assistant treasurers. The directors may appoint a membership officer from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer. The directors may employ an officer in charge of operations [*whose title shall be general manager or executive vice president. The officer in charge*], *who* shall be under the direction and control of the board or of the treasurer, as determined by the board of directors. The membership officer or the officer in charge shall have the authority to approve applications for membership under such conditions as the directors may prescribe; except that such membership officer or officer in charge so authorized shall submit to the directors at each monthly meeting a list of approved or pending applications for mem-

bership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. The directors shall have general management of the affairs of the credit union and are specifically required:

* * *

(6) *[To] If the bylaws provide for appointed credit or supervisory committees, to appoint individuals to serve on the credit committee or the supervisory committee and to fill vacancies in the board and in the credit committee until successors are duly chosen and qualified;*

* * *

D. No person who has been convicted of a misdemeanor or a felony involving dishonesty, breach of trust or violation of this act may serve as an officer, director, committee member or employe of a credit union unless the person:

(1) in the case of an officer, including an officer in charge of operations, director or committee member seeking office, has the unanimous approval of the credit union's board of directors; or

(2) in the case of an employe, other than an officer in charge of operations, has the approval of the board of directors by a vote of at least two-thirds of the board of directors; and

(3) every officer, director, committee member and employe shall sign a sworn statement disclosing whether he has ever been convicted of a misdemeanor or a felony involving dishonesty, breach of trust or violation of this act.

E. Directors and volunteer officers of State, Federal and out-of-State credit unions shall be entitled to all the protection and rights set forth in 42 Pa.C.S. Ch. 83 Subch. F (relating to corporate directors' liability), if the membership, by bylaw, adopts the standard of care set forth at 42 Pa.C.S. § 8363 (relating to standard of care and justifiable reliance).

Section 7. Section 13 of the act, amended October 12, 1984 (P.L.939, No.183), is amended to read:

Section 13. Credit Committee.—~~[The]~~*A. If the bylaws provide for a credit committee, the credit committee shall have the supervision of all loans to members other than first mortgage loans, except to the extent approval of such mortgage loans has been delegated to the credit committee, and loans to other credit unions and Federal credit unions. No credit committee member, loan officer or director of a credit union shall vote on the granting of any loan in which such official or a member of his or her immediate family has a beneficial interest. Applications for loans shall be in writing on a form prepared or approved for that purpose by the credit committee or, in the absence of a credit committee, by either the board of directors or a person delegated by the board of directors; and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section, a pledge of shares in the credit union or the endorsement of a note may be deemed security. [At]*

B. *If the bylaws provide for a credit committee, at least a majority of the members of the credit committee shall pass on all loans, and no loan shall be approved unless it is approved by a majority of the members of the credit committee present and voting: Provided, That the credit committee may appoint one or more loan officers, and delegate to such person the power to approve loans, share withdrawals of amounts previously pledged as security for a loan, releases and substitutions of security, within limits specified by the committee.*

C. *If the bylaws do not provide for a credit committee, the board of directors shall appoint a loan officer and delegate the powers of the credit committee under subsection B to the loan officer.*

D. Each loan officer shall furnish to the credit committee *or, in the absence of a credit committee, to the board of directors* a record of each loan approved or not approved by such person within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee *or, in the absence of a credit committee, by the board of directors or a director designated by the board of directors.* No individual shall have authority to disburse funds of the credit union for any loan which has been approved by such individual in his or her capacity as loan officer. Not more than one member of the credit committee may be appointed as loan officer. The credit committee shall meet as often as may be necessary after due notice to each member.

Section 8. Section 14 of the act, amended June 23, 1978 (P.L.525, No.88), is amended to read:

Section 14. Supervisory Committee.—[The]A. *If the bylaws of the credit union provide for a supervisory committee, the duties of the supervisory committee shall be as follows:*

[(a)] (1) To make at least an annual examination of the affairs of the credit union. The committee shall submit a report to the board of directors and to the members at the next annual meeting of the credit union.

[(c)] (2) By unanimous vote, if it deems such action to be necessary to the proper conduct of the affairs of the credit union, to suspend any officer, director, or member of any committee other than the supervisory committee. In such event, the committee shall call the members of the credit union together, within ten days of the suspension, to act on such suspension. The members at the meeting called for this purpose may sustain such suspension or remove such person from office, or may reinstate such person.

[(d)] (3) By majority vote, the supervisory committee may call a special meeting of the members to consider any matter submitted to it by the committee. The committee shall fill vacancies in its own membership *unless otherwise provided in the bylaws.*

[(e)] (4) Whenever the supervisory committee fails to make the examinations, or reports as provided in clause [(a) of this section] (1) of this subsection, the board of directors shall remove from office the members of the supervisory committee and appoint a new committee to make such examinations, or the board may employ the services of a public accountant to make such examinations. The charges for the services of such public accountants

shall be paid by the credit union. If the board of directors under such circumstances fails or refuses to act, the Department of Banking may, *in addition to its other powers*, remove the members of the supervisory committee and issue an order on the board of directors requiring such examinations to be made by a public accountant at the expense of the credit union.

B. *If the bylaws do not provide for a supervisory committee, the board shall employ the services of a public accountant to make examinations under subsection A. The charges for the services of the public accountant shall be paid by the credit union.*

Section 9. Section 17 of the act is amended by adding subsections to read:

Section 17. Shares Held in the Name of a Minor or as Trustee.—* * *

D. *In the absence of a written agreement or document to the contrary, the assets in the account of a deceased member shall be considered part of the deceased member's estate. In the absence of such an agreement or document and except for a release of such assets under existing law, the credit union shall, upon learning of the member's death, freeze the assets in the member's account and shall not permit deposits or withdrawals to be made in the account without receiving authorization by a court-recognized representative of the estate for deposits or withdrawals. Until the credit union receives the authorization, it may, if its bylaws so provide, close the account of the deceased member and transfer the funds to unclaimed shares. The payment of the deceased member's funds to the estate of the deceased member shall release the credit union from liability for the amounts paid.*

E. *A court-recognized representative of the estate of a deceased member may open an account with the credit union for the deposit and withdrawal of the estate's funds, regardless of whether the representative is a member, if the deceased member was in good standing at the time of death. The payment of the estate's funds to the estate of the deceased member shall release the credit union from liability for the amounts paid.*

F. *If a court-recognized representative of an estate is a member of the credit union, the representative may open a separate account with the credit union for the deposit and withdrawal of estate funds, regardless of whether the decedent was a member of the credit union. The payment of the estate's funds to the estate shall release the credit union from liability for the amounts paid.*

Section 10. Sections 19 and 23 of the act, amended October 12, 1984 (P.L.939, No.183), are amended to read:

Section 19. Rates and Fines.—A. Interest rates on loans made by a credit union to its members shall not exceed fifteen per centum per annum, when calculated on the unpaid principal balances.

B. Before any credit union shall charge any higher rate authorized hereunder, it shall obtain approval for such higher rate from at least two-thirds of the credit union's board of directors and such higher approved rate shall then apply only to loans made by the credit union thereafter. Members shall be notified in writing of the board of directors' action not later than the next regular mailing of the member's account statement, which is at least twenty days subsequent to the board's action.

C. Interest shall be computed for the actual number of days which have elapsed at the time of payment, *except that interest for mortgage loans may be paid according to a preauthorized amortization schedule*. No other charges or fines *in connection with loans* shall be collected other than fees to public officials, actual fees necessary to secure collateral, fees required to be charged by government agencies and reasonable fees of attorneys and outside collectors or outside collection agencies, provided the aggregate of such collection fees does not exceed twenty per centum of the outstanding loan balance. **[However, on loans secured by first mortgages on real estate, a] A credit union may also collect late payment charges not in excess of [four] five per centum of the principal and interest due on any installment payment of a loan that is more than fifteen days delinquent.**

D. The taking, receiving, reserving, or charging interest greater than allowed by this section shall be deemed a forfeiture of the entire interest on the loan, except when such overcharge is the result of a clerical error in computation. In case an interest greater than that which is allowed by this section has been paid, the borrower may within six months after payment recover from the credit union the entire amount of interest paid, except when such overcharge is the result of a clerical error in computation in which case only the excess interest paid may be recovered.

E. A credit union insured by a share insurance fund other than the National Credit Union Share Insurance Fund may make any loan authorized by this act, at such interest, finance charge, rate and terms as a credit union insured by the National Credit Union Share Insurance Fund, except that the authority permitted under this subsection shall not apply to the extension of credit for the purchase of goods and services through the issuance and use of credit cards.

Section 23. Dividends.—A. The board of directors of a credit union or the members on recommendation of the board of directors, whichever the bylaws provide, may declare dividends to be paid on all shares and share certificates from the net earnings and undivided earnings at such intervals and for such periods as the board of directors may authorize and after provision for the required reserves. Within the discretion of the board of directors, payments on all shares which are made within the first ten days of a month may be entitled to dividends for the full month in which such payment is made. Dividends may be added to the credit of the members' share accounts, paid in cash, or partially credited to share accounts and partially paid in cash, at the option of the board of directors.

B. *A share account may be transferred to a special account if, for at least six years, there has been no activity by the owner of the account and all written communications from the credit union to the owner of the account have been returned to the credit union with no forwarding address. After the transfer the credit union may cease paying dividends on the transferred account and may cease sending notices to the owner. A member whose account has been transferred may reclaim the funds from the credit union at any time prior to the time the account is escheated. After escheat reclaiming is governed by Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."*

Section 11. Sections 24, 25 and 26 of the act are amended to read:

Section 24. Expulsion and Withdrawal.—A. A member may be expelled:

(1) by a vote of **[two-thirds] a majority** of the members present at a regular or a special meeting called to consider the matter, at which a quorum, as provided in the bylaws, is present, but only after a hearing after due notice to the member of the time and place of the meeting and of the reason or reasons for such proposed expulsion; or

(2) *by a vote of two-thirds of the board of directors present at a regular or special meeting called to consider the matter if (i) the board has given the member notice of the meeting and of the reason for proposed expulsion, (ii) there is a quorum, as provided in the bylaws, present at the meeting, and (iii) there is a hearing on the matter at the meeting.*

B. Any member may withdraw from the credit union at any time, but notice of withdrawal may be required.

C. All amounts paid on shares of an expelled or withdrawing member, with any dividends accredited thereto to the date thereof, shall, as funds become available and after deducting all amounts due from the member to the credit union, be paid to him. The credit union may require sixty days' notice of intention to withdraw shares. Withdrawing or expelled members shall have no further rights in the credit union, but they shall not by such withdrawal or expulsion be released from any remaining liability to the credit union.

Section 25. **[Change in] Place of Business.**—A credit union may change its place of business upon the filing of a certificate of such change with the Department of State and the Department of Banking. *If a credit union gives the Department of Banking prior written notification and, in the case of branch offices, receives prior approval from the department, it may establish and maintain, at locations other than its principal place of business, additional branch offices and service facilities to furnish services to its members.*

Section 26. Notice to Members.—A. All written notices required by this act to be given to members shall be delivered in person to each member or mailed to each member at the address for such member appearing on the records of the credit union.

B. *Each new member to a credit union shall be provided with written notice by the respective credit union listing any fees, service charges or policies regarding the transfer of funds to non-interest-bearing accounts. A new member and each existing member shall subsequently be provided with similar written notice if there is a change by the credit union in the amount or type of fees or service charges or a change in the policy regarding the transfer of funds to non-interest-bearing accounts. The credit union shall also provide such information to any member upon request by that member.*

Section 12. Clause (3) of subsection A and subsection C of section 27 of the act, amended December 14, 1967 (P.L.735, No.343) and May 31, 1974 (P.L.315, No.101), are amended to read:

Section 27. Conversion, Merger and Consolidation.—

A. Conversion of Credit Union into Federal Credit Union.

A credit union may be converted into a Federal credit union under the laws of the United States by complying with the following requirements:

* * *

(3) Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved, the credit union shall take such action as may be necessary under the applicable laws of the United States to make it a Federal credit union, and within ten days after receipt of the Federal credit union charter, it shall file a copy of the charter thus issued with the Department of State which shall furnish a copy thereof to the Department of Banking. Upon such filing with the Department of State, the credit union shall no longer be subject to any of the provisions of this act. The successor Federal credit union shall be vested with all of the assets and shall continue *to be* responsible for all of the obligations of the credit union thus converted to the same extent as though the conversion had not taken place.

* * *

C. Merger and Consolidation.

[Any two or more credit unions, or one or more credit unions and one or more Federal credit unions, whose common bonds of association coincide or who find it difficult to continue operation in the best interest of all members concerned may with the prior approval of the Department of Banking in the manner hereinafter provided and pursuant to the laws of the United States, be merged into one of such credit unions or Federal credit unions, hereinafter designated as the surviving credit union or Federal credit union, or consolidated into a new credit union to be formed under this act or a new Federal credit union to be formed under the laws of the United States.] *A credit union chartered under the laws of this Commonwealth may merge or consolidate with other credit unions; with Federal credit unions; with out-of-State credit unions; or with a combination of other credit unions, Federal credit unions and out-of-State credit unions to form a credit union, Federal credit union or out-of-State credit union. Before merging or consolidating, the credit unions involved must obtain prior approval from the Department of Banking. In the case of a merger or consolidation with a Federal credit union, the merger or consolidation shall be made pursuant to Federal law in addition to the provisions of this act. In the case of a merger or consolidation with an out-of-State credit union, the merger or consolidation shall be made pursuant to the credit union law of the state of incorporation of the out-of-State credit union or, if credit unions incorporated in different states are involved, pursuant to the credit union laws of the various states of incorporation of the out-of-State credit unions in addition to the provisions of this act.*

(1) The board of directors of each of the credit unions [or], Federal credit unions *or out-of-State credit unions* which desire to merge or consolidate shall, by resolution adopted by at least a majority of all the members of each board, approve a joint plan of merger or consolidation setting forth the

terms and conditions of the merger or consolidation and the mode of carrying the same into effect, the manner and basis of converting the shares of each credit union **[or]**, Federal credit union *or out-of-State credit union* into shares or other securities or obligations of the surviving or new credit union **[or]**, Federal credit union *or out-of-State credit union*, and such other details and provisions as are deemed necessary; and upon such approval shall, by resolution, direct that the plan be submitted to a vote of the members of such credit union **[or]**, Federal credit union *or out-of-State credit union* entitled to vote thereon at an annual or special meeting of the members to be held on not less than fifteen days' prior written notice thereof given to each member of record, which notice shall state the place, day, hour and purpose of the meeting and shall have, included therein or enclosed therewith, a copy or summary of the plan of merger or consolidation. The plan of merger or consolidation, to form a surviving or new credit union **[or]**, Federal credit union *or out-of-State credit union*, shall be ratified upon receiving, *if the credit union is not the surviving institution*, the affirmative vote of at least a majority of the members voting thereon *or upon receiving, if the credit union is the surviving institution, the affirmative vote of at least a majority of the board of directors voting thereon. The plan of merger or consolidation shall be ratified* in each of the merging or consolidating credit unions **[and]**, Federal credit unions *and out-of-State credit unions and shall be ratified under applicable Federal or State law.*

(2) Upon the approval, pursuant to the provisions of this act, of the plan of merger or consolidation by the members of the credit unions **[and]**, Federal credit unions *and out-of-State credit unions* desiring to merge or consolidate, articles of merger or consolidation shall be executed under the seal of each credit union **[and]**, Federal credit union *and out-of-State credit union* and verified by two duly authorized officers of each credit union **[and]**, Federal credit union *and out-of-State credit union*, and shall set forth:

(a) The name and exact location of the principal place of business of the surviving or new credit union **[or]**, Federal credit union *or out-of-State credit union*;

(b) The time and place of the meeting of the board of directors at which the plan of merger or consolidation was proposed, the time and place of the meeting of the members of each credit union **[and]**, Federal credit union *and out-of-State credit union* at which the plan of merger or consolidation was ratified, the kind and period of notice given to the members, and the total vote by which the plan was approved, ratified or adopted;

(c) In the case of a merger into a surviving credit union, any changes desired to be made in the articles of the surviving credit union, or, in the case of a consolidation into a new credit union, all of the statements required by this act to be set forth in the original articles in the case of the formation of a credit union;

(d) The number, names and addresses of the persons to be the first directors of the surviving or new credit union **[or]**, Federal credit union *or out-of-State credit union*;

(e) The plan of merger or consolidation.

(3) The articles of merger or consolidation shall be filed with the Department of Banking which, immediately upon receipt thereof, shall conduct such investigation as may be deemed necessary to ascertain from the best sources at its command:

(a) Whether, if the articles are articles of consolidation, the name of the proposed new credit union **[or]**, Federal credit union *or out-of-State credit union* conforms with the requirements of law for the name of a credit union, and whether it is the same as one already adopted or reserved by another corporation or person, or is so similar thereto that it is likely to mislead the public;

(b) Whether, if the merger or consolidation includes one or more Federal credit unions, all requirements of the laws of the United States pertaining thereto have been complied with;

(c) Whether the interests of members and creditors are adequately protected;

(d) Whether the credit unions including the surviving or new credit union, have met all of the requirements of this act and have violated none of its prohibitions applicable to a credit union incorporated under this act;

(e) Whether, if the merger or consolidation includes an out-of-State credit union, there is compliance with the applicable requirements of the law of the state of incorporation of the out-of-State credit union.

(4) Within sixty days after receipt of the articles of merger or consolidation, the Department of Banking shall, upon the basis of the facts disclosed by its investigation, either approve or disapprove such articles. If the department approves the articles, it shall register its approval thereon and shall forthwith forward them to the Department of State for filing; and immediately upon receipt thereof, the Department of State shall file the articles and shall issue to the surviving or new credit union a certificate of merger or consolidation. The merger or consolidation shall become effective immediately upon such filing and the surviving or new credit union **[or]**, Federal credit union *or out-of-State credit union* shall be vested with all the assets and shall have all the rights, privileges, immunities and franchises and shall be responsible for all the obligations of the merging or consolidating credit unions **[and]**, Federal credit unions *and out-of-State credit unions*; but otherwise, if such surviving or new credit union shall be a Federal credit union *or an out-of-State credit union*, upon such filing by the Department of State, the surviving or new Federal credit union *or out-of-State credit union* shall no longer be subject to the provisions of this act. If the Department of Banking shall disapprove the articles, it shall return them to the credit union **[or]**, Federal credit union *or out-of-State credit union* from which they were received, stating the reasons for such disapproval.

Section 13. The heading and subsection C of section 28 of the act are amended and the section is amended by adding a subsection to read:

Section 28. **[Voluntary] Dissolution.**—* * *

C. The liquidating trustee or trustees shall proceed in the manner provided by **[regulation of]** the Department of Banking to gather the assets,

determine the liabilities, and distribute the assets of the credit union until its affairs are fully adjusted and wound up. *Under this subsection the department shall set forth the order of the distribution of the assets. The provisions of this subsection on distribution of assets apply whether the dissolution is voluntary or involuntary.*

C.1. The liquidating trustee or trustees shall notify all creditors and members appearing on the records of the association, by notice sent to or given at the address appearing for such creditor or member on the records or, if no address appears there, at the last known address of the creditor or member, of the amount which the records show to be due such member or creditor. The liquidating trustee or trustees shall also advertise, once a week for three consecutive weeks in a newspaper of general circulation and in a legal newspaper, if any, in the county in which the credit union is located, that the credit union is liquidating pursuant to a plan of voluntary liquidation. The advertisement shall set forth a date not less than ninety days after the date of the first published advertisement before which all creditors or members must present their claims, under oath or affirmation, to the trustee or trustees or be bound by the amount shown on the records of the credit union to be due them. Thereafter all claims shall be permanently barred. Any claim which is rejected or disallowed by the trustee or trustees shall be barred unless suit is instituted thereon within ninety days after mailing of the notice of rejection or disallowance.

* * *

Section 14. Section 30 of the act, amended June 23, 1978 (P.L.525, No.88), is amended to read:

Section 30. Restrictions.—It shall be unlawful hereafter for any person, association, copartnership, or corporation, except corporations organized in accordance with the provisions of this act, *the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.) or a state credit union statute*, to assume and use the words “credit union” in their name or title, or to operate in the manner of a credit union. Any person, copartnership, or corporation violating the provisions of this section by using a name or title containing the words “credit union” or any other derivation thereof or representing themselves in their advertising or otherwise conducting business as a credit union, with the exception of a credit union organized under the provisions of this act [or, the Federal Credit Union Act [(12 U.S.C. § 1751 et seq.)] or a state credit union statute, or an association of credit unions[, shall be guilty of a misdemeanor, and] shall, for each offense, be [punishable by] subject to a [fine] penalty levied by the department which shall not be less than [ten dollars (\$10)] one thousand dollars (\$1,000) nor more than [one thousand dollars (\$1000)] ten thousand dollars (\$10,000).], or by imprisonment for a period which shall not be less than three months nor more than two years, or both, in the discretion of the court.] The officers of a corporation shall be liable to such punishment if the offense is committed by a corporation. *This section shall be enforced by the Department of Banking. In addition, a credit union, Federal credit union or out-of-State credit union, or an association of these institutions, may institute a civil action arising out of a violation of this section.*

Section 15. The act is amended by adding a section to read:

Section 31.1. Out-of-State Credit Unions.—A. *A credit union organized in another state may conduct business as a credit union in this Commonwealth with the approval of the Department of Banking as long as a credit union chartered under the laws of this Commonwealth is permitted to do business in the state in which the credit union is organized. To grant approval the Department of Banking must find that the out-of-State credit union:*

- (1) Is a credit union organized under a statute similar to this act;*
- (2) Is financially solvent;*
- (3) Has required account insurance acceptable to the Department of Banking;*
- (4) Is effectively examined and supervised by the regulatory authority of the state in which it is organized; and*
- (5) Needs to conduct business in this Commonwealth to adequately serve its members in this Commonwealth.*

B. *To conduct business in this Commonwealth, an out-of-State credit union must agree to:*

- (1) Grant loans at rates not higher than those permitted for credit unions incorporated under this act;*
- (2) Comply with the same consumer protection provisions that apply to credit unions incorporated under this act; and*
- (3) Designate and maintain an agent in this Commonwealth for service of process.*

C. *The Department of Banking may examine an out-of-State credit union:*

- (1) To the same extent that a Pennsylvania credit union is examined by the regulatory agency with jurisdiction over credit unions in the state in which the out-of-State credit union is incorporated; or*
- (2) Pursuant to an agreement between the Department of Banking and the regulatory agency with jurisdiction over credit unions in the state in which the out-of-State credit union is incorporated.*

D. *The Department of Banking may require, as a condition for permitting an out-of-State credit union to operate or to continue to operate in this Commonwealth, that the regulatory agency with jurisdiction over the out-of-State credit union furnish reports of examination regarding the out-of-State credit union to the Department of Banking.*

E. *The Department of Banking may revoke the approval of an out-of-State credit union to conduct business in this Commonwealth if the department finds that:*

- (1) The out-of-State credit union no longer meets the requirements of subsection A;*
- (2) The out-of-State credit union has violated Pennsylvania statutes or regulations or orders of the department;*
- (3) The out-of-State credit union has engaged in a pattern of unsafe or unsound credit union practices; or*
- (4) Continued operation by the out-of-State credit union is likely to have a substantially adverse impact on the financial, economic or other interests of residents of this Commonwealth served by the out-of-State credit union.*

Section 16. This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A. D. 1989.

ROBERT P. CASEY