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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO FINANCIAL INSTITUTIONS

Introduced By: Representative Brian P. Kennedy

Date Introduced: May 17, 2011

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-2-11 of the General Laws in Chapter 19-2 entitled "Creation and
2 Expansion" is hereby repealed.

3 ~~19-2-11. Establishment of branches. -- Any financial institution or credit union may~~
4 ~~establish a branch or branches within this state at any other place than its main office upon~~
5 ~~obtaining the approval of the director or the director's designee. The director or the director's~~
6 ~~designee shall decide, upon consideration of factors consistent with the creation of the financial~~
7 ~~institution or credit union, whether to issue a certificate of public convenience and advantage.~~

8 SECTION 2. Section 19-2-12 of the General Laws in Chapter 19-2 entitled "Creation and
9 Expansion" is hereby amended to read as follows:

10 ~~19-2-12. Relocation of branches. -- (a)~~ Any financial institution or credit union may
11 relocate a branch upon sixty (60) days prior written notice to the director or the director's
12 designee, ~~upon written application to the director or the director's designee~~, provided that the
13 relocated branch is:

14 (1) To be located within the same city or town as the existing branch; or

15 (2) To be located within a one mile radius of the existing branch; and

16 (3) The existing branch will be closed upon construction and/or occupancy of the
17 relocated branch.

18 ~~(b) The director or the director's designee shall review all written applications for~~
19 ~~relocation of branches and may approve these applications at his or her discretion.~~

1 SECTION 3. Section 19-5-25 of the General Laws in Chapter 19-5 entitled "Credit
2 Unions" is hereby repealed.

3 ~~19-5-25. Exercise of same powers as federal credit unions. -- A credit union may~~
4 ~~engage in any activity authorized by law or regulation for federal credit unions which, in the~~
5 ~~opinion of the director or the director's designee, is not unsafe and unsound for the credit union.~~

6 SECTION 4. Sections 19-5-10, 19-5-13 and 19-5-15 of the General Laws in Chapter 19-5
7 entitled "Credit Unions" are hereby amended to read as follows:

8 ~~19-5-10. Appointment and term of credit committee members~~ **Credit Committee. --**
9 ~~The board of directors shall appoint a credit committee of no fewer than three (3) members, who~~
10 ~~shall serve at the pleasure of the board of directors.~~ If the bylaws provide for a credit committee,
11 then pursuant to the provisions of the bylaws, the board of directors may appoint, or the members
12 may elect, a credit committee which shall consist of an odd number of members of the credit
13 union. The method used shall be set forth in the bylaws.

14 **19-5-13. Loan applications. --** The credit committee or duly appointed loan officer shall
15 approve, in writing, every loan or advance made by the credit union, subject to any limitations
16 which may be set from time to time by the board of directors. Every application for a loan shall
17 be made in writing and shall state the purpose for which the loan is desired and the security
18 offered. No loan shall be made unless the credit committee or loan officer is satisfied that it
19 promises to benefit the borrower, nor unless it has been approved by the committee or duly
20 appointed loan officer in accordance with applicable credit union bylaw provisions. The applicant
21 for a loan may appeal the decision of the credit committee or loan officer to the board of
22 directors. If written approval of the credit committee or loan officer is obtained, nothing
23 contained in this section shall prevent a credit union from extending credit to a member in any
24 manner in which it sees fit; provided that no extension of credit shall be made upon an unsecured
25 revolving credit plan, line of credit, or letter of credit in which the credit authorization exceeds
26 five thousand dollars (\$5,000), unless the credit authorization is reviewed at least annually by the
27 credit committee, if one exists, or by the board of directors.

28 **19-5-15. Investment of funds -- Powers. --** The capital, deposits, and surplus of the
29 credit union shall be lent to the members for the purposes and upon the security and terms as the
30 credit committee shall approve, as authorized by a written loan policy, duly adopted by the board
31 of directors. Funds not used in loans to members may be deposited in authorized reserve agents,
32 or invested in the same manner as allowed by the national credit union administration rules and
33 regulations, or in the following manner:

34 (1) Without limitation, in securities issued as direct obligations of the United States

1 government and in securities guaranteed by the United States government or an agency thereof,
2 as to principal and interest, and in any trust or trusts established for investing directly or
3 collectively in these securities only;

4 (2) An amount not exceeding one third (1/3) of the assets may be invested in:

5 (i) Investments other than those described above but which are legal for the investment
6 of funds of financial institutions of this state, subject to the same limitations and restrictions by
7 which financial institutions are governed, provided that credit unions with assets of less than ten
8 million dollars (\$10,000,000) may not invest pursuant to the "prudent person" provisions.

9 (ii) Deposits in financial institutions incorporated under the laws of this state or under
10 federal law and doing business in this state or in those other institutions that may be approved by
11 the director or the director's designee.

12 (iii) Any corporation incorporated by CUNA International, Inc. or its successor, or any
13 associated or subsidiary corporation, for the purpose of providing investment opportunity for
14 credit unions, or any investment or interlending program managed or sponsored by any of these
15 corporations; provided that deposit or investment under this subsection shall be made only after
16 the director or the director's designee has approved the corporation for investment, or the
17 investment or interlending program.

18 (iv) Common or preferred stocks other than those permitted above to the extent of not
19 over five percent (5%) of the assets of investing credit unions with assets less than ten million
20 dollars (\$10,000,000) and to the extent of not over ten percent (10%) of the assets of investing
21 credit unions with assets of ten million dollars (\$10,000,000) or more; provided, however, that
22 any of these securities shall be listed on a national stock exchange or on the National Market
23 System of the NASDAQ stock market; that dividends have been paid by the corporation issuing
24 the security and any predecessor corporation or corporations for at least four (4) of the last five
25 (5) years; that the issuing corporation has, as shown by its last audited statement, total assets of at
26 least one hundred million dollars (\$100,000,000), and a stockholders' equity of not less than forty
27 percent (40%) of the amount of its total assets; and provided, further, that the security shall have
28 been approved for investment by the director or the director's designee. The director or the
29 director's designee shall have absolute discretion in approving individual securities, provided they
30 meet the requirements set forth above. No credit union shall invest in securities under the terms of
31 this subdivision unless it shall have at least one million dollars (\$1,000,000) in total assets as
32 shown by its last annual report. No credit union shall invest more than one percent (1%) of its
33 assets in any one security under the terms of this section.

34 (v) Funds not used in loans to members may be invested in capital shares, obligations,

1 preferred stock issues of any agency or association organized either as a stock company, mutual
2 association, or membership corporation, provided the membership or stockholding, as the case
3 may be, of the agency or association is confined or restricted to credit unions or organizations of
4 credit unions, and provided the purposes for which the agency or association is organized are
5 designed to serve or otherwise assist credit union operations and provided the ~~director or the~~
6 ~~director's designee has approved this~~ investment is authorized by law or regulation for federal
7 credit unions, including, without limitation, an investment in credit union service organizations
8 ("CUSO") as described in subsection 19-5-15(2)(vi).

9 (vi) Subject to the department of business regulation and the National Credit Union
10 Administration's power to limit any CUSO activities or services at any time based upon
11 supervisory, legal or safety and soundness reasons or to refuse to permit any CUSO activities or
12 services, a credit union may invest in, loan to and/or contract with only those CUSOs that are
13 sufficiently bonded or insured for their specific operations and engaged in the preapproved
14 activities and services related to the routine daily operations of credit unions. The director, or
15 director's designee, shall promulgate regulations delineating specific preapproved activities and
16 criteria.

17 In applying the limitations and restrictions as to percentages prescribed in the law
18 governing investments by financial institutions, percentages shall be computed based on the total
19 assets of the credit union.

20 (3) Every credit union shall have the power to exercise, by its board of directors or duly
21 authorized officers or agents, all incidental powers necessary to carry on the business of a credit
22 union including, but not limited to, the power:

23 (i) To receive, upon deposit and for safekeeping, property of every description, upon
24 terms prescribed by the credit union and to construct, own, lease, and maintain safe deposit
25 vaults, with suitable boxes and places for the reception and deposit of the property, and lease the
26 use of these places and boxes to individuals and corporations, upon those terms that the credit
27 union may prescribe. The credit union shall in no case incur any liability on account of the
28 deposit of any property so made with it, or by reason of the leasing of any place of deposit, other
29 than that liability as the credit union shall expressly assume in each case by the terms of the
30 contract or receipt under which it shall accept the deposit or shall have let the place of deposit;

31 (ii) To act as a depository of public money or a financial agent; ~~and~~

32 (iii) To purchase, sell and pledge eligible obligations and assets as set forth in section 19-
33 5-15.1; and

34 (iv) ~~(iii)~~ To exercise additional powers, not inconsistent with the carrying on of a credit

1 union business, with the approval of the director or the director's designee.

2 SECTION 5. Chapter 19-5 of the General Laws entitled "Credit Unions" is hereby
3 amended by adding thereto the following section:

4 **19-5-15.1. Purchase, sale and pledge of eligible obligations and assets.** (a) For
5 purposes of this section:

6 (1) "Eligible Obligation" means a loan or group of loans.

7 (2) "Student loan" means a loan granted to finance the borrower's attendance at an
8 institution of higher education or at a vocational school, which is secured by and on which
9 payment of the outstanding principal and interest has been deferred in accordance with the
10 insurance or guarantee of the federal government, of a state government, or any agency of either.

11 (b) Purchase.

12 (1) A credit union may purchase, in whole or in part, within the limitations of the board
13 of directors' written purchase policies:

14 (i) Eligible obligations of its members, from any source, if either:

15 (A) They are loans it is empowered to grant; or

16 (B) They are refinanced with the consent of the borrowers, within sixty (60) days after
17 they are purchased, so that they are loans it is empowered to grant;

18 (ii) Eligible obligations of a liquidating credit union's individual members, from the
19 liquidating credit union;

20 (iii) Student loans, from any source, if the purchaser is granting student loans on an
21 ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool
22 of such loans to be sold or pledged on the secondary market;

23 (iv) Real estate-secured loans, from any source, if the purchaser is granting real estate-
24 secured loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's
25 packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. A
26 pool must include a substantial portion of the credit union's members' loans and must be sold
27 promptly; and

28 (v) An indirect lending or indirect leasing arrangement shall be classified as a loan and is
29 not the purchase of an eligible obligation because the credit union makes the final underwriting
30 decision and the sales or lease contract is assigned to the credit union very soon after it is signed
31 by the member and the dealer or leasing company.

32 (2) A credit union may make purchases in accordance with this section (b), provided:

33 (i) The board of directors approves the purchase;

34 (ii) A written agreement and schedule of the eligible obligations covered by the

1 agreement are retained in the purchaser's office; and

2 (iii) For purchases under paragraph (b)(1)(ii) of this section, any advance written
3 approval required by the national Credit Union Association Administration is obtained before
4 consummation of such purchase.

5 (3) The aggregate of the unpaid balance of eligible obligations purchased under
6 paragraph (b) of this section shall not exceed five percent (5%) of the unimpaired capital and
7 surplus of the purchaser. The following may be excluded in calculating this five percent (5%)
8 limitation:

9 (i) Student loans purchased in accordance with paragraph (b)(1)(iii) of this section;

10 (ii) Real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section;
11 and

12 (iii) Eligible obligations purchased in accordance with paragraph (b)(1)(i) of this section
13 that are refinanced by the purchaser so that it is a loan it is empowered grant;

14 (c) Sale. A credit union may sell, in whole or in part, to any source, eligible obligations of
15 its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this
16 section, student loans purchased in accordance with paragraph (b)(1)(iii) of this section, and real
17 estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the
18 limitations of the board of directors' written sale policies, provided:

19 (1) The board of directors approves the sale; and

20 (2) A written agreement and a schedule of the eligible obligations covered by the
21 agreement are retained in the seller's office.

22 (d) Pledge.

23 (1) A credit union may pledge, in whole or in part, to any source, eligible obligations of
24 its members, eligible obligations purchased in accordance with paragraph (b)(1)(ii) of this
25 section, student loans purchased in accordance with paragraph (b)(1)(iii) of this section, and real
26 estate loans purchased in accordance with paragraph (b)(1)(iv) of this section, within the
27 limitations of the board of directors' written pledge policies, provided:

28 (i) The board of directors approves the pledge;

29 (ii) Copies of the original loan documents are retained; and

30 (iii) A written agreement covering the pledging arrangement is retained in the office of
31 the credit union that pledges the eligible obligations.

32 (2) The pledge agreement shall identify the eligible obligations covered by the
33 agreement.

34 (e) Servicing. A credit union may agree to service any eligible obligation it purchases or

1 sells in whole or in part.

2 (f) Ten percent (10%) limitation. The total indebtedness owing to any credit union by any
3 person, inclusive of retained and reacquired interests, shall not exceed ten percent (10%) of its
4 impaired capital and surplus.

5 (g) Conflicts of Interest.

6 (1) No credit union official, employee, or their immediate family member may receive,
7 directly or indirectly, any compensation in connection with that credit union's purchase, sale, or
8 pledge of an eligible obligation under the provisions of this section.

9 (2) Permissible payments. This section does not prohibit:

10 (i) A credit union's payment of salary to employees;

11 (ii) A credit union's payment of an incentive or bonus to an employee based on the credit
12 union's overall financial performance;

13 (iii) A credit union's payment of an incentive or bonus to an employee, other than a senior
14 management employee, in connection with that credit union's purchase, sale or pledge of an
15 eligible obligation. This payment is permissible if the board of directors establishes a written
16 policy and internal controls for the incentive or bonus program and monitors compliance with the
17 policy and controls at least annually; and

18 (iv) Payment by a person other than the credit union of compensation to a volunteer
19 official, non-senior management, employee, or their immediate family member, for a service or
20 activity performed outside the credit union provided that the credit union, the official, employee,
21 or their immediate family member has not made a referral.

22 (3) Business associates and family members. All transactions under this section with
23 business associates or family members not specifically prohibited by subdivision (g)(1) of this
24 section must be conducted at arm's length and in the interest of the credit union.

25 (4) Definitions.

26 (i) "Compensation" includes non-monetary items, except those of nominal value.

27 (ii) "Immediate family member" means a spouse or other family member living in the
28 same household.

29 (iii) "Official" means any member of the board of directors or a volunteer committee.

30 (iv) "Person" means an individual or an organization.

31 (v) "Senior management employee" means the credit union's chief executive officer
32 (typically, this individual holds the title of President or Treasurer/Manager), any assistant chief
33 executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager), and
34 the chief financial officer (Comptroller).

1 (vi) "Volunteer official" means an official of a credit union who does not receive
2 compensation from the credit union solely for his or her service as an official.

3 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FINANCIAL INSTITUTIONS

1 This act would allow credit unions to purchase, sell, and pledge loans or groups of loans
2 under certain circumstances and would provide for conflicts of interest provisions with respect to
3 the foregoing. This act would further provide that the total indebtedness owing to any credit union
4 by any person shall not exceed ten percent (10%) of its impaired capital and surplus.

5 This act would take effect upon passage.

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