

HOUSE No. 4031

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 7, 2014.

The committee on Financial Services to whom was referred the petition (accompanied by bill, House, No. 962) of Eugene L. O'Flaherty relative to the establishment and regulation of credit union branches, reports recommending that the accompanying bill (House, No. 4031) ought to pass.

For the committee,

MICHAEL A. COSTELLO.

HOUSE No. 4031

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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 appearing in the 2012
2 Official Edition, is hereby amended by striking out the entire section and inserting in place
3 thereof the following: --

4 Section 8. The location of the main office of a credit union may be changed with the
5 written consent of the commissioner.

6 After such notice and hearing as the commissioner may require and with the
7 commissioner’s written permission and under such conditions as the commissioner may approve,
8 a credit union may establish and maintain 1 or more branch offices or depots in the county
9 wherein the main office is located, or on a site within 100 miles from the premises of the main
10 office in a city or town in another county including on a site in one of the states of Connecticut,
11 Maine, New Hampshire, New York, Rhode Island or Vermont, if in the opinion of the
12 commissioner, the public would benefit by the establishment of additional credit union facilities.
13 The establishment and maintenance of branch offices or depots in any one of the foregoing states
14 shall also be established and maintained in accordance with the laws of such state. Any of the
15 usual business transacted by a credit union at its main office may be transacted at a branch office.
16 The business at a depot shall be transacted only on such days as may be designated by the board
17 of directors and shall be limited to the receipt of deposits and the collection of moneys due or
18 payable to the credit union, and such business shall be subject to such other conditions, if any, as
19 may be prescribed by the commissioner. Credit unions shall not submit more than 1 out-of-state
20 branch application for the commissioner’s review in any 12 month period.

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

23 The offices of any credit union consolidating or merging pursuant to section 78 may be
24 maintained as branch offices of such credit union, with the written permission of and under such
25 conditions, if any, as may be approved by the commissioner.

26 Mobile branch banking may be authorized by the commissioner under conditions the
27 commissioner may approve and subject to regulations the commissioner may establish.

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

30 Section 8A. Any foreign credit union or out-of-state federal credit union, as defined in
31 section 1 of this chapter, doing business similar to any business referred to in section 2 of this
32 chapter, may establish and maintain branch offices or depots in the commonwealth, if such
33 foreign credit union or out-of-state federal credit union is expressly authorized to do so by the
34 laws under which it is organized and operates; provided, that the laws of the state in which such
35 credit unions have their principal place of business expressly authorize, under conditions no
36 more restrictive than those imposed by this chapter as determined by the commissioner,
37 Massachusetts credit unions to establish and maintain branches and depots therein. Such foreign
38 credit unions and out-of-state federal credit unions shall establish and maintain branches or
39 depots in Massachusetts, in accordance with the same laws which govern such activities by
40 Massachusetts credit unions; provided, that the initial branch office other than one established
41 pursuant to chapter 167B, or, if more than one, the branch deemed to be the initial office by such
42 entities, shall be considered the main office in the commonwealth for the purposes of
43 determining the geographical limitations on the establishment of branch offices.

44 For purposes of this section and sections 8B through 8G, inclusive, the terms “foreign
45 credit union” and “out-of-state federal credit union” shall mean a credit union with its principal
46 place of business in one of the states of Connecticut, Maine, New Hampshire, New York, Rhode
47 Island or Vermont.

48 Section 8B. Any credit union, federal credit union, foreign credit union, or out-of-state
49 federal credit union with a branch office in the commonwealth may establish educational credit
50 union training programs, student savings deposit programs and school branch office programs.
51 A credit union, federal credit union, foreign credit union or out-of-state federal credit union with
52 a branch office in the commonwealth shall conduct any such program under such terms and
53 conditions as the commissioner may establish. A federal credit union or out-of-state federal
54 credit union with a branch office in the commonwealth shall conduct any such program in
55 compliance with applicable federal law and regulations.

56 Section 8C. A foreign credit union or out-of-state federal credit union, if such credit
57 union does not operate a branch in the commonwealth, may, establish and maintain a new branch
58 in the commonwealth; provided, that such credit union submits an application in the manner and
59 form prescribed by the commissioner and the commissioner approves said application; provided,

60 further that the laws of the state in which such credit union has its principal place of business
61 expressly authorize, under conditions no more restrictive than those imposed by this chapter as
62 determined by the commissioner, a Massachusetts credit union to establish and maintain a branch
63 therein. Any such foreign credit union or out-of-state federal credit union shall operate under the
64 supervision of the commissioner and in accordance with all applicable laws governing
65 Massachusetts credit unions, including all rules and regulations promulgated thereunder.

66 Any out-of-state federal credit union shall operate the same as a federal branch which
67 shall be subject to all laws of the commonwealth relative to community reinvestment, consumer
68 protection, fair lending, establishment of intra-state branches, including but not limited to,
69 sections 1 to 14A, inclusive, of chapter 93, and the applicable sections of chapters 93A, 167,
70 167B, 171, 183 and 184, including all rules and regulations promulgated thereunder, and to such
71 other laws of the commonwealth as are applicable to a federal credit union with its main office in
72 the commonwealth.

73 Section 8D. The commissioner shall, in the manner prescribed in section 2 of chapter
74 167, examine any foreign credit union or out-of-state federal credit union that operates a
75 Massachusetts branch and shall inspect and examine the affairs of any such credit union, to the
76 extent of its operations in the commonwealth, to ascertain its financial condition and whether it
77 has complied with all applicable laws. The lawful charges incurred by reason of any such
78 examination shall be paid by such credit union examined. The commissioner shall preserve a
79 full record of each such examination. Records and information contained in the report of any
80 such examination, other than information required by law to be published or to be open to the
81 inspection of the public, shall be open only to the inspection of the commissioner, the
82 commissioner's examiners and assistants, and such other officers of the commonwealth as may
83 have occasion and authority to inspect them in the performance of their official duties. Nothing
84 in this section shall be construed to prohibit the required production of such records, and
85 information contained in examination reports, before any court of this commonwealth or any
86 master or auditor appointed by any such court, in any criminal or civil proceeding therein
87 pending, affecting such Massachusetts or out-of-state branch, its officers, directors or employees.

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

94 Notwithstanding the foregoing, the commissioner may enter into cooperative agreements
95 with credit union regulators in jurisdictions other than the commonwealth to facilitate the
96 regulatory supervision of Massachusetts and out-of-state branches including agreements relative
97 to the coordination of examinations or joint participation in examinations of said branches, and

98 may accept reports of examinations by such regulators pursuant to such agreements. The
99 commissioner may also enter into such agreements providing for enforcement actions against
100 Massachusetts and out-of-state branches. Any such agreement may include provisions relative to
101 the amount and assessment of fees for any such examination or enforcement actions. Nothing in
102 this section shall be construed as limiting in any way the authority of the commissioner to
103 independently conduct examinations of and enforcement actions against any Massachusetts or
104 out-of-state branch.

105 Section 8E. Each foreign credit union or out-of-state federal credit union that operates a
106 Massachusetts branch shall register with the commissioner on forms prescribed by him which
107 shall include information regarding the financial condition, operations, and management of such
108 credit union and other related matters the commissioner may deem necessary or appropriate to
109 carry out the purposes of this chapter.

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

113 Section 8F. For the purposes of section 8 E of this chapter, the commissioner or the
114 person making the examination shall have free access to the vaults, books and papers of any such
115 foreign credit union or out-of-state federal credit union, and may summon the directors, officers
116 or agents thereof, and such other witnesses as deemed necessary for examination relative to the
117 affairs, transactions and condition of such credit unions, and for that purpose is empowered to
118 administer oaths.

119 Section 8G: If, upon examination, it appears that any such foreign credit union or out-of-
120 state federal credit union is insolvent, or that its capital is impaired, or that its condition is such
121 as to render the continuance of business hazardous to the public or to those having funds in its
122 custody, the commissioner shall apply, or if any such credit union appears to have exceeded its
123 powers or failed to comply with any provision of applicable law may apply, to the supreme
124 judicial court, which shall have jurisdiction in equity on such application, to issue an injunction
125 restraining any such credit union, in whole or in part, from further proceeding with its business,
126 and to make further orders or decrees as justice and equity may require. The court may appoint
127 one or more receivers to take possession of its property and effects, subject to such directions as
128 may from time to time be prescribed by the court.

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

131 SECTION 4. Notwithstanding any general or special law to the contrary, the
132 commissioner of banks shall promulgate rules and regulations relative to the administration and
133 enforcement of this act within 180 days of the effective date of this act. Said rules and
134 regulations shall include procedures for accepting applications from qualifying credit unions for

135 approval to open a branch office pursuant to sections 1 through 3, inclusive of this act. Upon
136 promulgation of the rules and regulations required herein, the commissioner of banks shall
137 accept, from credit unions qualified pursuant to chapter 171 of the General Laws, applications
138 for approval to open a branch office as authorized pursuant to sections 1 through 3, inclusive of
139 this act.

140 SECTION 5. Sections 1 through 3, inclusive of this act shall take effect 1 year after the
141 passage of this act.

142 SECTION 6. Section 4 of this act shall take effect immediately.