

**HOUSE . . . . . No. 1026**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Michael J. Rodrigues**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act authorizing the conversion of banks to another charter.

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

8th Bristol

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT AUTHORIZING THE CONVERSION OF BANKS TO ANOTHER CHARTER.

*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. Chapter 168 of the General Laws, as appearing in the 2006 Official Edition, is  
2 hereby amended by inserting after section 34G the following section:-

3           Section 34H. A savings bank as defined in section one of chapter one hundred and sixty-seven  
4 may convert into a credit union pursuant to the provisions of section 80B of chapter 171.

5           SECTION 2. Chapter 170 of the General Laws, as so appearing, is hereby amended by inserting after  
6 section 26H the following section: -

7           Section 26I. A cooperative bank as defined in section one of chapter one hundred and sixty-seven  
8 may convert into a credit union pursuant to the provisions of section 80B of chapter 171.

9           SECTION 3. Chapter 171 of the General Laws, as so appearing, is hereby amended by inserting after  
10 section 80A the following section:-

11           Section 80B. (a) A savings bank governed by the provisions of chapter 168 or a cooperative bank  
12 governed by the provisions of chapter 170 may convert into a credit union subject to the provisions of this  
13 section. Any such conversion shall comply with all applicable federal laws and regulations.

14 (b) A savings or cooperative bank that is at least adequately capitalized and has received at least a  
15 satisfactory rating in its most recent examination for compliance at the Community Reinvestment Act  
16 may submit a detailed plan of conversion approved by 2/3 vote of the entire board of directors to the  
17 commissioner. The commissioner may require changes and additions to the plan, including but not  
18 limited to, changes to any notices, disclosures, or communications, except as required by federal law or  
19 regulation. The commissioner may prescribe regulations for any savings or cooperative banks to convert to  
20 a credit union charter. Unless waived by the commissioner, the converting savings or cooperative bank  
21 shall prepare and submit to the commissioner a conversion plan which shall include, but not be limited to:

22 (1) A 3-year business plan which shall include performance financial statements for the credit  
23 union;

24 (2) An estimated budget for conversion expenses;

25 (3) Financial statements for the most recently completed quarter;

26 (4) The manner in which the converting bank will comply with membership requirements and  
27 divest itself of customers who do not meet credit union field-of-membership limitations;

28 (5) The manner in which the converting bank will convert its board to a voluntary non-paid  
29 structure and divest its board of stock options, if any;

30 (6) The manner in which the converting bank will divest its capital stock, if any;

31 (7) The manner in which the converting bank will divest impermissible investments;

32 (8) The manner in which the converting bank will comply with branching, share and deposit  
33 limitations;

34 (9) The manner in which the converting bank will comply with organizational member and  
35 member business loan requirements under relevant state and federal provisions;

36 (10) A copy of materials forwarded to corporations or shareholders relative to voting on the  
37 plan of conversion;

38 (11) The proposed amended and restated articles of organization and bylaws of the converting  
39 bank;

40 (12) If applicable, the procedures and timing for conversion from federal deposit insurance to  
41 federal share insurance;

42 (13) If applicable, the procedures and timing for changes in relevant state excess deposit  
43 insurers; and

44 (14) Any other relevant information that the commissioner may reasonably require.

45 (c) The converting bank shall perform a complete policy review to address appraisal restrictions, lending  
46 restrictions, investment restrictions, and corporate structure restrictions, in order to ensure compliance  
47 with the provisions of this chapter and any relevant state or federal credit union regulations.

48 (d) Upon approval of a plan of charter conversion by the board of directors of the converting savings or  
49 cooperative bank, the conversion plan and certified copy of the resolution of the board of directors  
50 approving the conversion plan shall be submitted to the commissioner. Included with the plan shall be an  
51 information statement to be sent to incorporators or shareholders which shall fully and fairly disclose all  
52 significant terms and steps to be taken for the conversion and shall include but not be limited to:

53 (1) a statement as to why the board is considering the conversion.

54 (2) a statement of the major positive and negative business effects of the proposed  
55 conversion.

56 (3) the impact on the incorporators or shareholders financial and other interests in the  
57 proposed credit union.

58 (4) a disclosure of any conversion related economic benefit a director or senior  
59 management official may receive including receipt of or an increase in compensation.

60 (e) The commissioner may require changes to the plan of conversion and information  
61 statement. The commissioner may also require any equitable disclosure he determines

62 applicable to the transaction. The commissioner may specify the form, type, timing and other  
63 material aspects of the plan of reorganization and information statement to be sent to  
64 corporators and shareholders.

65 (f) The commissioner shall review the contents of the plan before the board presents the  
66 conversion plan for a vote. The commissioner shall approve the contents of the conversion plan  
67 and information statement only if the commissioner is satisfied of all of the following:

68 (1) The plan discloses information concerning the advantages and disadvantages of the  
69 proposed conversion.

70 (2) The information statement discloses the impact on the corporators or shareholders  
71 financial and other interests in the credit union.

72 (3) The conversion would not be made to circumvent a pending supervisory action that  
73 is initiated by the commissioner or other regulatory agency because of a concern over  
74 the safety and soundness of the savings or cooperative bank.

75 (g) Upon approval of the contents of the conversion plan and information statement by the  
76 commissioner, the savings or cooperative bank shall call a special meeting of the corporators or  
77 shareholders to vote on the conversion plan. At least thirty days before the meeting, the savings  
78 or cooperative bank shall mail a notice of the meeting, the conversion plan and information  
79 statement to all corporators and shareholders.

80 (h) The plan of conversion shall be approved by a majority vote of the shareholders or  
81 corporators voting. A shareholder or corporator may vote on the proposal to convert in person  
82 at the special meeting held on the date set for the vote or by ballot. The vote on the conversion  
83 proposal shall be by secret ballot and conducted by an independent entity. The independent  
84 entity shall be a company with experience in conducting corporate elections. A director of

85 officer of the savings or cooperative bank, or an immediate family member of a director or  
86 officer, shall not have an ownership interest in, or be employed by the entity.

87 (i) An officer or director thereof shall not directly or indirectly give or offer or provide a chance  
88 to win a lottery or anything of substantial value, as determined by the commissioner, to the  
89 corporators or shareholders of the bank for an action related to the conversion to a credit union  
90 or as an inducement to vote on the plan of conversion.

91 (j) The provisions on notice to corporators or shareholders and voting procedures in this section  
92 shall govern the process for converting to a credit union notwithstanding other provisions of  
93 this chapter or a by-law of the converting savings or cooperative bank to the contrary.

94 (k) If the commissioner disapproves the methods by which the vote was taken or the procedures  
95 applicable to the vote, the commissioner may direct that a new vote be taken. If the  
96 commissioner does not disapprove of the methods by which the vote was taken within 10 days  
97 after the notification is given, the vote shall be considered approved.

98 (l) Certified copies of records of all proceedings held by the board of directors and corporators  
99 and shareholders of the savings or cooperative bank shall be filed with the commissioner.

100 (m) The commissioner may authorize a credit union resulting from a charter conversion under this  
101 chapter to do the following:

102 (1) Complete any activities that the converting bank legally engaged in at the effective time of  
103 the charter conversion but that otherwise are not permissible for credit unions; and

104 (2) Retain for a transitional period any assets that the converting bank legally  
105 held at the effective time of the charter conversion that otherwise may not be held by credit  
106 unions.

107 The terms and conditions of the completion of activities under subparagraph (1) and the retention of  
108 assets under subparagraph (2) of this paragraph are subject to the discretion of the commissioner.  
109 However, the transitional period during which activities may be carried out under subparagraph (1) or  
110 assets may be retained under subparagraph (2) may not exceed ten (10) years after the effective time of  
111 the charter conversion.

112 (n) If the conversion to a credit union is approved by the board of directors and the commissioner  
113 receives notification from the converting savings or cooperative bank that all approvals required under  
114 state and federal law and regulations, including required approvals for federal share insurance by the  
115 National Credit Union Administration have been obtained, that any waiting period prescribed by federal  
116 law has expired, that membership in the Massachusetts Credit Union Share Insurance Corporation and of  
117 the share insurance fund thereof has been obtained and that all applicable payments thereto have been  
118 made as determined by the commissioner, then a certificate to transact business shall be issued by the  
119 commissioner as applicable. After receipt of the certificate to transact business, the converting savings or  
120 cooperative bank shall promptly file such certificate and its articles of organization with the secretary of  
121 state. Upon such filing, the charter of the converting savings or cooperative bank shall automatically  
122 cease, and the converting bank shall cease to be a bank and shall become a credit union. Upon such  
123 conversion, the converted credit union shall possess all the rights, privileges, and powers granted to it by  
124 its articles or organization and by the provisions of general statutes applicable to the type of credit union  
125 charter to which it converted. All of the assets and business of the converting savings or cooperative bank  
126 shall transferred to and vested in it without any deed or instrument of conveyance, provided the  
127 converting bank may execute any deed or instrument of conveyance as is convenient to confirm such  
128 transfer. The converted credit union shall be subject to all of the duties, relations, obligations, and  
129 liabilities of the converting bank, whether as debtor, depository, or otherwise, and shall be liable to pay  
130 and discharge all such debts and liabilities, to perform all such duties in the same manner and to the same  
131 extent as if the converted credit union had itself incurred the obligation or liability or assumed the duty or

132 relation. All rights of the credits of the converting savings or cooperative bank shall be preserved  
133 unimpaired, and the converted credit union shall be entitled to receive, collect, accept, hold, and enjoy  
134 any and all gifts, bequests, devises, conveyances, and appointments in favor of or in the name of the  
135 converting savings or cooperative bank and whether made or created to take effect prior to or after the  
136 conversion.

137 (o) A person who willfully violates the disclosure provisions of this section knowing the disclosures  
138 made to be false or misleading in a material respect shall upon conviction be fined not more than \$5,000  
139 or imprisoned not more than 3 years, or both.