

HOUSE No. 2771

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

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 adoption of the accompanying bill:

An Act relative to credit union branching.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Eugene L. O'Flaherty</i>	<i>2nd Suffolk</i>	<i>1/21/2011</i>

HOUSE No. 2771

By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 2771) of Eugene L. O'Flaherty relative to the establishment and regulation of credit union branches. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 2008
2 Official Edition, is hereby amended by striking out the entire section and inserting in place
3 thereof the following: --

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

6 After such notice and hearing as the commissioner may require and with his written
7 permission and under such conditions as he may approve, a credit union may establish and
8 maintain one or more branch offices or depots at such locations determined by the commissioner
9 to be reasonably necessary to furnish service to its members within the commonwealth, or on a
10 site in one of the states of Connecticut, Maine, New Hampshire, Rhode Island or Vermont, if in
11 the opinion of the commissioner, the public would benefit by the establishment of additional
12 credit union facilities. The establishment and maintenance of branch offices or depots in any one

of the foregoing states shall also be established and maintained in accordance with the laws of such state. Any of the usual business transacted by a credit union at its main office may be transacted at a branch office. The business at a depot shall be transacted only on such days as may be designated by the board of directors and shall be limited to the receipt of deposits and the collection of moneys due or payable to the credit union, and such business shall be subject to such other conditions, if any, as may be prescribed by the commissioner.

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

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

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

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

Section 8A: Any foreign credit union or out-of-state federal credit union, as defined in section one of this chapter, doing a business similar to any business referred to in section two of this chapter, may establish and maintain branch offices or depots in the commonwealth, if such foreign credit union or out-of-state federal credit union is expressly authorized to do so by the laws under which it is organized and operates; provided that the laws of the state in which such entities have their principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as determined by the commissioner, Massachusetts

35 credit unions to establish and maintain branches and depots in such state. Such foreign credit
36 unions and out-of-state federal credit unions shall establish and maintain branches or depots in
37 the state, in accordance with the same laws which govern such activities by Massachusetts credit
38 unions; provided, that the initial branch office other than one established pursuant to chapter one
39 hundred and sixty-seven B, or, if more than one, the branch deemed to be the initial office by
40 such entities, shall be considered the main office in the commonwealth for the purposes of
41 determining the geographical limitations on the establishment of branch offices.

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

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

54 Section 8C: A foreign credit union or out-of-state federal credit union, if such credit
55 union does not operate a branch in the commonwealth, may, upon approval by the commissioner
56 of an application thereof in prescribed manner and form, establish and maintain a branch de novo

in the commonwealth; provided, however, that in each instance the laws of the jurisdiction in which such credit union has its principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as so determined by the commissioner, a Massachusetts credit union to establish therein a branch de novo. Any such foreign credit union or out-of-state federal credit union shall operate the same as a Massachusetts branch under the supervision of the commissioner and in accordance with all applicable laws which govern such activities by Massachusetts credit unions.

Any out-of-state federal credit union shall operate the same as a federal branch which shall be subject to all laws of the commonwealth relative to community reinvestment, consumer protection, fair lending, establishment of intra-state branches, including but not limited to, sections one to fourteen A, inclusive, of chapter ninety-three, and the applicable sections of chapters ninety-three A, one hundred and sixty-seven, one hundred and sixty-seven B, one hundred and seventy-one, one hundred and eighty-three and one hundred and eighty-four, including all rules and regulations promulgated thereunder, and to such other laws of the commonwealth as are applicable to a federal credit union with its main office in the commonwealth.

Section 8D: The commissioner shall, in the manner prescribed in chapter one hundred and sixty-seven, section two, examine every foreign credit union and any out-of-state federal credit union which operates a Massachusetts branch and shall inspect and examine the affairs of any such foreign credit union or out-of-state federal credit union, to the extent of its operations in the commonwealth, to ascertain its financial condition and whether it has complied with all applicable law. The lawful charges incurred by reason of any such examination shall be paid by such credit union examined. The commissioner shall preserve a full record of each such

80 examination. Such records and information contained in the report of any such examination,
81 other than information required by law to be published or to be open to the inspection of the
82 public, shall be open only to the inspection of the commissioner, his examiners and assistants,
83 and such other officers of the commonwealth as may have occasion and authority to inspect them
84 in the performance of their official duties. Nothing in this section shall be construed to prohibit
85 the required production of such records, and information contained in examination reports,
86 before any court of this commonwealth or any master or auditor appointed by any such court, in
87 any criminal or civil proceeding therein pending, affecting such Massachusetts or out-of-state
88 branch, its officers, directors or employees.

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

95 Notwithstanding the foregoing, the commissioner may enter into cooperative agreements
96 with credit union regulators in jurisdictions other than the commonwealth to facilitate the
97 regulatory supervision of Massachusetts and out-of-state branches including agreements relative
98 to the coordination of examinations or joint participation in examinations of said branches, and
99 may accept reports of examinations by such regulators pursuant to such agreements. The
100 commissioner may also enter into such agreements providing for enforcement actions against
101 Massachusetts and out-of-state branches. Any such agreement may include provisions relative to
102 the amount and assessment of fees for any such examination or enforcement actions. Nothing in

103 this section shall be construed as limiting in any way the authority of the commissioner to
104 independently conduct examinations of and enforcement actions against any Massachusetts or
105 out-of-state branch.

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

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

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

120 Section 8G: If, upon examination, it appears that any such foreign credit union or out-of-
121 state federal credit union is insolvent, or that its capital is impaired, or that its condition is such
122 as to render the continuance of business hazardous to the public or to those having funds in its
123 custody, the commissioner shall apply, or if any such credit union appears to have exceeded its
124 powers or failed to comply with any provision of applicable law may apply, to the supreme

125 judicial court, which shall have jurisdiction in equity on such application, to issue an injunction
126 restraining any such credit union, in whole or in part, from further proceeding with its business,
127 and to make further orders or decrees as justice and equity may require. The court may appoint
128 one or more receivers to take possession of its property and effects, subject to such directions as
129 may from time to time be prescribed by the court.

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