

HOUSE No. 921

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Nangle

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 enhancing fair competition among financial institutions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>1/15/2015</i>

HOUSE No. 921

By Mr. Nangle of Lowell, a petition (accompanied by bill, House, No. 921) of David M. Nangle relative to further regulating credit unions and competition among financial institutions. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act enhancing fair competition among financial institutions.

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 171 of the general Laws is hereby amended by striking out Section
2 10, as appearing in the 2012 Official Edition, and inserting in place thereof the following four
3 sections:—

4 Section 10. The by-laws may be amended at any annual meeting, or at a special meeting
5 called for the purpose, by a majority vote of all of the members present and entitled to vote;
6 provided, however, that the notice of the meeting and of the proposed amendment is given each
7 member in the manner prescribed in said by-laws. No amendment or amendments containing a
8 change in the location, or change in name shall become operative until approved in writing by
9 the commissioner.

10 The by-laws containing the conditions of residence, occupation, or association that
11 qualify persons for membership may be amended by a three-fourths vote of all of the members
12 present and entitled to vote. The membership vote may only be held at the annual meeting;

13 provided, that it may be held at a special meeting called for the purpose of a merger if the
14 membership by-law amendment is a necessary component of the merger. No such amendment
15 shall become operative until an application is submitted to and approved in writing by the
16 commissioner. The vote of the credit union's members must occur prior to the submission of an
17 application and a certified copy of the vote shall be submitted with the application. If the
18 commissioner approves the membership by-law amendment it shall become effective 90 days
19 after such approval.

20 Section 10A. The application to amend a credit union membership by-law shall include
21 the following information:

22 (1) a detailed statement as to why the credit union is seeking the membership by-law
23 amendment, the extent it has been discussed by the board and discussed with the membership;

24 (2) the complete existing membership by-law;

25 (3) the complete membership by-law as proposed to be amended with all
26 amendments and wording changes printed in bold letters;

27 (4) the total current membership of the credit union and projections on how the by-
28 law amendment will change the number of members over the next three and five years;

29 (5) an estimated budget for the next three and five years to implement the
30 membership by-law amendment, including but not limited to, marketing and advertizing, staffing
31 levels, operation expenses and other costs related to increased membership;

32 (6) a copy of the credit union's membership qualification verification policy required
33 by section 10B; and

34 (7) such other relevant information that the commissioner may require.

35 Upon a determination that a membership by-law amendment application is complete, the
36 commissioner shall require the credit union to publish and post a notice of the application as
37 follows. Such notice shall include the credit union's complete membership by-law with all
38 amendments and wording changes printed in bold letters. The notice shall be:

39 (1) published twice in a newspaper determined by the commissioner;

40 (2) posted in a conspicuous place in the lobby of each office of the credit union upon
41 receipt from the commissioner and through the end of the public comment period, and

42 (3) posted on the credit union's website for the designated comment period.

43 The commissioner shall post any such application on its website on a monthly basis. The
44 posting shall include the credit union's complete membership by-law with all amendments and
45 wording changes printed in bold letters. The commissioner shall establish a public comment
46 period on the application. Such comment period shall at a minimum be for 60 days after the first
47 newspaper publication, unless circumstances warrant a shorter period, as determined by the
48 commissioner, but in no event less than 50 days. The commissioner shall hold a public hearing
49 on the application if a written or electronic request for a hearing is received prior to the close of
50 the public comment period.

51 In deciding whether or not to approve an application, the commissioner shall determine
52 whether or not competition among financial institutions will be unreasonably affected and
53 whether public convenience and advantage will be promoted. In making such determination, the
54 commissioner shall consider, but not be limited to, the impact a membership by-law expansion,

55 if approved, will have on the successful operation and financial stability of existing community
56 banks and credit unions that may be affected by the expansion, as determined by the
57 commissioner.

58 Section 10B. A credit union shall establish a written policy that the credit union will
59 follow to verify that a person meets the qualifications for membership. The policy must identify
60 the specific documents the credit union will accept for verification of residency, occupation,
61 association, work location, family relationship or other membership criteria specified in the by-
62 law. The policy shall be posted on the credit union's website and made available for public
63 inspection at each office of the credit union. For each new member, a credit union shall retain a
64 copy of the document used to verify a person's qualification for membership. Such
65 documentation shall be maintained and segregated on a calendar quarter and annual basis for
66 review by examiners.

67 At each examination of a credit union for safety and soundness, community reinvestment,
68 or compliance the examiners shall review the most recent quarterly or annual files since the most
69 recent examination documenting new members and adherence to policy. If any individual is
70 determined by examiners to fail to meet membership qualification the credit union shall
71 terminate any deposit or share account relationship and sell any loan made to such an individual.
72 The time period for such termination and sale, if any, shall be determined by the commissioner.

73 If the commissioner finds during any examination that three or more individuals did not
74 meet membership eligibility such finding shall adversely impact the examination ratings of the
75 management of the credit union and its sensitivity to risk. The commissioner shall immediately

76 rate the credit union as in Substantial Noncompliance under community reinvestment. The
77 Commissioner may take such other action as he deems necessary.

78 Section 10C. Annually by January 31, a credit union that has had a membership
79 qualification by-law amendment approved during the prior year shall file a report to the
80 commissioner. The report shall include the total membership increase, if any, resulting from the
81 expanded membership by-law. The form of the report and the information to be reported therein
82 shall be proscribed by the commissioner. A report shall be filed for the five calendar years after
83 the most recent membership by-law approval.

84 Annually, on or before March 31, the commissioner shall file a written report to the
85 General Court relative to credit union membership applications received in the previous year.
86 The report shall include the record of membership by-law amendment applications received; the
87 number approved, disapproved or pending; and the number of applications changed in response
88 to the commissioner's review and the nature of the changes. The commissioner shall include an
89 analysis of the amendments as to the nature of the qualifications applied for, including but not
90 limited to geographical, occupational, association or family relationship; the activity for the year
91 as well as any trends observed by the commissioner. The report shall comment on the number of
92 responses the commissioner received during the public comment periods. A copy of each notice
93 of a membership by-law application with all amendments and wording changes in bold letters
94 shall be included with the report. The commissioner shall also include an analysis of the
95 information provided in the reports required by the first paragraph on increased membership
96 resulting from an amended membership by-law.

97 The commissioner shall include a section in the report to the General Court on
98 enforcement actions taken under section 10B. This section of the report shall specify the actions
99 taken in number and remedy but need not identify the credit union if the regulatory action was
100 taken as part of a confidential report of examination. The report shall provide the number of
101 individuals determined by the commissioner not to have been eligible for membership on a case-
102 by-case basis as well as on an aggregate basis for the review period. If necessary, the
103 commissioner may provide an estimate of the number of ineligible individuals for reporting
104 purposes.

105 The report shall be filed with the clerk of the House and the clerk of the Senate. Copies
106 shall be delivered to the House Chairman and the Senate Chairman of the Joint Committee on
107 Financial Services. The filing of the report with the General Court shall be posted for a minimum
108 of 60 days on the Division of Banks' website.