

HOUSE No. 564

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>1/18/2017</i>

HOUSE No. 564

By Mr. Nangle of Lowell, a petition (accompanied by bill, House, No. 564) of David M. Nangle relative to further regulating credit unions and enhancing fair competition among financial institutions. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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. Section 14 of chapter 167 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words “corporations
3 chartered pursuant to chapter 171 and”.

4 SECTION 2. Section 14 of said chapter 167, as so appearing, is hereby further amended
5 by inserting after the sixth paragraph the following two paragraphs:-

6 If a credit union has a geographic component in its by-law on qualifications for
7 membership in the credit union, then the examination of its record of performance under this
8 section shall assess its compliance with community reinvestment throughout the entire
9 geographic area specified in the by-law.

10 A foreign credit union applying to establish a branch office in the Commonwealth
11 pursuant to section 8A of chapter 171 shall file with the Division of Banks the credit union’s
12 assessment area for compliance with this section or a strategic plan for satisfying its continuing

13 and affirmative obligation to help meet the credit needs of the communities in the
14 Commonwealth it states it will serve.

15 SECTION 3. The first paragraph of section 6A of said chapter 171, as so appearing, is
16 hereby amended by inserting after the first sentence the following sentence:-

17 The authority granted in this section shall not allow the restrictions, limitations or
18 percentages in the General Laws to be exceeded by any designation, classification or category of
19 a credit union established by the Commissioner or the National Credit Union Administration.

20 SECTION 4. Said chapter 171 is hereby further amended by striking out Section 10, as so
21 appearing, and inserting in place thereof the following four sections:-

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

28 The by-laws containing the conditions of residence, occupation, or association that
29 qualify persons for membership may be amended by a three-fourths vote of all of the members
30 present and entitled to vote. The membership vote may only be held at the annual meeting;
31 provided, that it may be held at a special meeting called for the purpose of a merger if the
32 membership by-law amendment is a necessary component of the merger, as determined by the
33 commissioner. No such amendment shall become operative until an application is submitted to
34 and approved in writing by the commissioner. The vote of the credit union's members must

35 occur prior to the submission of an application and a certified copy of the vote shall be submitted
36 with the application. If the commissioner approves the membership by-law amendment it shall
37 become effective 90 days after such approval.

38 In order to be a valid vote on the amendment to the membership by-law, the number of
39 members voting on the date set for the vote or voting by mail, if authorized in the by-laws, and
40 received by that date must represent five per cent of the total number of members of the credit
41 union as listed in the most recent call report filed with the National Credit Union Administration.
42 It is prohibited for a member to vote by proxy.

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

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

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

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

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

54 (5) a copy of the credit union's membership qualification verification policy required
55 by section 10B; and

56 (6) such other relevant information that the commissioner may require.

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

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

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

64 (3) posted on the credit union's website, if available, for the designated comment
65 period.

66 The commissioner shall post any such application on its website on a monthly basis. The
67 posting shall include the credit union's complete membership by-law with all amendments and
68 wording changes printed in bold letters. The commissioner shall establish a public comment
69 period on the application. Such comment period shall at a minimum be for 60 days after the first
70 newspaper publication, unless circumstances warrant a shorter period, as determined by the
71 commissioner. The commissioner shall hold a public hearing on the application if a written or
72 electronic request for a hearing is received prior to the close of the public comment period.

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

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

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

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

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

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

100 Section 10C. A credit union that has had a membership qualification by-law amendment
101 approved during the prior year shall file a report to the commissioner in the thirteenth month
102 after the Commissioner's approval of the by-law. The report shall include the total membership
103 increase, if any, resulting from the expanded membership by-law and the expenses related
104 thereto. The form of the report and the information to be reported therein shall be proscribed by
105 the commissioner. A report shall be filed for the three calendar years after the most recent
106 membership by-law approval.

107 SECTION 5. Section 11 of said chapter 171, as so appearing, is hereby amended by
108 adding the following paragraph:-

109 If a matter before the membership at the annual meeting or a special meeting requires
110 both the approval of the members and the Commissioner, the clerk shall certify to the
111 Commissioner with the applicable filing the record of the vote, including the number of members
112 attending the meeting, the number of members voting in favor, against and abstaining.

113 SECTION 6. Section 30 of said chapter 171, as so appearing, is hereby amended by
114 inserting after the first paragraph the following paragraph:-

115 It is prohibited for a credit union to receive shares or deposits from a person or entity that
116 is not a member.

117 SECTION 7. Subsection (a) of section 65A of said chapter 171, as so appearing, is
118 hereby amended by striking out the first sentence and inserting in place thereof the following
119 sentence:-

120 Credit unions may make or acquire loans and mortgage loans as specified in sections 65
121 to 65E, inclusive, to a member who is a natural person. It is prohibited to make a loan or
122 mortgage loan to a member other than a natural person member under sections 65 to 65E,
123 inclusive.

124 SECTION 8. Said chapter 171, as so appearing, is hereby amended by inserting after
125 section 65E, the following section:-

126 Section 65F. A credit union may only make, acquire or participate in loans to
127 organization members under this section provided that the total amount of such loans outstanding
128 at a credit union at any one time shall be limited to the lesser of 1.75 times the actual net worth
129 of the credit union or 12.25% of the assets of the credit union stated in its most recent call report.
130 It is prohibited for a credit union to make or acquire or participate in organization member loans
131 and business member loans as defined by the National Credit Union Administration under any
132 other authority in this chapter.