

HOUSE No. 5227

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 4, 2021.

The committee on Ways and Means, to whom was referred the Senate Bill modernizing the credit union laws (Senate, No. 2828), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 5227.

For the committee,

AARON MICHLEWITZ.

HOUSE No. 5227

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill modernizing the credit union laws (Senate, No. 2828). January 4, 2021.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. The second paragraph of section 3 of chapter 167A of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out the first sentence and
3 inserting in place thereof the following sentence:- If the commissioner determines that the
4 reciprocity, age of institution and deposit cap requirements under section 2 have been met, then
5 the other provisions of section 2 shall not apply to the acquisition by a bank holding company or
6 a company or a banking institution that would become a bank holding company; provided,
7 however, that a banking institution or other bank holding company shall be merged,
8 consolidated, its assets purchased or established on an interim basis simultaneously with the
9 acquisition of the shares of the banking institution or other bank holding company; provided
10 further, that the company or bank holding company is not operated by the acquiring bank holding
11 company, company or banking institution as a separate entity other than as the survivor of the
12 merger, consolidation or asset purchase; and provided further, that the transaction is approved by
13 the commissioner.

14 SECTION 2. Section 5 of chapter 167C of the General Laws, as so appearing, is hereby
15 amended by adding the following sentence:- To determine the investigation fee to establish a

16 branch office, the commissioner of administration may make such classifications and
17 differentiations of banks and may provide adjustments to the fee as are necessary; provided,
18 however, that such classifications and differentiations may be based on: (i) the asset size of the
19 bank; (ii) the number of existing branch offices of the bank; or (iii) other criteria as determined
20 by the commissioner of administration; provided further, that the fee shall be consistent with and
21 equal to the amount of the investigation fee to establish a branch office imposed on credit unions
22 in section 8 of chapter 171.

23 SECTION 3. Section 16 of chapter 167D of the General Laws, as so appearing, is hereby
24 amended by striking out, in lines 6 to 9, inclusive, the words “no such transfer shall be made if
25 the debt is the result of consumer credit granted under the federal Truth in Lending Act, 15
26 U.S.C. section 1601 et. seq.” and inserting in place thereof the following words:- if the debt is
27 the result of consumer credit granted under the federal Truth in Lending Act, 15 U.S.C. 1601 et.
28 seq., any required notice shall be made in compliance with federal law and the regulations
29 promulgated thereunder.

30 SECTION 4. Section 2 of chapter 167H of the General Laws, as so appearing, is hereby
31 amended by adding the following subsection:-

32 (d) A subsidiary banking institution established pursuant to a reorganization under clause
33 (2) of subsection (a) or clause (2) of subsection (b) shall file a certificate of authority, together
34 with articles of organization with the state secretary.

35 SECTION 5. Section 7 of said chapter 167H, as so appearing, is hereby amended by
36 inserting after the word “form”, in line 11, the following words:- , an out-of-state bank, as
37 defined in section 1 of chapter 167, in mutual form.

38 SECTION 6. Section 4 of chapter 167I of the General Laws, as so appearing, is hereby
39 amended by striking out, in line 2, the word “federal” and inserting in place thereof the following
40 word:- federally-chartered.

41 SECTION 7. Section 11 of chapter 167J of the General Laws, as so appearing, is hereby
42 amended by inserting after the word “to,” in line 6, the following words:- : (i) the close of the
43 last business day of the preceding month or the close of a business day not more than 10 days
44 before the date of the meeting; or (ii).

45 SECTION 8. Section 6 of chapter 168 of the General Laws, as so appearing, is hereby
46 amended by striking out, in line 25, the words “within 1 year after its date of issue” and inserting
47 in place thereof the following words:- not more than 1 year after its date of issue; provided,
48 however, that the board may grant an additional extension upon a demonstration of good cause;
49 and provided further, that the board may impose terms and conditions on any such extension.

50 SECTION 9. Section 6 of chapter 170 of the General Laws, as so appearing, is hereby
51 amended by striking out, in lines 24 and 25, the words “within 1 year after its date of issue” and
52 inserting in place thereof the following words:- not more than 1 year after its date of issue;
53 provided, however, that the board may grant an additional extension upon a demonstration of
54 good cause; and provided further, that the board may impose terms and conditions on any such
55 extension.

56 SECTION 10. Section 1 of chapter 171 of the General Laws, as so appearing, is hereby
57 amended by striking out, in lines 4 and 5, the words “two hundred and sixteen of the acts of
58 nineteen hundred and thirty-two” and inserting in place thereof the following words:- 216 of the
59 acts of 1932.

60 SECTION 11. Said section 1 of said chapter 171, as so appearing, is hereby further
61 amended by striking out, in line 11, the words “fifty percent” and inserting in place thereof the
62 following words:- 50 per cent.

63 SECTION 12. Said section 1 of said chapter 171, as so appearing, is hereby further
64 amended by striking out, in lines 18 and 19, the words “eighty-two to eighty-four” and inserting
65 in place thereof the following words:- 82 to 84.

66 SECTION 13. Said section 1 of said chapter 171, as so appearing, is hereby further
67 amended by inserting after the definition of “Interest” the following definition:-

68 “Low-income credit union”, a credit union whose membership meets the qualifications
69 defined in 12 C.F.R. 701.34 and that has accepted the regulatory designation therein.

70 SECTION 14. Said section 1 of said chapter 171, as so appearing, is hereby further
71 amended by striking out, in lines 33 and 34, the words “two hundred ninety-four of the acts of
72 nineteen hundred and sixty-one” and inserting in place thereof the following words:- 294 of the
73 acts of 1961.

74 SECTION 15. Said section 1 of said chapter 171, as so appearing, is hereby further
75 amended by striking out, in line 37, the word “eighteen” and inserting in place thereof the
76 following figure:- 18.

77 SECTION 16. Said section 1 of said chapter 171, as so appearing, is hereby further
78 amended by inserting after the word “partnership”, in line 43, the following words:- , limited
79 partnership, limited liability partnership, limited liability company.

80 SECTION 17. Section 2 of said chapter 171, as so appearing, is hereby amended by
81 striking out, in line 1, the word “resident” and inserting in place thereof the following words:- the
82 majority of whom reside.

83 SECTION 18. Said section 2 of said chapter 171, as so appearing, is hereby further
84 amended by striking out, in lines 24 and 25, the words “, his residence and the post office
85 address”.

86 SECTION 19. Section 3 of said chapter 171, as so appearing, is hereby amended by
87 adding the following paragraph:-

88 Notwithstanding any general or special law to the contrary, a credit union may be
89 organized or designated as a low-income credit union subject to the approval of the
90 commissioner under such procedures, terms and conditions as the commissioner may impose.

91 SECTION 20. Section 4 of said chapter 171, as so appearing, is hereby amended by
92 striking out the second sentence and inserting in place thereof the following 2 sentences:-

93 Not less than 7 days before the day appointed for the meeting, a copy of the notice shall
94 be: (i) given to each incorporator; (ii) sent to each incorporator electronically; (iii) left at each
95 incorporator’s residence or usual place of business; or (iv) deposited in the post office, postage
96 prepaid and addressed to each incorporator at the incorporator’s residence or usual place of
97 business. Another copy of the notice and an affidavit of 1 of the signers that the notice has been
98 duly served shall be recorded with the records of the corporation.

99 SECTION 21. Section 6 of said chapter 171, as so appearing, is hereby amended by
100 striking out, in lines 15 and 16, the words “within one year from the date of its incorporation,

101 otherwise its charter shall be void” and inserting in place thereof the following words:- not more
102 than 1 year after its date of incorporation, otherwise the charter of the credit union shall be void;
103 provided, however, that the commissioner may grant an extension upon a demonstration of good
104 cause and subject to such terms and conditions as the commissioner may impose.

105 SECTION 22. Section 6A of said chapter 171, as so appearing, is hereby amended by
106 striking out the second paragraph.

107 SECTION 23. Section 8 of said chapter 171, as so appearing, is hereby amended by
108 adding the following paragraph:-

109 An investigation fee shall be submitted with any application to establish a branch office.
110 The investigation fee shall be determined annually by the commissioner of administration under
111 section 3B of chapter 7. To determine the amount of the investigation fee to establish a branch
112 office, the commissioner of administration may make such classifications and differentiations of
113 credit unions and may provide adjustments to the fee as necessary; provided, however, that such
114 classifications and differentiations may be based on: (i) the asset size of the credit union; (ii) the
115 number of existing branch offices of the credit union; or (iii) other criteria as determined by the
116 commissioner of administration; and provided further, that the investigation fee shall be
117 consistent with and equal to the amount of the investigation fee to establish a branch office
118 imposed on banks in section 5 of chapter 167C.

119 SECTION 24. Section 9 of said chapter 171, as so appearing, is hereby amended by
120 inserting after the word “committee,” in line 16, the following words:- , if applicable, as required
121 by the by-laws.

122 SECTION 25. Said section 9 of said chapter 171, as so appearing, is hereby further
123 amended by inserting after the word “committee”, in line 18, the first time it appears, the
124 following words :- , if applicable, as required by the by-laws.

125 SECTION 26. Section 10 of said chapter 171, as so appearing, is hereby amended by
126 striking out, in line 8, the words “, or change in location, or change in name”.

127 SECTION 27. Section 11 of said chapter 171, as so appearing, is hereby amended by
128 striking out the second and third paragraphs and inserting in place thereof the following 2
129 paragraphs:-

130 A member shall not have more than 1 vote and, after a credit union has been incorporated
131 for 1 year, a member shall not be entitled to vote or be a candidate for director until the member
132 has been a member for not less than 3 months. An organization member or a person who is a
133 party to a joint account may cast 1 vote on the share or deposit account at any of its meetings by
134 a duly delegated agent or a party to the joint account; provided, however, that a minor shall not
135 have the right to vote. A member may vote: (i) in person; (ii) by mail; or (iii) by electronic
136 means; provided, however, that each credit union shall set forth in its by-laws the method of
137 voting to be used by its members; provided further, that the commissioner may impose
138 conditions or limitations on such voting methods.

139 The members shall elect directors, vote on any proposed amendment to the by-laws and
140 act on such matters as required under law at each annual meeting.

141 SECTION 28. The first paragraph of section 12 of said chapter 171, as so appearing, is
142 hereby amended by striking out the first sentence and inserting in place thereof the following 2
143 sentences:- The business and affairs of a credit union shall be managed by a board of not less

144 than 7 directors. A credit union may limit the number of employees serving as directors in its by-
145 laws.

146 SECTION 29. Section 13 of said chapter 171, as so appearing, is hereby amended by
147 striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

148 The board of directors shall have the general direction of the affairs of the corporation
149 and shall meet not less than once each month. A quorum shall consist of not less than a majority
150 of the directors. If less than a quorum is present, a majority of those present may adjourn the
151 meeting until the next regular meeting or another time prior to the next regular meeting. The
152 board of directors shall act upon all applications for membership and determine the rate of
153 interest to be paid on deposits; provided, however, that the board of directors may delegate such
154 duties. The board of directors may declare dividends as provided in section 29 and shall fill
155 vacancies in the board of directors and committees until the next annual election; provided,
156 however, that the board of directors shall not delegate such duties. The board of directors may
157 authorize the establishment or the discontinuance of deposit accounts. The board of directors
158 shall make recommendations to the members of the credit union relative to the need of
159 amendments to the by-laws and other matters upon which the members should act at any regular
160 or special meeting. The board of directors may borrow money for and on behalf of the credit
161 union as authorized by section 73. The board of directors may, by a 2/3 vote, remove from office
162 for cause an officer or a member of a committee. The board of directors may elect an honorary
163 president, who shall be a member of the credit union; provided, however, that an honorary
164 president shall not be compensated in any way by the credit union. The board of directors may
165 appoint associate directors who shall not be compensated or vote.

166 Unless the articles of organization or by-laws provide that an action required or permitted
167 under this chapter or another provision of the General Laws to be taken by the board of directors
168 shall be taken at a meeting, the action may be taken without a meeting if the action is taken by
169 the unanimous consent of the members of the board of directors. The action shall be evidenced
170 by at least 1 written consent describing the action taken, signed by each director and delivered to
171 the credit union by electronic transmission or sent to the address specified by the credit union for
172 that purpose, or to the principal office of the credit union if no address has been specified,
173 addressed to the secretary or other officer or agent having custody of the records of proceedings
174 of the board of directors and included in the minutes or filed with the corporate records reflecting
175 the action taken. Action taken under this section is effective when the last director signs or
176 delivers the consent, unless the consent specifies a different effective date. A consent signed or
177 delivered under this section has the effect of a meeting vote and may be described as such in any
178 document. This section shall also apply to committees of the board of directors and the members
179 thereof.

180 SECTION 30. Section 14 of said chapter 171, as so appearing, is hereby amended by
181 striking out the first paragraph and inserting in place thereof the following paragraph:-

182 The board of directors may expel from a credit union a member who: (i) has not carried
183 out the member's engagements with the credit union; (ii) has been convicted of a criminal
184 offense; (iii) neglects or refuses to comply with this chapter or the by-laws of the credit union;
185 (iv) habitually neglects to pay the member's debts; or (v) has deceived the corporation or any
186 committee thereof with regard to the use of borrowed money; provided, however, that a member
187 shall not be expelled until the member has been provided with reasonable notice in writing of the
188 charges against the member and with an opportunity to be heard; provided further, that a director

189 who becomes insolvent or bankrupt shall be withdrawn from the board of directors
190 automatically, with no requirement for notice or an opportunity to be heard; and provided
191 further, that the board of directors may suspend from the credit union any member who has been
192 convicted of a criminal offense.

193 SECTION 31. Section 15 of said chapter 171, as so appearing, is hereby amended by
194 striking out the second paragraph and inserting in place thereof the following paragraph:-

195 At such meeting, the directors shall elect an auditing committee from among the
196 directors, an investment committee comprised of at least 1 member of the board of directors and
197 a credit committee, if applicable, comprised of at least 1 member of the board of directors. Each
198 such committee shall be comprised of not less than 3 members and not more than 5 members;
199 provided, however, that no member of the board of directors shall be a member of both the credit
200 committee, if any, and the auditing committee.

201 SECTION 32. Said section 15 of said chapter 171, as so appearing, is hereby further
202 amended by striking out the last paragraph and inserting in place thereof the following
203 paragraph:-

204 The board of directors may appoint an executive committee or a membership officer from
205 among the board or other employees, other than the treasurer, an assistant treasurer or a loan
206 officer, and authorize the committee or officer to approve applications for membership under
207 such conditions as the board of directors may prescribe.

208 SECTION 33. The first paragraph of section 16 of said chapter 171, as so appearing, is
209 hereby amended by striking out the second and third sentences and inserting in place thereof the
210 following sentence:- The auditing committee shall: (i) hold meetings not less than once each

211 month; (ii) keep records of the meetings; (iii) certify the monthly statements submitted by the
212 treasurer; (iv) make a thorough annual audit of the books, including income and expenses; (v)
213 report to the board of directors its findings, together with any recommendations; and (vi) make
214 an annual report at the annual meeting.

215 SECTION 34. The second paragraph of said section 16 said chapter 171, as so appearing,
216 is hereby amended by striking out the third sentence.

217 SECTION 35. Section 17 of said chapter 171, as so appearing, is hereby amended by
218 striking out the first paragraph and inserting in place thereof the following paragraph:-

219 The credit committee, if any, shall hold meetings not less than once in each month, act on
220 all applications for loans and approve, in writing, all personal loans granted and the security, if
221 any, pledged therefor, except as provided in this section. The credit committee shall submit to the
222 board of directors all applications for loans to be secured by mortgages of real estate with its
223 recommendations thereon. The credit committee may reasonably delegate its duties to employees
224 in accordance with written loan policies that establish appropriate limits and standards and that
225 are consistent with safe and sound banking practices.

226 SECTION 36. The third paragraph of said section 17 of said chapter 171, as so appearing,
227 is hereby amended by striking out the third sentence.

228 SECTION 37. Section 18 of said chapter 171, as so appearing, is hereby amended by
229 adding the following paragraph:-

230 The investment committee shall hold meetings not less than once in each month. The
231 investment committee may reasonably delegate its duties to employees in accordance with

232 written investment policies that establish appropriate limits and standards and that are consistent
233 with safe and sound banking practices.

234 SECTION 38. Section 19 of said chapter 171, as so appearing, is hereby amended by
235 striking out, in line 10, the following words:- state or.

236 SECTION 39. Said section 19 of said chapter 171, as so appearing, is hereby further
237 amended by inserting after the word “affiliate,” in line 12, the following words:- a mortgage
238 company owned by a bank.

239 SECTION 40. Section 21 of said chapter 171, as so appearing, is hereby amended by
240 striking out, in line 8, the words “such bonds” and inserting in place thereof the following
241 words:- bonds upon which changes are made.

242 SECTION 41. Said chapter 171 is hereby further amended by striking out section 26, as
243 so appearing, and inserting in place thereof the following section:-

244 Section 26. Annually, not more than 30 days after the last business day of December, a
245 credit union shall make a report to the commissioner in such form as the commissioner may
246 prescribe accurately showing its condition at the close of business on that day and containing
247 such other information as the commissioner may require. The annual report shall be in
248 accordance with generally accepted accounting principles and shall fairly present the credit
249 union’s condition as of the last business day of the credit union’s fiscal year. A statement of
250 condition of a credit union shall be available for examination for reasonable purposes by
251 members at the principal office of a credit union during business hours or made available to a
252 member upon reasonable request.

253 SECTION 42. Section 30 of said chapter 171, as so appearing, is hereby amended by
254 inserting after the word “Administration” in line 9, the following words:- and to members of
255 low-income credit unions.

256 SECTION 43. Said chapter 171 is hereby further amended by striking out section 32A, as
257 so appearing, and inserting in place thereof the following 2 sections:-

258 Section 32A. Notwithstanding any general or special law to the contrary, a credit union
259 may accept a funeral trust account, as defined in regulations promulgated by the board of
260 registration in embalming and funeral directing.

261 Section 32B. A natural person not more than 18 years of age or not less than 65 years of
262 age may choose 1 demand deposit account and 1 savings account upon which no service,
263 maintenance or other similar charge shall be imposed; provided, however, that any such demand
264 deposit account and any such savings account shall each include a joint account in which the
265 spouse of the eligible depositor, if applicable and regardless of age, is the joint tenant therein or
266 the joint tenant would otherwise be an eligible depositor and that has been established and used
267 for personal, family or household purposes. Such account shall not be subject to: (i) a minimum
268 balance requirement; (ii) a charge for a deposit or withdrawal; or (iii) a fee for the initial order or
269 subsequent refills of the basic line of checks offered by the credit union, which shall include the
270 name of the depositor. A savings account in trust for another person shall be covered by the
271 notice, services, fee and charge provisions of this section only if the trustee is a person not more
272 than 18 years of age or not less than 65 years of age. To obtain a demand deposit account and a
273 savings account under this section, a consumer shall notify a credit union of the consumer’s
274 eligibility for such accounts and provide proof of age in a form acceptable to the credit union. A

275 credit union may assess a fee against an account under this section for certain services in
276 accordance with the credit union's published service charge schedule, which shall include stop
277 payment orders, wire transfers, certified or bank checks, money orders, deposit items returned,
278 transactions at electronic branches and through other electronic devices and a reasonable charge,
279 as determined by the commissioner, against any such account when payment on a check or other
280 transaction on the account has been refused because of insufficient funds or paid despite
281 insufficient funds. A credit union shall post in each of its credit union offices a notice informing
282 consumers of the availability of the credit union services under this section and shall disclose
283 annually to all depositors, in a manner of its choosing, the provisions of this section. For the
284 purposes of this section, the term "check or other transaction" shall include, but not be limited to:
285 (i) a check, as defined in 12 U.S.C. 5002; (ii) an electronic fund transfer, as defined in section 1
286 of chapter 167B; or (iii) a transaction processed by an automated clearinghouse.

287 SECTION 44. Sections 33 and 34 of said chapter 171 are hereby repealed.

288 SECTION 45. Section 35 of said chapter 171, as appearing in the 2018 Official Edition,
289 is hereby amended by striking out, in lines 4 to 9, inclusive, the words "; provided, however, that
290 the deposit accounts of any one such person, partnership or corporation shall not, except by the
291 accumulation of interest, be permitted to exceed at any one time, seventy-five thousand dollars or
292 one and one-half percent of the deposits or shares of the credit union, whichever is greater".

293 SECTION 46. The third paragraph of section 39 of said chapter 171, as so appearing, is
294 hereby amended by adding the following sentence:- A surviving owner of a joint account may
295 continue credit union membership if the surviving owner is eligible for membership and meets
296 all requirements in the by-laws.

297 SECTION 47. Section 41 of said chapter 171, as so appearing, is hereby amended by
298 striking out, in lines 2 and 3, the words “in the discretion of the directors”, and inserting in place
299 thereof the following words:- subject to the policy of the credit union.

300 SECTION 48. Section 42 of said chapter 171, as so appearing, is hereby amended by
301 striking out, in lines 6 and 7, the words “the treasurer or other” and inserting in place thereof the
302 following word:- a.

303 SECTION 49. Sections 44 and 45 of said chapter 171 are hereby repealed.

304 SECTION 50. Section 49 of said chapter 171 of the General Laws, as appearing in the
305 2018 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “certified
306 mail, return receipt requested” and inserting in place thereof the following words:- first class
307 mail or electronic mail.

308 SECTION 51. Said section 49 of said chapter 171, as so appearing, is hereby further
309 amended by striking out, in lines 7 to 11, inclusive, the words “no such transfer shall be made if
310 such debt is the result of consumer credit granted under the provisions of chapter one hundred
311 and forty D unless the written notice required by section twenty-three of said chapter one
312 hundred and forty D has been given” and inserting in place thereof the following words:- if the
313 debt is the result of consumer credit granted under the federal Truth in Lending Act, 15 U.S.C.
314 1601 et. seq., any required notice shall be made in compliance with the federal law and the
315 regulations promulgated thereunder.

316 SECTION 52. Section 50 of said chapter 171, as so appearing, is hereby amended by
317 striking out, in lines 4 and 5, the words “the treasurer” and inserting in place thereof the
318 following words:- a duly authorized officer of the corporation.

319 SECTION 53. Section 53 of said chapter 171, as so appearing, is hereby amended by
320 striking out the definition of “Account”, and inserting in place thereof the following definition:-

321 “Account”, a (i) share, share certificate or share draft account of a member of a credit
322 union or a nonmember served by a credit union serving predominantly low-income members, as
323 defined by the board of the credit union, of a type approved by the board of the credit union that
324 evidences money or its equivalent received or held by a credit union in the usual course of
325 business and for which it has given or is obligated to give credit to the account of such member
326 or such nonmember; (ii) share, share certificate or share draft account of a nonmember credit
327 union and a nonmember unit of federal, state or local government and political subdivisions
328 thereof; or (iii) custodial account established for loans sold in whole or in part; provided,
329 however, that for the purposes of insured state credit unions, “share, share certificate or share
330 draft account” shall include, as determined by the board of the credit union, the equivalent of
331 such accounts under state law.

332 SECTION 54. Sections 54 to 56, inclusive, of said chapter 171 are hereby repealed.

333 SECTION 55. Section 57 of said chapter 171, as appearing in the 2018 Official Edition,
334 is hereby amended by striking out, in lines 5 to 7, inclusive, the words “and shall state the
335 purpose for which the loan is desired and the security, if any, offered” and inserting in place
336 thereof the following words:- or by electronic means.

337 SECTION 56. Sections 59 to 62, inclusive, and section 64 of said chapter 171 are hereby
338 repealed.

339 SECTION 57. Said chapter 171 is hereby further amended by inserting after section 65A
340 the following section:-

341 Section 65A½. (a) A credit union may make, acquire, buy or sell, in whole or in part,
342 mortgage loans on property located in the commonwealth, Connecticut, Maine, New Hampshire,
343 New York, Rhode Island or Vermont as participation loans with a bank, credit union service
344 organization, federally-chartered or federally-insured credit union or financial institution,
345 insurance company or any state or federal government agency or a subdivision thereof.

346 (b) For any mortgage loan participation in which the credit union is originating the loan
347 to the borrower, the borrower shall be a member of the credit union and the loan shall be made in
348 accordance with this chapter.

349 (c) A credit union may enter into a mortgage loan participation on a loan originated by a
350 bank, credit union service organization, federally-chartered or federally-insured credit union or
351 financial institution, insurance company or any state or federal government agency or a
352 subdivision thereof and issued to a borrower; provided, however, that the loan is a type of loan
353 that the participating credit union may make under the participating credit union's board-
354 approved policies. Section 66 shall not apply to loans under this subsection.

355 (d) A credit union may service any mortgage loan participation.

356 SECTION 58. Said chapter 171 is hereby further amended by striking out sections 65E
357 and 66, as appearing in the 2018 Official Edition, and inserting in place thereof the following 2
358 sections:-

359 Section 65E. A credit union shall have the following powers and any further incidental or
360 complementary powers that may fairly be implied from those expressly conferred and such as are
361 reasonably necessary to enable the credit union to exercise fully those powers according to
362 common customs and usages:

363 (i) to discount, buy, invest in, hold, assign, transfer, sell and negotiate promissory notes,
364 drafts, bills of exchange, mortgages, bonds, debentures, bonds or notes secured by mortgages,
365 installment obligations and other evidences of debt;

366 (ii) to advance money or credits on real estate, on improvements thereto or on personal
367 security, on terms to be agreed upon; and

368 (iii) to buy, sell or make loans as participation loans with any other federally-insured
369 credit union, bank or insurance company and to service any loans sold by it.

370 This section shall be applicable to loans and mortgage loans authorized by sections 65A
371 to 65E, inclusive.

372 Section 66. Prior to making mortgage loans on real estate pursuant to sections 65 to 65E,
373 inclusive, a credit union shall require a person obligated from time to time to make payments
374 under a mortgage, whether as the original borrower or as a subsequent owner of a mortgaged
375 property, to be or become a member of the credit union.

376 SECTION 59. Section 67 of said chapter 171, as so appearing, is hereby amended by
377 striking out, in line 14, the figure "1961." and inserting in place thereof the following figure:-
378 1961;.

379 SECTION 60. Said section 67 of said chapter 171, as so appearing, is hereby further
380 amended by striking out clause (o) and inserting in place thereof the following clause:-

381 (o) in any obligations, bank stocks, bank holding company stocks, insurance stocks or
382 preferred stocks of public utility companies that appear on the list of legal investments prepared
383 pursuant to said section 15A of said chapter 167; provided, however, that: (i) not more than 10

384 per cent of the assets of a credit union shall be invested in bank stocks, bank holding company
385 stocks, insurance stocks, preferred stocks of public utility companies or in all 4 of such types of
386 stocks appearing on the list and not more than \$15,000 or 2 per cent of the assets of a credit
387 union, whichever is greater, shall be invested in the stock of any 1 such bank, bank holding
388 company, insurance company or preferred stock of public utility companies; (ii) not more than
389 20 per cent of the assets of a credit union shall be invested in railroad obligations appearing on
390 the list and not more than 1.5 per cent of the shares and deposits of any such credit union shall be
391 invested in the obligations of any 1 operating railroad corporation; (iii) not more than 20 per cent
392 of the assets of a credit union shall be invested in the obligations of telephone companies
393 appearing on the list and not more than 4 per cent of the shares and deposits of such credit union
394 shall be invested in the obligations of any 1 such company; (iv) not more than 25 per cent of the
395 assets of a credit union shall be invested in obligations of public utility companies appearing on
396 the list and not more than 4 per cent of the deposits of such credit union shall be invested in the
397 obligations of any 1 such company; and (v) not more than 10 per cent of the assets of a credit
398 union shall be invested in interest bearing obligations authorized for investment under section
399 15B of said chapter 167 and appearing on the list and not more than ½ of 1 per cent of the shares
400 and deposits of such credit union shall be so invested in the obligations of any one obligor, but
401 the foregoing limitations shall not apply to obligations of telephone companies, of companies
402 engaged primarily in the distribution and sale of electricity or gas, or both, or of railroad
403 companies other than terminal companies;

404 SECTION 61. Said section 67 of said chapter 171, as so appearing, is hereby further
405 amended by striking out, in line 86, the word “funds.” and inserting in place thereof the
406 following word:- funds;.

407 SECTION 62. Said section 67 of said chapter 171, as so appearing, is hereby further
408 amended by striking out, in lines 108 and 109, the words “clause (i) of this paragraph” and
409 inserting in place thereof the following word:- subclause (i).

410 SECTION 63. Said section 67 of said chapter 171, as so appearing, is hereby further
411 amended by striking out clause (r) and inserting in place thereof the following clause:-

412 (r) in bankers’ acceptances of the kinds and maturities made eligible by law for
413 rediscount with federal reserve banks; provided, however, that the same are accepted by a bank,
414 banking association or trust company incorporated under state or federal law and having its
415 principal place of business within the commonwealth; provided, however, that not more than 10
416 per cent of the assets of a credit union shall be invested in such bankers’ acceptances and not
417 more than 5 per cent of the assets of such credit union shall be invested in the acceptances
418 eligible by law for rediscount in federal reserve banks of any 1 accepting bank or trust company;
419 and provided further, that the aggregate amount of bankers' acceptances of any 1 bank, banking
420 association or trust company held by any such credit union shall not exceed 25 per cent of the
421 paid-up capital and surplus of such bank, banking association or trust company;.

422 SECTION 64. Said section 67 of said chapter 171, as so appearing, is hereby further
423 amended by striking out, in line 139, the word “and”.

424 SECTION 65. Said section 67 of said chapter 171, as so appearing, is hereby further
425 amended by striking out, in line 140, the word “Boston.” and inserting in place thereof the
426 following words:- Boston; and.

427 SECTION 66. Said section 67 of said chapter 171, as so appearing, is hereby further
428 amended by striking out, in line 141, the word “paragraph” and inserting in place thereof the
429 following word:- clause.

430 SECTION 67. Said section 67 of said chapter 171, as so appearing, is hereby further
431 amended by striking out, in line 146, the word “paragraphs” and inserting in place thereof the
432 following word:- clauses.

433 SECTION 68. Said chapter 171 is hereby further amended by striking out section 73, as
434 so appearing, and inserting in place thereof the following section:-

435 Section 73. The board of directors may borrow money for and on behalf of the credit
436 union.

437 The board may, if the credit union has a deposit or share account, borrow money for and
438 on behalf of the credit union from a savings bank, cooperative bank, federal savings and loan
439 association, national bank or trust company, an entity identified by the commissioner or any
440 federally-insured corporate credit union; provided, however, that money borrowed from any such
441 institution shall be in an amount not more than the deposit or share account and shall extend not
442 more than 1 year from the date on which the loan is made.

443 SECTION 69. The first paragraph of section 74 of said chapter 171, as so appearing, is
444 hereby amended by striking out clauses (c) and (d) and inserting in place thereof the following
445 words:- and (c) where the aggregate amount of sales of loans exceeds 20 per cent of the total
446 loans outstanding, the prior written approval of the commissioner shall be obtained for any
447 amount in excess thereof.

448 SECTION 70. Said chapter 171 is hereby further amended by striking out section 75, as
449 so appearing, and inserting in place thereof the following section:-

450 Section 75. (a) A well capitalized or adequately capitalized credit union, as defined in 12
451 C.F.R. 702.102, may invest, for the convenient transactions of its business, in the aggregate, in
452 any fixed assets in an amount not to exceed 5 per cent of the credit union's shares and retained
453 earnings without advance regulatory approval. Included in such investments is the purchase,
454 erection or preparation of rental property in a reasonable amount; provided, however, that the
455 rental property is necessary to complete the purchase, erection or preparation; and provided
456 further, that the commissioner may waive these requirements.

457 (b) A credit union may: (i) invest an amount to be approved by the commissioner, subject
458 to any applicable regulations as the commissioner may deem necessary, in a corporation or
459 association formed for the purpose of furnishing statistical or bookkeeping services or
460 information of the kind generally required by a credit union to such credit union or to other credit
461 unions or banks as hereinafter provided; or (ii) invest its shares or deposits, in participation with
462 any other credit union, bank or national banking association, in such corporation or association;
463 provided, however, that section 2 of chapter 167 shall apply to such corporations or associations.
464 Nothing contained herein shall be construed to preclude a credit union from renting or
465 subscribing for the services of such corporations or associations or any other corporation or
466 association rendering such services.

467 (c) A credit union may purchase, by itself or with another credit union or bank, group life
468 insurance on the lives of debtors who request such insurance. The premium for such insurance,
469 or the premium on an individual life insurance policy held to cover the indebtedness, may be

470 added to the payments required of those who elect to become insured. If a debtor so insured dies,
471 the insurance proceeds shall be applied to reduce or extinguish the unpaid indebtedness to the
472 extent of such payment. A director, officer or employee of such credit union shall not benefit
473 financially, directly or indirectly, from the sale of such insurance.

474 (d) A credit union may purchase by itself, or with a group of credit unions or banks,
475 group accident and health insurance covering debtors of such credit union or group of credit
476 unions if the debtors request such insurance. Such insurance shall cover all or part of the
477 indebtedness of such debtors. The premium for such insurance, or the premium on an individual
478 accident and health insurance policy held to cover the indebtedness, may be added to the
479 payments required of any such debtor who elects to become insured. A director, officer or
480 employee of such credit union shall not benefit financially, directly or indirectly, from the sale of
481 such insurance.

482 (e) A credit union may engage directly in the business of selling, issuing or registering
483 checks, traveler's checks or money orders and may cash any check or money order whatsoever
484 and may make charges for any of the foregoing.

485 (f) (1) For the purposes of this subsection, the following terms shall have the following
486 meanings:

487 "Lessee", the person in whose name a safe deposit box stands on the books of a credit
488 union;

489 "Rent", the amount due to a credit union for the rental or use of a safe deposit box;

490 "Safe deposit box", a box or safe in the vault of a credit union.

491 (2) A credit union may establish and maintain safe deposit vaults and rent safe deposit
492 boxes or storage space therein under conditions prescribed by the commissioner.

493 (3) A credit union that leases a safe deposit box for rent shall advise the lessee in writing
494 that insurance coverage for the contents of the safe deposit box is not provided by the credit
495 union but that the lessee may, at the lessee's own expense, insure the contents of the safe deposit
496 box with an insurance company of the lessee's own selection. The commissioner shall establish
497 the rules and regulations necessary to carry out this subsection.

498 (4) If the rent for a safe deposit box has not been paid for 1 year after being due, the
499 credit union may mail, postage prepaid, to the lessee at the lessee's address shown on the credit
500 union's books, a notice stating that if the rent for the safe deposit box is not paid within 60 days
501 from the date of the notice, the credit union may cause the safe deposit box to be opened and the
502 contents to be disposed of in accordance with this subsection. If the lessee fails to pay the rent
503 for the safe deposit box in full to the date of the notice within 60 days from the date of the notice,
504 all rights of the lessee in the safe deposit box and of access to it shall cease. Any time thereafter,
505 the credit union may, in the presence of an officer of the credit union and of a notary public not
506 in the general employ of the credit union, cause the safe deposit box to be opened and the notary
507 public shall: (i) remove the contents of the safe deposit box; (ii) list the contents; and (iii) seal the
508 contents in a package, marking thereon the name of the lessee and the lessee's address as shown
509 on the books of the credit union. An affidavit setting forth the facts concerning the entry and
510 listing the contents of the safe deposit box shall be signed by the officer and the notary public
511 and shall be retained by the credit union. The affidavit shall be prima facie evidence of the facts
512 set forth therein in all proceedings at law and equity wherein evidence of such facts would be
513 admissible. The affidavit shall be in substantially the following form:-

514 COMMONWEALTH OF MASSACHUSETTS

515 County of _____

516 We, _____ an authorized official of _____ and _____ a notary public not in the general employ
517 of said credit union, hereby certify that on the _____ day _____ (insert year), we were present and
518 witnessed the forcible opening of Safe No. _____ leased in the name of _____ in the vaults of the _____
519 office of said credit union; that the contents of said safe were removed, examined, listed and then
520 enclosed in a package and sealed in our presence. We further certify that the following is a true
521 and complete list of all the contents removed from said safe.

522 (Allow space here for listing of contents.)

523 _____

524 Signature of officer. Title.

525 _____

526 Name of Credit Union

527 _____

528 Signature of notary public not in the general employ of said credit union.

529 (5) The package containing the contents of any safe deposit box opened as aforesaid shall
530 be retained on special deposit by the credit union subject to payment of rent due for the safe
531 deposit box, all expenses incurred in connection with opening the safe deposit box and charges
532 for the safekeeping of the package. If the package remains unclaimed for 7 years and the
533 amounts due as above provided remain unpaid, the credit union may mail, postage prepaid, to the

534 person to whom, and at the address at which, the notice provided for above was mailed, a notice
535 stating that if such amounts are not be paid within 60 days from the date of such notice, the credit
536 union will turn over the contents, less the rental charge, to the state treasurer as unclaimed and
537 abandoned property, to be held by the state treasurer subject to chapter 200A. The credit union
538 may sell, assign or deliver so much of the contents of the package, at public or private sale, as
539 will enable it to realize such amount as will compensate the credit union for said charges.

540 SECTION 71. Section 76 of said chapter 171, as so appearing, is hereby amended by
541 striking out, in line 8, the words “, with the approval of the commissioner”.

542 SECTION 72. Section 78 of said chapter 171, as so appearing, is hereby amended by
543 adding the following paragraph:-

544 A credit union may consolidate with and into a federally-chartered credit union and a
545 federally-chartered credit union may consolidate with and into a credit union. In any such
546 consolidation, the credit union shall comply with the applicable provisions of this section. A
547 federally-chartered credit union in such a transaction shall comply with applicable federal law.

548 SECTION 73. Said chapter 171 is hereby further amended by striking out section 79, as
549 so appearing, and inserting in place thereof the following section:-

550 Section 79. If the commissioner has taken possession of a credit union as provided for in
551 sections 22 to 26, inclusive, of chapter 167 or a credit union is in the possession of the
552 Massachusetts Share Insurance Corporation and it is determined by the commissioner and the
553 insurer that it is in the best interests of the depositors, shareholders and insurer, a merger as
554 provided for in section 78 may be effected without regard to geographical limitations within the
555 commonwealth.

556 SECTION 74. Said chapter 171 is hereby further amended by striking out sections 82 and
557 83, as so appearing, and inserting in place thereof the following 2 sections:-

558 Section 82. (a) For the purposes of this section and sections 83 and 84, the following
559 terms shall, unless the context clearly requires otherwise, have the following meanings:

560 “Association”, the Credit Union Employees Retirement Association formed pursuant to
561 this section.

562 “Credit union” or “credit unions”, any or all of: (i) a bank or credit union chartered by the
563 commonwealth; (ii) such bank or credit union that has converted to a federal charter; (iii) a bank
564 or credit union chartered by the federal government, by a state of the United States other than the
565 commonwealth or by the District of Columbia; (iv) the Cooperative Credit Union Association,
566 Inc. and its successors; (v) the Massachusetts Credit Union Share Insurance Corporation; (vi)
567 other banking or credit union institutions as may from time to time be provided for in the by-
568 laws of the association; and (vii) the respective employees of each of the organizations listed in
569 this definition.

570 “Customer”, any person or business who has established a contractual relationship for
571 banking business purposes with any credit union located in the commonwealth that is a member
572 of the association.

573 “Directors of a credit union”, the governing body of each member organization of the
574 association.

575 (b)(1) Credit unions may form the Credit Union Employees Retirement Association to
576 provide retirement or deferred compensation benefit services through plans that are qualified

577 under section 401, section 408 or section 457 of the federal Internal Revenue Code to employees
578 of credit unions that are established under state law and are members of the association and to
579 their customers. Any credit union shall be eligible for membership in the association; provided,
580 however, that a bank that was eligible to be a member of the association before January 1, 2004,
581 shall not be eligible to become a member of the Cooperative Banks Employees Retirement
582 Association or the Savings Banks Employees Retirement Association unless and until the
583 Cooperative Banks Employees Retirement Association or the Savings Banks Employees
584 Retirement Association permits a member to transfer from any or all of the qualified plans
585 provided by said association, assets and liabilities, attributed to the member's employees, to 1 or
586 more qualified plans not provided by said association.

587 (2) Eligible employees may contribute a portion of their compensation and a credit union
588 may contribute to the extent determined by its governing body; provided, however, that all such
589 contributions shall not exceed the limits of said section 401, said section 408 or said section 457
590 of the federal Internal Revenue Code, as applicable.

591 (3) The funds contributed by participating credit unions and their employees shall be held
592 or used by the trustees of the association for the provision of retirement and deferred
593 compensation benefits, including pre-retirement, post-retirement cost-of-living adjustment, death
594 and disability benefits incident thereto, in all cases subject to the limits of said section 401, said
595 section 408 or said section 457 of the federal Internal Revenue Code, as applicable. Expenses
596 necessary for the administration of the association shall be paid by participating members as
597 provided in the by-laws of the association. The association shall annually provide to each
598 member a report of assets and liabilities attributable to its participants in any or all qualified
599 plans adopted by a member.

600 (4) A credit union providing retirement benefits to its employees through a plan offered
601 by a provider of plans other than the association shall file with the commissioner such reports as
602 the commissioner may from time-to-time require; provided, however, that such a plan shall be a
603 qualified plan under said section 401, said section 408 or said section 457 of the federal Internal
604 Revenue Code.

605 Section 83. The by-laws of the association shall be submitted to the commissioner and
606 shall prescribe the manner in which, and the officers and agents by whom, the association may
607 be conducted and the manner in which its funds may be invested and paid out. The association
608 shall be formed when its by-laws have been approved and agreed to by a majority of the
609 directors of each of 15 or more credit unions and have been approved by the commissioner. The
610 association shall provide to the commissioner such statements of the membership and financial
611 transactions of the association as the commissioner may from time-to-time require. The
612 commissioner may verify any such statement by an examination of the books and papers of the
613 association.

614 The association shall not be subject to chapter 32 or chapter 175 or to such other
615 provisions of law related to insurance companies or other retirement associations.

616 SECTION 75. Section 84 of said chapter 171, as so appearing, is hereby amended by
617 striking out, in line 2, the words “wages or salary” and inserting in place thereof the following
618 word:- compensation.

619 SECTION 76. Said section 84 of said chapter 171, as so appearing, is hereby further
620 amended by inserting after the word “insolvency,” in line 6, the following words:- insurance,
621 retirement systems or pensions.

622 SECTION 77. Section 6 of chapter 172 of the General Laws, as so appearing, is hereby
623 amended by striking out, in line 24, the words “within 1 year after its date of issue” and inserting
624 in place thereof the following words:- not more than 1 year after its date of issue; provided,
625 however, that the board may grant an additional extension upon a demonstration of good cause;
626 and provided further, that the board may impose terms and conditions on such extension.