SENATE DOCKET, NO. 886 FILED ON: 1/18/2023

SENATE . . . . . No. 720

The Commonwealth of Massachusetts

PRESENTED BY:

John C. Velis

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 to strengthen the state credit union charter.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John C. Velis	*Hampden and Hampshire*

SENATE DOCKET, NO. 886 FILED ON: 1/18/2023

SENATE . . . . . No. 720

By Mr. Velis, a petition (accompanied by bill, Senate, No. 720) of John C. Velis for legislation to strengthen the state credit union charter. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *735* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to strengthen the state credit union charter.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The first paragraph of section 4 of chapter 167I of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the first sentence the following sentence:-

Any 1 or more mutual banks or subsidiary banking institutions and any 1 or more credit unions may merge or consolidate into a single credit union upon terms approved by a vote of at least 2/3 of the board of each mutual bank and the board of directors of each credit union, and shall have been approved in writing by the commissioner.

SECTION 2. Said chapter 167I is hereby further amended by inserting after section 12 the following section:-

Section 121/2. By any votes required and the filing of such documents as the commissioner shall prescribe and under such terms and conditions as the commissioner may impose, a mutual bank, upon approval by the commissioner, shall be converted into a credit union chartered pursuant to chapter 171, and shall not, in connection with or upon such conversion, be subject to the requirements of the General Laws with respect to the organization and commencement of business of such a credit union. The depositors of any mutual bank shall become members of the credit union within 2 years after such transaction is approved or for such longer period as may be approved by the commissioner. A mutual bank so converted into a credit union shall have 2 years after such transaction is approved or for such longer period as may be approved by the commissioner to dispose of any asset or investment that is not permissible for a credit union.

If permissible under federal law, a mutual federal savings bank or a mutual federal savings and loan association may also convert into a credit union under this section.

SECTION 3. Section 57 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph.

SECTION 4. Section 67 of said chapter 171, as so appearing, is hereby amended by adding after clause (v) the following 4 clauses:-

(w) in asset-backed securities in an aggregate amount not to exceed 10% of the assets of a credit union;

(x) in the shares, stocks, or obligations of any organization organized and operated for the purpose of providing services which are closely related to banking as determined by the commissioner in an aggregate amount not to exceed 10% of the assets of a credit union provided,

however, that such authority does not include the power to acquire control directly or indirectly, another financial institution, nor invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any other similar organization, corporation, or association not otherwise permitted by chapter 171 of the general laws;

(y) to participate in the activities of the Massachusetts Capital Growth Corporation created under chapter 40W by making capital available to the corporation by making an investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation or any fund managed by said corporation in an aggregate amount not to exceed 10% of the assets of a credit union; and

(z) a credit union may or in participation with a federal credit union or foreign credit union, as defined in section 1 of chapter 171, invest in, establish, operate or subscribe for services from another federal credit union, out-of-state credit union or any other business entity for the purpose of obtaining for or furnishing to the credit union technology, trust services, financial planning, compliance, internal audits, human resource or other operation functions, management staff or other banking services.

SECTION 5. Said chapter 171 is hereby further amended by striking out section 78A, as so appearing, and inserting in place thereof the following section:-

Section 78A. Any 1 or more credit unions, as defined in section 1 of chapter 171, may merge or consolidate with 1 or more savings banks, as defined in section 1 of chapter 168, or 1 or more co-operative banks, as defined in section 1 of chapter 170, or 1 or more subsidiary banking institutions, as defined in section 1 of chapter 167H and section 4 of chapter 167I, with either as the surviving corporation.

SECTION 6. Said chapter 171 is hereby further amended by striking out section 80A and inserting in place thereof the following section:-

Section 80A. (a) A credit union subject to this section may convert into a mutual savings bank governed by chapter 168, a mutual co-operative bank governed by chapter 170, a mutual federal savings bank or a mutual federal savings and loan association which exist under authority of the United States. A mutual savings bank governed by chapter 168 or a mutual co-operative bank governed by chapter 170 may convert into a credit union. If permissible under federal law, a mutual federal savings bank or a mutual federal savings and loan association may also convert into a credit union. The conversion shall comply with all applicable federal laws and regulations. A credit union insured by the Massachusetts Credit Union Share Insurance Corporation shall file notification of its intent to convert with said corporation at least 90 days before the date of the proposed special meeting of the members of the credit union. A mutual savings or co-operative bank insured by the Depositors Insurance Fund shall file notification of its intent to convert with said fund at least 90 days before the date of the proposed special meeting of the corporators or shareholders of the mutual savings or cooperative bank. No credit union, mutual savings bank, or co-operative bank may convert pursuant to this section so long as any financial assistance provided by the Depositors Insurance Fund or the Massachusetts Credit Union Share Insurance Corporation to such credit union, mutual savings bank, or co-operative bank remains unpaid or has not been compromised or settled. Any such repayment, compromise or settlement shall be approved by the commissioner.

(b) A mutual savings bank, co-operative bank or credit union shall file with the commissioner, at the same time, notices, disclosures and communications required by or sent to the National Credit Union Administration or the Federal Deposit Insurance Corporation. The

commissioner may require changes and additions to said notices, disclosures or communications, except as required by federal law or regulation.

(c) A mutual savings bank, co-operative bank or credit union that is adequately capitalized and has received at least a satisfactory rating in its most recent examination for compliance with the Community Reinvestment Act may submit a plan of conversion approved by a 2/3 vote of the entire board of directors or trustees to the commissioner. Unless waived by the commissioner, the plan shall include but not be limited to:

(1) a 3 year business plan for the appropriate chartered mutual savings bank, co-operative bank or credit union which shall include pro forma financial statements;

(2) a commitment by the converting credit union that it will not convert to a stock form before the expiration of 1 year of the effective date of the conversion to a mutual savings bank or co-operative bank charter;

(3) an estimated budget for conversion expenses;

(4) financial statements for the most recently completed quarter;

(5) if applicable, the procedures and timing for termination of excess deposit insurance from the Massachusetts Credit Union Share Insurance Corporation or the Depositors Insurance Fund; and

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

(d) Included with the plan shall be an information statement to be sent to corporators, shareholders or members which shall fully and fairly disclose all significant terms and steps to be taken for the conversion and shall include but not be limited to:

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

(2) a statement of the major positive and negative business effects of the proposed conversion;

(3) the impact on the member's financial and other interests in the credit union;

(4) in the case of a credit union converting to a mutual savings bank or co-operative bank, (a) a disclosure that the conversion from a credit union to a mutual savings bank or co-operative bank could lead to a member losing ownership interest in the credit union if the mutual savings bank or co-operative bank subsequently converts to a stock institution and the member does not become a stockholder; and (b) a disclosure of any conversion related economic benefit a director or senior management official may receive including receipt of or an increase in compensation and an explanation of any foreseeable stock related benefits associated with a subsequent conversion to a stock institution. The explanation of stock related benefits shall include a comparison of the opportunities to acquire stock that are available to officials and employees, with those opportunities available to the general membership.

(e) A converting credit union shall file with the commissioner a plan of conversion and an information statement at least 120 days before the date of the proposed special meeting of the members. The commissioner may require reasonable changes to the plan of conversion and information statement. The commissioner may also require any equitable disclosure he determines applicable to the proposed conversion. The commissioner may specify the form, type and other material aspects of the plan of conversion and information statement to be sent to members except to the extent that it does not conflict with federal law or regulation.

(f) The commissioner shall review the contents of the plan before the board of directors of the credit union presents the conversion plan to the members for a vote. The commissioner shall authorize the distribution of the conversion plan and information statement only if the commissioner is satisfied of all of the following:

(1) the plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion;

(2) the information statement discloses the impact on the member's financial and other interests in the credit union; and

(3) the conversion would not be made to circumvent a pending supervisory action that is initiated by the commissioner or other regulatory agency because of a concern over the safety and soundness of the credit union.

(g) The commissioner shall render a decision within 30 days from the date of the filing of the plan or any amendment thereof. Upon authorization by the commissioner of the distribution of the contents of the conversion plan and information statement, the converting credit union shall call a special meeting of the members to vote on the conversion plan. At least 30 days before the special meeting, the converting credit union shall mail to each member a notice of the special meeting, the conversion plan and information statement.

(h) The plan of conversion of a credit union shall be approved by a majority vote of those members voting. A member may vote on the proposal to convert in person or by electronic means at the special meeting held on the date set for the vote or by written ballot filed by the qualified voter. The vote on the conversion proposal shall be by secret ballot and conducted by an independent entity. The independent entity shall be a company with experience in conducting

corporate elections. A director or officer of the converting credit union, or an immediate family member of a director or officer, shall not have an ownership interest in, or be employed by, the entity.

(i) A converting credit union or an officer or director thereof shall not directly or indirectly give or offer or provide a chance to win a lottery or anything of substantial value, as determined by the commissioner, to the membership or a member of the credit union, for an action related to the conversion to a mutual bank or as an inducement to vote on the plan of conversion.

(j) The provisions on notice to members and voting procedures in this section shall govern the process for converting to a mutual bank notwithstanding other provisions of this chapter or a by-law of the converting credit union to the contrary.

(k) Certified copies of the results of the board of the converting mutual savings bank, co-operative bank or credit union meetings and votes of the membership meetings of the credit union shall be filed with the commissioner. The credit union shall also certify that the information statement, plan, and other written materials provided to members were identical to those materials considered satisfactory by the commissioner.

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

(m) If the conversion to a mutual savings bank or co-operative bank is approved by the credit union members or if the conversion to a credit union is approved by the boards of a mutual

savings or co-operative bank and the commissioner receives notification from the converting mutual savings bank, co-operative bank or credit union that approvals required under state and federal law and regulations, including approvals needed for deposit insurance by the Federal Deposit Insurance Corporation or the National Credit Union Administration have been obtained, and that any waiting period prescribed by federal law has expired, and in the case of conversion to a mutual savings or co-operative bank, it will become a member of the Depositors Insurance Fund and of the deposit insurance fund thereof, and further, in the case of conversion to a credit union, it will become a member of the Massachusetts Credit Union Share Insurance Corporation and of the share insurance fund thereof and has made all applicable payments thereto as determined by the commissioner, a certificate to transact business shall be issued by the commissioner as applicable. A conversion to a mutual savings, co-operative bank or a credit union under this section shall not be consummated until arrangements satisfactory to the Depositors Insurance Fund or to Massachusetts Credit Union Share Insurance Corporation, as applicable, have been made and notice thereof has been received by the commissioner. After receipt of the certificate to transact business, the converting mutual savings bank, co-operative bank or credit union shall promptly file the certificate and its articles of organization with the secretary of state. Upon the filing, the charter of the converting mutual savings bank, co-operative bank or credit union shall automatically cease and the converting mutual savings bank, co-operative bank or credit union shall become a mutual savings bank, co-operative bank or credit union. Upon the conversion, the converted mutual savings bank, co-operative bank or credit union shall possess all of the rights, privileges and powers granted to it by its articles of organization and by the laws applicable to the type of mutual savings bank, co-operative bank or credit union charter into which it converted, and all of the assets and business of the converting

mutual savings bank, co-operative bank or credit union shall be transferred to and vested in it without any deed or instrument of conveyance; but the converting mutual savings bank, co-operative bank or credit union may execute a deed or instrument of conveyance as is convenient to confirm the transfer. The converted mutual savings bank, co-operative bank or credit union shall be subject to all of the duties, relations, obligations and liabilities of the converting mutual savings bank, co-operative bank or credit union, whether as debtor, depository or otherwise, and shall be liable to pay and discharge the debts and liabilities, to perform all the duties in the same manner and to the same extent as if the converted mutual savings bank, co-operative bank or credit union had itself incurred the obligation or liability or assumed the duty or relation. Rights of creditors of the converting mutual savings bank, co-operative bank or credit union and liens upon the property of such mutual savings, co-operative bank or credit union shall be preserved unimpaired and the converted mutual savings bank, co-operative bank or credit union shall be entitled to receive, accept, collect, hold and enjoy all gifts, bequests, devises, conveyances and appointments in favor of or in the name of the converting mutual savings bank, co-operative bank or credit union and whether made or created to take effect before or after the conversion.

(n) If the conversion to a mutual federal savings bank or a mutual federal savings and loan association is approved by the members the converting credit union shall provide notification to the commissioner that all approvals under state and federal law and regulations including approvals needed for deposit insurance by the Federal Deposit Insurance Corporation have been obtained and that any waiting period prescribed by federal law has expired and shall provide a certified copy of the approval of the federal mutual charter by the Office of Thrift Supervision or any successor agency thereto. Upon acceptance of the federal charter, the converting credit union's charter from the commonwealth shall cease to exist.

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