

**SENATE . . . . . No. 457**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Michael J. Rodrigues***

*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 authorizing the conversion of banks to another charter.

PETITION OF:

NAME:

*Michael J. Rodrigues*

DISTRICT/ADDRESS:

**SENATE . . . . . No. 457**

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By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 457) of Michael J. Rodrigues for legislation to authorize conversions by Massachusetts-chartered banks or credit unions to federal or other charters. Financial Services.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1016 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
\_\_\_\_\_

An Act authorizing the conversion of banks to another charter.

*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 168 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by inserting after section 34G the following section:-

3                   Section 34H. A savings bank as defined in section one of chapter one hundred and sixty-  
4 seven may convert into a credit union pursuant to the provisions of section 80B of chapter 171.

5                   SECTION 2. Chapter 170 of the General Laws, as so appearing, is hereby  
6 amended by inserting after section 26H the following section: -

7                   Section 26I. A cooperative bank as defined in section one of chapter one  
8 hundred and sixty-seven may convert into a credit union pursuant to the provisions of section  
9 80B of chapter 171.

10 SECTION 3. Chapter 171 of the General Laws, as so appearing, is hereby  
11 amended by inserting after section 80A the following section:-

12 Section 80B. (a) A savings bank governed by the provisions of chapter 168 or  
13 a cooperative bank governed by the provisions of chapter 170 may convert into a credit union  
14 subject to the provisions of this section. Any such conversion shall comply with all applicable  
15 federal laws and regulations.

16 (b) A savings or cooperative bank that is at least adequately capitalized and has  
17 received at least a satisfactory rating in its most recent examination for compliance at the  
18 Community Reinvestment Act may submit a detailed plan of conversion approved by 2/3 vote of  
19 the entire board of directors to the commissioner. The commissioner may require changes and  
20 additions to the plan, including but not limited to, changes to any notices, disclosures, or  
21 communications, except as required by federal law or regulation. The commissioner may  
22 prescribe regulations for any savings or cooperative banks to convert to a credit union charter.  
23 Unless waived by the commissioner, the converting savings or cooperative bank shall prepare  
24 and submit to the commissioner a conversion plan which shall include, but not be limited to:

25 (1) A 3-year business plan which shall include performance financial  
26 statements for the credit union;

27 (2) An estimated budget for conversion expenses;

28 (3) Financial statements for the most recently completed quarter;

29 (4) The manner in which the converting bank will comply with  
30 membership requirements and divest itself of customers who do not meet credit union field-of-  
31 membership limitations;

32 (5) The manner in which the converting bank will convert its board to  
33 a voluntary non-paid structure and divest its board of stock options, if any;

34 (6) The manner in which the converting bank will divest its capital  
35 stock, if any;

36 (7) The manner in which the converting bank will divest  
37 impermissible investments;

38 (8) The manner in which the converting bank will comply with  
39 branching, share and deposit limitations;

40 (9) The manner in which the converting bank will comply with  
41 organizational member and member business loan requirements under relevant state and federal  
42 provisions;

43 (10) A copy of materials forwarded to corporations or shareholders  
44 relative to voting on the plan of conversion;

45 (11) The proposed amended and restated articles of organization and  
46 bylaws of the converting bank;

47 (12) If applicable, the procedures and timing for conversion from  
48 federal deposit insurance to federal share insurance;

49 (13) If applicable, the procedures and timing for changes in relevant  
50 state excess deposit insurers; and

51 (14) Any other relevant information that the commissioner may  
52 reasonably require.

53 (c) The converting bank shall perform a complete policy review to address  
54 appraisal restrictions, lending restrictions, investment restrictions, and corporate structure  
55 restrictions, in order to ensure compliance with the provisions of this chapter and any relevant  
56 state or federal credit union regulations.

57 (d) Upon approval of a plan of charter conversion by the board of directors of  
58 the converting savings or cooperative bank, the conversion plan and certified copy of the  
59 resolution of the board of directors approving the conversion plan shall be submitted to the  
60 commissioner. Included with the plan shall be an information statement to be sent to corporators  
61 or shareholders which shall fully and fairly disclose all significant terms and steps to be taken for  
62 the conversion and shall include but not be limited to:

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

64 (2) a statement of the major positive and negative business effects of  
65 the proposed conversion.

66 (3) the impact on the corporators or shareholders financial and other  
67 interests in the proposed credit union.

68 (4) a disclosure of any conversion related economic benefit a director  
69 or senior management official may receive including receipt of or an increase in compensation.

70 (e) The commissioner may require changes to the plan of conversion and  
71 information statement. The commissioner may also require any equitable disclosure he  
72 determines applicable to the transaction. The commissioner may specify the form, type, timing  
73 and other material aspects of the plan of reorganization and information statement to be sent to  
74 corporators and shareholders.

75 (f) The commissioner shall review the contents of the plan before the board  
76 presents the conversion plan for a vote. The commissioner shall approve the contents of the  
77 conversion plan and information statement only if the commissioner is satisfied of all of the  
78 following:

79 (1) The plan discloses information concerning the advantages and  
80 disadvantages of the proposed conversion.

81 (2) The information statement discloses the impact on the corporators  
82 or shareholders financial and other interests in the credit union.

83 (3) The conversion would not be made to circumvent a pending  
84 supervisory action that is initiated by the commissioner or other regulatory agency because of a  
85 concern over the safety and soundness of the savings or cooperative bank.

86 (g) Upon approval of the contents of the conversion plan and information  
87 statement by the commissioner, the savings or cooperative bank shall call a special meeting of  
88 the corporators or shareholders to vote on the conversion plan. At least thirty days before the  
89 meeting, the savings or cooperative bank shall mail a notice of the meeting, the conversion plan  
90 and information statement to all corporators and shareholders.

91 (h) The plan of conversion shall be approved by a majority vote of the  
92 shareholders or corporators voting. A shareholder or corporator may vote on the proposal to  
93 convert in person at the special meeting held on the date set for the vote or by ballot. The vote  
94 on the conversion proposal shall be by secret ballot and conducted by an independent entity. The  
95 independent entity shall be a company with experience in conducting corporate elections. A  
96 director or officer of the savings or cooperative bank, or an immediate family member of a  
97 director or officer, shall not have an ownership interest in, or be employed by the entity.

98 (i) An officer or director thereof shall not directly or indirectly give or offer or  
99 provide a chance to win a lottery or anything of substantial value, as determined by the  
100 commissioner, to the corporators or shareholders of the bank for an action related to the  
101 conversion to a credit union or as an inducement to vote on the plan of conversion.

102 (j) The provisions on notice to corporators or shareholders and voting  
103 procedures in this section shall govern the process for converting to a credit union  
104 notwithstanding other provisions of this chapter or a by-law of the converting savings or  
105 cooperative bank to the contrary.

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

110 (l) Certified copies of records of all proceedings held by the board of directors  
111 and corporators and shareholders of the savings or cooperative bank shall be filed with the  
112 commissioner.

113 (m) The commissioner may authorize a credit union resulting from a charter  
114 conversion under this chapter to do the following:

115 (1) Complete any activities that the converting bank legally engaged  
116 in at the effective time of the charter conversion but that otherwise are not permissible for credit  
117 unions; and

118 (2) Retain for a transitional period any assets that the converting bank  
119 legally held at the effective time of the charter conversion that otherwise may not be held by  
120 credit unions. The terms and conditions of the completion of activities under subparagraph (1)  
121 and the retention of assets under subparagraph (2) of this paragraph are subject to the discretion  
122 of the commissioner. However, the transitional period during which activities may be carried out  
123 under subparagraph (1) or assets may be retained under subparagraph (2) may not exceed ten  
124 (10) years after the effective time of the charter conversion.

125 (n) If the conversion to a credit union is approved by the board of directors and  
126 the commissioner receives notification from the converting savings or cooperative bank that all  
127 approvals required under state and federal law and regulations, including required approvals for  
128 federal share insurance by the National Credit Union Administration have been obtained, that  
129 any waiting period prescribed by federal law has expired, that membership in the Massachusetts  
130 Credit Union Share Insurance Corporation and of the share insurance fund thereof has been  
131 obtained and that all applicable payments thereto have been made as determined by the  
132 commissioner, then a certificate to transact business shall be issued by the commissioner as  
133 applicable. After receipt of the certificate to transact business, the converting savings or  
134 cooperative bank shall promptly file such certificate and its articles of organization with the

135 secretary of state. Upon such filing, the charter of the converting savings or cooperative bank  
136 shall automatically cease, and the converting bank shall cease to be a bank and shall become a  
137 credit union. Upon such conversion, the converted credit union shall possess all the rights,  
138 privileges, and powers granted to it by its articles or organization and by the provisions of  
139 general statutes applicable to the type of credit union charter to which it converted. All of the  
140 assets and business of the converting savings or cooperative bank shall transferred to and vested  
141 in it without any deed or instrument of conveyance, provided the converting bank may execute  
142 any deed or instrument of conveyance as is convenient to confirm such transfer. The converted  
143 credit union shall be subject to all of the duties, relations, obligations, and liabilities of the  
144 converting bank, whether as debtor, depository, or otherwise, and shall be liable to pay and  
145 discharge all such debts and liabilities, to perform all such duties in the same manner and to the  
146 same extent as if the converted credit union had itself incurred the obligation or liability or  
147 assumed the duty or relation. All rights of the credits of the converting savings or cooperative  
148 bank shall be preserved unimpaired, and the converted credit union shall be entitled to receive,  
149 collect, accept, hold, and enjoy any and all gifts, bequests, devises, conveyances, and  
150 appointments in favor of or in the name of the converting savings or cooperative bank and  
151 whether made or created to take effect prior to or after the conversion.

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