

HOUSE No. 852

The Commonwealth of Massachusetts

PRESENTED BY:

Garrett J. Bradley

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 relative to the list of legal investments prepared by the Commissioner of Banks for credit unions .

PETITION OF:

NAME:

Garrett J. Bradley

DISTRICT/ADDRESS:

3rd Plymouth

HOUSE No. 852

By Mr. Bradley of Hingham, a petition (accompanied by bill, House, No. 852) of Garrett J. Bradley relative to the list of legal investments prepared by the Commissioner of Banks for credit unions. Financial Services.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act relative to the list of legal investments prepared by the Commissioner of Banks for credit unions .

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

1 SECTION 1. Chapter 171 of the General Laws is hereby amended by inserting after
2 section 67A the following section:-

3 Section 67B. Upon a two-thirds vote of its board of directors, a credit union which has
4 strong management, is well-capitalized and has at least a satisfactory rating at the most recent
5 community reinvestment examination conducted by the commissioner pursuant to section 14 of
6 Chapter 167 may apply to the commission to invest in shares of stock registered on a national
7 securities exchange as provided in the Securities Exchange Act of 1934, 15 USC 78a or for
8 which quotations are available through the Financial Industry Regulatory Authority or any
9 comparable service designated by the commissioner; provided that such investment shall be
10 made in the exercise of judgment and care consistent with the “Prudent Man” rule, so-called and
11 as provided herein. In making such application to the commissioner for "Prudent Man"
12 authority, so-called, as provided herein, such credit union shall have adequate policies and
13 procedures governing the performance of such activity by the credit union and its employees, to
14 minimize any credit, market, liquidity, operational, legal and reputational risks to the credit
15 union. A credit union shall submit such other information that the commissioner may deem
16 necessary to properly evaluate an application. The commissioner may consider any other
17 information available to the division of banks in determining whether to approve or reject an
18 application. Any such approval granted by the commissioner shall be subject to such conditions
19 and limitations as he may impose.

20 A credit union may apply to invest up to 20 per cent of its assets under the authority of
21 this section. The percentage of such assets authorized shall be determined by the commissioner.
22 The commissioner may increase, modify, curtail or rescind or otherwise limit a credit union's
23 authority to make such investments.

24 Before making any such investment under this section a credit union shall conduct an
25 appropriate level of due diligence to determine if an investment is both permissible and
26 appropriate. This may include both internal as well as external analysis. For debt instruments,
27 such analysis shall not rely solely on 1 or more credit rating agencies and such credit union shall
28 determine that such instrument has both a low risk of default by the obligor and that the full and
29 timely repayment is expected over the life of the investment.

30 A credit union shall take into consideration the following:

31 (1) when considering the purposes, terms, and other circumstances of the credit
32 union, including those set forth in this section, whether the investment would meet the "prudent
33 man" standard whereby the credit union shall exercise reasonable care, skill and caution in
34 making its investments and management decisions;

35 (2) whether the investment or management decision is consistent with an overall
36 investment strategy reasonably suited to the credit union;

37 (3) consideration of circumstances relevant to the credit union in investing and
38 managing its assets, including: (i) general economic conditions; (ii) the possible effect of
39 inflation or deflation; (iii) the role that each investment or course of action plays within the
40 overall credit union investment philosophy; (iv) the expected total return from income and the
41 appreciation of capital; (v) other resources of the credit union; (vi) needs for liquidity, regularity
42 of income, and preservation or appreciation of capital; and (vii) an asset's special relationship or
43 special value, if any, to the purposes of the credit union;

44 (4) whether facts relevant to the investment and management of its assets can be
45 reasonably verified;

46 (5) whether the investment or management decision would reasonably diversify the
47 investments of the credit union in order to bring the credit union's portfolio into compliance with
48 the purposes, terms, and the other circumstances of the credit union, and with the requirements of
49 this section;

50 (6) the costs of any decision in investing and managing credit union assets and
51 whether such costs are appropriate and reasonable in relation to its assets.

52 The investments under this section shall not exceed 20 per cent of the credit union's
53 assets. Such investments shall be subject to the annual review by the board of directors of the

54 credit union and shall be subject to periodic review by the division of banks during the course of
55 examination pursuant to section 2 of Chapter 167.

56 SECTION 2. Chapter 294 of the Acts of 1961 is hereby amended by inserting after
57 section 12 the following section:-

58 Section 12A. Upon a two-thirds vote of its board of directors, and having established that
59 such activity will not adversely affect its safety and soundness; and having adequate policies and
60 procedures to ensure such investments governing the performance of the corporation and its
61 employees, to minimize any credit, market, liquidity, operations, legal and reputation risks to the
62 corporation, it may apply to the commissioner to make investments under the “Prudent Man”
63 authority, so called, authorized to state-chartered credit unions pursuant to section 67B of
64 Chapter 171 of the General Laws. Any such approval granted by the commissioner shall be
65 subject to such conditions and limitations as the commissioner may impose.

66 The corporation may apply to invest up to 20 per cent of its assets under the authority of
67 said section 67B. The percentage of such assets authorized shall be determined by the
68 commissioner. The commissioner may increase, modify, curtail or rescind or otherwise limit the
69 corporation’s authority to make such investments under the authority of said section 67B.