

## No. 2014-62

## AN ACT

HB 2009

Amending Title 17 (Credit Unions) of the Pennsylvania Consolidated Statutes, in preliminary provisions, further providing for definitions; in incorporation, further providing for articles of incorporation, for Department of Banking consideration of articles and for bylaws; in corporate powers, duties and safeguards, further providing for powers, for fees and charges, for loan interest, for power to borrow, for loans and for dividends; in members, directors and officers, further providing for notice to members and for expulsion and withdrawal; in amendment of articles, further providing for procedure for amendment of articles; in conversion, merger and consolidation, further providing for conversion into Federal credit union and for adoption of plan; and, in dissolution, further providing for approval of voluntary dissolution.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "community development credit union," "department," "secretary" and "service facility" in section 103 of Title 17 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a definition to read:

§ 103. Definitions.

The following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Community development credit union." A credit union which is designated as a low-income credit union by the **[Department of Banking] department**.

\* \* \*

"Department." The Department of Banking *and Securities* of the Commonwealth.

\* \* \*

*"Officer." Any of the following:*

- (1) The chief executive officer or equivalent.*
- (2) The president.*
- (3) The chief financial officer or equivalent.*
- (4) The treasurer.*
- (5) The secretary.*
- (6) Any assistant chief executive officers or their equivalents, including vice presidents.*

\* \* \*

**["Secretary." The Secretary of Banking of the Commonwealth or the secretary's designee.]**

"Service facility." A subsidiary office of the credit union such as an automated teller machine, kiosk or other type of facility as determined by the

**[Department of Banking] department** which is not capable of offering the same or approximately the same level of service that can be found at the principal office of the credit union.

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Section 2. Sections 303, 304 heading, 305(a), (b), (d)(3) and (d.1)(1), (3), (4), (7), (8) and (9), 501(b)(10), 509(c) and (d), 510(a) and (b), 511(a), 512, 514(b), 704, 705, 901, 1101(a)(1), 1104(a) and 1302(a)(2) of Title 17 are amended to read:

§ 303. Articles of incorporation.

**(a) General rule.**—Articles of incorporation shall be signed by each of the incorporators. The articles of incorporation shall set forth:

(1) The name of the proposed credit union, which shall contain the words "credit union."

(2) The class of services to be performed by the credit union, which services shall be within the scope of activities of such associations as set forth in this title.

(3) The principal place where its business is to be transacted, which shall be within this Commonwealth.

(4) The term for which it is to exist, which may be perpetual.

(5) The par value of its shares.

(6) The names and post office addresses of the incorporators[,] and the number of shares subscribed by each.

(7) The names and residences of each of the first directors, not less than five in number, who shall serve until the first annual meeting of the credit union, and the name and residence of the treasurer.

(8) The common bond of membership.

(9) Any provision, not inconsistent with law, which the incorporators may choose to insert for the regulation of the business and the internal affairs of the credit union.

**(b) Maintenance of copies.**—*A copy of the original articles of incorporation of the credit union and all amendments thereto shall be maintained by the credit union.*

§ 304. Department **[of Banking]** consideration of articles.

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§ 305. Bylaws.

(a) General rule.—The original bylaws of a credit union shall be adopted by the incorporators of the credit union and copies shall be transmitted to the department along with the articles of incorporation as provided in this chapter. *The original bylaws of the credit union and all amendments thereto shall be maintained by the credit union.*

(b) Board-initiated bylaw amendments.—

(1) Bylaws may be amended or repealed by the affirmative vote of a majority of directors at any regular or special meeting of the board. Whenever the board of directors amends the bylaws, **[written]** notice thereof shall be given to the members prior to the next meeting of the members or within 90 days after such action by the board of directors, whichever is sooner.

**[(2) Any amendment to or repeal of the bylaws adopted by the board of directors may be repealed or amended by a two-thirds vote**

of the responding members. The member-initiated repeal or amendment of a bylaw passed by the board of directors may be conducted at an annual or special member meeting or conducted by mail ballot if the bylaws allow such a procedure. The vote must be held at least ten days after the mailing of the notice in paragraph (1).]

(3) [Notwithstanding paragraph (2), the] *The* members of a credit union may amend the bylaws pursuant to procedures set forth in subsections (d), (d.1) and (d.2), whichever subsection is appropriate.

\* \* \*

(d) Member-initiated bylaw amendment or repeal for credit unions with more than 10,000 members.—

\* \* \*

(3) Whenever the board of directors receives a member-initiated petition to amend or repeal the bylaws, [written] notice thereof shall be given to all members of the credit union within 90 days, and a mail ballot vote of the matter shall be held during a period of at least ten days after the mailing of the [notice and] ballot.

(d.1) Procedure.—

(1) To initiate the procedure to amend or repeal the bylaws set forth in subsection (d), a member of a credit union must [obtain the petition form from the department. The department shall date the petition form and file a copy of the form] *circulate a petition to all members of the credit union.*

\* \* \*

(3) The member seeking to amend or repeal the bylaws shall [have 180 days from the receipt of the petition form from the department to] circulate the petition and obtain the requisite number of signatures from members of the credit union. The petition shall [be in a form provided by and approved by the department and shall] clearly identify the bylaw to be amended or repealed and include the language of the proposed bylaw.

[(4) On or before 180 days from the date the petition form was obtained from the department, the member seeking to amend or repeal the bylaws must file the petition with the department. The department shall indicate the date of filing on the petition and file the petition in the records of the department. The department shall send a copy of the petition to the secretary of the credit union.]

\* \* \*

(7) Any member seeking to contest a determination by the credit union not to mail the [notice and] ballot provided for in subsection (d) may file a complaint with the department within 30 days of receiving [written] notice from the secretary of the credit union's decision not to mail such [notice and] ballot, and the department shall adjudicate the matter.

(8) The department may provide any person or governmental entity with a copy of the petition [form] as well as any complaints filed with the department and other documents related to the ballot procedure.

(9) If the credit union mails the **[notice and]** ballot provided for in subsection (d) or is ordered to do so by the department, then the credit union shall **[send] provide** an official notice to all members of the credit union, prepare and mail the ballots, arrange for tallying of the votes and report the results to all members in accordance with subsection (d).

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§ 501. Powers.

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(b) Special powers.—A credit union shall have the following special powers:

\* \* \*

(10) To hold, purchase, mortgage, alter, improve and sell fixed assets, meaning such real property, and furniture and fixtures to be used therein, as the purposes of the credit union require and which the credit union occupies or intends to occupy for the transaction of its business or partly so occupies and partly leases to others, except that, without the prior written approval of the department, the cost, at the time of acquisition, of such real property and furniture and fixtures therein shall not exceed 5% of shares and **[retained] undivided** earnings.

\* \* \*

§ 509. Fees and charges.

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(c) Fees in connection with collectors or outside collection agencies.—A credit union may collect fees paid to outside collectors or outside collection agencies, provided the aggregate of such collection fees does not exceed 20% of the outstanding loan balance *or other share or loan service related amounts owed to the credit union*.

(d) Other fees.—A credit union may additionally:

(1) charge fees for other services to its members, provided that the fees charged will be for the actual cost of the respective services provided by the credit union[.]; *and*

(2) *recoup actual sums expended by the credit union, including use of credit union personnel, incurred in collection of outstanding loan balances or other share or loan service related amounts owed to the credit union.*

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§ 510. Loan interest.

(a) General rule.—Interest rates on loans made by a credit union to its members shall not exceed **[15% per annum when calculated on the unpaid principal balances. Interest shall be computed for the actual number of days which have elapsed at the time of payment, except that interest for mortgage loans may be paid according to a preauthorized amortization schedule] the interest rates and finance charges permissible for a Federal credit union as authorized by the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.) and the rules and regulations of the National Credit Union Administration.**

**[(b) Procedure for increase in rates.—Before any credit union shall charge any higher rate than that authorized in subsection (a), it shall**

obtain approval for such higher rate from at least two-thirds of the board of directors of the credit union, and such higher approved rate shall then apply only to loans made by the credit union thereafter. Members shall be notified in writing of the action of the board of directors not later than the next regular mailing of members account statements, which is at least 20 days subsequent to the action of the board.]

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§ 511. Power to borrow.

(a) General rule.—A credit union may borrow from any source a sum not exceeding 50% of its unimpaired capital, regular reserve, contingency reserves and [retained] *undivided* earnings for the purpose of meeting the demand for loans to members or for the purpose of meeting demands for share withdrawals.

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§ 512. Loans.

[Except as otherwise provided in this title, a credit union may make loans to its members only. Loans must be made subject to the conditions contained in the bylaws. A borrower may repay his loan, in whole or in part, any day the office of the credit union is open for business. No director, officer or member of any committee may obtain or guarantee a loan from the credit union in which he holds office on terms, rates or conditions more favorable than those granted to any other member.]

(a) *Loans to members only.*—*Except as otherwise provided in this title, a credit union may make loans to its members only.*

(b) *Loans subject to bylaws.*—*Loans must be made subject to the conditions contained in the bylaws.*

(c) *Borrower repayment of loans.*—*A borrower may repay the borrower's loan, in whole or in part, any day the office of the credit union is open for business.*

(d) *Nonpreferential treatment.*—*The following may not obtain or guarantee a loan from the credit union on terms, rates or conditions more favorable than those granted to any other member:*

(1) *A director.*

(2) *An officer.*

(3) *A member of any committee.*

(4) *A member of the immediate family of a director, officer or member of a committee.*

(5) *Any individual having a common ownership, investment or other pecuniary interest in a business enterprise with a director, officer or member of a committee.*

§ 514. Dividends.

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(b) Inactive accounts.—A share account may be transferred to a special account if, for at least [six] *five* years, there has been no activity by the owner of the account and all written communications from the credit union to the owner of the account have been returned to the credit union with no forwarding address. After the transfer, the credit union may cease paying dividends on the transferred account and may cease sending notices to the

owner. A member whose account has been transferred may reclaim the funds from the credit union at any time prior to the time the account is escheated. After escheat, reclaiming is governed by Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 704. Notice to members.

(a) General rule.—All **[written]** notices required by this title to be given to members shall be:

(1) delivered in person to each member **[or]**;

(2) mailed to each member at the address for such member appearing on the records of the credit union[.]; *or*

(3) *by facsimile transmission, e-mail or other electronic communication to each member's facsimile number or address for e-mail or other electronic communications appearing on the records of the credit union. Notice pursuant to this paragraph shall be deemed to have been given to the member entitled to the notice when sent.*

(b) Notice of changes in fees, charges or policies.—Each new member to a credit union shall be provided with **[written]** notice by the respective credit union listing any fees, service charges or policies regarding the transfer of funds to noninterest bearing accounts. A new member and each existing member shall subsequently be provided with similar **[written]** notice if there is a change by the credit union in the amount or type of fees or service charges or a change in the policy regarding the transfer of funds to noninterest bearing accounts. The credit union shall also provide such information to any member upon request by that member.

§ 705. Expulsion, *suspension* and withdrawal.

(a) Expulsion.—**[A member may be expelled:**

(1) **by a vote of a majority of the members present at a regular or a special meeting called to consider the matter at which a quorum, as provided in the bylaws, is present but only after a hearing after due notice to the member of the time and place of the meeting and of the reason or reasons for such proposed expulsion; or**

(2) **by a vote of a two-thirds majority of the board of directors present at a regular or special meeting called to consider the matter if:**

(i) **the board has given the member notice of the meeting and of the reason for proposed expulsion;**

(ii) **there is a quorum, as provided in the bylaws, present at the meeting; and**

(iii) **there is a hearing on the matter at the meeting.] Unless otherwise provided in the credit union's bylaws:**

(1) *The board of directors may expel a member for cause by a majority vote of a quorum of directors pursuant to a written policy adopted by the board. For the purposes of this subsection, "cause" includes a loss to the credit union, a violation of the membership agreement or any policy or procedure adopted by the board or inappropriate behavior, such as physical or verbal abuse of credit union members or staff. All members shall be given written notice of such policies. Any person expelled by the board shall have the right to request a hearing before the board to reconsider the expulsion.*

*(2) A credit union may terminate the membership of any member who withdraws the member's shares to less than one share.*

*(3) Persons whose membership has been terminated, whether by withdrawal or expulsion, shall have no further rights in the credit union, but are not released from any obligation owed to the credit union.*

*(4) A member who has been expelled, as provided by this subsection, may not be readmitted to membership except upon approval by a majority vote of the board after application and proof that the applicant remains within the credit union's field of membership, has adequately explained, addressed or remedied the conditions leading to expulsion and will abide by the terms and conditions of membership. Not more than one such application for readmission may be made within any 12-month calendar period.*

*(a.1) Suspension.—Unless otherwise provided in the credit union's bylaws, a credit union may, for cause, suspend certain services to a credit union member under a policy adopted by the credit union's board of directors. Members with suspended services may maintain a share account and continue to vote at annual and special meetings.*

*(b) Withdrawal.—Any member may withdraw from the credit union at any time, but notice of withdrawal may be required.*

§ 901. Procedure for amendment of articles.

The articles of incorporation may be amended at any regular or special meeting of the credit union, if **[written]** notice of the meeting and of the proposed amendment or amendments is furnished each member at least ten days prior to the meeting at which such amendment or amendments will be considered. Notwithstanding statutory provisions to the contrary, the articles of incorporation may alternatively be amended by the members through mail ballot voting as provided in the bylaws. Amendments to the articles of incorporation must be approved by a majority of the members present at any meeting at which the amendments are considered or, in the case of a mail ballot, by a majority of the members responding by mail ballot. The proposed amendments shall be acted upon only in the event a quorum of the members, as provided in the bylaws, is present or, in the case of a mail ballot vote, a number of returned mail ballots equal to the quorum of the members, as provided in the bylaws, exists.

§ 1101. Conversion into Federal credit union.

*(a) General rule.—A credit union may be converted into a Federal credit union by complying with the following requirements:*

*(1) The proposition for such conversion shall first be approved by a majority vote of the directors of the credit union who shall also set a date for the vote thereon by the members. The vote of the members shall be conducted at a meeting held on such date, or by written ballot if the bylaws so provide to be filed on or before such date. **[Written notice]** Notice of the proposition and of the date set for the vote shall be given each member not more than 30 nor less than ten days prior to such date. Approval of the proposition shall be by the affirmative vote of a majority of the members voting, in person or in writing, either at a meeting of the credit union or through a mail ballot vote. In order for a vote to be*

considered valid, there must be a quorum established. In the case of a meeting of the credit union, a quorum shall be established by the presence of at least 10% of the credit union's membership. In the case of a mail ballot vote, a quorum shall be established by the written response of at least 10% of the credit union's membership.

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§ 1104. Adoption of plan.

(a) General rule.—The board of directors of each of the credit unions, Federal credit unions or out-of-State credit unions which desire to merge or consolidate shall, by resolution adopted by at least a majority of all the members of each board, approve a plan of merger or consolidation setting forth the terms and conditions of the merger or consolidation and the mode of carrying the same into effect, the manner and basis of converting the shares of each credit union, Federal credit union or out-of-State credit union into shares or other securities or obligations of the surviving or new credit union, Federal credit union or out-of-State credit union, and such other details and provisions as are deemed necessary. Except where the approval of the members is not required, the board of directors shall direct that the plan be submitted to a vote of the members of such credit union, Federal credit union or out-of-State credit union entitled to vote thereon at an annual or special meeting of the members to be held on not less than 15 days prior **[written]** notice thereof given to each member of record, which notice shall state the place, day, hour and purpose of the meeting and shall have included therein or enclosed therewith a copy or summary of the plan of merger or consolidation.

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§ 1302. Approval of voluntary dissolution.

(a) General rule.—The procedure for voluntary dissolution shall be as follows:

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(2) A meeting of the membership shall be called for the purpose of acting on the plan of dissolution. **[Written notice]** *Notice* setting forth the date and purpose of such meeting shall be furnished each member at least ten days prior to the date of the meeting. The plan of dissolution shall be adopted upon the affirmative vote of a majority of the entire membership of the credit union in person or by written ballot.

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Section 3. This act shall take effect in 60 days.

APPROVED—The 18th day of June, A.D. 2014

TOM CORBETT