

HOUSE No.

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 passage of the accompanying bill:

An Act authorizing the conversion of banks to another charter.

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

8th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 2006 Official Edition, is
2 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-seven
4 may convert into a credit union pursuant to the provisions of section 80B of chapter 171.

5

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

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

10

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

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

16

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

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

28 (2) An estimated budget for conversion expenses;

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

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

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

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

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

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

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

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

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

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

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

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

49

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

53

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

- 59 (1) a statement as to why the board is considering the conversion.
- 60 (2) a statement of the major positive and negative business effects of the proposed
- 61 conversion.
- 62 (3) the impact on the corporators or shareholders financial and other interests in the
- 63 proposed credit union.
- 64 (4) a disclosure of any conversion related economic benefit a director or senior
- 65 management official may receive including receipt of or an increase in compensation.

66

67 (e) The commissioner may require changes to the plan of conversion and information

68 statement. The commissioner may also require any equitable disclosure he determines

69 applicable to the transaction. The commissioner may specify the form, type, timing and other

70 material aspects of the plan of reorganization and information statement to be sent to

71 corporators and shareholders.

72

73 (f) The commissioner shall review the contents of the plan before the board presents the

74 conversion plan for a vote. The commissioner shall approve the contents of the conversion plan

75 and information statement only if the commissioner is satisfied of all of the following:

76

- 77 (1) The plan discloses information concerning the advantages and disadvantages of the
- 78 proposed conversion.
- 79 (2) The information statement discloses the impact on the corporators or shareholders
- 80 financial and other interests in the credit union.

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

84
85 (g) Upon approval of the contents of the conversion plan and information statement by the
86 commissioner, the savings or cooperative bank shall call a special meeting of the corporators or
87 shareholders to vote on the conversion plan. At least thirty days before the meeting, the savings
88 or cooperative bank shall mail a notice of the meeting, the conversion plan and information
89 statement to all corporators and shareholders.

90
91 (h) The plan of conversion shall be approved by a majority vote of the shareholders or
92 corporators voting. A shareholder or corporator may vote on the proposal to convert in person
93 at the special meeting held on the date set for the vote or by ballot. The vote on the conversion
94 proposal shall be by secret ballot and conducted by an independent entity. The independent
95 entity shall be a company with experience in conducting corporate elections. A director of
96 officer of the savings or cooperative bank, or an immediate family member of a director or
97 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 provide a chance
99 to win a lottery or anything of substantial value, as determined by the commissioner, to the
100 corporators or shareholders of the bank for an action related to the conversion to a credit union
101 or as an inducement to vote on the plan of conversion.

102

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

106

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

111

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

114

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

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

119 (2) Retain for a transitional period any assets that the converting bank legally
120 held at the effective time of the charter conversion that otherwise may not be held by credit
121 unions.

122

123 The terms and conditions of the completion of activities under subparagraph (1) and the retention of
124 assets under subparagraph (2) of this paragraph are subject to the discretion of the commissioner.

125 However, the transitional period during which activities may be carried out under subparagraph (1) or
126 assets may be retained under subparagraph (2) may not exceed ten (10) years after the effective time of
127 the charter conversion.

128

129 (n) If the conversion to a credit union is approved by the board of directors and the commissioner
130 receives notification from the converting savings or cooperative bank that all approvals required under
131 state and federal law and regulations, including required approvals for federal share insurance by the
132 National Credit Union Administration have been obtained, that any waiting period prescribed by federal
133 law has expired, that membership in the Massachusetts Credit Union Share Insurance Corporation and
134 of the share insurance fund thereof has been obtained and that all applicable payments thereto have
135 been made as determined by the commissioner, then a certificate to transact business shall be issued by
136 the commissioner as applicable. After receipt of the certificate to transact business, the converting
137 savings or cooperative bank shall promptly file such certificate and its articles of organization with the
138 secretary of state. Upon such filing, the charter of the converting savings or cooperative bank shall
139 automatically cease, and the converting bank shall cease to be a bank and shall become a credit union.
140 Upon such conversion, the converted credit union shall possess all the rights, privileges, and powers
141 granted to it by its articles or organization and by the provisions of general statutes applicable to the type
142 of credit union charter to which it converted. All of the assets and business of the converting savings or
143 cooperative bank shall transferred to and vested in it without any deed or instrument of conveyance,
144 provided the converting bank may execute any deed or instrument of conveyance as is convenient to
145 confirm such transfer. The converted credit union shall be subject to all of the duties, relations,
146 obligations, and liabilities of the converting bank, whether as debtor, depository, or otherwise, and shall
147 be liable to pay and discharge all such debts and liabilities, to perform all such duties in the same

148 manner and to the same extent as if the converted credit union had itself incurred the obligation or
149 liability or assumed the duty or relation. All rights of the credits of the converting savings or cooperative
150 bank shall be preserved unimpaired, and the converted credit union shall be entitled to receive, collect,
151 accept, hold, and enjoy any and all gifts, bequests, devises, conveyances, and appointments in favor of
152 or in the name of the converting savings or cooperative bank and whether made or created to take
153 effect prior to or after the conversion.

154

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