



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1055

H.P. 738

House of Representatives, March 16, 2017

**An Act To Update the Statutes under Which Maine's Credit Unions
Are Chartered**

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FREDETTE of Newport.
Cosponsored by Senator CUSHING of Penobscot and
Representatives: ESPLING of New Gloucester, HERBIG of Belfast, MARTIN of Eagle Lake,
TIMBERLAKE of Turner, WALLACE of Dexter.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 9-B MRSA §332, sub-§2-A, ¶A,** as enacted by PL 1999, c. 218, §12, is
3 amended to read:

4 A. For a branch being established in the State by a financial institution, approval
5 must be obtained pursuant to section 336, except that a financial institution that meets
6 the minimum standards set forth in section 412-A or ~~§32~~ §31 and any rules adopted
7 pursuant to these sections and is not under an enforcement action that requires the
8 superintendent's prior approval of a branch establishment may establish a branch in
9 this State without the prior approval of the superintendent. If the superintendent's
10 approval is not required, the financial institution shall inform the superintendent at
11 least 10 days prior to the proposed action. This notice must be accompanied by a
12 recording fee not to exceed \$100.

13 **Sec. 2. 9-B MRSA §335, sub-§1,** as amended by PL 1997, c. 398, Pt. E, §4, is
14 further amended to read:

15 **1. Relocation.** A main office, branch or agency office of a financial institution may
16 not be moved to a new location without the prior written approval of the superintendent,
17 pursuant to section 336, except that a financial institution that meets the minimum
18 standards set forth in section 412-A or ~~§32~~ §31 and any rules adopted pursuant to these
19 sections and is not under an enforcement action that requires the superintendent's prior
20 approval of a branch relocation, may relocate a main office or branch in this State without
21 the prior approval of the superintendent. If the superintendent's approval is not required,
22 then the financial institution must inform the superintendent at least 10 days prior to the
23 proposed action. This announcement must be accompanied by a recording fee not to
24 exceed \$100.

25 **Sec. 3. 9-B MRSA §816, sub-§1, ¶F,** as enacted by PL 1983, c. 373, §1, is
26 amended to read:

27 ~~F. Needs~~ Has a field of membership that would meet the requirements of section 814
28 if the credit union were organized under this chapter and needs to conduct business in
29 this State to adequately serve its members in this State.

30 **Sec. 4. 9-B MRSA §831, sub-§3,** as enacted by PL 1975, c. 500, §1, is amended
31 to read:

32 **3. Surplus.** "Surplus" or "total surplus" or "net worth" of a credit union means the
33 ~~sum of its guaranty fund, undivided profits and other surplus and reserve accounts~~
34 balance of its retained earnings, which consists of undivided earnings, regular reserves, a
35 guaranty fund and any other account approved by the superintendent.

36 **Sec. 5. 9-B MRSA §831, sub-§§4 to 7** are enacted to read:

37 **4. Requirement.** A credit union shall establish and maintain adequate levels of net
38 worth under rules adopted by the superintendent. Rules under this subsection must
39 address, at a minimum, composition of net worth, net worth levels that must be

1 maintained and procedures that must be followed to restore net worth if the net worth
2 becomes impaired or falls below the minimum standards. Minimum net worth
3 requirements established by the superintendent may be no less stringent than those
4 applicable to a federally chartered institution with a similar charter.

5 **5. Exception.** The superintendent may approve in writing net worth levels below the
6 required minimum as the superintendent considers necessary or appropriate under the
7 particular circumstances of a credit union.

8 **6. Approval.** A proposed issuance of securities considered to be net worth under
9 subsection 4 or under rules adopted under subsection 4 must be submitted to the
10 superintendent for the superintendent's approval at least 10 days prior to issuance and
11 include any documentation the superintendent considers necessary.

12 **7. Rulemaking.** The superintendent shall adopt rules to implement this section or to
13 determine the amount of net worth required under this section. Rules adopted pursuant to
14 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
15 2-A. In the absence of rulemaking, a credit union shall follow the capital adequacy
16 standards established by the National Credit Union Administration or a successor
17 institution. In the event standards established by the National Credit Union
18 Administration or a successor institution require the credit union to accumulate or
19 maintain accounts in an amount in excess of the standard established by the
20 superintendent, the credit union shall accumulate and maintain such accounts in a manner
21 sufficient to satisfy the requirements of the National Credit Union Administration or a
22 successor institution.

23 **Sec. 6. 9-B MRSA §832,** as amended by PL 2003, c. 322, §§20 and 21, is
24 repealed.

25 **Sec. 7. 9-B MRSA §833, sub-§1-A,** as enacted by PL 2003, c. 322, §23, is
26 amended to read:

27 **1-A. Time for payment of dividends; method.** At such intervals as the board of
28 directors may authorize and after ~~provision for the guaranty fund established~~ the credit
29 union establishes and maintains adequate levels of net worth pursuant to section ~~832~~ 831,
30 the board of directors may declare a dividend to be paid at different rates on different
31 types of shares, at different rates and maturity dates in the case of share certificates and at
32 different rates on different types of share draft accounts. Dividends credited may be
33 accrued on various types of shares, share certificates and share draft accounts as
34 authorized by the board of directors.

35 **Sec. 8. 9-B MRSA §847, sub-§1,** as enacted by PL 1975, c. 500, §1, is amended
36 to read:

37 **1. Grounds for expulsion.** ~~The board of directors~~ A manager or chief executive
38 officer of a credit union may expel from the credit union any member who has not carried
39 out ~~his~~ the member's engagement with ~~the credit union,~~ or who has been convicted of a
40 criminal offense, or who neglects or refuses to comply with the provisions of this Part or
41 the bylaws or the official policies of the credit union, or who has deceived the credit

1 union or a committee ~~thereof of the credit union~~ with regard to the use of borrowed
2 money; ~~but no member shall be expelled until he has been informed in writing of the~~
3 ~~charges against him and until an opportunity has been given him, after reasonable notice,~~
4 ~~to be heard thereon.~~ The expelled member must be informed of the grounds for the
5 expulsion and may appeal the expulsion to an expulsion committee established by the
6 credit union. The board of directors of the credit union shall establish an expulsion
7 committee to review expulsion appeals by members, and all decisions of the expulsion
8 committee are final.

9 **Sec. 9. 9-B MRSA §863, sub-§2**, as enacted by PL 1975, c. 500, §1, is amended
10 to read:

11 **2. Limitation.** The cost to the credit union of ~~such~~ lands, buildings, fixtures and
12 equipment ~~shall~~ described in subsection 1 may not exceed ~~50%~~ 60% of ~~such~~ the credit
13 union's total surplus at the time ~~such~~ the investment is made; ~~provided except~~ that the
14 superintendent may, for good cause shown, upon application by the credit union in
15 writing, approve an amount in excess of ~~said 50%~~ 60% of total surplus, subject to such
16 conditions as the superintendent ~~may deem~~ considers necessary.

17 **Sec. 10. 9-B MRSA §864, sub-§2, ¶B**, as amended by PL 1993, c. 655, §1, is
18 further amended to read:

19 B. The service corporation primarily serves credit unions and the membership of
20 affiliated credit unions. A service corporation formed after July 31, 1994 primarily
21 serves credit unions and the membership of affiliated credit unions within the
22 meaning of this paragraph if at least 75% of the services provided within this State
23 are to credit unions and members of credit unions; except that for a service
24 corporation formed after October 1, 2017, when determining whether a service
25 corporation primarily serves credit unions and the membership of affiliated credit
26 unions within the meaning of this paragraph, the superintendent shall consider the
27 relevant federal laws and regulations in effect at the time of formation of the service
28 corporation.

29 **Sec. 11. 9-B MRSA §864, sub-§3**, as amended by PL 1993, c. 99, §3, is repealed.

30 **Sec. 12. 9-B MRSA §864, sub-§§4 and 5** are enacted to read:

31 **4. Records.** The books and accounts of a service corporation involving any credit
32 union must be kept in such manner and form as the superintendent may prescribe, and
33 any agreement between a credit union and a service corporation must provide that the
34 books and accounts of the service corporation may be examined by the superintendent or
35 the superintendent's designee.

36 **5. Application; notice required.** A credit union or credit unions seeking to
37 organize as or invest in a service corporation shall notify the superintendent in writing at
38 least 10 days prior to organizing as or investing in the service corporation.

1

SUMMARY

2 This bill updates the charter provisions for state-chartered credit unions in the
3 following ways:

4 1. Putting state-chartered credit unions in line with their federally chartered
5 counterparts by repealing the guaranty fund requirements and allowing dividend
6 payments when the credit union establishes and maintains adequate levels of net worth.
7 Currently, state-chartered credit unions must have a percentage of gross income set aside
8 before there may be a dividend payment to a member. The bill directs the Superintendent
9 of Financial Institutions to adopt rules regarding the composition of net worth, the levels
10 that must be maintained and procedures that must be followed to restore net worth if it
11 falls below the minimum standard to continue to safeguard credit union members;

12 2. To ensure safe and smooth day-to-day operations of state-chartered credit unions
13 and consistent with the trend followed by credit unions in other states, allowing the
14 manager or chief executive officer of a credit union, rather than the board of directors, to
15 expel a member for certain types of conduct. The expelled member must be informed of
16 the grounds for the expulsion and may appeal the expulsion;

17 3. Increasing the percentage of total surplus that state-chartered credit unions may
18 invest in real estate and fixed assets from 50% to 60%; and

19 4. To bring Maine's state charter in line with its federal counterpart, directing the
20 superintendent to consider federal laws and regulations when determining whether a new
21 credit union service corporation primarily serves a credit union or credit union members
22 and removing a general reference to a statutory provision that in itself is not specific to
23 credit unions and instead incorporating language from that provision that requires credit
24 unions to notify the superintendent in writing 10 days prior to organizing as or investing
25 in a credit union service corporation and vesting the superintendent with the power to
26 prescribe the manner and form of the credit union service corporation's books and
27 accounts.