

SENATE No. 00457

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:

First Bristol and Plymouth

SENATE No. 00457

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

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

The Commonwealth of Massachusetts

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 Official
2 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 amended by
6 inserting after section 26H the following section: -

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

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

12 Section 80B. (a) A savings bank governed by the provisions of chapter 168 or a
13 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 covert 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 membership
30 requirements and divest itself of customers who do not meet credit union field-of-membership
31 limitations;
- 32 (5) The manner in which the converting bank will convert its board to a
33 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 stock, if
35 any;
- 36 (7) The manner in which the converting bank will divest impermissible
37 investments;
- 38 (8) The manner in which the converting bank will comply with branching,
39 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 relative
44 to voting on the plan of conversion;
- 45 (11) The proposed amended and restated articles of organization and bylaws
46 of the converting bank;

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

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

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

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

57 (d) Upon approval of a plan of charter conversion by the board of directors of the
58 converting savings or cooperative bank, the conversion plan and certified copy of the resolution
59 of the board of directors approving the conversion plan shall be submitted to the commissioner.
60 Included with the plan shall be an information statement to be sent to incorporators or shareholders
61 which shall fully and fairly disclose all significant terms and steps to be taken for the conversion
62 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 the
65 proposed conversion.

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

68 (4) a disclosure of any conversion related economic benefit a director or
69 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 information
71 statement. The commissioner may also require any equitable disclosure he determines
72 applicable to the transaction. The commissioner may specify the form, type, timing and other
73 material aspects of the plan of reorganization and information statement to be sent to corporators
74 and shareholders.

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

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

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

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

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

88 savings or cooperative bank shall mail a notice of the meeting, the conversion plan and
89 information statement to all corporators and shareholders.

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

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

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

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

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

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

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

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

124 (n) If the conversion to a credit union is approved by the board of directors and the
125 commissioner receives notification from the converting savings or cooperative bank that all
126 approvals required under state and federal law and regulations, including required approvals for
127 federal share insurance by the National Credit Union Administration have been obtained, that
128 any waiting period prescribed by federal law has expired, that membership in the Massachusetts
129 Credit Union Share Insurance Corporation and of the share insurance fund thereof has been
130 obtained and that all applicable payments thereto have been made as determined by the

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

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