

107TH CONGRESS
2^D SESSION

H. R. 5621

To amend the Federal Credit Union Act to expand membership, service, and investment opportunities for credit unions, to expand credit union services within financially underserved communities, to enhance member protections in certain credit union conversions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. LAFALCE introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To amend the Federal Credit Union Act to expand membership, service, and investment opportunities for credit unions, to expand credit union services within financially underserved communities, to enhance member protections in certain credit union conversions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Credit Union
5 Services Expansion Act of 2002”.

1 **SEC. 2. EXPANSION OF CREDIT UNION MEMBERSHIP.**

2 (a) VOLUNTARY MERGERS INVOLVING MULTIPLE
3 COMMON-BOND CREDIT UNIONS.—Section 109(d)(2) of
4 the Federal Credit Union Act (12 U.S.C. 1759(d)(2)) is
5 amended—

6 (1) by striking “or” at the end of clause (ii) of
7 subparagraph (B);

8 (2) by striking the period at the end of sub-
9 paragraph (C) and inserting “; or”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(D) a merger involving any such Federal
13 credit union approved by the Board on or after
14 August 7, 1998.”.

15 (b) EXPANSION OF SERVICES TO STUDENTS.—Sec-
16 tion 109(d) of the Federal Credit Union Act (12 U.S.C.
17 1759(d)) (as amended by subsection (a) of this section)
18 is amended—

19 (1) by redesignating paragraph (3) as para-
20 graph (4); and

21 (2) by inserting after paragraph (2) the fol-
22 lowing new paragraph:

23 “(3) EXCEPTION FOR STUDENT GROUPS.—

24 “(A) IN GENERAL.—In the case of a com-
25 mon-bond credit union described in paragraph
26 (1) or (2) of subsection (b), the numerical limi-

1 tation contained in paragraph (1) (of this sub-
2 section) shall not apply with respect to any
3 group of students, whether the identifiable stu-
4 dent group comprises all or part of an institu-
5 tion of higher education, elementary school, sec-
6 ondary school, or school district, subject to the
7 conditions of subparagraph (B).

8 “(B) CONDITIONS.—Subparagraph (A)
9 shall apply with respect to a Federal credit
10 union only if the credit union—

11 “(i) establishes a program to provide
12 appropriate financial education materials
13 and counseling services for members of a
14 student group referred to in such subpara-
15 graph, as determined by the Board; and

16 “(ii) does not provide financial prod-
17 ucts or services to members of any such
18 student group at a higher cost or under
19 less favorable terms than the costs and
20 terms generally available to other members
21 of the credit union.

22 “(C) DEFINITIONS.—For purposes of this
23 paragraph, the following definitions shall apply:

24 “(i) ELEMENTARY AND SECONDARY
25 SCHOOL.—The terms ‘elementary school’

1 and ‘secondary school’ have the same
2 meanings as in section 14101 of the Ele-
3 mentary and Secondary Education Act of
4 1965.

5 “(ii) INSTITUTION OF HIGHER EDU-
6 CATION.—The term ‘institution of higher
7 education’ has the same meaning as in sec-
8 tion 101(a) of the Higher Education Act of
9 1965.

10 (c) RETENTION OF CERTAIN MEMBER GROUPS IN
11 COMMUNITY CREDIT UNION CHARTER CONVERSIONS.—
12 Section 109(g) of the Federal Credit Union Act (12
13 U.S.C. 1759(g)) is amended by inserting after paragraph
14 (2) the following new paragraph:

15 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
16 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
17 TER CONVERSIONS.—In the case of a voluntary con-
18 version of a common-bond credit union described in
19 paragraph (1) or (2) of subsection (b) into a com-
20 munity credit union described in subsection (b)(3),
21 the Board shall prescribe, by regulation, the criteria
22 under which the Board may determine that a mem-
23 ber group or other portion of a credit union’s exist-
24 ing membership, that is located outside the well-de-
25 fined local community, neighborhood, or rural dis-

1 trict that shall constitute the community charter,
2 can be satisfactorily served by the credit union and
3 remain within the community credit union’s field of
4 membership.”.

5 **SEC. 3. EXPANSION OF AFFORDABLE SERVICES TO NON-**
6 **MEMBERS.**

7 Paragraph (12) of section 107(a) of the Federal
8 Credit Union Act (12 U.S.C. 1757(12)) (as so designated
9 by section 303 of this title) is amended to read as follows:

10 “(12) in accordance with regulations prescribed
11 by the Board—

12 “(A) to sell, to persons in the field of
13 membership, negotiable checks (including trav-
14 elers checks), money orders, and other similar
15 money transfer instruments (including elec-
16 tronic fund transfers); and

17 “(B) to cash checks and money orders and
18 receive electronic fund transfers for persons in
19 the field of membership for a fee;”.

20 **SEC. 4. EXPANSION OF CREDIT UNION BUSINESS LENDING.**

21 (a) EXPANSION OF BUSINESS LOANS TO CREDIT
22 UNION MEMBERS.—Paragraphs (1) and (2) of section
23 107A(a) of the Federal Credit Union Act (12 U.S.C.
24 1757a(a)) are each amended by striking “1.75” and in-
25 serting “2.5”.

1 (b) PROVIDING FOR CREDIT UNION PARTICIPATION
2 IN SBA GUARANTEED LOAN PROGRAMS.—Section 7(a) of
3 the Small Business Act (15 U.S.C. 636(a)) is amended—

4 (1) in paragraph (17), by adding at the end the
5 following new sentence: “In administering this sub-
6 section, the Administration shall not include in any
7 regulation prescribed, or policy or procedure estab-
8 lished and maintained, by the Administration under
9 this paragraph any condition that would exclude, or
10 cause to be excluded, any Federal credit union (as
11 defined in section 101 of the Federal Credit Union
12 Act) from other financial institutions, or types of fi-
13 nancial institutions, which the Administration is au-
14 thORIZING to make loans under this subsection.”; and

15 (2) in paragraph (20), by adding at the end the
16 following new subparagraph:

17 “(D) In administering this paragraph, the
18 Administration shall not include in any regula-
19 tion prescribed, or policy or procedure estab-
20 lished and maintained, by the Administration
21 any condition that would exclude, or cause to be
22 excluded, any Federal credit union (as defined
23 in section 101 of the Federal Credit Union Act)
24 from other financial institutions with whom the

1 Administration is cooperating under this para-
2 graph.”.

3 **SEC. 5. EXPANSION OF CREDIT UNION SERVICES TO UN-**
4 **DERSERVED COMMUNITIES.**

5 (a) EXPANDED AUTHORITY TO SERVE MEMBERS IN
6 UNDERSERVED COMMUNITIES.—Section 109(c)(2) of the
7 Federal Credit Union Act (12 U.S.C. 1759(c)(2)) is
8 amended by striking “subsection (b)(2)” and inserting
9 “subsection (b)”.

10 (b) EXPANDED DEFINITION OF UNDERSERVED
11 AREA.—Section 109(c)(2) of the Federal Credit Union
12 Act (12 U.S.C. 1759(c)(2)) (as amended by subsection (a)
13 of this section) is amended—

14 (1) in subparagraph (A)(ii), by inserting “or
15 has significant unmet needs for affordable short-
16 term credit from depository institutions, based on
17 data of the Board, such Federal banking agencies,
18 and the Federal Trade Commission, showing a high
19 concentration of noninsured commercial credit facili-
20 ties offering high-cost credit and money transfer
21 services and products” before the semicolon at the
22 end; and

23 (2) in subparagraph (B), by inserting “, and
24 provides debt management and counseling services,”
25 after “office or facility”.

1 **SEC. 6. EXPANSION OF CREDIT UNION ELIGIBILITY FOR**
2 **CDFI ASSISTANCE.**

3 Section 103(14) of the Community Development
4 Banking and Financial Institutions Act of 1994 (12
5 U.S.C. 4702(14)) is amended by inserting “and includes
6 a nonprofit organization owned collectively by insured
7 credit unions pursuant to section 107(7)(I) of such Act”
8 before the period at the end.

9 **SEC. 7. EXPANSION OF CREDIT UNION INVESTMENT AU-**
10 **THORITY.**

11 Section 107 of the Federal Credit Union Act (12
12 U.S.C. 1757) is amended—

13 (1) in the matter preceding paragraph (1) by
14 striking “A Federal credit union” and inserting “(a)
15 IN GENERAL.—Any Federal credit union”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(b) INVESTMENT FOR THE CREDIT UNION’S OWN
19 ACCOUNT.—

20 “(1) IN GENERAL.—A Federal credit union may
21 purchase and hold for its own account such invest-
22 ment securities of investment grade as the Board
23 may authorize by regulation, subject to such limita-
24 tions and restrictions as the Board may prescribe in
25 the regulations.

26 “(2) PERCENTAGE LIMITATIONS.—

1 “(A) SINGLE OBLIGOR.—In no event may
2 the total amount of investment securities of any
3 single obligor or maker held by a Federal credit
4 union for the credit union’s own account exceed
5 at any time an amount equal to 10 percent of
6 the net worth of the credit union.

7 “(B) AGGREGATE INVESTMENTS.—In no
8 event may the aggregate amount of investment
9 securities held by a Federal credit union for the
10 credit union’s own account exceed at any time
11 an amount equal to 10 percent of the assets of
12 the credit union.

13 “(3) INVESTMENT SECURITY DEFINED.—

14 “(A) IN GENERAL.—For purposes of this
15 subsection, the term ‘investment security’
16 means marketable obligations evidencing the in-
17 debtedness of any person in the form of bonds,
18 notes, or debentures and other instruments
19 commonly referred to as investment securities.

20 “(B) FURTHER DEFINITION BY BOARD.—

21 The Board may further define the term ‘invest-
22 ment security’.

23 “(4) INVESTMENT GRADE DEFINED.—The term
24 ‘investment grade’ means with respect to an invest-
25 ment security purchased by a credit union for its

1 own account, an investment security that at the time
2 of such purchase is rated in one of the 4 highest rat-
3 ing categories by at least 1 nationally recognized
4 statistical rating organization.

5 “(5) CLARIFICATION OF PROHIBITION ON
6 STOCK OWNERSHIP.—No provision of this sub-
7 section shall be construed as authorizing a Federal
8 credit union to purchase shares of stock of any cor-
9 poration for the credit union’s own account, except
10 as otherwise permitted by law.”.

11 **SEC. 8. ASSURING MEMBERSHIP PARTICIPATION AND**
12 **INDEPENDENT DECISION MAKING IN CON-**
13 **NECTION WITH CERTAIN CREDIT UNION CON-**
14 **VERSIONS TO MUTUAL SAVINGS INSTITU-**
15 **TIONS.**

16 (a) CONVERSION OF INSURED CREDIT UNIONS TO
17 MUTUAL SAVINGS BANKS.—Section 205(b)(2) of the Fed-
18 eral Credit Union Act (12 U.S.C. 1785(b)(2)) is
19 amended—

20 (1) in subparagraph (A), by striking “approval
21 of the Board, subject to” and inserting “approval of
22 the Board, subject to any requirements and proce-
23 dures the Board may prescribe in regulations and
24 subject to”;

1 (2) in the 2nd sentence of subparagraph (B),
2 by inserting “in a member vote on such proposal in
3 which not less than a majority of the members of
4 the insured credit union who are eligible to vote on
5 the matter participate in such member vote” before
6 the period at the end;

7 (3) in subparagraph (C)—

8 (A) by striking “PROPOSAL TO MEM-
9 BERS.—An insured credit union” and inserting
10 “PROPOSAL TO MEMBERS.—

11 “(i) IN GENERAL.—An insured credit
12 union”;

13 (B) by redesignating clauses (i), (ii), and
14 (iii) as subclauses (I), (II), and (III) and mov-
15 ing the left margin of such subclauses (as so re-
16 designated) 2 ems to the right; and

17 (C) by adding at the end the following new
18 clause:

19 “(ii) REGULATIONS.—The Board shall
20 prescribe regulations specifying the format
21 and wording of such notices, as necessary,
22 to assure that notice of the vote on the
23 conversion is provided clearly and con-
24 spicuously and in a manner that is easily
25 read and understood by members.”; and

1 (4) in subparagraph (D) by striking “during
2 the 90-day period preceding the date of the comple-
3 tion of the conversion” and inserting “before the be-
4 ginning of the 90-day period for notice to members
5 of the date of the member vote on the conversion”.

6 (b) CONVERSIONS OF FORMER CREDIT UNIONS.—
7 Section 18 of the Federal Deposit Insurance Act (12
8 U.S.C. 1828) is amended by adding at the end the fol-
9 lowing new subsection:

10 “(x) CONVERSIONS INVOLVING FORMER CREDIT
11 UNIONS.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of law—

14 “(A) an insured credit union may not con-
15 vert into an insured depository institution; and

16 “(B) an insured depository institution
17 which results from a prior conversion of an in-
18 sured credit union into such insured depository
19 institution may not convert from the mutual
20 form to the stock form of depository institution
21 and may not convert from 1 form of depository
22 institution into another,

23 unless the appropriate Federal banking agency for the in-
24 sured depository institution which would result from any
25 such conversion reviews the conversion and determines

1 that the requirements of paragraphs (2) and (3) have been
2 met.

3 “(2) PROHIBITION ON ECONOMIC BENEFIT
4 FROM CONVERSION FOR CREDIT UNION OFFICERS,
5 DIRECTORS, AND COMMITTEE MEMBERS.—An indi-
6 vidual who is or, at any time during the 5-year pe-
7 riod preceding any conversion described in para-
8 graph (1), was a director, committee member, or
9 senior management official of an insured credit
10 union described in subparagraph (A) or (B) of such
11 paragraph (in connection with such conversion) may
12 not receive any economic benefit as a result of the
13 conversion with regard to the shares or interests of
14 such director, member, or officer in the former in-
15 sured credit union or in any resulting insured depos-
16 itory institution.

17 “(3) ACKNOWLEDGEMENT AND ATTESTATION
18 BY OFFICERS, DIRECTORS, AND COMMITTEE MEM-
19 BERS.—Any insured credit union or insured deposi-
20 tory institution which is seeking to engage in a con-
21 version which is subject to this subsection shall
22 submit—

23 “(A) a written acknowledgement, in such
24 form and manner as the appropriate Federal
25 banking agency may prescribe, by every indi-

1 individual who is subject to the prohibition con-
 2 tained in paragraph (2), that such individual is
 3 aware of such prohibition; and

4 “(B) an attestation that the conversion
 5 under review will not result in a violation of
 6 such prohibition.

7 “(4) DEFINITIONS.—For purposes of this sec-
 8 tion, the following definitions shall apply:

9 “(A) INSURED CREDIT UNION.—The term
 10 ‘insured credit union’ has the meaning given to
 11 such term in section 101(7) of the Federal
 12 Credit Union Act.

13 “(B) SENIOR MANAGEMENT OFFICIAL.—
 14 The term ‘senior management official’ means a
 15 chief executive officer, an assistant chief execu-
 16 tive officer, a chief financial officer, and any
 17 other senior executive officer (as defined by the
 18 appropriate Federal banking agency pursuant
 19 to section 32(f)).”.

20 **SEC. 9. ASSURING APPROPRIATE MEMBERSHIP PARTICIPA-**
 21 **TION AND DISCLOSURE IN CONNECTION**
 22 **WITH THE TERMINATION OF FEDERAL SHARE**
 23 **INSURANCE.**

24 (a) ENHANCING MEMBER PARTICIPATION IN CREDIT
 25 UNION DECISIONS TO TERMINATE SHARE INSURANCE.—

1 Section 206(d)(2) of the Federal Credit Union Act (12
2 U.S.C. 1786(d)(2) is amended by striking “at least 20 per
3 centum of the total membership of the credit union par-
4 ticipates” and inserting “not less than a majority of the
5 members of the insured credit union who are eligible to
6 vote on the matter participate in such vote”.

7 (b) PROVIDING PROMPT AND CONSPICUOUS NOTICE
8 TO CREDIT UNION MEMBERS OF TERMINATION OF FED-
9 ERAL SHARE INSURANCE.—Section 206(d) of the Federal
10 Credit Union Act (12 U.S.C. 1786(d)) is amended—

11 (1) by striking the fourth sentence in paragraph

12 (2);

13 (2) by redesignating paragraph (3) as para-
14 graph (4); and

15 (3) by inserting after paragraph (2) the fol-
16 lowing new paragraph:

17 “(3) In the event a proposition for the conver-
18 sion of a credit union from status as an insured
19 credit union is approved by the membership, the
20 credit union shall provide prompt and reasonable no-
21 tice of insurance conversion to all members and
22 shall, at a time and in such manner as the Board
23 shall determine by regulation, shall—

24 “(A) include conspicuously in all adver-
25 tising and at each place where share deposits

1 are normally received a notice that the credit
2 union is not federally insured;

3 “(B) include conspicuously in all periodic
4 statements of account, on each signature card,
5 and on each certificate of deposit or other in-
6 strument indicating a share deposit, a notice
7 that the credit union is not federally insured
8 and that if the credit union fails the National
9 Credit Union Administration or any other agen-
10 cy of the Federal Government does not guar-
11 antee that the depositor will get back their
12 money; and

13 “(C) receive deposits only for the account
14 of members who have signed a written acknowl-
15 edgment that the credit union is not federally
16 insured, and that if the institution fails, the
17 National Credit Union Administration or any
18 other agency of the Federal Government does
19 not guarantee that they will get back their
20 money.”.

21 (c) ASSURING INDEPENDENT DECISION MAKING IN
22 CONNECTION WITH TERMINATION OF FEDERAL SHARE
23 INSURANCE.—Section 206(a) of the Federal Credit Union
24 Act (12 U.S.C. 1786) is amended by adding at the end
25 the following new paragraph:

1 “(3) ASSURING INDEPENDENT DECISION MAK-
2 ING.—

3 “(A) IN GENERAL.—An individual who is
4 or, at any time during the 1-year period pro-
5 ceeding any conversion described in paragraph
6 (2), was a director, committee member, or sen-
7 ior management official of an insured credit
8 union may not receive any economic benefit
9 from the insuring corporation described in such
10 paragraph for a period of 5 years following
11 such conversion.

12 “(B) SENIOR MANAGEMENT OFFICIAL DE-
13 FINED.—For purposes of this paragraph, the
14 term ‘senior management official’ means a chief
15 executive officer, an assistant chief executive of-
16 ficer, a chief financial officer, and any other
17 senior executive officer as defined by the
18 Board.”.

19 **SEC. 10. PROVIDING FOR PARITY IN REQUIREMENTS GOV-**
20 **ERNING FEDERAL AND STATE CHARTERED**
21 **INSURED CREDIT UNIONS.**

22 Section 205 of the Federal Credit Union Act (12
23 U.S.C. 1785) is amended by inserting at the end the fol-
24 lowing new subsection:

1 “(h) MEMBERSHIP AND ACTIVITIES OF INSURED
2 STATE-CHARTERED CREDIT UNIONS.—

3 “(1) IN GENERAL.—Beginning on the date of
4 the enactment of the Federal Credit Union Services
5 Expansion Act of 2002, a State chartered insured
6 credit union may not—

7 “(A) include within the membership of the
8 credit union any person or organization that is
9 not permissible for Federal credit unions; or

10 “(B) exercise any asset powers of a type,
11 or in an amount, not authorized for Federal
12 credit unions, nor engage in any type of activ-
13 ity, or in any activity in any amount, that is not
14 permissible for Federal credit unions unless the
15 Board has determined that—

16 “(i) the asset power or activity would
17 pose no significant risk to the Fund;

18 “(ii) the asset power or activity is
19 consistent with the mission and purpose of
20 Federal credit unions, as defined in title I
21 of this Act, and is consistent with all pow-
22 ers and limitations conferred and imposed
23 on Federal credit unions under title I of
24 this Act; and

1 “(iii) the State chartered insured
2 credit union is and continues to be in com-
3 pliance with applicable capital standards as
4 prescribed pursuant to section 216 of this
5 Act.

6 “(2) CONTINUED RULEMAKING AUTHORITY.—
7 No provision of paragraph (1) shall be construed as
8 restricting or limiting in any way the general rule-
9 making authority of the Board.”.

○