

STORAGE NAME: h4501.fs

DATE: March 27, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4501 (PCB FS 98-07)

RELATING TO: Conversion of credit unions

SPONSOR(S): Committee on Financial Services and Representative Safley

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) FINANCIAL SERVICES YEAS 10 NAYS 0

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I. SUMMARY:

The bill would impose a moratorium on conversions of federally-chartered credit unions to state-chartered credit unions until July 1, 1999. The Comptroller could issue an order of general application to lift the moratorium on an earlier date.

The bill provides standards for the Comptroller to consider before lifting the moratorium. For instance: (a) whether the Congress has amended the Federal Credit Union Act and, if so, the effect the amendments have or may have on the relative competitive positions of state and federally chartered credit unions; and (b) the extent to which Florida would be able to assume the costs of examination and supervision for any newly converted institutions.

This bill does not have a discernable fiscal impact to state and local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Overview

Like banks, credit unions may be federally-chartered or state-chartered. The Federal Credit Union Act limits membership in federally-chartered credit unions to persons who share a "common bond." Florida statute restricts membership in state-chartered credit unions to a "limited field of membership."

According to Florida Comptroller Bob Milligan, state-chartered credit unions account for "about two percent of aggregate market share for insured depository institutions (banks, thrifts and federal credit unions) in Florida."

According to a report issued by the Department of Banking and Finance (the department) on January 8, 1997, as of December 31, 1987, there were 230 federal credit unions and 160 state credit unions. As of December 31, 1996, there were a total of 155 federal credit unions and 115 state credit unions. From 1987 to 1997, no federal credit union sought to convert to a state credit union. In contrast, a total of four state credit unions converted to federal credit unions.

Federal Credit Union membership

In 1934, during the Great Depression, Congress enacted the Federal Credit Union Act (FCUA), which authorized the chartering of credit unions at the national level. The act provided that federal credit unions could, as a general matter, offer banking services only to their members. Section 109 of the FCUA expressly restricts membership in federal credit unions. In relevant part, it provides:

...Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community or rural district.

Section 109 of the FCUA has remained virtually unaltered since its enactment. Until 1982, the National Credit Union Administration (NCUA), the agency charged with administering the FCUA, and its predecessors, consistently interpreted s. 109 to require that the *same* common bond of occupation unite every member of an occupationally defined federal credit union. In 1982, however, the NCUA interpreted s. 109 to permit federal credit unions to be composed of multiple unrelated employer groups, each having its own common bond of occupation. The American Banker's Association, joined by five banks, challenged this interpretation. The matter involved the AT&T Family Federal Credit Union (ATTF). The ATTF had approximately 110,000 members nationwide, only 35 percent of which were employees of AT&T. The remaining members were employees of such diverse companies as Lee Apparel Company, the Coca-Cola Bottling Company, the Ciba-Geigy Corporation, the Duke Power Company, and the American Tobacco Company.

The United States Supreme Court published its opinion, dated February 25, 1998, in the matter of *AT&T Family Federal Credit Union, et al, v. First National Bank and Trust Co.*,

*et al.*¹ The Supreme Court opinion affirmed the D.C. Circuit Court of Appeals opinion enjoining the NCUA from approving multiple unrelated employer groups for federal credit unions, which dealt a potential blow to the membership base of federal credit unions. The case was remanded back to the trial court for a ruling in light of the Supreme Court's opinion. That ruling has not been released as of March 18, 1998.

State Credit Union membership

In contrast to the "common bond" limitation standard in federal credit unions, the Florida Credit Union Act (the "Florida act") restricts membership in state-chartered credit unions to a "limited field of membership."²

Conversion from federal credit union to state-chartered credit union status

The Comptroller may approve the conversion of a federal credit union to a state credit union. A federal credit union seeking to convert to a state-chartered credit union must pay a nonrefundable fee of \$500. The department may conduct a financial examination of the converting federal credit union before approving the conversion.

General Powers of the Comptroller

The Comptroller has authority to execute any of the powers, duties and functions vested in the department.³ The department, for instance, is vested with the power "to issue ... orders, and declaratory statements ... and otherwise exercise its discretion to effectuate the purposes, policies, and provisions of the financial institutions codes..."⁴ For example, s. 655.061, F.S., provides that, subject to rule or order of general application, a state financial institution subject to the financial institutions codes may make any loan or investment or exercise any power they could exercise if incorporated or operating in this state as a federally-chartered or regulated financial institution. As a head of an agency, the Comptroller is authorized under the Administrative Procedure Act (APA)⁵ to promulgate emergency orders when the need arises. For instance, in the aftermath of the devastation left by hurricane Andrew in 1993, the Insurance Commissioner, Tom

¹Appeal Nos. 96-843 and 96-847

² The "limited field" is defined as a group of persons designated as eligible for membership in the credit union who:

- (a) have a similar profession, occupation, or formal association with an identifiable purpose; or
- (b) reside within an identifiable neighborhood, community, rural district, or county; or
- (c) are employed by a common employer; or
- (d) are employed by the credit union; and members of the immediate family of persons within such group.

³Section 20.05, F.S.

⁴Section 655.012, F.S.

⁵Section 120.54(4), F.S.

Gallagher, promulgated Emergency Order 92-13 which, in part, prohibited insurers from canceling homeowner's policies.

B. EFFECT OF PROPOSED CHANGES:

The bill would impose a moratorium on conversions of federally-chartered credit unions to state-chartered credit unions until July 1, 1999. The Comptroller could issue an order of general application to lift the moratorium on an earlier date.

The bill provides standards for the Comptroller to consider before lifting the moratorium. For instance: (a) whether the Congress has amended the FCUA and, if so, the effect the amendments have or could have on the relative competitive positions of state and federally chartered credit unions; and (b) the extent to which Florida would be able to assume the costs of examination and supervision for any newly converted institutions.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Prior to lifting the moratorium, the Comptroller would be required to consider the effect of certain developments, if they occur, relating to the credit union industry. For instance: (a) whether the Congress has amended the Federal Credit Union Act and, if so, the effect the amendments have or could have on the relative competitive positions of state and federally chartered credit unions; and (b) the extent to which Florida would be able to assume the costs of examination and supervision for any newly converted institutions.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No. The bill reduces the options of federal credit unions by prohibiting federal credit unions from converting to state credit unions for a period of one year.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. If a federally-chartered credit union wishes to convert its charter to that of a state charter, and does not have an application on file with the department by February 25, 1998, the department would not be authorized to approve the application except pursuant to an order by the Comptroller.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

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- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1. The bill would establish a moratorium on conversions of federally-chartered credit unions to state-chartered credit unions until July 1, 1999. The Comptroller may issue an order of general application to lift the moratorium on an earlier date. The bill provides standards by which the moratorium could be lifted. For instance: (a) whether the Congress has amended the Federal Credit Union Act and, if so, the effect the amendments have or could have on the relative competitive positions of state and federally chartered credit unions; and (b) the extent to which Florida would be able to assume the costs of examination and supervision for any newly converted institutions.

Section 2. This act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

This bill does have a discernable fiscal impact on state government.

2. Recurring Effects:

This bill does have a discernable fiscal impact on state government. A fiscal impact could be realized to the extent that the department forgoes the \$500 conversion fee. The total amount is indeterminate, however, because no one knows how many conversion applications would have been made. No federal credit union has sought to convert to a state credit union since 1987.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

This bill does have a discernable fiscal impact on state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

A federally-chartered credit union doing business in this state on the effective date of this act that desires to convert from federally chartered credit union to a state-chartered credit union must have a completed application for a conversion of its charter to that of a state-chartered credit union on file with the Department of

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Banking and Finance as of February 25, 1998. Otherwise, the Department is not authorized to approve any conversion application except by an order of general application by the Comptroller.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

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