

109TH CONGRESS
1ST SESSION

H. R. 3206

To amend the Federal Credit Union Act provisions relating to any conversion of a credit union charter to a mutual savings bank or savings association charter, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2005

Mr. MCHENRY (for himself, Mr. TOWNS, Mr. GILLMOR, Mr. KING of New York, and Mr. SAM JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Credit Union Act provisions relating to any conversion of a credit union charter to a mutual savings bank or savings association charter, 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 “Credit Union Charter
5 Choice Act”.

1 **SEC. 2. CONVERSIONS OF CREDIT UNIONS TO SAVINGS AS-**
2 **SOCIATIONS OR MUTUAL SAVINGS BANKS.**

3 (a) IN GENERAL.—Section 205(b)(2) of the Federal
4 Credit Union Act (12 U.S.C. 1785(b)) is amended—

5 (1) in subparagraph (G)—

6 (A) by striking “CONSISTENT RULES” in
7 the heading of such subparagraph and all that
8 follows through “, the Administration shall pro-
9 mulgate” (where such term appears in clause
10 (i) of such subparagraph) and inserting “CON-
11 SISTENT RULES.—The Board shall prescribe”;
12 and

13 (B) by striking clause (ii);

14 (2) by redesignating subparagraphs (E), (F),
15 and (G) (as amended by paragraph (1)) as subpara-
16 graphs (K), (L), and (M), respectively; and

17 (3) by striking subparagraph (D) and inserting
18 the following new subparagraphs:

19 “(D) NOTICE OF PROPOSAL TO BOARD.—

20 An insured credit union that proposes to con-
21 vert to a mutual savings bank or savings asso-
22 ciation under subparagraph (A) shall submit to
23 the Board, or a designee of the Board, for re-
24 view and approval by the Board or such des-
25 ignee a copy of the written notice, ballot and

1 such other materials to be mailed to members
2 pursuant to subparagraph (C).

3 “(E) CONTENTS OF NOTICE TO BOARD.—

4 In addition to the requirements of subpara-
5 graph (D), a notice submitted under such sub-
6 paragraph shall include the following:

7 “(i) The date that the membership
8 vote will be taken and the date by which
9 ballots must be received by the inspector of
10 elections to be counted.

11 “(ii) A brief statement of why the di-
12 rectors of the converting credit union are
13 considering the conversion and the board’s
14 recommendation to the members of the
15 credit union.

16 “(iii) A brief statement of the mate-
17 rial effects of the conversion on the credit
18 union, as converted, and the members of
19 the credit union, including any differences
20 in powers between a credit union and a
21 mutual savings bank or savings association
22 that the converting credit union deems to
23 be material to such members.

24 “(F) RESTRICTIONS ON REGULATION OF
25 CONTENT OF PROPOSED CONVERSION NOTICE

1 TO MEMBERS.—A converting credit union may
2 not be required to include in the notice provided
3 under subparagraph (C) any information or
4 statements that—

5 “(i) are speculative with respect to the
6 future operations, governance, or form of
7 organization of the financial institution
8 that will result from the conversion, or
9 may occur after the completion of the con-
10 version;

11 “(ii) are inaccurate with respect to a
12 proposed conversion of the converting cred-
13 it union or the application for a mutual
14 savings bank or savings association charter
15 filed in connection with the conversion;

16 “(iii) conflict with regulations of other
17 financial regulators, including the Director
18 of the Office of Thrift Supervision, related
19 to the subsequent conversion of the result-
20 ing financial institution from mutual to
21 stock form;

22 “(iv) distort the impact of conversion
23 on the members of the credit union; or

24 “(v) are attributable to the Board or
25 state the Board’s position on conversions.

1 “(G) BOARD APPROVAL PROCESS.—

2 “(i) IN GENERAL.—The Board shall
3 approve the materials submitted by the
4 converting credit union pursuant to sub-
5 paragraph (D) if such materials comply
6 with the requirements of subparagraph
7 (E), unless the Board determines that the
8 conversion is being made to circumvent a
9 pending supervisory action that is about to
10 be or has been initiated by the Board or by
11 the State board, commission, or authority
12 having jurisdiction over the credit union, in
13 the case of converting State-chartered
14 credit union, because of a concern over the
15 safety and soundness of the converting
16 credit union.

17 “(ii) NOTICE WITHIN 30 DAYS.—The
18 Board, or the designee of the Board, shall
19 provide the converting credit union with
20 written approval of the materials submitted
21 by a converting credit union pursuant to
22 subparagraph (D) or comments thereto
23 within 30 days of the initial receipt by the
24 Board or such designee of such materials.

1 “(iii) REVISIONS TO NOTICE.—Any re-
2 vised materials filed with the Board by a
3 converting credit union shall be acted upon
4 by the later of the end of the 30-day period
5 referred to in clause (ii) or the end of the
6 10-day period beginning when such revised
7 materials are filed.

8 “(H) OTHER RESTRICTIONS ON THE
9 BOARD.—

10 “(i) PROHIBITION ON SUBMISSION
11 AND REVIEW OF OTHER COMMUNICATIONS
12 WITH MEMBERS.—Other than the written
13 materials being mailed to the converting
14 credit union’s members pursuant to sub-
15 paragraph (C), the converting credit union
16 shall not be required to submit any other
17 communications involving the conversion to
18 the Board for approval and the Board
19 shall have no authority to regulate the con-
20 tent of any such communications.

21 “(ii) EXCEPTION FOR INCONSISTENT,
22 MISLEADING, OR FALSE COMMUNICA-
23 TIONS.—Clause (i) shall not apply so as to
24 to restrict the Board’s authority to prevent
25 or correct communications under subpara-

graph (C) that are inconsistent with the material facts contained in the notice of proposed conversion or are knowingly false or misleading.

“(iii) LIMITATION ON AUTHORITY TO REQUIRE NEW MEMBERSHIP VOTE.—The Board shall not have the authority to require a new vote on the basis of the contents of the notice required under subparagraph (C) or any other communication from the converting insured credit union to the members of the credit union, unless the notice or communication contains a knowingly false statement that affects the outcome of a conversion vote.

“(I) CONDUCT AND SUPERVISION OF ELECTION.—

“(i) SECRET BALLOT.—The vote on the conversion shall be conducted by secret ballot.

“(ii) INDEPENDENT INSPECTOR OF ELECTION.—

“(I) IN GENERAL.—The converting credit union shall appoint an independent inspector of elections to

1 receive and tally the votes cast on the
2 conversion proposal.

3 “(II) INELIGIBLE PERSONS.—

4 The inspector shall not be an em-
5 ployee, officer, or director of the con-
6 verting credit union or have a family
7 relationship with any employee, officer
8 or director of the credit union.

9 “(III) FAMILY RELATIONSHIP
10 DEFINED.—For purposes of subclause
11 (II), the term ‘family relationship’
12 means any relationship by blood, mar-
13 riage or adoption, that is not more re-
14 mote than first cousin.

15 “(iii) CERTIFICATION.—The board of
16 directors of the converting credit union
17 shall certify to the Board (or the designee
18 of the Board) and the Federal banking
19 agency or the appropriate State bank su-
20 pervisor (as such terms are defined in sec-
21 tion 3 of the Federal Deposit Insurance
22 Act) that will have jurisdiction over the in-
23 stitution after the conversion—

24 “(I) the results of the member-
25 ship vote, based on the report of the

1 inspector of elections, within 10 cal-
2 endar days after the vote is taken or
3 as promptly thereafter as possible;
4 and

5 “(II) at the same time, that the
6 notice, ballot and other written mate-
7 rials provided to members were iden-
8 tical in all material respects to those
9 submitted to the Board (or the des-
10 ignee of the Board) pursuant to sub-
11 paragraph (D) and approved by the
12 Board or such designee.

13 “(J) RESTRICTION ON POST-ELECTION RE-
14 VIEW OR APPROVAL.—Absent fraud or reckless
15 disregard for fairness during the voting process
16 that affects the outcome of the vote, the Board
17 shall have no further review or approval author-
18 ity over the conversion process following the
19 submission and review of the certification under
20 subparagraph (I)(iii).”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this Act shall apply to all credit union conversions de-
23 scribed in section 205(b)(2) of the Federal Credit Union
24 Act that are pending on the date of the enactment of this
25 Act and any conversion commenced on or after such date

1 of enactment pursuant to a notice provided to the National
2 Credit Union Administration Board in accordance with
3 section 205(b)(2)(D) of the Federal Credit Union Act (as
4 amended by subsection (a) of this section).

5 (c) REGULATIONS.—Before the end of the 60-day pe-
6 riod beginning on the date of the enactment of this Act,
7 the National Credit Union Administration Board shall
8 publish proposed amendments to existing regulations of
9 the Board governing conversions of insured credit unions
10 to mutual savings banks or savings associations that are
11 necessary to conform such regulations with the require-
12 ments of the amendments made by this Act.

○