**SB 377**

**Department of Legislative Services**
Maryland General Assembly
2001 Session

# FISCAL NOTE
**Revised**

Senate Bill 377 — Senator Astle (TF Cr Unions) and Senator Hafer
Modernization of Credit Union Law and Senator Hafer)
Finance — Commerce and Government Matters

## Financial Institutions - Credit Union Law Modernization and Other Credit Union Law Reforms

This bill reforms the State's laws regulating credit unions.

## Fiscal Summary

**State Effect:** General fund expenditures could increase by $129,200 in FY 2002, reflecting the bill's October 1, 2001 effective date. Out-year projections reflect annualization and inflation. General fund assessment and fee revenues could increase by $64,500 in FY 2002. Out-year projections reflect annual growth of State-chartered credit union assets. Minimal loss in tax revenues.

| (in dollars) | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|---|
| GF Revenue | $64,500 | $65,700 | $69,100 | $72,700 | $76,500 |
| GF Expenditure | 129,200 | 112,300 | 118,000 | 124,200 | 130,700 |
| Net Effect | ($64,700) | ($46,600) | ($48,900) | ($51,500) | ($54,200) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Any loss in local tax revenues because of the bill would not be significant. Expenditures would not be affected.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The bill changes membership categories for State-chartered credit unions. Under the bill, credit unions may form with single, multiple, or community common bond membership. The bill exempts State-chartered credit unions, including their income, net worth, and other funds from all taxes imposed by the State or any of its subdivisions to the same extent that federally-chartered credit unions are exempt.

For State-chartered credit unions, the bill revises: (1) the membership, powers, and duties of boards of directors; (2) default and mandatory rules for credit union officers; (3) the powers and duties of supervisory committees; (4) the criteria for merger of more than one credit union; (5) deposit insurance; and (6) the requirements and formalities of dissolution and liquidation.

The bill authorizes a credit union's board of directors to amend the credit union's articles of incorporation, with the approval of the members; however, the board may amend the bylaws in specified areas without membership approval. At a member meeting, the members may amend the articles of incorporation or approve an amendment to the bylaws if the meeting notice specifies the amendment and two-thirds of the members present vote for the amendment. An amendment to the articles of incorporation does not become effective until approved by the Commissioner of Financial Regulation in writing within 60 days after the submission of the proposed amendment, unless the credit union and the commissioner agree otherwise. If a mail ballot is used to amend the bylaws or the articles of incorporation, the amendment is adopted if two-thirds of the timely received ballots from members in good standing approve.

The bill: (1) revises the criteria under which State-chartered credit unions may grant loans or extend credit to members; and (2) authorizes State-chartered credit unions to make loans or extend credit to members incorporating the same or similar terms and conditions to which federally-chartered credit unions are subject in specified areas. The bill authorizes State-chartered credit unions to house automated teller machines at locations away from their branches. The bill revises the criteria for borrowing by a State-chartered credit union.

The bill prohibits an officer, official, or employee of a State-chartered credit union from: (1) willfully and knowingly making false statements or false record entries; and (2) with the intent to deceive an examiner, sign or exhibit false records. Violation is a felony, punishable by up to ten years imprisonment and/or a fine of $5,000. It is a misdemeanor for an officer or official to knowingly permit or participate in making a loan to an unauthorized person, with a maximum penalty of five years imprisonment and/or a fine of $3,000. The bill enhances the commissioner's enforcement powers over State-chartered credit unions and makes reporting requirements to the Attorney General permissive.

The bill authorizes State-chartered credit unions to participate in and have member accounts insured by a credit union share guaranty corporation approved by the commissioner to the same extent and amount as provided by the National Share Insurance Program. The commissioner may examine a guaranty corporation that insures State-chartered credit union accounts. The bill also authorizes the commissioner to enter into cooperative and information sharing agreements with other credit union supervisory agencies.

The bill expresses the General Assembly's intent that the Task Force to Study Modernization of Credit Union Law continue to meet after the 2001 session. The bill provides that credit union members as of October 1, 2001 may remain members after October 1, 2001. The bill also provides that a member of any group whose members constitute a portion of the membership of a credit union as of October 1, 2001 continues to be eligible to become a member of that credit union after October 1, 2001.

The bill requires a credit union to submit to the commissioner a detailed plan to encourage low income persons to join the credit union and to expand their usage of the services offered by the credit union, if it files an application to: (1) form or convert to a community common bond credit union; or (2) include a community, neighborhood, rural district, or county determined by the commissioner to be: (a) an "investment area" as defined under federal law; and (b) underserved by other depository financial institutions in its field of membership.

The revisions to the deposit insurance requirements are effective July 1, 2001. All other provisions of the bill are effective October 1, 2001.

**Current Law:** State-chartered credit unions may have membership with one of the following types: (1) singular occupations; (2) membership in the same or similar organizations, professions, or associations; (3) employment by a common employer; (4) employment within a defined district, industrial park, or shopping center; or (5) residence within an identifiable neighborhood, community, rural district, or county. State-chartered credit unions and their income, capital, reserves, surpluses, and other funds are exempt from all taxes imposed by the State or any of its subdivisions. However, The Court of Appeals, in *Central Credit Union of Md. v. Comptroller*, 243 Md. 175 (1966), construed tax exemptions for State-chartered credit unions narrowly. Thus, State-chartered credit unions are not exempt from various taxes, including: (1) State sales and use tax on sales by a credit union; (2) local and special county sales and use taxes; (3) motor vehicle excise tax; (4) recordation tax; (5) State and local transfer taxes; (6) hotel occupancy tax; (7) amusement tax; and (8) alcoholic beverage tax.

At a member meeting, the members may amend the articles of incorporation or the bylaws if the meeting notice specifies the amendment and 75% of the members present in person or by proxy vote for the amendment. If a mail ballot is used to amend the bylaws or the articles of incorporation, the amendment is adopted if 75% of the timely received ballots from members eligible to vote and voting approve.

For State-chartered credit unions, the law establishes: (1) the membership, powers, and duties of boards of directors; (2) default and mandatory rules for credit union officers; (3) the powers and duties of supervisory committees; (4) the criteria under which State-chartered credit unions may grant loans or extend credit to members; (5) reserve requirements; (6) deposit and dividend requirements; (7) deposit insurance requirements; (8) criteria for credit union borrowing; (9) conversion to a federally-chartered credit union; (10) merger of two or more credit unions; and (11) dissolution and liquidation. For credit unions chartered in another state or by the federal government, the law establishes criteria for conversion to a State-chartered credit union.

**Background:** Chapter 604 of 1999 created the Task Force to Study Modernization of Credit Union Law. The State had not comprehensively reviewed or modernized its credit union laws since 1929. The task force met several times over the 1999 and 2000 interims. This bill is a result of the work of the task force.

Many of the bill's provisions, including the tax exemptions, mirror federal law governing federally-chartered credit unions. Under federal law, federally-chartered credit unions are exempt from all federal, State, and local taxes, except real property taxes.

**State Fiscal Effect:** Currently, there are 122 federally-chartered credit unions in Maryland, with $6.2 billion in assets. There are 11 State-chartered credit unions, with assets totaling $2 billion. It is unclear whether or how many federally-chartered credit unions will convert to State-chartered credit unions as a result of this bill. The Commissioner of Financial Regulation estimates that at least four, but as many as ten, federally-chartered credit unions may convert to a State charter during fiscal 2002 to avoid higher federal regulatory fees.

Assuming that four federally-chartered credit unions would convert to State charters in fiscal 2002, general fund expenditures could increase by an estimated $129,200 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring one administrative officer and one financial examiner to handle the increase in workload related to four new State-regulated institutions. It includes salaries, fringe benefits, accreditation, other one-time start-up costs, and ongoing operating expenses. It also includes the cost of contracting with an outside auditing firm to examine and ensure the solvency and sufficiency of share guaranty corporations for the commissioner's approval.

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|---|---|
| Salaries and Fringe Benefits | $75,600 |
| Examination of Guaranty Corporation | 25,000 |
| Accreditation | 14,000 |
| Other Operating Expenses | 14,600 |
| **Total FY 2002 State Expenditures** | **$129,200** |

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Each newly regulated State-chartered credit union would pay the required $500 application fee for new credit unions. In addition, each credit union would pay an annual assessment of $1,000 plus 8 cents for each $1,000 in assets over $1 million. Assuming four credit unions would convert their charters, this represents an increase in general fund revenues of $64,500 in fiscal 2002. Out-year projections assume the historical 5.2% annual growth rate of State-chartered credit union assets.

If more than four credit unions converted to State-chartered credit unions because of the bill, revenues and expenditures would increase proportionately.

The civil and criminal penalty provisions of this bill are not expected to significantly affect State revenues or expenses. Any loss in State tax revenues because of the bill would not be significant.

**Small Business Effect:** Small credit unions would be subject to a new regulatory scheme, including membership requirements. Small federally-chartered credit unions may convert to State-chartered credit unions. Revisions to credit union membership and lending provisions would present new opportunities for small business owners to obtain credit.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 399 (Delegates McIntosh and Brinkley) – Commerce and Government Matters.

**Information Source(s):** Department of Labor, Licensing, and Regulation (Commissioner of Financial Regulation); Department of Transportation (State Highway Administration); Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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