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Credit Union Association  
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Annapolis, MD 21040

SB975 - Governmental Entities - Authorization to Bank With Credit Unions  
Testimony on Behalf of MD|DC Credit Union Association  
Position: Support

Chairwoman Kelley, Vice-Chair Feldman and Members of the Committee,

On behalf of the MD| DC Credit Union Association and the 84 Credit Unions and their 2.2 million members that we represent in the State of Maryland, we appreciate the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives whose mission is to promote thrift and provide access to credit for provident and productive purposes for our members. Our sole focus is the financial wellbeing and safety of our members and the communities we serve.

### Introduction

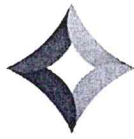
**Public entities have an obligation to handle the funds under their supervision wisely, and credit unions should be among their options.** It is good public policy to allow credit unions to accept public deposits, because it increases choice in the marketplace, provides greater competition, and might be more convenient for the trustees of the public's money to conduct transactions. Credit Unions are chartered to serve specific communities (called a "field of membership") and can only serve the community in which they are chartered. Accordingly, credit unions become an integral part of the communities in which they serve; the community is the sole focus.

Government bodies, like individuals, deserve to be able to choose which financial institution best suits their needs. This bill would allow choice in the marketplace, which is better for everyone.

### Legal Background

**Under the Federal Credit Union Act, credit unions are legally permitted to accept public funds in States that allow them to do so.**

Under the Federal Credit Union Act, Federal Credit Unions may be public depositories of public money and act as a guarantor for public depositors. 12 U.S.C. §§1767, 1789a, 1757(17).<sup>1</sup>



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The above statutes clearly allow credit unions to accept public monies from any government entity, and this question was reinforced by NCUA General Counsel legal opinion "02-0446a" in which Robert M. Fenner stated:

"Under the FCU Act, FCUs may be public depositories of public moneys and act as a guarantor for public depositors. 12 U.S.C. §§1767, 1789a, 1757(17)." ... and" The FCU Act allows federally insured state-chartered credit unions to serve as public depositories. 12 U.S.C. §1789a."

### The Current State of Affairs

**There are thirty-five states that have provisions in their state law that allow credit unions to receive, or government entities to provide, public deposits. Of these 35 states, 26 have laws that explicitly allow both the depositing and the acceptance of public funds by credit unions.** These states are Arizona, California, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Washington, and Wisconsin. (See Appendix A). Of the nine states that do not have explicit enabling legislation that both allows credit unions to receive and government entities to provide public deposits, some allow this in practice.<sup>1</sup>

As you are aware, **local leaders requested this bill, illustrating a need for public deposit legislation.** These localities will have the opportunity to keep their public deposits in a local institution that will reinvest back into the community. **The choice of whom to bank with should be up to the community.**

### Addressing Counterarguments

#### **1. This will hurt community banks. False.**

- First and foremost, just like an individual, if a government body is happy with their financial institution, they will not leave. Competition is good for free-market economies.
- **In Maryland, 82.9%** of public deposits are held by big banks, and community banks only hold **just under 18%**.
- The percentages of public fund allocation have changed very little in states that allow credit unions to accept public deposits (see Appendix B). In fact, the state with the highest amount of credit union public deposits is Idaho, with 15.9%, which has allowed public deposits to credit unions since 1986.<sup>2</sup> It is important to note that the states with the highest amount of public deposits in credit unions tend to also have high public deposits in community banks. Community financial institutions are truly "part of the fabric" of these states. **(See Appendix B).**

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<sup>1</sup> Some states do not have formal credit union acts, but instead just have parity with the Federal Act and therefore do not need enabling legislation to accept public deposits.

<sup>2</sup> 1986, ch. 74, sec. 4



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Of the 41 banks headquartered in Maryland, **10** have no public deposits, **38** have less than 10% of their assets as public deposits, and **1** has more than 20% of their assets as public deposits. The chance that any of these institutions will have any meaningful negative impact due to credit unions entering the market is very low. **(See Appendix C)**. The real competition, as is the case with deposits and assets generally, is from big banks.

## **2. "It has been against Maryland public policy to have public funds in tax-exempt institutions." False.**

- Credit Unions are 501(c) partially tax-exempt financial coops. The State of Maryland and multiple counties have millions of dollars of public funds invested in grants and contracts with tax-exempt 501(c) organizations in Maryland. **The amount of state funds provided to private 501(c) groups from the current Maryland budget is well over six million dollars.**
- The MD|DC Credit Union Association and many of our members have been approached by State and Local government agencies and officials over the years to administer public fund programs or accept public deposits.
- The credit union tax exemption is a massive benefit to Maryland communities (for more on the Credit Union tax exemption see Appendix D).

## **3. Credit Union don't have to comply with the Community Reinvestment Act. True.**

- The Community Reinvestment Act of 1977 was designed by Congress to reduce the discriminatory practice of redlining by banks. **Credit unions were purposefully left out of this law even though they had been around for almost 70 years when this law was created.**
- Redlining is "the systematic denial of mortgages, insurance, loans, and other financial services based on location (and that area's default history) rather than an individual's qualifications and creditworthiness. Notably, the policy of redlining is felt the most by residents of minority neighborhoods."
- Over the past 40 plus years, Congress has considered whether CRA should apply to CUs, and repeatedly and consistently maintained the determination that such application is not only unnecessary because **Credit unions have never engaged in the practice of redlining which the CRA was created to end**, but also counter-intuitive given the member-owned nature of CUs.

### **Conclusion - Why listen to the Credit Unions?**

#### **1. We are here to support the government entities that have requested to utilize credit unions for their public deposits.**

It is worth pointing out that although we have been approached several times over the years about our members accepting public funds from government entities, we purposefully did not push to have this bill introduced. **We've always felt that this bill should organically come from the**



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**government entities that want the option to use credit unions.** Could this bill benefit credit unions? Of Course. Is that the point of the bill? No. We are here to serve the community.

## **2. We put the community first.**

This session, the Maryland Department of Labor introduced SB14 that would make it easier for banks to charter in the State of Maryland and SB15, which modifies the process for a banking institution to engage in any additional activity, service, or other practice that is already authorized for national banking associations. Both bills have the potential to increase bank competition with credit unions in Maryland. We asked what the impetus behind these bills was and were told that some communities had expressed the need for more banking options (i.e., banking deserts are prevalent in many communities). **For this reason, and this reason only, we did not oppose these bills.**

**The community comes first, period.**

## **3. Government entities deserve banking options.**

**The statistics show that banks are leaving low to moderate-income areas at an increasing pace.** Since 2004, bank branches have declined nationwide by more than 4,700, while credit union branches have increased by more than 1,500. **Baltimore County had the most significant decline of bank branches in the nation between 2008-2016 of 25.2%.<sup>3</sup>** This is not due to an increase in market share for credit unions, or a decrease in market share for banks, which have largely remained constant for decades. This is mostly a result of bank failures, consolidations, and mergers.

As stated earlier, credit unions are chartered to serve specific communities (called a “field of membership”), and we can only serve the community in which we are chartered. Accordingly, credit unions become an integral part of the communities in which we serve; they are our sole focus.

You have the opportunity to provide government entities with the choices that they need to decide which banking partner is best for them. We respectfully urge you to support this bill.

Please do not hesitate to contact me at 443-325-0774 or [jbratsakis@mddccua.org](mailto:jbratsakis@mddccua.org), or our VP of Advocacy, Rory Murray at [rmurray@mddccua.org](mailto:rmurray@mddccua.org) should you have any questions. Thank you for your consideration.

Sincerely,

John Bratsakis  
President/CEO  
MD|DC Credit Union Association

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<sup>3</sup> NCRC Report “Bank Branch Closures from 2008-2016: Unequal Impact in America’s Heartland”



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<sup>i</sup> **§1767. §211** Fiscal agents and depositories; authorization to secure deposits by governmental bodies.—(a) Each Federal credit union organized under this chapter, when requested by the Secretary of the Treasury, shall act as fiscal agent of the United States and shall perform such services as the Secretary of the Treasury may require in connection with the collection of taxes and other obligations due the United States and the lending, borrowing, and repayment of money by the United States, including the issue, sale, redemption, or repurchase of bonds, notes, Treasury certificates of indebtedness, or other obligations of the 18 United States; and to facilitate such purposes the Board shall furnish to the Secretary of the Treasury from time to time the names and addresses of all federal credit unions with such other available information concerning them as may be requested by the Secretary of the Treasury. Any Federal credit union organized under this chapter, when designated for that purpose by the Secretary of the Treasury, shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary of the Treasury.

<sup>i</sup> **§1789a. §210** Credit unions as depositories of public money; fiscal agents; duties.—Any credit union, the accounts of which are insured under this title shall be a depository of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositories of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositories of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

<sup>i</sup> **12 USC 1757(17)** to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

