

STATE OF FLORIDA DEPARTMENT OF BANKING AND FINANCE

In re: Credit Union  
Conversion Moratorium

DBF B 1998-242 OGA  
Case No. 3791-B-8/98  
Docketed – 8/17/98

**ORDER OF GENERAL APPLICATION LIFTING CONVERSION MORATORIUM**

The 1998 Florida Legislature enacted HB 4501, which became law on May 30, 1998, as Chapter 98-343, Laws of Florida. This legislation, prompted by the U.S. Supreme Court's February 25, 1998, decision in National Credit Union Administration v. First National Bank and Trust Co., 118 S.Ct. 927 (1998), prohibited the Department from "approving any application by a federally chartered credit union currently doing business in this state for conversion to a state charter pursuant to Section 657.066, Florida Statutes, unless a completed application was on file with the Department on February 25, 1998." §1(1), Chapter 98-343, Laws of Florida.

The moratorium on approval of federal-to-state credit union charter conversion established by this enactment is to terminate on July 1, 1999. §1 (2), Chapter 98-343, Laws of Florida. The legislation further authorizes the Comptroller to terminate the moratorium before the specified date if he determines, by order of general application, that it is in the public interest to accept and approve charter conversion applications. In making

such a determination, the Comptroller is charged to consider the following criteria:

- (a) Whether the United States Congress has amended the Federal Credit Union Act, 12 USC §1751 et seq., subsequent to the enactment [of HB 4501], and, if so, the effect such amendments have or may have on the relative competitive positions of state- chartered and federally-chartered credit unions;
- (b) Whether, and the extent to which, this state will be able to assume the costs of examination and supervision for any newly-converted institutions;
- (c) Such other factors as the Comptroller deems relevant to the maintenance of a fair and competitive financial system in this state.

§1(3), Chapter 98-343, Laws of Florida.

On August 7, 1998, the Credit Union Membership Access Act of 1998 became law. This act makes significant amendments to the Federal Credit Union Act, 12 USC §1751 et seq. The practical effect of these amendments is to eliminate the uncertainty regarding the permissible fields of membership for federally chartered credit unions that was created by the U.S. Supreme Court's decision in National Credit Union Administration, *supra*. The National Credit Union Administration decision declared that the Federal Credit Union Act prohibited any federal credit union field of membership that encompassed more than a single common bond upon which credit union membership was determined. The uncertainty over the lawfulness of existing multiple common-bond

federal credit unions was felt to create a likelihood that many multiple common-bond federal credit unions in Florida would attempt to convert to a state charter rather than face field of membership restrictions under their federal charter that would require them to expel existing members. Because a rush to convert federal to state charters would have overwhelmed that Department's supervisory resources, a charter conversion moratorium was put in place in Florida, with the clear expectation that the 105th Congress would have no choice but to resolve the uncertainty by expeditious legislative action.

The enactment of the Credit Union Membership Access Act of 1998 now eliminates the question relating to the legality of multiple common-bond federal credit unions, and existing credit union fields of membership are "grandfathered." Thus, there is now no reason to expect that uncertainty regarding permissible fields of membership will drive any federal credit union currently operating in Florida to seek authorization for existing fields of membership by exchanging its federal charter for a charter from the State of Florida. Because no other similar reason exists that might impel a wholesale migration of existing credit unions from federal to state supervision, the Department is persuaded that its existing resources will be adequate to handle whatever charter conversion application, if any, that

might be filed by a federal credit union for reasons unrelated to field of membership restrictions. Accordingly, the Department believes that its existing charter conversion rule, not employed during the moratorium period, is appropriate and adequate to assure prompt action on, and careful scrutiny of, any charter conversion application that may be expected to be filed with Department following a lifting of the legislative prohibition on approval of conversion applications. This rule is Rule 3C110.066, Florida Administrative Code.

The Department believes that the passage of the Credit Union Membership Access Act of 1998 restores effective competitive equality to state-chartered and federally-chartered credit unions in Florida. While Chapter 657, Florida Statutes, and the Federal Credit Union Act, as amended, are not identical regulatory regimes, the disparity between the two charters based on the allowance of more expansive fields of membership has been eliminated. The Department is aware of no special practical advantage that would flow now to a federally-chartered credit union based solely on conversion to State-chartered status. In the event that one or more federal credit unions were to decide now to seek conversion, the Department's present resources will be adequate to process foreseeable conversion applications, and, if any federal credit unions were ultimately approved for

conversion, to undertake supervision of these institutions in a manner equivalent to that given to existing state-chartered institutions.

Based on the foregoing analysis, I have determined that it is in the public interest to lift the moratorium imposed by Chapter 98-343, Laws of Florida on approval of charter conversion applications for federal credit unions currently doing business in Florida. Consequently, it is

ORDERED:

1. Effective on the date this Order of General Applicability is rendered, the Department shall accept and process for approval any application for conversion of a federally-chartered credit union to state charter which is filed with the Department in accordance with applicable Department rules.

2. All conversion applications must comply with the provisions of Sections 655.411 and 657.066, Florida Statutes, and Rule 3C-110.066, Florida Administrative Code.

It is so ordered.

DONE and ISSUED this 17th day of August, 1998, at Tallahassee.

Robert F. Milligan  
Comptroller