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HOUSE BILL NO. 69

Offered January 8, 2020

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A *BILL to amend and reenact §§ 2.2-4401, 6.2-1302, 6.2-1327, and 58.1-3149 of the Code of Virginia, relating to depositories of a locality's public deposits; credit unions.*

Patron—Carter

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4401, 6.2-1302, 6.2-1327, and 58.1-3149 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Dedicated method" or "opt-out method" means the securing of public deposits without accepting the contingent liability for the losses of public deposits of other qualified public depositories, pursuant to § 2.2-4404 and regulations and guidelines promulgated by the Treasury Board.

"Defaulting depository" means any qualified public depository determined to be in default or insolvent.

"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

"Eligible collateral" means securities or instruments authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds as well as Federal Home Loan Bank letters of credit issued in accordance with guidelines promulgated by the Treasury Board.

"Located in Virginia" means having a main office or branch office in the Commonwealth where deposits are accepted, checks are paid, and money is lent.

"Pooled method" means securing public deposits by accepting the contingent liability for the losses of public deposits of other qualified public depositories choosing this method, pursuant to § 2.2-4403 and regulations and guidelines promulgated by the Treasury Board.

"Public deposit" means moneys held by a public depositor who is charged with the duty to receive or administer such moneys and is acting in an official capacity, such moneys being deposited in any of the following types of accounts: nonnegotiable time deposits, demand deposits, savings deposits, or any other transaction accounts.

"Public depositor" means the Commonwealth or any county, city, town or other political subdivision thereof, including any commission, institution, committee, board, or officer of the foregoing and any state court.

"Qualified escrow agent" means the State Treasurer or any bank or trust company approved by the Treasury Board to hold collateral pledged to secure public deposits.

"Qualified public depository" means any national banking association, *federal credit union*, federal savings and loan association, or federal savings bank located in Virginia; any bank, *credit union*, trust company, or savings institution organized under Virginia law; or any state bank, *credit union*, or savings institution organized under the laws of another state located in Virginia authorized by the Treasury Board to hold public deposits according to this chapter.

"Required collateral" of a qualified public depository means the amount of eligible collateral required to secure public deposits set by regulations or an action of the Treasury Board.

"Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415.

§ 6.2-1302. Powers.

In addition to the powers specified or implied elsewhere in this chapter or in the laws of the Commonwealth, a credit union shall have the power to:

1. Enter into contracts;

2. Sue and be sued;

3. Adopt, use, and display a corporate seal;

4. Receive savings from and make loans and extend lines of credit to its members;

5. Individually or jointly with other credit unions acquire, lease as lessor or lessee, hold, assign, pledge, exchange, repair, mortgage, hypothecate, sell, discount, or otherwise dispose of property or assets, either in whole or in part, as necessary or incidental to its operations, including any property or

59 assets obtained as a result of defaults under obligations owing to it;

60 6. Borrow from any source, provided that (i) a credit union shall notify and obtain prior approval of
61 the Commissioner if the total borrowings will exceed 50 percent of the credit union's outstanding shares
62 and (ii) in no event shall the borrowings exceed 90 percent of the credit union's outstanding shares;

63 7. Sell all or substantially all of its assets or purchase all or substantially all of the assets of another
64 credit union, subject to the approval of the Commission;

65 8. Offer related financial services, including electronic fund transfers, share draft accounts, safe
66 deposit boxes, leasing of tangible personal property to its members, and correspondent arrangements
67 with other financial institutions;

68 9. Hold membership in other credit unions organized under this chapter or other applicable law, and
69 in associations and organizations controlled by or fostering the interest of credit unions, including a
70 central liquidity facility organized under state or federal law;

71 10. Contract with any licensed insurance company or society to insure the lives of its members to the
72 extent of their loans and share accounts, in whole or in part, and to pay all or a portion of the premium
73 therefor;

74 11. Engage in activities or programs as requested by any governmental authority, subject to the
75 approval of the Commissioner;

76 12. Invest its funds, operate a business, manage or deal in property when such actions are reasonably
77 necessary to avoid loss on a loan or investment previously made or an obligation previously created in
78 good faith. Such property or business shall not be held or operated by the credit union for a period
79 longer than is reasonably required to protect the interest of the credit union, unless specifically
80 authorized by the Commissioner;

81 13. Make contributions to any nonprofit civic, charitable, or service organizations;

82 14. Make loans to its members and to other credit unions; ~~and~~

83 15. *Hold public deposits of counties, cities, towns, and other political subdivisions of the*
84 *Commonwealth; and*

85 16. Undertake such other activities relating to the purposes of the credit union as its charter or
86 bylaws may authorize, provided *that* such activities are not inconsistent with this chapter.

87 **§ 6.2-1327. Membership defined; field of membership.**

88 A. The membership of a credit union shall consist of the incorporators, employees of such credit
89 union, and other persons within the field of membership set forth in the bylaws as have: (i) been fully
90 admitted into membership; (ii) paid any required entrance fee or annual membership fee, or both; (iii)
91 subscribed for one or more shares; (iv) paid the initial installment thereon; and (v) complied with such
92 other requirements as the articles of incorporation or bylaws specify.

93 B. Credit union membership shall be limited to persons within a specified field of membership,
94 individuals within the immediate family or household of such persons, associations of such persons,
95 other credit unions, and employees of the credit union. The field of membership specified shall be
96 composed of one of the following:

97 1. A single group having a common bond of occupation or association;

98 2. More than one group, each of which has a common bond of occupation or association, and each
99 of which does not exceed 3,000 members at the time it is proposed to be included in a multiple
100 common-bond credit union. The 3,000-member limitation shall not apply if the Commission determines
101 that an exception on the grounds provided in subsection (d) (2) or (d) (3) of § 101 of the Credit Union
102 Membership Access Act (12 U.S.C. § 1759) is appropriate. In making any determination under this
103 provision, the Commission shall give consideration to the National Credit Union Administration
104 guidelines; or

105 3. Those persons or organizations within a well-defined local community, neighborhood or rural
106 district.

107 The Commission shall in its discretion determine whether a proposed field of membership constitutes
108 a "well-defined local community, neighborhood or rural district." In making such determination, the
109 Commission shall give consideration to the definition of the term that has been adopted by the National
110 Credit Union Administration and has become legally effective.

111 C. Except as the board of directors may provide to the contrary in the bylaws with respect to
112 termination of membership, once a person or entity becomes a member of a credit union in accordance
113 with this chapter, that person or entity may remain a member of that credit union until the person or
114 entity chooses to withdraw from the credit union.

115 D. The board of directors may expel from the credit union any member who: (i) has not carried out
116 his obligations to the credit union; (ii) has been convicted of a criminal offense; (iii) neglects or refuses
117 to comply with the provisions of this chapter or of the bylaws; (iv) neglects to pay his debts, or
118 otherwise causes financial loss to the credit union; or (v) has deceived the credit union with regard to
119 the use of borrowed money. No member shall be so expelled until he has been informed in writing of
120 the charges against him, and an opportunity has been given to him, after reasonable notice, to be heard.

121 E. Members of the credit union shall not be personally liable for payment of the debts of the credit
122 union.

123 F. The surviving spouse of a deceased credit union member shall be eligible to become a member of
124 the credit union to which the deceased member belonged. In no other instance shall an individual be
125 eligible for membership in a credit union on the basis of the individual's relationship to another person
126 who is eligible for membership in the credit union, unless the individual is a member of the immediate
127 family or household of such person. The board of directors of a credit union may provide in the bylaws
128 for a less inclusive policy governing membership by virtue of relationship to another person, and such
129 policy shall be effective.

130 G. Societies, associations, organizations, partnerships, and corporations composed of persons who are
131 eligible for membership may be admitted to membership in the same manner and under the same
132 conditions as such persons.

133 H. *The counties, cities, towns, and other political subdivisions of the Commonwealth may become*
134 *members of a credit union for purposes of placing deposits in and receiving services from the credit*
135 *union.*

136 I. Any individual or entity that was a member of a credit union as of July 1, 1999, may remain a
137 member of the credit union after that date, and any group that was included in the field of membership
138 of a credit union on that date may remain within the field of membership of that credit union after that
139 date. The successor of an entity that was a member or was eligible for membership in a credit union or
140 for inclusion in a field of membership on July 1, 1999, retains the status of its predecessor.

141 **§ 58.1-3149. Money received to be deposited.**

142 All money received by a treasurer for the account of either the Commonwealth or the treasurer's
143 county or city shall be deposited intact by the treasurer as promptly as practical after its receipt in a
144 bank or, savings institution, or credit union authorized to act as depository therefor. All deposits made
145 pursuant to this provision shall be made in the name of the treasurer's county or city. The treasurer may
146 designate any bank or, savings and loan association, or credit union authorized to act as a depository to
147 receive any payments due to the county or city directly, either through a processing facility or through a
148 branch office.