

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 143

An Act to amend and reenact § 6.2-1317 of the Code of Virginia and to repeal § 6.2-1318 of the Code of Virginia, relating to State Corporation Commission; supervisory merger or transfer of assets of financially unstable credit union.

[H 1964]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 6.2-1317 of the Code of Virginia is amended and reenacted as follows:

§ 6.2-1317. Supervisory merger or transfer of assets of insolvent or financially unstable credit union.

A. If the Commission finds that (i) a state credit union is insolvent, ~~that an emergency exists, or financially unstable~~ and ~~that~~ (ii) its merger into another credit union is desirable for the protection of its members, and if the board of directors of both credit unions approves a plan of merging ~~the insolvent~~ such state credit union into another state credit union or a federal credit union, compliance with § 13.1-895 shall be dispensed with as to both credit unions and the approval of the Commission of such plan of merger shall be the equivalent of approval by more than two-thirds of the members of both credit unions for all purposes of Article 11 (§ 13.1-893.1 et seq.) and Article 12 (§ 13.1-899 et seq.) of Chapter 10 of Title 13.1.

B. If the Commission finds that (i) a state credit union is insolvent, ~~that or financially unstable and~~ (ii) the acquisition of its assets by another state credit union or a federal credit union is in the best interests of its members, ~~and that an emergency exists,~~ it may, with the consent of the board of directors of both credit unions as to the terms and conditions of such transfer, including the assumption of all or certain liabilities, enter an order transferring some or all of the assets of such ~~insolvent~~ state credit union to such other state or federal credit union and ~~no~~ compliance with the provisions of §§ 13.1-899 and 13.1-900 shall *not* be required.

C. In the case either of such a merger or of such a sale of assets, the Commission shall ~~provide~~ *require* that prompt notice of its findings of insolvency *or financial instability* and of the merger or sale of assets be sent to the members of record of the insolvent *or financially unstable* state credit union for the purpose of providing such members an opportunity to challenge the finding that the state credit union is insolvent *or financially unstable*. The relevant books and records of such ~~insolvent~~ credit union shall be preserved and be made available to such members for a period of 30 days after such notice is sent. The Commission's finding of insolvency *or financial instability* shall become final if a hearing before the Commission is not requested by any such member within such 30-day period.

D. If, after such hearing provided in subsection C, the Commission finds that the state credit union ~~was is solvent and financially stable,~~ it shall rescind its order entered pursuant to subsection A or subsection B and the merger or transfer of assets shall be rescinded. After such hearing, however, if the Commission finds that the state credit union ~~was is~~ insolvent *or financially unstable*, its order shall be final.

E. Notwithstanding the provisions of subsection B of § 6.2-1327, or any other provisions of this chapter, the Commission may order a merger pursuant to subsection A or a sale of assets pursuant to subsection B. The continuing credit union, upon approval of the Commission, shall amend its bylaws to incorporate the specified common bond of interest of the insolvent *or financially unstable* credit union.

F. The Commission may authorize a financial institution whose deposits are insured by a federal agency to purchase any of the assets of or assume any of the liabilities of a credit union that is insolvent or ~~in danger of insolvency~~ *financially unstable*, provided that prior to exercising this authority the Commission shall use every reasonable effort to effect a merger or consolidation with or purchase and assumption by another credit union and shall have been advised by the insuring organization that it cannot effect a merger, consolidation, or other disposition of the insolvent *or financially unstable* credit union acceptable to the Commission.

2. That § 6.2-1318 of the Code of Virginia is repealed.