

By Mr. Saltmarsh of Winchester (by request), petition of Edward J. Duffy, Jr., relative to clarifying the requirements necessary to establish a bank or trust company or a branch thereof. Banks and Banking.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-One.

**AN ACT CLARIFYING THE REQUIREMENTS NECESSARY TO ESTABLISH A BANK OR TRUST COMPANY OR A BRANCH THEREOF.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of chapter 170 of the General Laws, as  
2 most recently amended by section 1 of chapter 87 of the acts of  
3 1953, is hereby further amended by inserting before the definition  
4 "Commissioner" the following definition: —

5 "Board" or the "Board of Bank Incorporation," a corporation  
6 consisting of the Commissioner of Banks, the Commissioner of  
7 Corporations and Taxation and the State Treasurer.

1 SECTION 2. Section 3 of said chapter 170, as most recently  
2 amended by section 12 of chapter 1149 of the acts of 1973, is hereby  
3 further amended by striking out the first sentence and inserting in  
4 place thereof the following sentence: — The subscribers to said  
5 agreement shall give notice to the board of bank incorporation of  
6 their intention to form a co-operative bank, and shall apply to said  
7 board for a certificate that competition among financial institu-  
8 tions will not be adversely affected and that the establishment  
9 thereof is in the interest of the community, the public and the  
10 financial industry of the Commonwealth.

1 SECTION 3. Section 5 of said chapter 170 is hereby amended  
2 by striking out, in line 12, the word "commissioner of corporations

3 and taxation", as appearing in section 1 of chapter 371 of the acts of  
4 1950, and inserting in place thereof the word: — board.

1 SECTION 4. Said chapter 170 is hereby further amended by  
2 striking out section 12, as most recently amended by chapter 168 of  
3 the acts of 1976, and inserting in place thereof the following  
4 section: —

5 *Section 12.* Such corporation shall carry on its principal busi-  
6 ness at its main banking office, which shall not be changed except  
7 with the approval of the board. The corporation, after such notice  
8 and hearing as the commissioner may require and with his written  
9 permission and under such regulations as he may approve, may  
10 establish and maintain one or more depots where moneys due the  
11 bank may be collected by the treasurer or other persons duly  
12 empowered by the directors upon such days as may be designated  
13 by vote of the board of directors; or may establish and maintain  
14 one or more branch offices (*a*) in the town wherein its main office is  
15 located, or (*b*) in other towns within the same county, or within  
16 fifteen miles from the premises of the main office, having no main  
17 office or branch office of a co-operative bank or in which in the  
18 opinion of the board competition among financial institutions will  
19 not be adversely affected and that the establishment of additional  
20 cooperative bank facilities is in the interest of the community, the  
21 public and the financial industry of the Commonwealth. Every  
22 application to establish and maintain one or more depots or  
23 branch offices shall be accompanied by payment of an investiga-  
24 tion fee of five hundred dollars for each depot or branch office  
25 applied for. Not more than one application by a cooperative bank  
26 to establish a branch office under this paragraph outside of the  
27 county wherein its principal office is located shall be approved in  
28 any calendar year. Such corporation, upon the vote of two-thirds  
29 of the members present at a meeting called for that purpose with  
30 the approval of the board of bank incorporation, may change the  
31 location of its main office to another town within the common-  
32 wealth by appropriate amendment of its agreement of association,  
33 a copy of which shall be filed forthwith with the state secretary.  
34 With the written consent of the commissioner, a branch office or  
35 depot may be closed, or the location thereof may be changed

36 subject to the requirements and restrictions contained in this para-  
37 graph for the establishment of such branch or depot.

38 The offices of any co-operative bank consolidated or merged  
39 under section forty-eight or all or substantially all of the assets and  
40 liabilities of which have been acquired under section forty-seven  
41 may be maintained as branch offices of such other cooperative  
42 bank, with the written permission of and under such conditions, if  
43 any, as may be approved by the board, that the main office of such  
44 co-operative bank either is situated within the county wherein the  
45 main office of such other co-operative bank is located, or is situat-  
46 ed within fifteen miles of the premises of the main office of such  
47 other co-operative bank. No co-operative bank shall be given  
48 permission pursuant to this section more than once in any calendar  
49 year either to acquire and maintain offices of another cooperative  
50 bank whose main office is located outside of the county wherein its  
51 main office is located.

1 SECTION 5. Section 47 of said chapter 170, as most recently  
2 amended by section 15 of chapter 1149 of the acts of 1973, is hereby  
3 further amended by striking out the word "Commissioner" wher-  
4 ever it appears and inserting in place thereof the word: — board.

1 SECTION 6. Section 48 of said chapter 170, as most recently  
2 amended by section 2 of chapter 168 of the acts of 1976, is hereby  
3 further amended by striking out the word: — "commissioner" wher-  
4 ever it appears and inserting in place thereof the word: board.

1 SECTION 7. Said chapter 170 is hereby further amended by  
2 adding the following section: —

3 *Section 54.* Any bank seeking authority to act under Sections  
4 three, twelve, forty-seven and forty-eight shall file a petition with  
5 the Board of Bank Incorporation and said board shall hold a  
6 public hearing thereon pursuant to the provisions of Chapter thirty  
7 A.

1 SECTION 8. Section 1 of chapter 171 of the General Laws, as  
2 appearing in the Tercentenary Edition, is hereby amended by  
3 adding the following paragraph: —

4 The words "Board" or "Board of Bank Incorporation" shall  
5 mean a corporation consisting of the commissioner of banks, the  
6 commissioner of corporations and taxation and the state treasurer.

1 SECTION 9. Said chapter 171 is hereby further amended by  
2 striking out section 2, as most recently amended by chapter 321 of  
3 the acts of 1965, and inserting in place thereof the following  
4 section: —

5 *Section 2.* Ten or more persons, resident in the commonwealth,  
6 who have associated themselves by a written agreement with the  
7 intention of forming a corporation for the purpose of accumulat-  
8 ing and investing the savings of its members and making loans to  
9 them for provident purposes, may, with the consent of the board  
10 become such a corporation upon complying with section three.

11 Said Board may grant such consent when satisfied that competi-  
12 tion among financial institutions will not be adversely affected,  
13 that the establishment thereof is in the interest of the community,  
14 the public and the financial industry of the commonwealth, and  
15 that the standing of the proposed incorporators is such as to give  
16 assurance that its affairs will be administered in accordance with  
17 the spirit of this chapter.

18 A credit union shall organize and commence business within six  
19 months from the date of its incorporation, otherwise its charter  
20 shall become void; and no credit union shall resume business under  
21 a charter which was outstanding and inactive on July first nineteen  
22 hundred and seventy-three, except with the written approval of  
23 said board.

24 After such notice and hearing as the board may require, the  
25 board may permit branch office and depots to be established if  
26 competition among financial institutions will not be adversely  
27 affected and they are determined to be in the interest of the com-  
28 munity, the public and the financial industry of the commonwealth  
29 in the county where the main office is located. Any of the usual  
30 business transacted by a credit union at its main office may be  
31 transacted at a branch office. The business at a depot shall be  
32 transacted only on such days as may be designated by the board of  
33 directors and shall be limited to the receipt of deposits and the  
34 collection of moneys due or payable to the credit union, and such

35 business shall be subject to such other conditions, if any, as may be  
36 prescribed by the board. With the written consent of the board a  
37 branch office or depot may be closed, or its location may be  
38 changed.

1 SECTION 10. Said chapter 171 is hereby further amended by  
2 adding the following section: —

3 *Section 3C.* Any persons or credit unions seeking authority to  
4 act under sections two and three shall file a petition with the Board  
5 of Bank Incorporation and said Board shall hold a public hearing  
6 thereon pursuant to the provisions of Chapter thirty A.

1 SECTION 11. The second paragraph of section 7 of chapter 172  
2 of the General Laws, as most recently amended by section 17 of  
3 chapter 1149 of the acts of 1973, is hereby further amended by  
4 striking out the third, fourth and fifth sentences, and inserting in  
5 place thereof the following three sentences: — Within 30 days after  
6 the first publication of said notice, the subscribers to said agree-  
7 ment shall apply to the board for a certificate for the establishment  
8 of such trust company. Such an application shall be accompanied  
9 by an investigation fee of one thousand dollars. In determining  
10 whether a certificate should be issued for the establishment of a  
11 trust company, the board shall consider whether competition  
12 among financial institutions will be adversely affected and whether  
13 the establishment thereof is in the best interest of the community,  
14 the public and the financial industry of the commonwealth. The  
15 Board shall also consider the adequacy of its capital structure and  
16 the general character of its management.

1 SECTION 12. Paragraph (a) of section 11 of said chapter 172,  
2 as most recently amended by section 18 of said chapter 1149, is  
3 hereby further amended by striking out the first sentence and  
4 inserting in place thereof the following sentence: — After such  
5 notice and hearings as the board may prescribe, a trust company  
6 may, with the approval of the board, establish and operate one or  
7 more banch offices in the city or town where its principal office is  
8 located, or in any other city or town in the same county having no  
9 commercial banking facilities or having banking facilities which, in

10 the opinion of the board, are inadequate for the public. In deter-  
11 mining whether the banking facilities are inadequate, the board  
12 shall determine whether competition among financial institutions  
13 will be adversely affected, and whether the the establishment of the  
14 proposed branch is in the interest of the community, the public and  
15 the financial industry of the Commonwealth.

1 SECTION 13. Said chapter 172 is hereby further amended by  
2 adding the following section:—

3 *Section 77.* Any incorporators or trust company seeking au-  
4 thority to act under sections seven and eleven shall file a petition  
5 with the Board of Bank Incorporation and said Board shall hold a  
6 public hearing pursuant to the provisions of Chapter thirty A.



