

By Mr. Mann of Hanson, petition of Charles W. Mann and another relative to establishing the co-operative banks employees benefit association. Banks and Banking.

The Commonwealth of Massachusetts

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

AN ACT ESTABLISHING THE CO-OPERATIVE BANKS EMPLOYEES BENEFIT ASSOCIATION.

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. Chapter 170 of the General Laws, as appearing
2 in the 1984 Official Edition, is hereby amended by adding at the
3 end thereof the following three sections: —
4 Section 33. The participating members of the Co-operative
5 Banks Employees Retirement Association, established by section
6 thirty, as of January first, nineteen hundred and eighty-six, may
7 be constituted as the Co-operative Banks Employees Benefit
8 Association, in this section and in sections thirty-four and thirty-
9 five called the benefit association, for the purpose of providing
10 retirement benefits through retirement plans which are not
11 qualified plans under section 401 of the U. S. Internal Revenue
12 Code and for establishing employee welfare benefit plans, in this
13 section called plans, for eligible employees of participating banks,
14 as hereinafter provided. The benefit association, in its name and
15 by or through its authorized officers, may (a) establish plans and
16 related trusts for eligible members participating therein, (b) make
17 agreements, establish trusts and make or cause to be made
18 investments subject to such limitations as may from time to time
19 be prescribed by law or by the bylaws of the benefit association,
20 (c) sue and be sued, plead and be impleaded, (d) enforce liens and
21 other obligations and foreclose mortgages held by the benefit
22 association on or with respect to real or personal property situated
23 in the commonwealth or in any state or territory in the United
24 States, (e) adopt an official seal and alter the same at pleasure,

25 and (f) do such other acts and things as may be necessary to carry
26 out the powers conferred upon it by law and its bylaws.

27 All co-operative banks established under the laws of the
28 commonwealth, all such co-operative banks which have converted
29 to a federal savings bank or federal savings and loan association,
30 or which have merged or consolidated with a federally chartered
31 stock corporation and which have their main offices located in
32 the commonwealth, the Co-operative Bank League of Massachu-
33 setts, the Co-operative Banks Employees Retirement Association,
34 the Co-operative Banks Employees Benefit Association, the Co-
35 operative Central Bank, and such other Massachusetts co-
36 operative bank organizations as from time to time may be
37 provided for in the bylaws of the benefit association, such other
38 person or persons, as may from time to time be provided for in
39 the said bylaws, which provide professional banking-related
40 services to member banks, provided that such services shall be
41 limited to accounting, actuarial, appraisal, investment advisory,
42 legal and marketing/public relations services, and such of the
43 respective employees of each of the foregoing, including directors
44 of such co-operative banks, as may be provided by such bylaws,
45 shall be eligible for membership in the benefit association. For
46 the purposes of this section and sections thirty-four and thirty-
47 five, a reference to "bank" or "banks" shall, unless the context
48 otherwise requires, mean and include any or all of the
49 organizations named or referred to in this paragraph, and
50 reference to "board of directors" of a bank shall also, unless the
51 context otherwise requires, mean and include the governing body
52 of each such organization.

53 Eligible employees may contribute a portion of their salaries
54 or wages to or under plans established by the benefit association,
55 to be deducted by the employing banks and paid to the plans or
56 the benefit association. A participating bank may contribute to
57 or under plans of the benefit association to the extent determined
58 by its board of directors. Contributions and benefits under the
59 plans of the benefit association shall not exceed the limits, if any,
60 imposed on such plans by the Internal Revenue Code of 1954,
61 as amended, and the Employee Retirement Income Security Act
62 of 1974, as amended, in this section called the Code and ERISA,
63 respectively.

64 All plans maintained by the benefit association shall conform
65 to the Code and ERISA and funds held under the plans of the
66 benefit association shall be invested in such manner as the benefit
67 association shall determine, consistent with the bylaws. Copies of
68 all plans of the benefit association shall be filed with the
69 commissioner. Funds held under plans of the benefit association
70 shall be held by or used by the benefit association for the exclusive
71 purpose of providing plan benefits to eligible members and, as
72 determined by the benefit association, may be used to defray
73 reasonable expenses of administering the plans and investing the
74 assets of the plans. To the extent that expenses necessary for the
75 administration of the benefit association or the plans of the benefit
76 association are not paid from the plans, they shall be paid by
77 participating banks on a proportionate basis, as provided in the
78 bylaws.

79 A participating bank, by vote of its board of directors, may
80 adopt one or more of the plans of the benefit association for the
81 benefit of its employees and their beneficiaries. Nothing in this
82 section shall be construed so as to prevent any such bank from
83 establishing its own employee welfare benefit plan or non-
84 qualified retirement plan.

85 Section 34. The directors of the Co-operative Banks
86 Employees Retirement Association, as of January first, nineteen
87 hundred and eighty-six, shall prepare the bylaws of the benefit
88 association and submit the same to the commissioner. The said
89 bylaws shall prescribe the manner in which, and the officers and
90 agents by whom, the benefit association will be conducted and
91 the manner in which its funds may be invested and paid out. They
92 shall also provide that the said directors of the Co-operative Banks
93 Employees Retirement Association shall serve as the initial
94 directors of the benefit association and shall continue such service
95 for the term prescribed in such bylaws and for the election of
96 subsequent directors. The benefit association shall be constituted
97 when its bylaws have been approved by the commissioner. Such
98 benefit association shall annually, on or before June first, report
99 to the commissioner such statements of its membership and
100 financial transactions for the year ending on the preceding
101 October thirty-first as the commissioner may consider necessary
102 to show its business and standing. The commissioner may verify

103 such statement by an examination of the books and papers of the
104 benefit association.

105 The benefit association shall not be subject to chapter thirty-
106 two or chapter one hundred and seventy-five or to such other
107 provisions of law as relate to insurance companies or other benefit
108 associations.

109 Section 35. The property of the benefit association, the portion
110 of the wages or salary of any employee deducted or to be deducted
111 under sections thirty-three and thirty-four, the right of an
112 employee to an annuity or pension, and all his rights in the funds
113 of the benefit association, shall be exempt from taxation and from
114 the operation of any law relating to insolvency, and shall not be
115 attached or taken on execution or other process to satisfy any debt
116 or liability of the benefit association, a participating bank, or any
117 employee member of the benefit association; provided, however,
118 that the portion of the wages or salary of any person or persons,
119 together with any employee thereof, providing professional
120 banking-related services to member banks, as described in section
121 thirty-three, shall not be so exempt. No assignment of any right
122 in or to said funds or of any pension or annuity payable under
123 section thirty-three shall be valid, except that deferred annuity
124 contracts purchased by a participating bank on account of past
125 service of eligible employees may be assigned to such bank prior
126 to actual retirement.

127 Nothing in this section shall prevent an employee's annuity or
128 pension from being attached, taken on execution, assigned, or
129 subject to other process to satisfy a support order under chapter
130 two hundred and eight, two hundred and nine, or two hundred
131 and seventy-three.