

# **CREDIT UNION APPLICATIONS MANUAL**

*(APPLICATIONS AND NOTIFICATIONS)*

## **DEPARTMENT OF BANKING AND FINANCE**

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# APPLICATIONS MANUAL

## HOW TO USE THIS MANUAL

The purpose of the Credit Union Applications Manual is to provide all applicable users a detailed guide to the processes and procedures involved in the various credit union transactions requiring Department approval, review, registration or notification. This Manual is designed to supplement the Financial Institutions Code (Title 7), and the Department's Rules and Regulations.

The application processes described in this manual are under continuous review and, where possible, are modified to reflect current standards in processing regulatory transactions. Where appropriate and when a credit union qualifies, the Credit Union Applications Manual will provide for expedited processing. The Department's goal is always to provide timely decisions on any process requiring its approval, review, registration or notification.

Specifically the Department's Credit Union Applications Manual for each credit union transaction process covered will discuss:

- 1) Laws and regulations that affect and are affected by the proposed transaction;
- 2) Policy Statements or Regulatory Issuances which need to be reviewed to amplify the regulatory standards which will be applied;
- 3) Qualifying criteria for expedited processing of the application, if applicable;
- 4) Expedited processing procedures available and documents required for expedited processing, if applicable;
- 5) Regular processing procedures available and documents required for regular applications; and
- 6) Processing time for applications.

The Department believes this manual will help you better understand credit union application processes. If you have questions about the content of this Manual, please consult Corporate Manager-Financial Institutions Murali Ramachandran at (770) 986-1645 or [murali@dbf.state.ga.us](mailto:murali@dbf.state.ga.us).

This Manual is available at the Department's website – <http://dbf.georgia.gov> under Publications, then Manuals & Handbooks.

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# APPLICATIONS

## CREDIT UNION CHARTERS

### 1. LAW AND REGULATIONS

Section 7-1-130 thru 134. Names, Registered Offices, and Advertising.

Section 7-1-630 thru 7-1-636. Article 3 - Credit Unions - General Provisions; Organization.

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

### 2. POLICY STATEMENT/REGULATORY ISSUANCES

Refer to the Department's charter information package titled "**Guideline's for Organizing a State Chartered Credit Union**".

### 3. PROCESSING PROCEDURES

Initial contact should be made by phone with the Corporate Manager at (770) 986-1645.

1. When the organizing group has been formed, a meeting will be scheduled with the Commissioner (or Senior Deputy Commissioner) and the Deputy Commissioner for Supervision at the main office of the Department of Banking and Finance with all proposed directors/organizers to be in attendance. A representative from the National Credit Union Association (NCUA) will also be invited to attend the meeting to discuss Share/Deposit Insurance issues. *The Charter Application Package will be distributed during this meeting at no cost to the organizers.*
2. The Department's application should be filed concurrently with the NCUA. The applicant will be notified of acceptance of the application within ten business days of receipt. The Department will notify the applicant when the application is substantially complete and schedule a field investigation at that time. For the convenience of the applicant, the field investigation will be conducted jointly with the NCUA.
3. The Department should take action within 90 days of acceptance of the application unless the processing time is extended by a request of additional information prior to or during the investigation process.

### 3a. DOCUMENTS REQUIRED

1. Charter Application which should include the exact street address location of the proposed main office or a specific location. The application package includes the following items:
  - Confidential Report of Officials should be completed for each officer, director, and each member of the Credit and Supervisory Committees. Additional blank forms are available on the Department's website at: <http://dbf.georgia.gov>
  - Credit reports on all directors, officers, and committee members - see application for further information.
  - State Certificate to Application for Approval of Charter.
  - Two copies of the bylaws (recommended standard form bylaws are available on the Department's website at: <http://dbf.georgia.gov>)
  - The results of the organizer's findings on forms prescribed by the Department.
  - Other exhibits as necessary to complete the application. Please refer to specific exhibits and pages of exhibits on the application form itself.
2. Certificate of name reservation with the Secretary of State's Office pursuant to Code Section 7-1-131 (Refer to the name reservation section of this Manual for details on reserving a name for the credit union).
3. Three copies of the Articles of Incorporation (two with original signatures) and a check made payable to the Secretary of State for the applicable fee (\$100).

**4. PROCESSING TIME**

Regular Processing                      Generally 90 days from acceptance

**5. FEES**

The Department will charge an application fee, as established by Department Regulation (up to \$20,000), to defray the cost of the charter investigation required by Code Section 7-1-632. However, the Department may waive this fee if it is determined that it would discourage the organization of the credit union.

## CONVERSION TO A STATE-CHARTERED CREDIT UNION

### 1. LAW AND REGULATIONS

Section 7-1-130 thru 134. Names, Registered Offices, and Advertising.

Section 7-1-630 thru 7-1-636. Article 3 - Credit Unions - General Provisions; Organization.

Section 7-1-668. Conversion of State and Federal Credit Unions

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

### 2. POLICY STATEMENT/REGULATORY ISSUANCES

Refer to the Department's **Policy Statement on Conversions** (NOTE: While written in terms of banking institutions, policies contained in the Statement of Policies is generally applicable to credit unions unless clearly inapplicable by statute, regulation or other policy statements issued specifically in those areas.) The Department's Statement of Policies is available on the Internet at: <http://dbf.georgia.gov>.

### 3. PROCESSING PROCEDURES

Initial contact should be made by phone with the Corporate Manager at (770) 986-1645.

1. A meeting with Management will be normally be conducted at the Department's main office prior to filing the application.
2. A letter form application should be filed concurrent with the documentation required below. The Department will acknowledge receipt of the application within 10 business days from filing and will notify the applicant when the application is substantially complete and schedule a field investigation at that time.
3. The Department should take action within 60 days of filing a completed application unless the processing time is extended by a request of additional information prior to or during the investigation process.

#### 3a. DOCUMENTS REQUIRED

1. A letter form application (application package to be provided by the Department includes various forms and sample forms referenced in items 2, 5, 6, and 9 below).
2. State Certificate to Application for Approval of Charter.
3. Certificate of name reservation with the Secretary of State's Office pursuant to Code Section 7-1-131, if the name will be changed. (NOTE: See name reservation section of this Manual if requesting a new name).
4. A Board Resolution approving the contemplated conversion and authorizing the Department to perform an investigation/examination of the credit union. The conversion must also be approved by the shareholders in accordance with Code Section 7-1-668.
5. Three copies of the Articles of Conversion with original signatures and a check made payable to the Secretary of State for the applicable fee (\$100).
6. Confidential Report of Officials should be completed for each officer, director, and each member of the Credit and Supervisory Committees. Additional blank forms are available on the Department's website at: <http://dbf.georgia.gov>
7. Two copies of the bylaws (recommended standard form bylaws are available on the Department's website at: <http://dbf.georgia.gov> )
8. The most recent financial statement of the existing credit union and, if applicable, any significant changes anticipated upon conversion.
9. A copy of Management's "Report of Findings for Conversion of a Federal Credit Union" (forms prescribed by the Department).
10. A copy of any agreements or administrative action between the credit union and the NCUA.
11. A copy of management's response to the most recent examination conducted by the NCUA.

**3a. DOCUMENTS REQUIRED** *(Continued)*

Once the application has been accepted, a listing of additional information to be made available during the investigation will be forwarded to management. The application processing time may be extended by the time necessary to obtain the additional information.

**4. PROCESSING TIME**

Regular Processing	60 days from acceptance of completed application
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**5. FEES**

Conversion Fee	\$1,000
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## MERGERS/PURCHASE & ASSUMPTIONS

### 1. LAW AND REGULATIONS

Section 7-1-114 thru 7-1-117. Voluntary Dissolution after commencement of business.

Section 7-1-630 thru 7-1-636. Article 3 - Credit Unions - General Provisions; Organization.

Section 7-1-667. Mergers.

Chapter 80-1-1 Applications, Registrations and Notifications.

Chapter 80-5-1 Supervision, Examination, Registration and Investigation Fees. Administrative Late Fees.

### 2. POLICY STATEMENT/REGULATORY ISSUANCES

See **Policy Statement for Mergers**. (NOTE: While written in terms of banking institutions, policies contained in the Statement of Policies is generally applicable to credit unions unless clearly inapplicable by statute, regulation or other policy statements issued specifically in those areas.) The Department's Statement of Policies is available on the Internet at: <http://dbf.georgia.gov>.

#### General Comments:

Referenced below are procedures for three types of business combination transactions. The documentation and processing requirements for a merger versus a purchase and assumption transaction differ only in that the Department does not charge a fee and does not require a membership vote of the acquiring credit union for a purchase and assumption transaction. Application forms referenced in Section 3a. - Documents Required - may be obtained by contacting the Corporate Manager at (770) 986-1645 or may be downloaded from the Department's website.

### 3. PROCESSING PROCEDURES

#### Georgia State-Chartered Credit Union with a Georgia State-Chartered Credit Union

1. The Department will acknowledge receipt of the application within 2 business days from filing and will notify the applicant that the application is substantially complete or request additional information.
2. The Department will generally act on the application within 15 days from acknowledgment of receipt; however, the transaction must also receive prior approval from the NCUA before it can be consummated.

#### Georgia State-Chartered Credit Union with a Federally Chartered or Out-of-State Credit Union (Georgia credit union not the survivor)

1. The Department will acknowledge receipt of the notification application within 2 business days from filing and will notify the applicant that all required information has been submitted or request additional information.
2. The Department will generally act on the notification application within 10 business days from acknowledgment of receipt; however, the transaction must also receive prior approval from the NCUA and/or the surviving/acquiring credit union's home state regulator (where the surviving/acquiring credit union is an out-of-state credit union) before it can be consummated.

#### Federally Chartered or Out-of-State Credit Union with a Georgia State-Chartered Credit Union (Georgia credit union survives)

1. File the required letter form application and any supporting documentation with the Department and the NCUA.
2. The Department will acknowledge receipt of the application within 2 business days from filing and will notify that the application is substantially complete or request additional information from the applicant.
3. The Department will generally act on the application within 15 days from acknowledgment of receipt; however, the transaction must also receive prior approval from the NCUA and/or the merging/dissolving credit union's home state regulator (where the merging/dissolving credit union is an out-of-state credit union) before it can be consummated.



## NEW BRANCH OFFICES

### 1. LAW AND REGULATIONS

Section 7-1-635.1 Out-of-State Credit Unions.

Section 7-1-665. Subsidiary Offices.

Rule 80-2-4-.02 Investment of Credit Union Funds in Fixed Assets.

**NOTE:** *Relocation or expansion of facilities provided by or subsidized by a sponsor may usually be effected without prior approval of the Department; however, the Department should be notified, by letter, of the credit union's plans to expand or relocate.*

### **APPLICANTS WHO QUALIFY FOR EXPEDITED PROCESSING SHOULD REFER TO THE EXPEDITED PROCESSING PROCEDURES OUTLINED BELOW.**

#### **Criteria for Expedited Processing of Credit Union Branch Applications:**

1. The credit union must be well-capitalized as defined by the capital requirements of the Department and the National Credit Union Administration (NCUA);
2. The credit union must have received a CAMEL composite rating of "1" or "2" at the most recent examination;
3. The credit union is not subject to any written agreements, orders or other enforcement actions or administrative agreements with the Department or the NCUA; and,
4. Total investments in fixed assets do not exceed 40 percent of total equity capital and reserves (excluding the allowance for loan losses).

### **2. PROCEDURE (EXPEDITED PROCESSING)**

1. Applicant should submit a letter form application to the Department.
2. The Department should act on the application within 10 days of receipt.

#### **2a. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

The letter form application should contain the following information:

- Statement certifying that the credit union qualifies for expedited processing;
- Description of the fixed asset expansion plans that are contemplated;
- Indicate the total proposed amount of fixed asset investment and the percentage that this investment represents of total equity capital and reserves (excluding the Allowance for Loan Losses account);
- Indicate the dollar amount of depreciation that would be recognized annual and the effective life being used to write off fixed assets; and,
- An indication that there is no involvement by any director, committee member, officer or employee of the credit union or any related interest thereof, in the fixed asset expansion. If there is any involvement, it should be detailed in the letter form application.

### **3. PROCEDURE (REGULAR PROCESSING)**

1. Applicant should call the Department to request the [Application for Credit Union Expansion of Fixed Assets](#) or obtain the application from the Department's website - <http://dbf.georgia.gov>.
2. The Department should act on the application within 21 days of receipt of the application.

#### **3a. DOCUMENTS REQUIRED (REGULAR PROCESSING)**

1. [Application for Credit Union Expansion of Fixed Assets](#).

### **4. INTERSTATE APPLICATIONS (OUT-OF-STATE CREDIT UNIONS)**

An out-of-state credit union may establish a place of business in this state to serve its existing membership, but must seek approval from the Department. The out-of-state credit union must meet the requirements detailed in OCGA Section 7-1-635.1 when seeking approval from this Department to establish a branch office in Georgia. The application should be in letter form and should address each item in Sections 7-1-635.1(a) & (b).

**5. PROCESSING TIME**

Expedited Application	10 days from receipt
Regular Applications	21 days from receipt
Interstate (Georgia as host state)	Maximum of 10 business days

**6. FEES**

Expedited Fee	None
Regular Fee	None
Interstate Fee (Georgia as host state)	None

## RELOCATIONS

### 1. LAW AND REGULATIONS

- Section 7-1-634. Amendment of Articles and Bylaws.
- Section 7-1-635. Procedures for Department.
- Section 7-1-665. Subsidiary Offices.
- Rule 80-2-4-.02 Investment of Credit Union Funds in Fixed Assets.

**NOTE:** *Relocation or expansion of facilities provided by, or subsidized by, a sponsor may usually be effected without prior approval of the Department; however, the Department should be notified, by letter, of the credit union's plans to expand or relocate.*

### **APPLICANTS WHO QUALIFY FOR EXPEDITED PROCESSING SHOULD REFER TO THE EXPEDITED PROCESSING PROCEDURES OUTLINED BELOW.**

#### **Criteria for Expedited Processing of Credit Union Branch Applications:**

1. The credit union must be well-capitalized as defined by the capital requirements of the Department and the NCUA;
2. The credit union must have received a CAMEL composite rating of "1" or "2" at the most recent examination;
3. The credit union is not subject to any written agreements, orders or other enforcement actions or administrative agreements with the Department or the NCUA; and,
4. Total investments in fixed assets do not exceed 40 percent of total equity capital and reserves (excluding the allowance for loan losses).

#### **3. PROCEDURE (EXPEDITED PROCESSING)**

2. Applicant should submit a letter form application to the Department.
2. The Department should act on the application within 10 days of receipt.

#### **2a. DOCUMENTS REQUIRED (EXPEDITED PROCESSING)**

The letter form application should contain the following information:

- Statement certifying that the credit union qualifies for expedited processing;
- Description of the fixed asset expansion plans that are contemplated;
- Indicate the total proposed amount of fixed asset investment and the percentage that this investment represents of total equity capital and reserves (excluding the Allowance for Loan Losses account);
- Indicate the dollar amount of depreciation that would be recognized annually and the effective life being used to write off fixed assets; and,
- An indication that there is no involvement by any director, committee member, officer or employee of the credit union or any related interest thereof, in the fixed asset expansion. If there is any involvement, it should be detailed in the letter form application.

#### **3. PROCEDURE (REGULAR PROCESSING)**

1. Applicant should call the Department to request the [Application for Credit Union Expansion of Fixed Assets](#) or obtain the application from the Department's website - <http://dbf.georgia.gov>. If the relocation does not involve a significant change in the credit union's fixed asset investment, the application may be letter form and the information required may be streamlined to a certain degree.
2. The Department should act on the application within 21 days of receipt of the application.

#### **3a. DOCUMENTS REQUIRED (REGULAR PROCESSING)**

2. [Application for Credit Union Expansion of Fixed Assets](#).

#### **4. INTERSTATE APPLICATIONS (OUT-OF-STATE CREDIT UNIONS)**

An out-of-state credit union may establish a place of business in this state to serve its existing membership, but must seek approval from the Department. The out-of-state credit union must meet the requirements detailed in OCGA Section 7-1-635.1 when seeking approval from this Department to establish a branch office in Georgia. The application should be in letter form and should address each item in Sections 7-1-635.1(a) & (b).

#### **5. PROCESSING TIME**

Expedited Application	10 days from receipt
Regular Applications	21 days from receipt
Interstate (Georgia as host state)	Maximum of 10 business days

#### **6. FEES**

Expedited Fee	None
Regular Fee	None
Interstate Fee (Georgia as host state)	None

**NOTE:** *Changes to the street address of the main office may require an amendment to the Articles of Incorporation. Amendments to the Articles of Incorporation will require additional procedures to those described above. Refer to O.C.G.A. Sections 7-1-634 and 7-1-635 and the Department procedures outlined in this manual for processing amendments to the Articles of Incorporation.*

## NAME RESERVATIONS AND PERMISSIONS

### 1. LAW AND REGULATIONS

Section 7-1-130. Permissible names.

Section 7-1-131. Reservation of name.

Section 7-1-243. Restrictions on banking and trust nomenclature. (also pertains to use of "credit union")

### 2. POLICY STATEMENT

See the [Policy Statement for Title Changes](#) found in the Department's Statement of Policies. In addition, to title changes or name reservations for credit unions, use of the words "credit union", or any derivatives thereof, must receive the prior permission of the Department.

### 3. PROCESSING

Applications for name reservations may be faxed (770-986-1654 or 1655), or e-mailed to [murali@dbf.state.ga.us](mailto:murali@dbf.state.ga.us) (attention Supervisory Division). Name reservations or permissions will be granted or denied within seven days of receipt of the request unless there is a conflict in the use of the requested name.

Name permission requests (i.e., permission to use the word "credit union") should be filed online at: <http://dbf.georgia.gov/webform/request-permission-use-bank-credit-union-trust-or-similar-words-name>.

### 4. PROCEDURE

1. The applicant will submit a letter form request for name reservation or permission.
2. Upon receipt of the request, the Corporate Manager will either grant or deny the request and a letter will be written to the applicant with a copy transmitted to the Secretary of State's Office.

#### 4a. DOCUMENTS REQUIRED

In the case of a name reservation, the application should state whether the request is for a new financial institution or for a change in the name of an existing financial institution and the county location of the main office. In the case of a name permission request, sufficient documentation supporting the request must be submitted. As stated under "Processing", name permission requests may be filed online at the URL noted above.

**NOTE:** Amendment of the Articles of Incorporation is also required for a change in name of an existing credit union.

### 5. PROCESSING TIME

Regular Processing

7 days from receipt of written request

### 6. FEES

Name Reservation – None

Name Permission – None

## **APPROVAL TO PAY DIVIDENDS**

### **1. LAW AND REGULATIONS**

Section 7-1-660. Dividends, interest.

Rule 80-2-3-.03 Payment Periods for Dividends.

Rule 80-2-3-.04 Departmental Approval of Dividends.

### **2. POLICY STATEMENT**

Rules 80-2-3-.03 and 80-2-3-.04 sets certain conditions upon which dividends and interest may be paid by the credit union without any requirement to notify the Department or request for the Department's approval of the dividend. Any dividend to be declared by the Board of Directors of a credit union at a time when each of the conditions in Rule 80-2-3-.04 does not exist must be approved, in writing, by the Department prior to the payment thereof. Requests for approval of dividends shall be on forms prescribed by the Department.

### **3. PROCESSING**

The Department will approve or disapprove the payment of a dividend within five days of receipt of the request for payment of dividend form.

### **4. PROCEDURE**

A credit union which is required to obtain prior approval of the Department before payment of a dividend must submit the "Request for Approval of a Dividend" form to the Supervisory Manager for Credit Unions at least two weeks prior to the date the dividend is to be paid. The credit union should contact the Supervisory Manager for a copy of the form or it can be downloaded from our website at: <http://dbf.georgia.gov>.

### **5. DOCUMENTS REQUIRED**

Request for Approval of a Dividend, Credit Union Form 19-29.

### **6. PROCESSING TIME**

Regular Processing

5 days from receipt of a completed application

### **7. FEES**

None

## **AMENDMENT OF ARTICLES OF INCORPORATION**

### **1. LAW AND REGULATIONS**

Sections 7-1-634 & 635 Amendment of Articles and Bylaws and Procedures for Department

### **2. POLICY STATEMENT**

A credit union may, in the manner provided by law, amend its articles at any time in order to make any change therein which would then be authorized for inclusion in original articles including without limitation an amendment:

- To adopt a new name permitted to be used;
- To renew the term for which it is to exist or to provide for perpetual duration;
- To change, add to, or diminish the statement of its purpose or purposes;
- To restate the articles in their entirety; or
- To change its main office location to a new location.

### **3. PROCESSING**

Acknowledgment of receipt of Articles of Amendment will be sent within two days of receipt of the articles. If necessary, a request for additional information will be included with the acknowledgment. Following receipt of completed required documentation, acceptable articles of amendment will be approved.

### **4. PROCEDURE**

1. A letter form application to amend the articles should be submitted along with the documentation listed below.
2. If you have questions, you should contact the Corporate Manager at 770-986-1645.

### **5. DOCUMENTS REQUIRED**

1. Certified copy of the Resolution by the Board of Directors as stated in Section 7-1-634.
2. Three original copies of the Articles of Amendment signed by two duly authorized officers of credit union under its seal, containing the items listed in Section 7-1-634, where applicable to the type of amendment being made.
3. The fee required by Code Section 7-1-634, made payable to the Secretary of State of Georgia.

**NOTE:** If the amendment of articles involves a change in the name of the credit union, it shall reserve the proposed new name under the application procedures for Name Reservations and Permissions.

### **6. PROCESSING TIME**

Regular Processing                      7 days from receipt of articles and other documentation required

### **7. FEES**

The fee required by Code Section 7-1-634, made payable to the Secretary of State of Georgia (\$20).

## FIELD OF MEMBERSHIP EXPANSIONS AND OTHER BYLAW AMENDMENTS

### 1. LAW AND REGULATIONS

Sections 7-1-634 & 635 Amendment of Articles and Bylaws and Procedures for Department.

Rule 80-2-8-.01 Definitions.

Rule 80-2-8-.02 Affiliated Organizations as Additions to Non Residential Group Common Bonds.

Rule 80-2-8-.03 Requirements for Adding Additional Common Bond Groups to a Credit Union's Field of Membership.

Rule 80-2-8-.04 Requirements for Residential Groups.

### 2. POLICY STATEMENT

A credit union may adopt amendments to its bylaws requested by the affirmative vote of two-thirds of the authorized number of members of the Board of Directors at any duly held meeting thereof if the members of the Board have been given prior written notice of the meeting and said notice contains a copy of the proposed amendment(s). FOM expansions based on residence must provide sufficient documentation as discussed within the Department's *Policy Statement Regarding Criteria and Issues Related to Residential Common Bonds*. The Policy Statement is included as **Appendix A** of this Manual and is also available on the Department's website at: <http://dbf.georgia.gov>.

### 3. PROCESSING

**Expedited Processing** (Adding Additional Common Bond Groups or Affiliated Organization Groups to Non Residential Group Common Bonds (Non-Residential Common Bond)

If the bylaw amendment relates to a change in the credit union's field of membership (FOM), the credit union may qualify for expedited processing. *Expedited processing is not available for applications for a residential group common bond*. The expedited FOM Expansion application is to be used only for qualifying credit unions. In order to file this expedited application, the credit union must meet ALL of the following criteria:

1. Received a Composite Rating of "1" or "2" at their most recent examination.
2. Have no outstanding supervisory or administrative actions.
3. The FOM request is for potential membership of **5,000 persons or fewer**.
4. The FOM request is related to an occupation, employment, association, or interest group. (**NOT residential group common bond**)
5. The FOM request must meet all of the criteria contained in Rule 80-2-8-.02 or 80-2-8-.03 of the Department's Rules and Regulations.

**NOTE:** The expedited application may ONLY be used by proposed groups located in Georgia. If the proposed group to be added is not located in Georgia, you must file the regular application.

Credit unions that do not meet the above criteria must file a written application with the Department (regular processing procedures for bylaw amendments).

**Application to add residential group common bond to its FOM must file a written application under regular processing procedures.**

**Regular Processing** (All Common Bond Groups)

Acknowledgment of receipt of the bylaw amendment(s) will be sent within two days of receipt of the bylaws. If necessary, a request for additional information will be submitted prior to completion of the review of the application. Following receipt of completed required documentation, acceptable bylaw amendment will be approved.

#### 4. PROCEDURES & DOCUMENTS REQUIRED

##### **Expedited Processing** (Non-Residential Common Bond)

1. The expedited FOM application on the Department's website should be completed and submitted per the instructions.
2. If the application qualifies for expedited treatment and contains responses to each item, the Department will issue its approval, which will serve as amendment of the credit union's Bylaws and will contain the amended Bylaws plus a statement to the effect that "the Bylaws will not become effective until adopted by the Board of Directors of the Credit Union".

**NOTE:** During the credit union's regular exam, examiners will be responsible for verifying that the credit union has maintained the appropriate documentation to support their answers to question #3, involving the requirements of 80-2-8-.03(3) of the Department's Rules and Regulations, for any group added since the previous exam. If examiners find insufficient documentation or information contrary to the application, the credit union could be required to divest itself of the approved group and approval could be rescinded.

##### **Regular Processing** (Non-Residential Common Bond)

A written application to amend the bylaws should be submitted to the Department. Checklists and Instructions for submitting the application can be found on the Department's website at: <http://dbf.georgia.gov>.

##### **Regular Processing** (**Residential Group Common Bonds**)

A written application to amend the bylaws and application form found on our website should be submitted to the Department.

If you have questions, you should contact the Supervisory Manager at (770) 986-5049 or the Corporate Manager at 770-986-1645.

#### 6. PROCESSING TIME

Regular Processing (Non-Residential FOM)	15 business days from receipt of bylaws and other documentation required
Regular Processing (Residential FOM)	45 to 90 days from receipt of bylaws and other documentation required
Expedited Processing	10 business days from receipt of a complete application

#### 7. FEES

Expedited Processing	None
Regular Processing (Non-Residential FOM)	None
Regular Processing (Residential FOM)	\$1,000

## **APPROVAL OF THIRD PARTY PAYMENT SERVICES (TPPS)**

### **1. LAW AND REGULATIONS**

Section 7-1-670. Third Party Payment Services.

Rule 80-2-3-.05. Third Party Payment Services.

### **2. POLICY STATEMENT**

Code Section 7-1-670 states that any credit union may apply to the Department for permission to offer third-party payment services (TPPS) to its members. Rule 80-2-3-.05(3) sets forth the financial and management criteria by which the credit union may qualify for a [notice procedure](#) rather than having to seek prior approval from the Department.

**REFER TO THE NOTIFICATIONS SECTION OF THIS MANUAL FOR FURTHER INFORMATION AND PROCESSING INSTRUCTIONS FOR THE NOTICE ONLY PROCEDURE.**

### **3. PROCESSING PROCEDURE**

The Department will approve or disapprove a TPPS proposal within 30 days of receipt of the letter form application with all supporting documentation as outlined below.

### **4. DOCUMENTS REQUIRED**

A letter form application, signed by an officer of the credit union, should be submitted to the Department's Supervisory Manager for Credit Unions.

The letter form application for prior written approval must demonstrate that:

1. There exists a need among the membership of the credit union for the proposed TPPS and that the proposed plan will serve that need;
2. The proposed plan can compete favorably with TPPS offered by other financial institutions serving its members (quality of service and costs of service to the members); and,
3. The proposed plan can be implemented on a profitable basis as determined by a 3-year projection of the number of accounts, volume of transactions, and average aggregate balances in such accounts (taking into account the influence, if any, due to the stability or instability of the credit union's common bond).

The letter form application should also contain the following schedules, exhibits, or statements:

4. A resolution of the Board of Directors of the credit union authorizing management to file the application and stating that the Board has reviewed the application in its entirety and concurs with its contents;
5. A statement of assets and liabilities of the credit union as of a date not more than 30 days prior to the date of the application;
6. Appropriate assurance that the credit union will post all transactions occurring on its books on a daily basis, including the preparation of a daily statement of assets and liabilities;
7. Appropriate assurance that all necessary personnel are familiar with the requirements of the Uniform Commercial Code as applicable to checks and deposits and that the credit union will comply with the provisions of that Code. In this regard, the application should include a copy of the proposed signature card contract to be signed by the accountholder and a general outline of the proposed TPPS program;
8. A statement of the Board's policy relative to the charge off of losses and their policy with regard to the replenishing of the statutory reserve account following such charge-offs;
9. A statement of the Board's policy relative to the interest payments to be made on the proposed TPPS accounts including frequency and amount of interest to be paid;
10. A statement relative to any changes in management or other personnel resources, internal control and operating procedures, and equipment and premises which might be proposed to implement the TPPS program. Copies of all data processor and clearing-bank contracts should be included in the application; and,
11. Such other information as the applicant feels has bearing upon the application.

**5. PROCESSING TIME**

Regular Processing

30 days from receipt of a completed application

**6. FEES**

None

# NOTIFICATIONS

## LOCATION CLOSINGS

### 1. LAW AND REGULATIONS

Section 7-1-110.1 Posting Notice of Intent to Close Banking Business

Section 7-1-111 Emergency Closings

Chapter 80-5-2 Temporary Changes in Operating Hours, Emergency Closings

#### **General Definition:**

Closing: An existing credit union location is shut down indefinitely. A closing requires a notification to the Department **and to members** (Code Section 7-1-110.1).

### 2. POLICY STATEMENT

See [Policy Statement for Relocations, Redesignations, and Closings](#).

### 3. PROCESSING

Prior notification to the Department and the NCUA is required for branch office closings. The NCUA should be consulted to determine if procedures differ from those outlined below.

### 4. PROCEDURE

1. Branch office closings must receive approval of the Board of Directors.
2. The credit union must provide a letter form notification to the Department containing the following:
  - a. The location of the branch office to be closed;
  - b. A statement of the reasons and a summary of the information supporting the institutions decision for closing; and
  - c. The anticipated closing date.
3. If the notice is acceptable, the Department will issue a “no objection” letter.
4. The credit union must also notify its members of the closing by prominent notice posted in the lobby of the location to be closed for a period of not less than 30 days prior to the effective date of the closing and by circulation in regular statement mailings or a separate mailing at least 30 days prior to the effective date of the closing.
5. If the actual closing date is different from the anticipated closing date stated in the letter form notification to the Department, the credit union must write informing the Department of the actual closing date within 15 days of the closing.

#### 4a. DOCUMENTS REQUIRED

1. Letter form notification containing information noted above.
2. No newspaper publication is required; however public notice to members is required.
3. As noted in item 5 above, if the actual closing date differs from the anticipated date provided in the original notification to the Department, the credit union should provide written notification to the Department of the actual closing date.

### 5. FEES

None

## **CONVERSION OF STATE-CHARTERED CREDIT UNION TO A FEDERAL CREDIT UNION**

### **1. LAW AND REGULATIONS**

Section 7-1-668. Conversion of state and federal credit unions.

### **2. PROCEDURE**

A Georgia state-chartered credit union may convert into a federal credit union upon approval of the NCUA and upon compliance with applicable federal laws and state laws.

### **3. DOCUMENTS REQUIRED**

A state-chartered credit union which converts into a federal credit union shall notify the Department of the proposed conversion and shall provide the following:

1. Evidence of the adoption of the plan of conversion (by Board Resolution) as required by Section 7-1-668(b)(1).
2. Evidence of members' approval as required by Section 7-1-668(b)(2).
3. Notify the Department of any abandonment or disapproval of the plan.
4. File with the Department a copy of the NCUA's approval of the conversion and, if applicable, any certificate of conversion issued by the NCUA. The transaction will be effective upon compliance with these provisions or upon the notification of a specific effective date to the Department and the Secretary of State.

### **4. FEES**

None

## **THIRD PARTY PAYMENT SERVICES (TPPS) NOTICE ONLY PROCEDURE**

### **1. LAW AND REGULATIONS**

Section 7-1-670. Third Party Payment Services.

Rule 80-2-3-.05. Third Party Payment Services.

### **2. POLICY STATEMENT**

Code Section 7-1-670 states that any credit union may apply to the Department for permission to offer third-party payment services (TPPS) to its members. Rule 80-2-3-.05(3) sets forth the financial and management criteria by which the credit union may qualify for a notice procedure rather than having to seek prior approval from the Department.

#### **Criteria for Notice Only Procedures for Third Party Payment Services:**

1. The credit union must have received a CAMEL composite rating of "1" or "2" at the most recent examination;
2. The credit union must have received a CAMEL Management component rating of "1" or "2" at the most recent examination;
3. The credit union is not subject to any written agreements, orders or other enforcement actions or administrative agreements with the Department or the NCUA; and,
4. The credit union must be well-capitalized according to regulatory and policy requirements of the Department and the NCUA; and,
5. The credit union must have total assets of at least \$1 million.

**NOTE:** If the credit union does not meet the above criteria, it must seek prior approval from the Department to offer TPPS. See the Applications Section of this Manual for further information.

### **3. PROCESSING PROCEDURE**

If the credit union meets the notice only procedure and files such notice at least 30 days prior to offering the TPPS, the proposed TPPS plan may be implemented by the credit union at the expiration of the 30-day period, provided that no notification to the contrary has been received from the Department during that time period.

### **4. DOCUMENTS REQUIRED**

A letter form notification from an officer of the credit union, should be submitted to the Department's Supervisory Manager for Credit Unions. The letter form notification should state the following:

1. That the credit union meets the criteria outlined in Rule 80-2-3-.05 and that it has determined that the all factors in Code Section 7-1-670(a) have been satisfied.

### **5. PROCESSING TIME**

Notice Only Procedure

TPPS plan may be implemented by the credit union at the expiration of the 30-day period referenced under processing procedures above.

### **6. FEES**

None

## **APPENDIX A: POLICY STATEMENT REGARDING CRITERIA AND ISSUES RELATED TO RESIDENTIAL GROUP COMMON BONDS**

### **Purpose**

This policy statement contains details concerning the criteria to be used by the Department in reviewing an application by a credit union for a residential group common bond. Each credit union application must make its case to satisfy statutory requirements, safety and soundness criteria and the existence of mutual interest between persons sharing the proposed residential group common bond. The Department reserves the right to revise such policies as warranted to maintain standards of practice, parity and to preserve the safety and soundness of a state chartered credit union.

### Criteria for a Well Defined Area

The criteria for a neighborhood, community or rural district must be well defined, in accordance with OCGA 7-1-630(b). A well defined area must be described in writing and delineated on a map.

The boundaries of a neighborhood typically will be defined by streets and roads, but may also be bounded by other delineations including boundaries of a municipality (such as the city limits) or other boundaries that reasonably demonstrate the end of one neighborhood and the beginning of another. A written description typically will include the names of streets or other delineations surrounding the neighborhood.

The boundaries of a community or rural district typically will be defined by streets and roads but may also be bounded by other delineations including boundaries of a town, municipality (such as the city limits) county or other boundaries that reasonably demonstrate the end of one community or rural district and the beginning of another. In many cases it may be more appropriate to describe the community or rural district by means of a map, rather than listing all delineations that comprise its border. If the written description is so limited, a well drawn map may be needed to readily facilitate a determination that a prospective member qualifies for membership based upon residence within a well-defined area being served.

The Department's definitions in the rule are based on "residence within" a well defined neighborhood, community or rural district, unlike the federal definition, which includes individuals who live, worship, work or attend school in such an area.

### Criteria for Meeting the Definition of a "Neighborhood"

As provided in the Rule, a "Neighborhood shall mean a small part of a geographic unit considered in regard to its inhabitants or distinct characteristics. It will reflect unifying characteristics such as recreational, associational or social facilities or functions for residents.

A geographic unit for the purposes of this definition could be a municipality or county, therefore a "Neighborhood" would be a small part of such a unit. Indicators of unifying characteristics could include recreation centers or athletic facilities, social clubs or organizations, Neighborhood Associations or similar facilities or functions.

A "Neighborhood" meeting such a definition would have to demonstrate a viable residential group common bond based upon its size, its level of activity and based upon safety and soundness criteria related to the proposed area.

### Criteria for Meeting the Definition of a "Community"

As outlined in Rule 80-2-8-.04, in order for an area to be considered a community, it must share certain criteria that tend to create a mutual interest (political, environmental, geographic or economic) or must share common facilities or services that tend to create interaction or mutual interest. In making such a determination, the Department shall expect the applying credit union to demonstrate clearly by a preponderance of evidence that this

criteria supports the definition of a community. The Department shall consider the approval of a community by the NCUA for a federal charter as evidence in making its determination for a Georgia state charter, so long as this is consistent with state law Provided that the conditions contained within §7-1-634 have been complied with, including safety and soundness requirements, and provided each group being proposed meets the definition of a community as outlined above, the Department may consider an application for adding an additional community group. The burden of showing that a common bond exists within a community is on the applicant. The Department will carefully review the analysis performed by credit union management in making this assessment.

It must be demonstrated additionally that the credit union has adequate facilities and staffing to serve the residential group common bond that is being requested. The Department further reserves the right to establish such conditions as it determines to be appropriate, and may in particular establish a timetable for group additions or other appropriate conditions, particularly if there are concerns related to the size of the group being proposed or the impact upon the management of the credit union. Applications for multiple residential group common bonds will be individually evaluated and must satisfy all the criteria in this law, rules and this policy. A separate fee will apply to each residential group common bond application.

#### Criteria for meeting the Definition of a “Rural District”

As outlined in Rule 80-2-8-.04 (2) (d), a rural district could conceivably encompass a larger geographic area than a community and could include more than one county, if the area could be demonstrated to have certain commonalities of interest. These could include membership within agricultural, soil conservation, water districts, economic development zones or other pertinent criteria. Absent strong and compelling evidence of unifying characteristics, the inclusion of any part of a Metropolitan Statistical Area (MSA) will not be considered in a rural district.

#### Department Basis for Evaluating Criteria for a Residential Group Common Bond

The Department requires the applying credit union to demonstrate by the weight and accumulation of facts presented that a residential common bond exists that establishes unifying characteristics that tend to create interaction or mutual interest. The Department will review the volume and value of evidence in establishing the commonality criteria to meet the definitions for a neighborhood, community, or rural district common bond.

#### Safety and Soundness Criteria that apply to Requests for a Residential Group Common Bond

Credit unions are subject to safety and soundness criteria based on the financial and managerial capacity of the credit union to serve the proposed common bond, whether this is an employee, associational or a residential group. The Department will not approve any such applications, particularly for larger counties or rural districts, unless these criteria can be clearly demonstrated.

The following criteria shall be considered in determining the financial and managerial capacity of a credit union to support a request for a residential group common bond:

1. A CAMEL rating of “1” or “2” and a risk rating of “low” or “moderate” in all applicable categories was assigned at the most recent examination.
2. Any credit union receiving a CAMEL rating of “3” in any component area and a risk rating of “low” or “moderate” in all categories at its most recent examination shall be considered only after review of the following additional factors:
  - a. The underlying reasons for ratings outside the criteria in item 1 above.
  - b. The overall condition of the credit union and ability to support expanded activities
  - c. Management’s progress and commitment to improve such ratings; and

- d. The prospects for improving performance and ratings in the near term.
3. A credit union receiving a CAMEL component rating in any category more severe than a “3” or having a risk rating of “high” in any category in its most recent examination may not apply for a residential group common bond based on residence in a well defined neighborhood, community or rural district.
4. It is strongly recommended that credit unions with a Composite CAMEL rating of “3”, not apply for any residential group common bond until the overall condition of the credit union is restored to a satisfactory level. The Department rarely approves such additions under these circumstances.
5. There should be a demonstration in all applications for a residential group common bond that the credit union has a sufficient level and depth of management to meet the requirements of the residential common bond proposed.
6. There should be a demonstration in all applications for a residential group common bond that the credit union has sufficient information technology resources and capacity to serve the residential group that is being proposed.
7. A key component of the safety and soundness requirement for a neighborhood, community or rural district common bond group shall be the submission of a comprehensive business and strategic plan that addresses the following:
  - a. How the credit union intends to service the targeted neighborhood, community or rural district;
  - b. The financial services that will be provided to the targeted neighborhood, community or rural district;
  - c. A projection of the expected size and penetration into the target market over a three year period, to include an analysis of the market’s current financial service providers;
  - d. The impact of the proposed addition upon credit union capital, property and equipment (including technology resources) and personnel resources;
  - e. The adequacy and sufficiency of fixed assets and data processing facilities to serve the proposed residential group common bond including sufficient resources to meet the expected levels of growth;
  - f. The effect upon management’s ability to recognize, monitor and control the following risks:
    - i. Credit Risk – the risk of default on expected repayments of loans or investments and policies and procedures for collections.
    - ii. Interest Rate Risk – the risk that changes in market interest rates will negatively impact the income statement or balance sheet of the credit union.
    - iii. Liquidity Risk – the risk of an inability to fund the repayment of deposits and borrowings or meet lending obligations from available liquid assets.
    - iv. Transaction Risk – the risk of fraud or operational problems in transaction processing that results in an inability to deliver products, remain competitive and properly manage information and data.
    - v. Compliance Risk – the risk of violations and non-compliance with applicable laws and regulations resulting in fines, penalties or damages.

- vi. Strategic Risk – the risk of adverse business decisions through management actions or inactions that impact the competitiveness and viability of the credit union
  - vii. Reputation Risk – the risk of negative public opinion or perception leading to a loss of confidence and/or severance of business relationships.
- g. A comprehensive income statement budget and proforma balance sheet reflecting realistic financial, capital and operating goals for the next three calendar years beyond the year in which the residential group common bond expansion is requested.
8. In the case of a common bond request for a neighborhood, community or rural district, the credit union shall submit revised loan and collection policies and procedures that recognize the additional complexities of a residential group common bond.
9. In the case of a common bond request for a neighborhood, community or rural district, the credit union shall provide adequate policies related to asset/liability management, recognizing the additional complexities that could result from expanded lending and deposit taking activities.

### **Multiple Residential Group Common Bonds**

The Department shall determine whether a credit union has adequately documented and supported an application for a residential group common bond, by reviewing its revised business plan, whether the credit union has the management and operational resources to support the proposed addition and whether the credit union has satisfied its current business plan and projections for serving its existing credit union membership.

Upon application for an additional residential group common bond, it shall be the expectation of the Department that the goal of the credit union is to serve the residential area that has already been approved by the Department. In applying for an additional residential group common bond, the credit union shall demonstrate that they are adequately serving their existing common bond groups, that they have the available management and operational infrastructure to properly serve the proposed group, that they meet all safety and soundness criteria contained within this policy statement and are not subject to any other criteria which would make the proposed addition unsound. While it is not mandatory that the credit union have an established branch in close proximity of the group being proposed, the credit union should detail in their application how they intend to serve the proposed group, through physical branches, shared branches, telephone, mail or electronic means. In all cases the addition being proposed should be consistent with the objectives of the Code contained in O.C.G.A. 7-1-3.

### **The Ability to Merge Credit Unions with Residential Group Common Bonds**

Mergers between a credit union and another credit union serving a residential group common bond are permissible, subject to safety and soundness and statutory requirements. A credit union would have to meet the safety and soundness criteria for a merger and would be expected to demonstrate that it could reasonably serve the members of the current credit union and the members of the credit union being merged. So long as provided for in the plan of merger, the new field of membership will be comprised of the combination of groups of the two credit unions.

A residential common bond surviving a merger will be subject to the conditions of this Policy Statement. As specified in 7-1-668, future membership in the credit union shall be based on state law; therefore in the case of a neighborhood, community or rural district, membership shall be based on residence within an approved residential group.

### **Conversions**

Conversion of a federal credit union to a state credit union will be done according to law. A federal credit union with a residential group common bond based membership may convert to a state credit union, but after conversion, state law will allow new members only if they “reside within” the residential area.

### The Status of Underserved Areas based on Parity with Federal Charters

State law does not currently provide for the specific ability to add groups to the field of membership of a credit union based on it being an underserved area, as is currently the case with federal charters.

Residing within a geographic area that has in common a lack of access to financial services may be an indicator of a common bond. The area likely would have other economic commonalities. Credit unions are encouraged to look at these possible groups to determine whether sufficient evidence of mutuality exists to add such groups, thereby providing needed financial services to underserved groups.

### Public Notification of applications to serve Residential Group Common Bonds

Although there are no statutory publication requirements for applications by a credit union to serve a common bond group, the Commissioner has determined that upon the adoption of Rule 80-2-8-.04 on residential group common bonds, it is in the best interests of the public and the financial services industry to be aware of the approval of any requests received from credit unions to serve a residential group common bond. Upon approval of a residential group common bond, the Department of Banking and Finance shall include the name of the credit union and a brief description of the neighborhood, community or rural district that has been approved in the next monthly Bulletin of the Department.

## **APPENDIX B: POLICY STATEMENT ON NONMEMBER DEPOSITS IN CREDIT UNIONS**

### State Statutory Limitations on Non-member Credit Union Deposits

Georgia law in 7-1-650 contains specific limitations on the ability of state chartered credit unions to accept deposits from non-members including the following:

- 1) A credit union may accept savings deposits ( interest bearing accounts not subject to check, and without maturity and contractual characteristics of a time deposit.) from members and nonmembers
- 2) The acceptance of non-member savings accounts must be consistent with the Bylaws of the Credit Union
- 3) A credit union may not offer or accept share draft accounts (accounts subject to check) to or from non-members.
- 4) A credit union may accept time deposits (accounts with a maturity feature and a contractual interest feature) from non-members only if this non-member is a financial institution. NCUA rules provide that deposits from other credit unions and deposits of political subdivisions are considered to be member deposits and subject to NCUSIF deposit insurance coverage. NCUA rules do not provide NCUSIF deposit insurance coverage for financial institutions other than credit unions.
- 5) The interest rate on savings deposits of non-members may not be greater in rate than rates paid to members on similar classes of deposits.

Therefore, effectively, the only type of non-member deposits permissible under state law, with the exception of deposits of other credit unions, is non-member savings accounts, subject to the statutory requirements outlined above.

### Concerns Regarding the Adequacy of Disclosures on Permissible Non-member Deposits

The Department has always taken a position that it is imperative that credit unions provide clear and proper disclosures to non-members so that there is no confusion regarding the lack of deposit insurance on such holdings. This is consistent with the approach taken by the Department regarding marketing and disclosure practices on any investment or deposit products that are subject to being confused with an insured deposit. The NCUA has developed provisions in Rules 740 and 741 that credit unions should review before accepting any non-member deposits. Credit unions which currently accept such deposits should review their policies and procedures for compliance with these requirements

### Signage

Credit Unions insured by the NCUSIF are required to have a sign reflecting this coverage at each station or window where member deposits are accepted. If a credit union accepts non-member deposits, subject to state law requirements, it may not accept such deposits at a station or window that provides such signage.

If a shared branch facility in Georgia permits the depositing of funds to any accounts not insured by the NCUSIF, the names of such credit unions shall be disclosed in the shared facility's signage as having non-member deposits that are not subject to NCUSIF coverage.

### Disclosures

Credit unions that accept non-member deposits must disclose to these non-members in writing at the time of account opening that such deposits are not covered by deposit insurance coverage.

Any advertising or marketing materials related to such accounts would likewise need to disclose that such accounts are not subject to deposit insurance under the NCUSIF.

### Subsequent Account Information

In subsequent communications with the account holder, for instance in periodic statements sent to the account holder, such account statements should not reflect any language indicating that such accounts are insured deposits. If such language is included on the standard account statement, then customized account statements should be provided to these customers, omitting any indication of such coverage being provided.