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2001 Survey of Rhode Law: Legislation: Financial Institutions: An Act Relating to Financial Institutions; An Act Relating to Mutual Holding Companies

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Financial Institutions. *An Act Relating to Financial Institutions.* Provided that certain requirements are met, each credit union that is converted into a financial institution chartered under the laws of Rhode Island has all of the power and privileges conferred on, and is subject to all the duties and liabilities imposed on financial institutions. Similarly, each credit union that is converted into a financial services entity chartered under the laws of the United States has all of the power and privileges conferred on, and is subject to all the duties and liabilities imposed on federally chartered services entity. Effective July 13, 2001. 2001 R.I. Pub. Laws ch. 233.

SUMMARY

The Credit Union Conversion Act of 2001 was enacted to set forth the procedures and requirements for the conversion from a credit union to a financial institution or other financial services entity. There are several requirements that must be met before a credit union can convert into a financial institution or other financial services entity. First, the credit union must comply with either the requirements of Chapter 2 of Title 19, if the conversion is to a financial institution, or the applicable federal laws and regulations, if the conversion is to a financial services entity.¹ Second, the plan of conversion must be adopted by a two-thirds vote of the board of directors and be approved by both the director or the director's designee and a majority vote of those members of the credit union qualified to vote pursuant to section 19-5-7.² Members may vote either in person or by proxy at a meeting called by the board of directors.³ A credit union member who is qualified to vote is defined as an individual whose tax identification number or social security number is used by the credit union for interest reporting purposes to the Internal Revenue Service.⁴ Third, once the plan of conversion has been approved, the director or the director's designee must issue a certificate of approval of the conversion to the converted entity and file it with the secretary of state along with

1. The Credit Union Conversion Act of 2001, R.I. Gen. Laws § 19-5.1-3 (2001).

2. *Id.* § 19-5.1-3 (b).

3. *Id.*

4. *Id.*

the payment of fifty dollars.⁵ Additionally, a certificate of the general treasurer must also be filed stating that the converted entity has paid into the treasury for the use of the state, a sum equal to one tenth of one percent of its capital stock, the amount of which cannot be less than \$100.⁶ The state must immediately record the certificate of approval upon the filing and the payment of the fifty dollars.⁷ Fourth, deposits must continue to be federally insured in order for there to be a conversion into a financial institution or other financial services entity.⁸

A conversion does not require the prior liquidation of the credit union.⁹ Furthermore, the corporate existence of the credit union does not terminate pursuant to a conversion into a financial institution or other financial services entity, rather there is a continuance of the corporate existence.¹⁰ However, if the plan of conversion calls for the issuance of capital stock, there are several requirements that must be met. First, the converted entity must issue and sell the stock issued in connection with the conversion at its pro forma market value which must be made by an independent appraisal.¹¹ Second, the stock must be offered initially in a subscription offering to the members of the credit union on an eligibility record date established by the board of directors, giving those members priority rights to purchase the shares over the general public pro rata based on deposits.¹² Third, the converted credit union must create a liquidation account for the benefit of its members on the eligibility record date.¹³ This liquidation account must represent the total equity of the credit union at the time calculated in accordance with the regulations promulgated by the director or the director's designee.¹⁴ This liquidation account, unless otherwise impaired, is considered as part of the paid-in and unimpaired capital stock and surplus of the newly chartered stock financial institution or financial services entity.¹⁵

5. *Id.* § 19-5.1-3 (f).

6. *Id.*

7. *Id.*

8. *Id.* § 19-5.1-3 (e).

9. *Id.* § 19-5.1-3 (a).

10. *Id.* § 19-5.1-3 (e).

11. *Id.* § 19-5.1-3 (c).

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

A credit union conversion may be accomplished pursuant to a merger, by forming a holding company or by utilizing an existing holding company for the purpose of holding the shares of the financial institution or other financial services entity.¹⁶ The newly formed holding company may offer all of its stock to its depositors and general public, subject to subscription rights in favor of depositors, in lieu of the capital stock of the financial institution or other financial services entity.¹⁷

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16. *Id.* § 19-5.1-3 (d).

17. *Id.*

Financial Institutions. *An Act Relating to Mutual Holding Companies.* Provides that a mutual savings bank may reorganize into a mutual holding company pursuant to this section. Effective June 22, 2001. 2001 R.I. Pub. Laws ch. 183.

SUMMARY

This Act amends Title 19 of the General Laws entitled "Financial Institutions" by adding chapter 2-14.1. The Mutual Holding Companies Act¹ sets forth the method by which a mutual savings bank may reorganize into a mutual holding company. A mutual savings bank may so reorganize by organizing a mutual holding company and chartering one or more interim stock financial institutions or corporate subsidiaries and merging with those banks and subsidiaries.² This may also occur in any other manner approved by the director.³ The stock financial institutions (institution) are not terminated under this Act, but are deemed a continuation of the mutual savings bank.⁴ However, the mutual holding company must always own a majority of the voting shares of capital stock of the institution.⁵ Furthermore, the institutions shall have all the powers and privileges granted a financial institution.⁶

The reorganization plan of the mutual holding company must be approved by a two-thirds vote of the board of trustees and by the director.⁷ The plan must also be approved by a majority vote of the depositors of the mutual savings bank at a board meeting.⁸

If shares of common stock are offered for sale by the institution, depositors shall be given subscription rights, and the offering shall be conducted in the manner provided in section 19-2-14, and in any regulations issued by the director under that section.⁹ The Act further provides that a mutual holding company and any subsidiary may engage in any activity permitted under the Bank

1. R.I. Gen. Laws §19-2-14.1 (2001).

2. *Id.* § 19-2-14.1(a).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.* § 19-2-14.1(c).

7. *Id.* § 19-2-14.1(b).

8. *Id.*

9. *Id.* § 19-2-14.1 (d).

Holding Company Act of 1956,¹⁰ or in any activity authorized by the director.¹¹ In addition, a mutual holding company may, with the director's approval, (1) merge or consolidate with another bank, financial services or savings and loan holding company, including a mutual holding company; or (2) acquire or consolidate with another financial institution, either in mutual or stock form.¹²

Finally, the Act states that a mutual holding company may convert to stock form with a two-thirds vote of the board of trustees.¹³ The conversion plan shall provide that minority stockholders shall receive an ownership interest in the resulting stock holding company, which is equal to their percentage ownership.¹⁴ The percentage ownership interest is adjusted taking into account the assets held by the mutual holding company, and the remaining shares sold pursuant to section 19-2-14.¹⁵ Lastly, the Act grants the director the power to issue rules and regulations to implement this section.¹⁶

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10. 12 U.S.C.A. § 1841 et seq. (2001).

11. R.I. Gen. Laws § 19-2-14.1(e) (2001).

12. *Id.*

13. *Id.* § 19-2-14.1(f).

14. *Id.*

15. *Id.*

16. *Id.* § 19-2-14(g).