

CHAPTER 21
CREDIT UNIONS

Authority

N.J.S.A. 17:1-8.1, 17:1-15(e) and 17:13-79 et seq.

Source and Effective Date

R.2002 d.209, effective June 10, 2002.
See: 34 N.J.R. 816(a), 34 N.J.R. 2311(a).

Chapter Expiration Date

Chapter 21, Credit Unions, expires on June 10, 2007.

Chapter Historical Note

Chapter 21, Credit Unions, became effective with Subchapter 1, Implementation of the Credit Union Law, adopted as R.1979 d.54, effective February 8, 1979. See: 10 N.J.R. 527(c), 11 N.J.R. 117(c). Section 3:21-1.8, Loan interest rate, was adopted as R.1980 d.207, effective May 12, 1980. See: 12 N.J.R. 303(a). Section 3:21-1.8 was amended by R.1981 d.12, effective January 13, 1981. See: 13 N.J.R. 62(e).

Subchapter 2, Credit Union Parity, was adopted as R.1981 d.414, effective November 2, 1981. See: 13 N.J.R. 552(b), 13 N.J.R. 754(b).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Implementation of the Credit Union Law, expired on February 8, 1984, and Subchapter 2, Credit Union Parity, expired on November 2, 1986.

A new Chapter 21, Credit Unions, became effective with Subchapter 2, Credit Union Parity, adopted as R.1987 d.93, effective February 2, 1987. See: 18 N.J.R. 2237(a), 19 N.J.R. 289(b).

Pursuant to Executive Order No. 66(1978), Chapter 21, Credit Unions, was readopted as R.1992 d.92, effective January 24, 1992. See: 23 N.J.R. 3686(b), 24 N.J.R. 580(b).

Subchapter 1, Low-Income Credit Unions, was adopted as R.1992 d.74, effective February 18, 1992. See: 23 N.J.R. 2905(a), 23 N.J.R. 3196(a), 24 N.J.R. 3(a), 24 N.J.R. 580(c).

Pursuant to Executive Order No. 66(1978), Chapter 21, Credit Unions, was readopted as R.1997 d.83, effective January 24, 1997. See: 28 N.J.R. 5123(a), 29 N.J.R. 548(a).

Subchapter 3, Branching by a State Chartered Credit Union, was adopted as R.2000 d.169, effective April 17, 2000. See: 32 N.J.R. 1375(a).

Chapter 21, Credit Unions, was readopted as R.2002 d.209, effective June 10, 2002. As a part of R.2002 d.209, Subchapter 4, Credit Union Mergers, was adopted as new rules, effective July 1, 2002. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. LOW-INCOME CREDIT UNIONS

- 3:21-1.1 Definitions
- 3:21-1.2 Application for designation as a low-income credit union
- 3:21-1.3 Concurrence of the appropriate Regional Director of the NCUA
- 3:21-1.4 Publication and effective date of designation
- 3:21-1.5 Removal of designation
- 3:21-1.6 Examination fees for LICU's

SUBCHAPTER 2. CREDIT UNION PARITY

- 3:21-2.1 Credit union parity with Federally chartered credit unions

SUBCHAPTER 3. BRANCHING BY A STATE CHARTERED CREDIT UNION

- 3:21-3.1 Purpose and scope
- 3:21-3.2 Definitions
- 3:21-3.3 Power to establish branches
- 3:21-3.4 Content of branch applications of credit unions
- 3:21-3.5 Criteria to establish a branch
- 3:21-3.6 Conditions to remain in good standing to operate a branch
- 3:21-3.7 Revocation or denial of authority to operate a branch
- 3:21-3.8 Discontinuance of a branch

SUBCHAPTER 4. CREDIT UNION MERGERS

- 3:21-4.1 Merger standards

SUBCHAPTER 1. LOW-INCOME CREDIT UNIONS

3:21-1.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Applicant” means an applicant for designation as a low-income credit union.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Credit union” means a State-chartered credit union or an entity which has submitted an application for a State charter for a credit union.

“Low-income credit union” or “LICU” means a credit union which has been designated a low-income credit union pursuant to this subchapter.

“Low-income members” or “low-income residents” means those members or residents:

1. Whose annual income falls at or below the lower level standard of living classification as established by the Bureau of Labor Statistics and as updated by the Employment Training Administration of the U.S. Department of Labor;

2. Who are residents of a public housing project who qualify for such residency because of low income;

3. Who qualify as recipients in a community action program; or

4. Who are enrolled as full-time or part-time students in a college, university, high school, or vocational school.

“NCUA” means the National Credit Union Administration.

“Predominantly” means a majority.

“State” means the State of New Jersey.

Amended by R.1997 d.83, effective February 18, 1997.
See: 28 N.J.R. 5123(a), 29 N.J.R. 548(a).
Amended "Commissioner".

3:21-1.2 Application for designation as a low-income credit union

(a) A credit union may apply to the Commissioner for designation as a low-income credit union pursuant to this subchapter.

(b) An applicant shall submit the following to the Department:

1. A completed application, the form of which may be prescribed by the Commissioner;
2. Sufficient evidence to allow the Commissioner to determine whether the applicant meets the criteria set forth in (c) below;
3. An application fee of \$50.00; and
4. Such other information as the Commissioner may require.

(c) The Commissioner shall approve an applicant for designation as a LICU:

1. In the case of an existing credit union, whose members are predominantly low-income; or
2. In the case of an entity which has submitted or which intends to submit an application for a State charter for a credit union, which is located in a well-defined neighborhood, community, or rural geographical area, recognized as distinct by residents and populated predominantly by low-income residents.

3:21-1.3 Concurrence of the appropriate Regional Director of the NCUA

Upon approving an application for designation as an LICU, the Commissioner shall forward that determination, along with the materials submitted by the applicant, to the appropriate Regional Director of the NCUA for concurrence.

3:21-1.4 Publication and effective date of designation

(a) Upon the Commissioner's receipt of the concurrence of the appropriate Regional Director in the designation of a credit union as an LICU, the Commissioner shall, by mail, inform the applicant, the New Jersey Credit Union League and the National Credit Union Association of the designation.

(b) The designation of the credit union as an LICU shall be effective on the date of the Commissioner's notice to the applicant.

3:21-1.5 Removal of designation

The Commissioner may, after opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A.

52:14B-14F and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 and with the concurrence of the appropriate Regional Director of the NCUA, remove the designation of a credit union as a LICU upon determining that the credit union no longer meets the criteria set forth in N.J.A.C. 3:21-1.2(c).

3:21-1.6 Examination fees for LICU's

Examination fees for LICU's shall be computed according to the following schedule:

Total Assets	Fee
Not more than \$49,999	\$0.00
Over \$49,999 but less than \$324,399	\$100.00
Over \$324,399 but less than \$272,250,000 total	.000308262 x total assets
\$272,250,000 and over	\$83,924.32 plus .0000898762 x assets over \$272,250,000.

SUBCHAPTER 2. CREDIT UNION PARITY

3:21-2.1 Credit union parity with Federally chartered credit unions

(a) In addition to other authority granted by law and unless contrary to State law, a credit union may exercise any power, right, benefit or privilege that is now or hereafter authorized for Federal credit unions to the same extent as Federal credit unions pursuant to Federal law or rules and regulations of the National Credit Union Administration. A credit union in exercising those powers, rights, benefits or privileges shall do so in accordance with the terms, conditions and requirements established for Federal credit unions. Such powers, rights, benefits or privileges shall be automatically exercisable upon the expiration of 30 days from the date of adoption of the enabling regulation by the Federal regulatory agency, except if the Commissioner of Banking and Insurance within that time provides notice that the power, right, benefit or privilege shall not be granted to New Jersey credit unions. Such notice shall be posted on the Department's website at www.njdoabi.org. The pertinent information included in such a notice shall also be provided to each credit union, and to the New Jersey Credit Union League. The Commissioner of Banking and Insurance may permit credit unions to begin the exercise of a power, right, benefit or privilege prior to the expiration of the 30-day period by providing notice of permission through posting the notice on the Department's website at www.njdoabi.org. The pertinent information included in such a notice shall also be provided to each credit union, and the New Jersey Credit Union League.

(b) "Power, right, benefit or privilege" shall not mean any activity that would fail to comply with or would violate:

1. The New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., including, but not limited to, the criminal usury limits established at N.J.S.A. 2C:21-19 as applied to loan products;

2. New Jersey statutes and rules providing for the structure and corporate governance of credit unions, including, but not limited to, statutes and rules governing amendments of certificates of incorporation, adoptions of bylaws, rights of members, membership of boards of directors, applications where there is a supervisory concern, and requests for approvals or no objection opinions where there is a supervisory concern;

3. New Jersey statutes and rules providing the Department with supervisory powers over credit unions with regard to safety and soundness and other matters, including, but not limited to, the power to issue orders and apply for relief from a court of competent jurisdiction established at N.J.S.A. 17:13-115 et seq., and the power to require reports and examination by the Department pursuant to N.J.S.A. 17:13-112 et seq. and similar law;

4. The provisions of N.J.S.A. 17:16N-1 et seq. and any rules regarding Consumer Checking Accounts; and

5. The New Jersey Homeownership Security Act of 2002, N.J.S.A. 46:10B-22 et seq.

Amended by R.1997 d.83, effective February 18, 1997.

See: 28 N.J.R. 5123(a), 29 N.J.R. 548(a).

Amended by R.2002 d.209, effective July 1, 2002.

See: 34 N.J.R. 816(a), 34 N.J.R. 2311(a).

Substituted "Credit Union Affiliates of New Jersey" for "New Jersey Credit Union League" in the 4th and 5th sentences.

Amended by R.2005 d.417, effective December 5, 2005.

See: 37 N.J.R. 2742(a), 37 N.J.R. 4531(a).

Added designation "(a)" and rewrote section; added (b).

SUBCHAPTER 3. BRANCHING BY A STATE CHARTERED CREDIT UNION

3:21-3.1 Purpose and scope

(a) The purpose of this subchapter is to permit State chartered credit unions to have parity with Federally chartered credit unions by allowing interstate branching on a reciprocal basis. These rules also set forth the requirements for in-State branching by New Jersey State chartered credit unions.

(b) This subchapter shall apply to New Jersey State chartered credit unions that wish to establish a branch in New Jersey or in a state other than New Jersey. It shall also apply to out-of-State state chartered credit unions that wish to establish a branch in New Jersey.

3:21-3.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Commissioner” means the Commissioner of the Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Establish a branch” means to begin operations of a branch, whether by acquisition of an existing credit union or its branch, or de novo.

“Home state” means the state or territory of the United States in which the credit union is chartered.

“Host state” means a state, other than the home state of the credit union, in which the credit union maintains, or seeks to establish and maintain, a branch.

“New Jersey State chartered credit union” means a credit union chartered by the State of New Jersey under N.J.S.A. 17:13-79 et seq.

“Out-of-State state chartered credit union” means a credit union chartered under the laws of a state or territory of the United States other than New Jersey.

“Solvent” means that the present cash value of a credit union’s assets, after providing for liabilities, exceeds the total amount of its shares.

“State chartered credit union” means a credit union chartered by the State of New Jersey or any other state or territory of the United States, but not a Federally chartered institution.

3:21-3.3 Power to establish branches

(a) A New Jersey State chartered credit union may establish a branch in other states or territories of the United States provided that it is permitted to establish a branch by the laws of those states or territories and approval to establish such a branch is granted by the Commissioner.

(b) A New Jersey State chartered credit union may establish a branch in New Jersey with the approval of the Commissioner.

(c) An out-of-State state chartered credit union may establish a branch in this State with the approval of the Commissioner.

(d) An out-of-State state chartered credit union may relocate a previously approved New Jersey branch or a New Jersey State chartered credit union may relocate a previously approved in-State or out-of-State branch with the approval of the Commissioner.

3:21-3.4 Content of branch applications of credit unions

(a) An application by a New Jersey State chartered credit union to establish a branch office shall contain:

1. The name of the credit union and the location of the applied for branch;
2. A filing fee of \$25.00;
3. An original certification of a copy of the board resolution authorizing the application;
4. If the proposed transaction involves the acquisition of deposits from another credit union:
 - i. Pro forma balance sheet projections reflecting the acquiring credit union before and after the acquisition; and
 - ii. Projections of the ratio of capital to total assets of the credit union before and after the acquisition;
5. If the branch is to be located outside of New Jersey, a statement from the proposed host state regulator of credit unions that the New Jersey State chartered credit union is authorized by the law of that host state to establish a branch in that state or territory; and
6. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(b) An application by an out-of-State state chartered credit union to establish a branch office in New Jersey shall contain:

1. The name of the credit union and the location of the applied for branch;
2. A filing fee of \$25.00;
3. An original certification of a copy of the board resolution authorizing the application;
4. Proof of deposit insurance;
5. Certification by its home state regulator indicating that the credit union is incorporated under the credit union laws of its home state and that the laws of its home state permit a New Jersey State chartered credit union to establish a branch in its home state;
6. A copy of the branch application submitted to its home state regulator;
7. A copy of its most recent Financial Performance Report; and

8. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

(c) An out-of-State state chartered credit union that seeks approval to relocate a New Jersey branch or a New Jersey State chartered credit union that seeks approval to relocate a branch shall submit the following to the Department:

1. A letter indicating where the office will be relocated to, why it is being relocated, and stating how its relocation will benefit the members of the credit union;
2. An original certification of a copy of the board resolution authorizing the relocation; and
3. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

3:21-3.5 Criteria to establish a branch

(a) Before granting approval to an out-of-State state chartered credit union to establish a branch in New Jersey, the Commissioner shall find that the out-of-State state chartered credit union:

1. Is a credit union organized under the credit union laws of its home state;
2. Is solvent;
3. Has deposit insurance of a type approved by the Commissioner for credit unions chartered by this State;
4. Is adequately examined and supervised by a regulatory agency of its home state;
5. Has persons in its field of membership in this State to serve;
6. Operates under laws of its home state that permit a New Jersey State chartered credit union to establish a branch in its home state; and
7. Has consented in writing to be examined by the Department either directly or by cooperative or reciprocal agreements, developed by the National Association of State Credit Union Supervisors, with its home state regulatory authority.

(b) Before granting approval to a New Jersey State chartered credit union to establish a branch, the Commissioner shall find the New Jersey State chartered credit union:

1. Is solvent;
2. Will establish a branch that will serve the interests of its members;
3. Is currently in compliance with all provisions of N.J.S.A. 17:13-79 et seq. and any regulations adopted pursuant to that statute; and

4. If the branch is to be located outside of New Jersey, that the New Jersey State chartered credit union is permitted to establish a branch by the laws of the proposed host state.

3:21-3.6 Conditions to remain in good standing to operate a branch

(a) As a condition to continue to be authorized to maintain a branch in this State, an out-of-State state chartered credit union shall:

1. Not grant loans at interest rates that are higher than is permitted for credit unions incorporated pursuant to N.J.S.A. 17:13-79 et seq.;
2. Comply with any consumer protection statutes or regulations that are applicable to credit unions incorporated pursuant to N.J.S.A. 17:13-79 et seq.; and
3. Designate and maintain an agent in this State for receipt of service of process and inform the Department of the name and address of the agent and any change regarding the name and address of the agent.

(b) As a condition to continue to be authorized to maintain a branch, a New Jersey State chartered credit union shall comply with all provisions of N.J.S.A. 17:13-79 et seq. and any rules adopted pursuant to that statute.

3:21-3.7 Revocation or denial of authority to operate a branch

(a) The Commissioner may deny an application to establish a branch or relocate a previously approved existing branch if all of the applicable conditions set forth in N.J.A.C. 3:21-3.4 and 3.5 are not met to the satisfaction of the Commissioner. In the event of a denial, the credit union may, within 10 days of the date of the decision, request a hearing. Such hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) The Commissioner may, upon notice and a hearing, revoke the approval of a State chartered credit union to maintain a branch if the Commissioner determines that:

1. The credit union no longer meets the requirements of N.J.A.C. 3:21-3.5 or 3.6;
2. The credit union has violated the laws of this State, or the laws of its home state, or Federal laws, or orders issued by the Commissioner, its home state regulator or its insurer;
3. The credit union has engaged in unsafe or unsound credit union practices; or
4. Continued operation by the credit union may have a substantial adverse impact on the financial, economic or other interest of residents of this State.

(c) A hearing pursuant to (b) above shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

3:21-3.8 Discontinuance of a branch

(a) A State-chartered credit union that has received approval pursuant to this subchapter to establish a branch may discontinue the branch upon resolution of its board of directors. Upon the adoption of such a resolution, the credit union shall file a certificate with the Department specifying the location of the branch to be discontinued, and the date upon which the discontinuance shall be effective.

(b) The failure of a credit union to open and operate a branch within one year after the Commissioner approves the application shall automatically terminate the right of the credit union to open the branch.



SUBCHAPTER 4. CREDIT UNION MERGERS

3:21-4.1 Merger standards

(a) In approving a certificate and plan of merger under N.J.S.A. 17:13-110, the Commissioner of Banking and Insurance shall make the following determinations:

1. The continuing credit union has a high likelihood of operating in a safe and sound manner following the merger;

2. The management of the continuing credit union has sufficient expertise to operate the credit union following the merger;

3. In the case of a merger involving a group or multi-group credit union and a community credit union, the continuing credit union has designated whether the group or multi-group credit charter shall survive as the operating charter, or whether the community charter shall survive as the operating charter; and

4. In the case of a merger involving a community credit union, the community does not exceed a well-defined neighborhood, local community or rural district which is interpreted as not exceeding what would be permitted under the Community Charter Requirements of the National Credit Union Administration.

(b) Following the merger, the continuing credit union may take new members from any of the fields of the combined credit union, may add additional fields of membership pursuant to N.J.S.A. 17:13-92, or may merge with another credit union pursuant to N.J.S.A. 17:13-110.