

**RULES  
OF  
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS  
CREDIT UNION DIVISION**

**CHAPTER 0180-29  
CREDIT UNION FIELD OF MEMBERSHIP EXPANSIONS**

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**0180-29-.01 PURPOSE.**

- (1) This chapter is adopted for the purpose of establishing the application process for a credit union to expand its field of membership to include a separate group with either: (a) a common bond of occupation or association; or (b) a group that constitutes a well-defined neighborhood, community or rural district.
- (2) Every state credit union's bylaws define the group(s) the credit union is legally entitled to serve. The credit union must amend its bylaws to effectuate a field of membership expansion. Each bylaw amendment must be approved by the Commissioner.
- (3) State credit unions will be allowed to have, as a minimum, at least as much flexibility as federal credit unions in the regulation of fields of membership subject to regulation by the Commissioner for the purpose of maintaining the credit union's safety and soundness.
- (4) All fields of membership in existence on the effective date of this rule shall not be impacted by this rule.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

**0180-29-.02 GENERAL REQUIREMENTS.**

- (1) T.C.A. § 45-4-301(a) limits credit union membership "to groups having a common bond of occupation or association or to groups within a well-defined neighborhood, community, or rural district." Consequently, any group included within the field of membership of a credit union must:
  - (a) Share a common bond of occupation or association; or
  - (b) Constitute a community.
- (2) A credit union may include different types of occupational and/or associational groups in its field of membership. However, an occupational and/or associational credit union may not expand its field of membership by adding a community. Likewise, a community credit union cannot expand its field of membership by adding an occupational or associational group outside of its community.

(Rule 0180-29-.02, continued)

- (3) A number of persons by virtue of their close relationships to a common bond group may be included, in the applicant's option, in the field of membership. These include the following:
- (a) Spouses of persons who died while within the field of membership of the credit union;
  - (b) Employees of the credit union;
  - (c) Persons retired as pensioners or annuitants from the above employment;
  - (d) Immediate family members of a credit union member or immediate family members of persons eligible for credit union membership; or
  - (e) Volunteers for member organizations.

Any bylaw amendment seeking to add the persons identified in subsection (3)(a)-(e) above shall be deemed to have the Commissioner's approval for the bylaw amendment.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.03 DEFINITIONS.**

- (1) For purposes of this Chapter, unless the context otherwise provides:
- (a) "Affiliate" of an enterprise means a person that controls, is controlled by, or is under common control with, the enterprise. "Control" as used herein means twenty-five percent or greater stock ownership.
  - (b) "Associational Common Bond" means a current, unifying factor among a group of persons, that is based on membership in a bona fide organization whose primary purpose is other than providing eligibility for credit union services. Such an organization must be primarily composed of natural persons who are eligible to participate in the organization's activities that develop common loyalties, mutual benefits and mutual interests. Such an organization also must have clearly defined membership eligibility requirements, and must hold regular meetings open to all members. The common bond for an associational group cannot be established simply on the basis that the association exists. In determining whether a group satisfies associational common bond requirements, the Commissioner will consider the totality of the circumstances, such as: whether members pay dues; whether members participate in the furtherance of the goals of the association; whether the members have voting rights; whether the association maintains a membership list; the association's membership eligibility requirements; the frequency of meetings; and, whether the association sponsors other activities which clearly demonstrate that the members of the group meet and interact regularly to accomplish the objectives of the association. Students of an institution or members of a church have an associational common bond and may qualify without having to produce a charter or bylaws. The following associations do not have a sufficient associational common bond: associations formed primarily to obtain credit union membership or associations based on a client or customer relationship, such as an insurance company's customers or a buyer's club. The association itself may be included in the field of membership.
  - (c) "Community Common Bond" means a current unifying factor among a group of persons and/or entities that is based on residence or employment within a well-defined geographic area, that is recognized by those who live or work there as a neighborhood, community, or rural district.
  - (d) "Credit union" means a credit union organized and operating under Title 45, chapter 4.

(Rule 0180-29-.03, continued)

- (e) “Commissioner” means the Commissioner of the Tennessee Department of Financial Institutions.
- (f) “Occupational Common bond” means a current, unifying factor among a group of natural persons that is based on employment by or a work-related relationship with a specified employer. Persons sharing this common bond may be geographically dispersed. Employees of a parent corporation and its subsidiaries and persons under contract to work regularly for an enterprise may be considered under a single occupational common bond. Each category to be served (e.g., subsidiaries, contractors) should be separately listed in the bylaws. All occupational common bonds should include a geographic designation. The employer may also be included in the common bond.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.04 INCLUSION OF A GROUP WITH A COMMON BOND OF OCCUPATION.**

Except as permitted by Rule 0180-29-.06, if a credit union wants to include a separate group with an occupational common bond in its field of membership, it must make application to the Commissioner to amend its bylaws in accordance with T.C.A. §§ 45-4-102(b) and 45-4-1003(e). The application must be submitted to the Commissioner in duplicate and must include the information as required by Rule 0180-29-.05.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.05 APPLICATION TO INCLUDE A SEPARATE OCCUPATIONAL GROUP.**

- (1) The application to include a separate group with a common bond of occupation must include at least the following information:
  - (a) The name of the applicant credit union;
  - (b) Evidence that two-thirds (2/3) of the applicant’s board of directors have adopted the proposed amendment;
  - (c) A description of the employer including its name, number of employees, the geographic location of those employees and the group’s proximity to the credit union’s service facility;
  - (d) If the group to be added is located outside the State of Tennessee, provide written evidence that the credit union has complied with the other state’s laws; and
  - (e) A statement from a senior officer of the employer or any other writing outlining the wishes of the employees:
    - 1. That the employer desires membership for its employees in the applicant;
    - 2. Whether its employees are currently eligible for membership, based upon such employment, in another state or federally chartered credit union. If the employees of the group are eligible for membership in another credit union based upon such employment, the applicant must make best efforts to provide a statement of no-objection from the other credit union; and
  - (f) Any other information requested by the Commissioner.

(Rule 0180-29-.05, continued)

- (2) Overlap: If the applicant cannot obtain the letter of no-objection described in subsection (1)(e)(2.), after having made a best efforts attempt to do so, the Commissioner may consider the following:
  - (a) The attempts made by the applicant to informally resolve the overlap with the affected credit union;
  - (b) Documentation concerning the interests of the group to be added. A petition signed by a majority of the group's members will be strongly considered. The applicant could also include a letter from the sponsoring employer concerning the wishes of the group;
  - (c) Evidence that the other credit union has failed to adequately serve the group after a reasonable period of time, and how the applicant plans to improve this service.

The applicant must supply a copy of the information required in (a), (b) and (c) of this subsection to the other credit union, which will be given thirty (30) days following receipt of such information to submit to the Department any comments on the overlap. The response may want to include such information as the percentage of the group who participates as members in the credit union and the financial impact that the overlap might have on the credit union.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.06 STREAMLINED EXPANSION PROCEDURE.**

- (1) Credit unions may apply to the Commissioner for approval of an enabling bylaw amendment that would allow them to use the streamlined expansion procedure set forth in this section ("SEP procedure") to include different types of small groups with a common bond of occupation in their field of membership.
- (2) The credit union must first apply to the Commissioner for approval of an enabling amendment that provides as follows:

Groups of persons with occupational common bonds which are located within the credit union's approved operational area, which have provided a written request for service to the credit union, which do not presently have credit union service available, and which have no more members in the group than the maximum number established by the Commissioner for additions under this provision; provided however, that the Commissioner may permanently or temporarily revoke the power to add groups under this provision upon a finding, in the Tennessee Department of Financial Institutions' discretion, that permitting additions under this provision are not in the best interests of the credit union, its members, or the National Credit Union Share Insurance Fund.

Once the application has been approved by the Commissioner, the credit union may immediately begin serving any group in compliance with this section and the enabling amendment. The enabling amendment may not be amended without the prior written approval of the Commissioner.

- (3) The enabling amendment will in substance permit a credit union to add a small employee group to its field of membership if:
  - (a) The employer is located within the operational area of twenty-five miles (or such other-approved operational area) from one of the credit union's service facilities;
  - (b) A senior officer of the employer has provided a written request to the credit union for service, or any other writing outlining the wishes of the employees to join the credit union;

(Rule 0180-29-.06, continued)

- (c) The employees of the group do not have credit union service available based on such employment; and
- (d) The number of employees of the group do not exceed five hundred or any larger maximum number as authorized by the Commissioner;
- (4) The credit union must maintain a control log of all groups added to its field of membership in accordance with the SEP procedures. The control log must include the board approval of the group, the date of the board approval, the name and location of the employer, the number of employees included, and the number of miles to the nearest credit union service facility.
- (5) The size limit of the group is based on the number of employees of the group at the time the bylaws are amended to include the group. Several groups may be included simultaneously using the SEP procedure, however the number of employees in each group must be within the small group size limit.
- (6) The Commissioner may revoke the ability of a credit union to use the SEP procedure if the Commissioner determines that it is being used to circumvent the regular procedure for inclusion of occupational groups in the credit union's field of membership. The Commissioner may also revoke the ability of a credit union to use the SEP procedure if a credit union experiences problems.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.07 INCLUSION OF A GROUP WITH AN ASSOCIATIONAL COMMON BOND.**

If a credit union wants to include a separate group with a common bond of association in its field of membership it must make application to the Commissioner to amend its bylaws in accordance with T.C.A. §§ 45-4-102(b) and 45-4-1003(e). The application must be submitted to the Commissioner in duplicate and must include the information as required by 0180-29-.08.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.08 APPLICATION TO INCLUDE A SEPARATE ASSOCIATIONAL GROUP.**

- (1) The application to include a separate group with a common bond of association must include at least the following information:
  - (a) The name of the applicant credit union;
  - (b) Evidence that two-thirds (2/3) of the applicant's board of directors have adopted the proposed amendments;
  - (c) A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, the number and geographic location of its current members and the group's proximity to the credit union's service facility;
  - (d) If the group to be added is located outside the State of Tennessee, provide written evidence that the credit union has complied with the other state's laws;
  - (e) A resolution from the petitioning group's governing body providing:
    - 1. That the members have been informed of the proposal to affiliate with the applicant and desire to be associated with the applicant;

(Rule 0180-29-.08, continued)

2. Whether the members of the group are currently eligible for membership, based upon their association, in a state or federally chartered credit union. If the members of the association are eligible for membership in another credit union based upon membership in the association, the applicant must make best efforts to provide a statement of no-objection from the other credit union;
- (f) Any other information requested by the Commissioner.
- (2) Overlap Protection: If the applicant cannot obtain the letter of no-objection described in subsection (1)(e)(2.) above, after having made a best efforts attempt to do so, the Commissioner may consider the following:
  - (a) The attempts made by the applicant to informally resolve the overlap with the affected credit union;
  - (b) Documentation concerning the interests of the association to be added. A petition signed by a majority of the association's members will be strongly considered. The applicant could also include a letter from the sponsoring association outlining the wishes of its members; and
  - (c) Evidence that the other credit union has failed to adequately serve the association after a reasonable period of time, and how the applicant plans to improve this service.

The applicant must supply a copy of the information required in (a), (b) and (c) of this subsection to the other credit union, which will be given thirty (30) days following receipt of such information to submit to the Department any comments on the overlap. The response may want to include such information as the percentage of the association who participate as members in the credit union and the financial impact that the overlap might have on the credit union.

**Authority:** T.C.A. §§ 45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.09 EXPANSION TO ADD A SEPARATE COMMUNITY GROUP.**

If a community credit union wants to include in its field of membership a separate community, it must make application to the Commissioner to amend its bylaws in accordance with T.C.A. §§ 45-4-102(b) and 45-4-1003(e). The application must be submitted to the Commissioner in duplicate and must include the information as required by 0180-29-.10. The approval of a credit union's application for inclusion of a separate community group in its field of membership will not preclude approval of another credit union's application to include the same or a portion of the same community group in its field of membership as community chartered credit unions are not entitled to any overlap protection.

**Authority:** T.C.A. §§ 45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.10 APPLICATION TO INCLUDE A SEPARATE COMMUNITY GROUP.**

- (1) The application to include a separate community must include at least the following information:
  - (a) The name of the applicant credit union;
  - (b) Evidence that two-thirds (2/3) of the applicant's board of directors have adopted the proposed amendment;
  - (c) A detailed description of the neighborhood, community or rural district including a map setting forth its geographic boundaries and its current population;

(Rule 0180-29-.10, continued)

- (d) Current financial statements for the credit union, including an income statement and a summary of loan delinquencies;
- (e) Evidence in the form of surveys or letters from official representatives of prominent groups located in the area to be added showing that the persons who live, work, or worship in the area are interested in affiliating with the credit union;
- (f) Written documentation reflecting the number of residents, employers and civic leaders contacted and the number of such contacts who are in favor of the credit union, opposed to the credit union and who will join the credit union if the community group is added;
- (g) Evidence that the proposed area is a well-defined neighborhood, community or rural district;
- (h) A list of credit unions and other financial institutions with a home or branch office in the proposed area;
- (i) Evidence that the applicant has given written notice to all other credit unions having an office within the proposed community of its intent to add the community to its field of membership. The notice shall provide that any credit union wishing to comment on the application shall submit written comments to the Department of Financial Institutions within twenty (20) days of the receipt of the Notice;
- (j) Marketing plan and business plan which address how the community will be served; and
- (k) Any other information requested by the Commissioner.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.11 APPLICATION DEEMED COMPLETE.**

- (1) An application filed pursuant to this Chapter is deemed complete when the Commissioner has received all of the information required by this Chapter;
- (2) If an incomplete application is received, the Commissioner will give written notice to the applicant no later than thirty (30) days from the date the original application was received that further information is necessary. The applicant will be allowed thirty (30) days after receipt of the notice to provide the requested information. If the requested information is not provided within thirty (30) days, or such additional time as the Commissioner may approve, the application will be denied as being incomplete.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.12 APPROVAL OF APPLICATION.**

- (1) The Commissioner shall give written approval or denial of an application made in conformance with this Chapter within thirty days from the date it is deemed complete. The Commissioner's decision will take into consideration the following general criteria and other issues or facts that may be relevant to the application:
  - (a) Whether the application is consistent with the provisions of T.C.A. § 45-4-101 et seq. and this Chapter;

(Rule 0180-29-.12, continued)

- (b) Whether the proposed new group possesses a common bond of occupation or association, or constitutes a community, as defined in Rule 0180-29-.03;
  - (c) Whether the applicant is in a safe and sound condition and possesses the financial and managerial capability to provide credit union service to the proposed group in a safe and sound manner;
  - (d) Whether approval of the application might reasonably threaten the viability of another credit union; and
  - (e) Whether approval of the application will adversely impact the safety and soundness of the applicant.
- (2) In most cases, field of membership amendments will only be approved for credit unions which are operating satisfactorily. If a state credit union is having difficulty providing good service to its current membership, it may have even more difficulty serving an enlarged field of membership. In some cases, expanding the field of membership of a struggling credit union may do more harm than good. A struggling credit union's resources may be hampered or further strained by increasing the field of membership, thereby increasing the credit union's problems.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.13 SPECIAL CIRCUMSTANCES.**

An applicant credit union may request that one or more of the provisions of this Chapter be waived if an emergency exists which requires immediate inclusion of a separate group in order to preserve the viability of the applicant. The request for waiver may be granted if, in the opinion of the Commissioner, the request has a reasonable probability of remedying an emergency situation.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.

#### **0180-29-.14 CREDIT UNION MERGERS.**

When two credit unions merge, the surviving credit union shall obtain the entire field of membership of the merged credit union when the members of the merging credit union have approved of the merger in accordance with T.C.A. 45-4-903(a). However, in the event of an emergency merger, the Commissioner may permit a surviving credit union to maintain the entire field of membership of the merging credit union even when there has been no vote of the members approving of the merger.

**Authority:** T.C.A. §§45-1-107(h), 45-4-501(9), 45-4-903, and 45-4-1001(b). **Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.



**0180-29-.15 FIELD OF MEMBERSHIP CHANGES AS A RESULT OF SPONSOR'S REORGANIZATION OR RESTRUCTURING.**

- (1) If a sponsor group expands its operations the credit union can serve the new employees if they are within the credit union's field of membership as described in the credit union's bylaws.
- (2) If a sponsor group expands its operations by acquiring a new subsidiary, the new group cannot be served until the subsidiary is included in the credit union's field of membership. The credit union will need to file an application to expand its field of membership.
- (3) Overlaps may occur as a result of restructuring or merger of the parent organization. Credit unions affected by organizational restructuring or merger should attempt to resolve overlap issues among themselves. If an agreement is reached, the credit unions must apply to the Commissioner for a modification of their fields of membership to reflect the groups each will serve. Unless an agreement is reached limiting the overlap resulting from the corporate restructuring, the Commissioner will permit a complete overlap of the group(s) at issue. However, the credit unions cannot serve any other multiple groups that may be in the field of membership of the other credit union.

**Authority:** T.C.A. §§45-1-107(h), 45-4-102(b), 45-4-301(a), 45-4-501(9), 45-4-1001(b), and 45-4-1003(e).  
**Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.