Date of Hearing: April 16, 2012

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Mike Eng, Chair
AB 2006 (John A. Perez) – As Amended: April 11, 2012

SUBJECT: Credit union services.

SUMMARY: Authorizes a state-chartered credit union to sell checks, money transfer instruments including international and domestic electronic fund transfers to non-members for a fee. Specifically, this bill:

1) Allows a state chartered credit union to cash checks and similar money transfer instruments and receive international and domestic electronic fund transfers for a fee to non-members.

2) Defines "checks" as a draft, other than a documentary draft, payable on demand and drawn on a bank, a cashier's check or teller's check, or a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order."

EXISTING FEDERAL LAW

1) Amends the Financial Services Regulatory Relief Act of 2006 in July of 2011. The Act was amended to correlate with the Dodd-Frank Act and made the following minor amendments:

   a) To sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers and remittance transfers, as defined in section 1693o–1 of title 15); and,

   b) To cash checks and money orders for persons in the field of membership for a fee. (12 USC 1757) (Federal Register/ Vol. 76, No.230/ Wednesday, November 30, 2011)

2) Establishes the Financial Services Regulatory Relief Act of 2006 (Public Law 109-351) which allows federally-chartered credit unions to:

   a) Sell, to persons in the field of membership, negotiable checks, including traveler's checks, and money orders, and other similar money transfer instruments, including international and domestic electronic fund transfers.

   b) Cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee.

3) Defines "remittance transfer" as an electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006 (2))) transfer of funds requested by a sender located in any State to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer.

4) Defines a "Federal credit union" as a cooperative association organized in accordance with federal law for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes. [12 USC 1752]

5) Provides that the membership of any Federal credit union shall be limited to the membership described in one of the following categories:

   a) Single common-bond credit union-One group that has a common bond of occupation or association.

   b) Multiple common-bond credit union-More than one group--

      i) each of which has (within the group) a common bond of occupation or association; and
      ii) the number of members, each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph)

   c) Community credit union-Persons or organizations within a well-defined local community, neighborhood, or rural district. [12 USC 1759]

EXISTING STATE LAW

1) Establishes that a credit union is a cooperative, organized for the purposes of promoting thrift and savings among its members, creating a source of credit for them at rates of interest set by the board of directors, and providing an opportunity for them to use and control their own money on a democratic basis in order to improve their economic and social conditions. As a cooperative, a credit union conducts its business for the mutual benefit and general welfare of its members with the earnings, savings, benefits, or services of the credit union being distributed to its members as patrons. [Financial Code, Section 14002]

2) Provides in the California Credit Union Law that it is applicable to any person, other than a federal credit union engaging in the business of a credit union in this state. [Financial Code, 14001.1]

3) Prohibits an officer, director, committee member, or employee of any credit union from approving a person for admission to membership or admit an applicant for membership in the credit union or extends any benefit or service of the credit union to any person, unless that person is admitted to membership in the credit union. [Financial Code, Section 14800]

4) Provides that every credit union may admit to membership those persons eligible for membership, upon any of the following:

   a) The purchase of a membership in the credit union as provided in the credit union's bylaws;

   b) The payment of an entrance fee established from time to time by the board of directors;

c) The purchase of one or more shares in the credit union as provided by the credit union's bylaws. [Financial Code, Section 14800]

5) Defines "check" as a draft, other than a documentary draft, payable on demand and drawn on a bank, a cashier's check or teller's check, or a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order." [Commercial Code, Section 3104]

6) Provides any officer, director, member of a committee of a credit union, loan officer appointed, or employee who knowingly permits the creation of an obligation with, or participates in the creation of an obligation with, a nonmember of the credit union, or knowingly permits the creation of an obligation or participates in the creation of an obligation which is not made in conformity with the requirements of this division, is guilty of a misdemeanor. [Financial Code, Section 14750]

FISCAL EFFECT: None.

COMMENTS:

According to the Federal Credit Union Act of 1934, the American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means. Credit unions are created to promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.

Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means. Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

Credit union members are united by a common bond of association (also known as a field of membership), and democratically operate the credit union. Credit unions can be chartered by the federal or state government. Members of each credit union must share a "common bond," such as the same workplace, church, fraternal organization, or neighborhood.

As of December 2011, there are 7,324 credit unions in the United States. About 424 of these are in California. Of the 92.6 million credit union members nationwide, 9.59 million are in California. Of the 424 credit unions in California, 157 are state chartered and 267 are federally chartered. The 424 credit unions carry $129.0 billion in total assets in California. AB 2006 would allow 157 state chartered credit unions to provide services that 267 federally chartered credit unions can already provide. If anything, this measure takes away confusion and provides parity. Consumers needing these services do not understand the difference between a state chartered credit union and a federally chartered credit union. It would not make sense to a consumer to be turned away because the credit union was state chartered rather than federally chartered. Also, just to make this point clear, nationwide, every federally chartered credit union can provide these services in their respective states.

Currently, six states allow state chartered credit unions to provide services to non-members. These states include: Connecticut, Georgia, Michigan, New Mexico, Ohio, Virginia, and Wisconsin**.** Most state acts such as Florida, New York and Maryland, allow for credit unions to engage in activities that are permissible to federal credit unions but require additional approval by the state regulator. The provisions in the state credit union acts of Alabama, Arizona, Illinois, Iowa, Louisiana, Maine, Missouri, Nebraska, Oklahoma, Rhode Island, Texas, and Washington do not require approval.

According to the FDIC in October 2010, 1,013,000 households in California were unbanked, 7.7% of all households in the state. Unbanked individuals generally find themselves having to pay exorbitant fees to cash checks or conduct other financial transactions. Permitting state chartered credit unions to provide these individuals with additional ways to transact basic financial services could assist these individuals and ultimately lead to their full participation in the legitimate financial marketplace. The unique structure and mission of credit unions make them the ideal arena to help transition the "unbanked" into full partnership in the California dream.

In 2006, President Bush signed the Financial Services Regulatory Relief Act. The stated purpose of that legislation was "to lessen the regulatory burden, so banks, thrifts, and credit unions can better serve their customers and communities." An element of the Act is intended to address the issue of the "unbanked" by authorizing federal credit unions to provide check cashing, money order, and money transmittal services to individuals within a federal credit unions' field of membership. This was an important step that provided additional options for people to cash checks, purchase money orders, and send money to family back home. However, the bill only applied to federal credit unions. Leveling the playing field for the remaining credit unions in California, those operating under a state charter, will create even more choices for those who are unbanked.

AB 2006 would codify state law into the version of the Financial Services Regulatory Relief Act passed in 2006. Since the enactment of the Financial Services Regulatory Relief Act, the National Credit Union Administration decided to amend its rules to conform to amendments made to the Federal Credit Union Act by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Final rule adds remittance transfers as now defined under the Electronic Fund Transfer Act, as an example of money transfer instruments credit unions may provide to persons within their fields of membership. The Dodd-Frank Act also removed the reference to the receipt of the international and domestic electronic fund transfers to simply eliminate a redundancy.

TAX STATUS:

In 1937, Congress granted credit unions with a federal tax-exempt status based upon their cooperative structure. Credit unions are operated entirely by and for their members. According to the Credit Union National Association, credit unions do pay taxes such payroll taxes, real estate taxes, and some property taxes. In addition, dividends paid to credit union members are taxed as ordinary income.

CREDIT UNIONS VS. BANKS

Credit Unions	Banks
Member Owned	**Publicly Owned**
Serve only members	In the business to make a profit.
Not for profit, not for charity, credit unions exist solely for service.	Serve two groups: stock holders and customers
Focus solely on serving their members.	Banks can serve anyone in the general public.
As a not-for-profit, any income is returned to members in the form of low or no service fees, lower rates on loans and higher deposit rates.	Only investors get a share of the profits.
Members elect a volunteer Board of Directors to represent their interests. Each member is an equal owner.	Have a paid Board of Directors who represents the investors. Only investors have voting rights. Customers have no voting rights, and have no authority in the governance of the bank.
Deposits are federally insured by the National Credit Union Administration (NCUA) to at least $250,000 and backed by the full faith and credit of the United States Government.	Deposits are federally insured up to $250,000 by the Federal Deposit Insurance Corporation (FDIC).
Like other not-for-profit institutions, credit unions are exempt from paying federal income tax. Credit unions do pay property and state taxes.	Like other for-profit businesses, banks must pay taxes to the government.
Financial cooperatives. Members pool their savings to provide low-cost loans and low-fee services to each other.	Commercial businesses. Banks offer services to make a profit.

ARGUMENTS IN SUPPORT:

According to the California Credit Union League, AB 2006 creates parity with federally chartered credit unions that have been providing these basic services for the past five years. It is estimated that more than one million Californian households are unbanked – that's nearly eight percent of Californian households. These percentages are more than doubled in lower-income households as well as African American and Latino households. These individuals generally use fringe financial services that do not encourage healthy financial habits that are associated with a traditional banking relationship. AB 2006 will provide those individuals with additional ways to transact basic financial services in a setting that leads to full participation in the legitimate financial marketplace.

ARGUMENTS IN OPPOSITION:

According to the California Bankers Association, the purpose of this credit union expansion is to address the issue of unbanked Californians; however, the bill does nothing to reduce the number of unbanked people. The bill has the perverse effect of promoting an unbanked lifestyle by providing banking services without establishing accounts. If credit unions want to serve the unbanked, then they should make them members. Becoming a member is as easy as breathing because of the proliferation of community based credit unions. All you have to do is live, work, or worship within a credit union's field of membership and you can sign up for an account.

PREVIOUS LEGISLATION:

SB 638 (Romero) (2007 Legislative Session) would have authorized a credit union to sell, to persons in the field of membership, negotiable checks, money orders, and other similar money transfer instruments. The bill would also authorize a credit union to, for a fee, cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership. Remained in Senate Banking and Financial Institutions.

SB 1292 (Dunn) (2004 Legislative Session) would have until January 1, 2012, authorized a credit union to cash checks, sell negotiable instruments, and sell money transfer instruments to any credit union member, depositor, or person within the field of membership. Failed Passage in Assembly Banking and Finance.

REGISTERED SUPPORT / OPPOSITION:

Support

California Credit Union League
California Labor Federation
California School Employees Association
Center for Responsible Lending
Consumer Federation of California
Silicon Valley Community Foundation

Opposition

California Bankers Association (CBA)
California Independent Bankers (CIB)

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