



General Assembly

January Session, 2001

Raised Bill No. 1066

LCO No. 3320

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING DEPOSITS IN TRUST AT CREDIT UNIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-296 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) (1) No bank, Connecticut credit union, or federal credit union
4 shall establish any deposit or share account in which deposits or shares
5 are to be held by one natural person in trust for another natural person
6 unless the depositor provides the bank, Connecticut credit union, or
7 federal credit union with the name and a residential address for the
8 beneficiary, upon establishing the deposit or share account or
9 thereafter at the request of the bank, Connecticut credit union, or
10 federal credit union. The depositor may also provide the bank,
11 Connecticut credit union, or federal credit union with a writing signed
12 by the depositor specifying the terms of the trust under which such
13 deposit or share account is to be held. Unless such writing specifies to
14 the contrary, it shall be conclusively presumed that the depositor
15 intends to create a trust of all funds credited to the deposit or share
16 account from time to time upon the following terms: (A) The depositor
17 during his life may withdraw, or authorize charges against, such

18 funds; (B) if the depositor survives the named beneficiary, the named
19 beneficiary's death shall terminate the trust and title to the deposit or
20 share account shall thereupon vest in the depositor free and clear of
21 the trust; (C) if the named beneficiary survives the depositor, the
22 depositor's death shall terminate the trust and title to the deposit
23 account or share account, subject to any membership restrictions for
24 Connecticut credit unions or federal credit unions, shall thereupon vest
25 in the named beneficiary free and clear of the trust. (2) Any bank,
26 Connecticut credit union, or federal credit union shall be fully
27 protected in making payment of any moneys credited to such deposit
28 or share account in accordance with the terms of such signed writing
29 or, in the event such writing does not specify to the contrary, in
30 accordance with the presumptions contained in this subsection that are
31 applicable, and the title of any person to any moneys credited to such
32 deposit or share account and the effect of such signed writing with
33 respect to the deposit or share account or, in the event such writing
34 does not specify to the contrary, the effect of the presumptions
35 contained in this subsection shall not be denied, abridged or in any
36 way affected because such signed writing was not executed in
37 accordance with, or otherwise fails to comply with, the laws of this
38 state prescribing the requirements to effect a valid testamentary
39 disposition of property or because of any absence of delivery or
40 compliance with other requirements to effect a valid gift or transfer in
41 trust. (3) The provisions of this subsection do not apply to deposit or
42 share accounts accompanied by a writing of the type described in
43 subsection (b) of this section or to any deposit or share account opened
44 primarily for business or professional purposes, including, but not
45 limited to, escrow accounts, trust accounts and clients' funds accounts.

46 (b) In the case of a deposit or share account established or
47 maintained with a bank, Connecticut credit union, or federal credit
48 union by a trustee under a will or trust agreement or under the terms
49 of some other written document, or by a trustee pursuant to statute or
50 order of a court, the trustee shall provide the bank, Connecticut credit
51 union, or federal credit union with a writing identifying such will,

52 agreement, other written document, statute or order; and any moneys
53 credited to a deposit or share account with respect to which the trustee
54 has filed such a writing shall be paid only to or upon the order of such
55 trustee or of the successor trustee. If the trustee is serving in such
56 capacity under a will, trust agreement or other written document, a
57 certified copy of such document shall be filed by the depositor if at any
58 time requested by the bank, Connecticut credit union, or federal credit
59 union but such bank, Connecticut credit union, or federal credit union
60 shall not be charged with notice, actual or constructive, of the contents
61 of such will, trust agreement, or other written document. Such bank,
62 Connecticut credit union, or federal credit union shall be fully
63 protected in paying over any moneys credited to such deposit or share
64 account to or upon the order of the trustee establishing or maintaining
65 the deposit or share account or the successor trustee and shall be under
66 no duty to inquire into the application of funds so paid.

67 (c) Subsection (a) applies to all deposit or share accounts governed
68 by its provisions established (1) on or after June 13, 1963, and (2) prior
69 to that date if the depositor when establishing such deposit or share
70 account or at any time thereafter provides a writing meeting the
71 requirements of subsection (a). Subsection (b) applies to all deposit or
72 share accounts governed by its provisions whether such deposit or
73 share accounts were established prior to June 13, 1963, or are
74 established after that date.

75 Sec. 2. Section 36a-446 of the general statutes is repealed and the
76 following is substituted in lieu thereof:

77 (a) The capital of a Connecticut credit union shall consist of the net
78 payments on shares made to it by its members.

79 (b) The par value of shares shall be five dollars or any multiple
80 thereof, except that any Connecticut credit union in existence on May
81 23, 1969, having a par value of shares other than as set forth in this
82 subsection shall not be required to change such par value by virtue of
83 the requirements of this subsection.

84 (c) Payments on shares including membership shares or parts of
85 shares may be received at any time. Payments on shares and parts of
86 shares with the exception of membership shares may be withdrawn in
87 accordance with the bylaws and in accordance with the Deposit
88 Account Contract Act except that the governing board may require
89 members to give sixty days' notice of intention to withdraw the whole
90 or any part of their shares or payments on shares.

91 (d) When a share account in a Connecticut credit union has been
92 established by or in the name of a minor or in the name of two persons,
93 one or both of whom are minors, and payable to either or to the
94 survivor, the share account shall be held for the exclusive right and
95 benefit, including the privilege of pledge or assignment, of such minor
96 or minors, and shall be free from the control or lien of all other persons
97 except creditors. The share account shall be paid, together with
98 dividends or interest thereon, to the person or persons in whose name
99 the share account is held. The receipt of the person paid shall be a
100 sufficient and valid release to such credit union for such share account
101 or any part thereof.

102 [(e) No Connecticut credit union may issue shares to or receive
103 payments on shares from one person in trust for another unless
104 accompanied by a statement signed by the member giving the name
105 and residence of the beneficiary and setting forth to whom the
106 principal and interest or dividends on such shares belong. Unless
107 provision is made to the contrary in such statement, the shares may, on
108 the death of the trustee, be paid to the beneficiary and the Connecticut
109 credit union shall be fully protected in making the payment. In the
110 case of a trust created by deed, will or other instrument, a certified
111 copy of the instrument establishing the trust shall be filed by the
112 member if at any time requested by the Connecticut credit union.]

113 [(f)] (e) A Connecticut credit union may, with the written approval
114 of the commissioner and subject to applicable restrictions of state and
115 federal law, receive from members payments on shares that will

116 comprise the assets of an individual retirement account established by
117 such member as authorized by Section 408 of the Internal Revenue
118 Code of 1986, or any subsequent corresponding internal revenue code
119 of the United States, as from time to time amended, or of a Keogh or
120 similar type retirement plan established by or for such member as
121 authorized by Section 401(d) of the Internal Revenue Code of 1986, or
122 any subsequent corresponding internal revenue code of the United
123 States, as from time to time amended, or of a retirement plan
124 established by or for such member as authorized by Section 401(k) of
125 the Internal Revenue Code of 1986, or any subsequent corresponding
126 internal revenue code of the United States, as from time to time
127 amended. Payments on shares shall be established in a separate
128 account from the shares of the member, and shall not be subject to
129 pledge to secure loans by the Connecticut credit union to the member
130 nor available for set-off by the Connecticut credit union if the member
131 defaults on a loan. Such shares shall be treated as under separate
132 ownership for purposes of applying any limit imposed by sections
133 36a-435 to 36a-475, inclusive, on the maximum amount of shares
134 owned by a member. Otherwise, these shares are subject to all of the
135 provisions of said sections relating to shares.

136 [(g)] (f) A Connecticut credit union may, by written agreement,
137 receive payments on shares which the member agrees not to withdraw
138 within the time period specified in the agreement. Premature
139 withdrawal shall be subject to such penalties as the commissioner may
140 prescribe by regulation, adopted in accordance with chapter 54, except
141 where withdrawal occurs on the member's death or disability,
142 liquidation of the Connecticut credit union or the occurrence of any
143 other condition the commissioner may prescribe by such regulation.
144 The commissioner may by such regulation establish the minimum
145 amount of any such payment on shares which may be subject to such
146 written agreement, the maximum interest rate or rates which may be
147 paid thereon and the time periods for which such rate or rates may be
148 paid. Dividends may be paid at a rate established by such regulation.

149 ~~[(h)]~~ (g) A Connecticut credit union may receive payments on
150 shares, not exceeding one hundred thousand dollars in the aggregate,
151 from a nonmember who is: (1) An officer, employee or agent of the
152 United States, having official custody of public funds and lawfully
153 investing such funds in the Connecticut credit union; or (2) an officer,
154 employee or agent of the state of Connecticut or of any municipality or
155 other political subdivision thereof having official custody of public
156 funds and lawfully investing such funds in the Connecticut credit
157 union.

158 ~~[(i)]~~ (h) Except as provided in this subsection, all Connecticut credit
159 unions shall maintain in full force and effect share insurance as
160 provided under the Federal Credit Union Act, as from time to time
161 amended. Any Connecticut credit union that fails to maintain in full
162 force and effect share insurance as provided in this section shall
163 terminate its corporate existence in this state as promptly as possible
164 under such terms and conditions as the commissioner deems
165 appropriate.

Statement of Purpose:

To create parity among credit unions and other financial institutions with respect to accounts in which one person holds funds in trust for another.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]