



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 16, 1995

*Informal Opinion*

Mr. Louie A. Jacobs  
Commissioner of Banking  
State Board of Financial Institutions  
1015 Sumter Street  
Calhoun Building, 3rd Floor  
Columbia, SC 29211

Dear Commissioner Jacobs:

You have requested the advice of this Office related to plans for the Carolina Corporate Credit Union (CCCU) to convert to a federal charter and merge with an out-of-State credit union. The resulting institution would then have an out-of State charter. An initial question appears to be whether the out-of-State credit union could continue to serve as the South Carolina corporate union.

S.C. Code Ann. § 34-27-50 (1987) provides, in part, as follows:

... those credit unions affiliated with the South Carolina Credit Union League may associate themselves together in a corporate credit union which shall be separate from the statewide credit union. Such corporate credit union shall take into its membership credit unions organized under this chapter, the Federal Credit Union Act or any other Credit Union Act, organizations or associations of credit unions and such other organizations provided in the articles of incorporation. There shall only be one corporate credit union under this chapter. ... (emphasis added).

Section § 34-27-50 expressly provides for "only...one" corporate credit union and it is organized in a manner that is different from the route proposed for the merged out-of-State credit union. Nothing in that law provides for the merger with or

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acquisition of that corporate credit union. Given the singular status of this corporate credit union and the absence of provisions for it to merge or be acquired by an out-of-State entity indicates a legislative intent<sup>1</sup> that the corporate credit union may not continue to act as such under § 34-27-50 if it merges as set forth above. Moreover, operation of credit unions chartered out-of-State is limited by the provisions of § 34-27-290, but nothing in that law or in § 34-27-50 indicates that such an "out-of State" entity could serve in the significant capacity as the "only...one" corporate credit union. Accordingly, regardless of whether the corporate credit union could merge with an out-of-State entity under the federal route proposed above, this authority indicates that it could no longer serve the as the corporate credit union as provided in § 34-27-50 absent legislative authorization.

Although the conclusion is that the corporate credit union could not be an out-of-State entity, §34-27-190 does not appear to restrict deposits to in-state entities.<sup>2</sup> Accordingly, an in-State credit union may deposit funds in an out-of-State credit union. Although the deposits might result in membership of the in-State institution in the out of State credit union according to information made available, such membership does not appear to be prohibited by State law. See §§34-27-190 and 34-27-270.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the

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<sup>1</sup> The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.c. 134, 341 S.E. 2d 134 (1986).

<sup>2</sup> Section 34-37-20 contains restrictions on the use of the term "cooperative credit union" which appear to refer to in-State credit unions formed under this chapter of the Code or federally chartered credit unions; however, this definition does not appear to limit the references to credit unions in § 34-27-190 to in-State credit unions. Section 34-37-190 limits deposits in non-federally chartered banks to State chartered banks but contains no such limitation on credit unions or savings and loans. The absence of this limitation for credit unions indicates that deposits were not to be restricted to in-State institutions. See Pennsylvania Nat. Mut. Cas. Ins. v. Parker, 282 S.C. 546, 320 S.E. 2d 458, 463 (Ct. App. 1984) ("...enumeration of particular things excludes the idea of something else not mentioned.").

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Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.  
Assistant Deputy Attorney General

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