

**LETTER OPINION
2003-L-39**

September 19, 2003

The Honorable George Keiser
House of Representatives
PO Box 1274
Bismarck, ND 58502-1274

Dear Representative Keiser:

Thank you for requesting my opinion on two issues regarding credit union membership. Your first question is “whether N.D.C.C. [§] 6-06-07 permits a state chartered credit union to be formed by multiple, unrelated groups which do not between and among them share a common bond of occupation or association.” Section 6-06-07, N.D.C.C., limits credit union membership “to groups having a common bond of occupation or association or to groups within a well-defined rural or urban district.” Thus, groups having a common bond of occupation or association are one permissible credit union field of membership. Groups without a common bond of occupation or association may be members of the same credit union if they are within a well-defined rural or urban district. N.D.C.C. § 6-06-07. Accordingly, it is my opinion that N.D.C.C. § 6-06-07 allows a state-chartered credit union to be formed by groups without a common bond of occupation or association if those groups are within a well-defined rural or urban district.

Whether groups have a common bond of occupation or association will require consideration of several factors and will necessarily be fact-intensive. Cf. N.D.A.G. 99-F-02 (whether the field of membership of a particular continuing credit union complies with the “well-defined rural or urban district” requirement of N.D.C.C. § 6-06-07 involves the resolution of factual issues). This office may not issue opinions concerning questions of fact. N.D.A.G. 99-F-02. The State Credit Union Board (“Board”), on the other hand, is vested with the responsibility of resolving the factual issues presented by an application for an expanded field of membership. N.D.A.G. 99-F-02. Thus, whether a group has a common bond of occupation or association or is within a well-defined rural or urban district is a factual issue the Board must resolve. Id.

Your second question is whether the Board may waive the field of membership restrictions in N.D.C.C. § 6-06-07 when there is a merger, if the board deems the waiver to be in the best interests of the credit union under N.D.A.C. § 13-03-14-04. Section 13-04-14-04,

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N.D.A.C., allows the Board to waive the provisions of N.D.A.C. ch. 13-03-14 if the waiver is in the best interests of a failing institution. N.D.A.C. § 13-04-14-04. Because the applications you question do not pertain to a "failing institution," the Board's authority under this rule is irrelevant in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Stenehjem". The signature is written in a cursive, flowing style with some loops and flourishes.

Wayne Stenehjem
Attorney General

sam/vkk