

No. 32858-5-II

COURT OF APPEALS, DIV. II
OF THE STATE OF WASHINGTON

Save Columbia CU Committee and Robert Tice, Appellants,

vs.

Columbia Community Credit Union, Karen Martel, Edwin C.
Bell, Dale Magers, William F. Byrd III, Robert M. Byrd,
Dennis McLachlan, Mark L. Ail, Connie Jones, and Bruce
Davidson, Respondents.

SUPPLEMENT TO APPELLANTS' SECOND
STATEMENT OF ADDITIONAL AUTHORITIES

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SUPPLEMENT TO SECOND STATEMENT OF ADDITIONAL AUTHORITIES

This Supplement is to highlight two very relevant passages in the 53-page NCUA Notice of Proposed Rulemaking that Appellants filed June 23, 2006, with their Second Statement of Additional Authorities.

National Credit Union Administration, June 22, 2006, Notice of Proposed Rulemaking: Conversion of Insured Credit Unions to Mutual Savings Banks.

(http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.)

The following two passages in the text of the proposed federal regulations are very relevant to the No Enabling Law issue and the Supermajority Vote issue raised in this appeal:

[At page 49, as proposed **subsection (a)(3) to 12 CFR § 708a.5** “Notice to NCUA”:]

(3) A state-chartered credit union must state as part of the notice required by § 708a.5(a) if its state chartering law permits it to convert to a mutual savings bank and provide the specific legal citation. A state-chartered credit union will remain subject to any state law requirements for conversion that are more stringent than those this part imposes, including any internal governance requirements, such as the requisite membership vote for conversion and the determination of a member’s eligibility to vote. If a state-chartered credit union relies for its authority to convert to a mutual savings bank on a state law parity provision, meaning a provision in state law permitting a state-chartered credit union to operate with the same or similar authority as a federal credit union, it must:

(i) Include in its notice a statement that its state regulatory authority agrees that it may rely on the state law parity provision as authority to convert; and

(ii) Indicate its state regulatory authority's position as to whether federal law and regulations or state law will control internal governance issues in the conversion such as the requisite membership vote for conversion and the determination of a member's eligibility to vote. [Emphasis added.]

[At page 52, as proposed **subsection (a) to 12 CFR § 708a.13** "Voting guidelines":]

(a) Applicability of state law. While NCUA's conversion rule applies to all conversions of federally insured credit unions, federally insured state-chartered credit unions (FISCUs) are also subject to state law on conversions. NCUA's position is that a state legislature or state supervisory authority may impose conversion requirements more stringent or restrictive than NCUA's. States that permit this kind of conversion may have substantive and procedural requirements that vary from federal law. For example, there may be different voting standards for approving a vote. While the Federal Credit Union Act requires a simple majority of those who vote to approve a conversion, some states have higher voting standards requiring two-thirds or more of those who vote. A FISCU should be careful to understand both federal and state law to navigate the conversion process and conduct a proper vote. [Emphasis added.]

Respectfully submitted this 26th day of June, 2006.

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