

2019

Kansas Statutes Annotated

Chapter 17.—CORPORATIONS

Article 22.—CREDIT UNIONS

Cross References to Related Sections:

- Applicability of general corporation code, see 17-6001.
- Corporate filings, reports and fees, see ch. 17, art. 75.
- Franchise taxes, see 79-5401.
- Exemption of intangible personal property owned by credit unions from gross earnings tax, see 12-1,109.
- Exemption from state income taxation, see 79-32,113.

17-2201. Organization of credit unions; articles of incorporation and bylaws; approval of administrator; application of corporation code; filing fees. (a) Any seven persons who are residents of the state of Kansas may apply to the administrator of the credit union department for permission to organize a credit union by signing in duplicate a certificate of organization and entering into articles of incorporation, in which they shall bind themselves to comply with its requirements and with all the laws, rules and regulations applicable to credit unions. The articles of incorporation shall set forth:

(1) The name of the proposed credit union, which shall contain the words "credit union" and shall not be the same as that of any other credit union in this state.

(2) The names and addresses of the subscribers to the articles of incorporation, and the number of shares subscribed by each.

(3) A statement that organization as a credit union is desired under the state credit union code, the par value of the shares and the manner in which the par value of shares may be changed from time to time.

(4) The address, which shall include the street, number, city and county of the corporation's registered office in this state and the name of its resident agent at such address.

(b) At the time of filing the articles of incorporation with the administrator, the organizers shall submit, in duplicate, sets of bylaws which shall provide:

(1) The date of the first annual meeting, the manner in which subsequent annual meeting dates shall be determined, the manner of notification of meetings and conducting the meetings, the number of members constituting a quorum and regulations as to voting.

(2) The number of directors, which shall not be less than five, all of whom must be members, their powers and duties, together with the duties of officers elected by the board of directors.

(3) The qualifications for membership.

(4) The number of members of the credit committee and of the supervisory committee, which shall not be less than three each, and their respective powers and duties.

(5) The conditions under which shares may be issued.

(c) The administrator shall approve the articles of incorporation, if they are in conformity with this act and the bylaws, if satisfied that the proposed field of operation is favorable to the success of such credit union, and that the standing of the proposed organizers is such as to give assurance that its affairs will be properly administered. If the administrator approves the articles of incorporation, the administrator shall issue to the proposed organizers a certificate of approval annexed to the duplicate of the articles of incorporation and of the bylaws. The articles of incorporation, with the certificate of approval annexed, shall be executed and filed and become effective in the manner prescribed in the general corporation code. The copy of the articles of incorporation filed with the secretary of state shall be accompanied by the fee prescribed by K.S.A. 17-7506, and amendments thereto. The articles of incorporation of any credit union approved as provided in this section by the secretary of state in the same manner as other domestic corporations are approved whether or not acted upon by the charter board.

History: L. 1929, ch. 141, § 1; L. 1959, ch.

117, § 1; L. 1968, ch. 160, § 1; L. 1972, ch. 57, § 1; L. 1973, ch. 92, § 1; L. 1982, ch. 102, § 1; L. 1999, ch. 39, § 5; L. 2000, ch. 39, § 8; L. 2019, ch. 22, § 2; July 1.

Revisor's Note:

Charter board abolished by repeal of 17-401.

Attorney General's Opinions:

Merger or consolidation of domestic nonstock corporations; credit unions. 95-53.

17-2202. Amendments to bylaws and charter; bylaw amendments to be filed; administrator's disapproval of amendments to bylaws; appeal. (a) Amendments of the bylaws may be adopted and amendments of the charter may be requested by the membership pursuant to K.S.A. 17-2207, and amendments thereto, or upon approval of the board of directors at any duly held meeting, if the members of the board have been given prior written notice of the meeting and the notice has contained a copy of the proposed amendment or amendments.

(b) Except as provided in paragraphs (1) and (2), no amendment to the bylaws shall become operative until approved by the administrator in writing, and until a certified copy has been filed as original bylaws are filed.

(1) If the administrator disapproves any proposed amendment, the credit union may appeal the decision in accordance with the Kansas administrative procedure act.

(2) Any proposed amendment shall be deemed to be approved if the administrator has not acted upon such proposed amendment within 60 calendar days of the date of receipt thereof by the administrator.

History: L. 1929, ch. 141, § 2; L. 1968, ch. 160, § 2; L. 1981, ch. 101, § 1; L. 2012, ch. 24, § 1; L. 2019, ch. 22, § 3; July 1.

17-2203. Use of name; penalty for unauthorized use. (a) Only credit unions organized under the provisions of the state credit union code, credit unions organized pursuant to federal law, an association of credit unions, or an organization, corporation or association whose membership or ownership is restricted to credit unions or credit union organizations may use any name, a website URL or title that contains the words "credit union" or any derivation thereof.

(b) Any other use by any person, copartnership, association or corporation of any name, or website URL or title that contains the words "credit union" or any derivation thereof and any misrepresentation as a credit union or conducting of business as a credit union by such entities shall be a class A misdemeanor and punishable as such. The administrator, any credit union or any organization, corporation or association of credit unions described in subsection (a) may petition a court of competent jurisdiction to enjoin a violation of this section.

History: L. 1929, ch. 141, § 3; L. 1941, ch. 181, § 1; L. 1976, ch. 105, § 1; L. 1982, ch. 103, § 1; L. 2019, ch. 22, § 4; July 1.

17-2204. Powers of credit unions. A credit union shall have the following powers:

(a) A credit union may receive the savings of its members in payment for shares, make contracts, sue and be sued, and provide negotiable checks, money orders, any other money type instruments or transfer methods, safe deposit boxes or similar safekeeping facilities to its members.

(b) A credit union may make loans to members through the credit committee or authorized loan officer in the way and manner provided in K.S.A. 17-2201 et seq., and amendments thereto.

(c) A credit union may invest under written investment policies established by the board:

(1) In all types of shares and accounts of a corporate credit union that is federally insured;

(2) in shares or accounts of any savings and loan association or mutual savings bank the accounts of which are insured by an insurer approved by the state in which the savings and loan association or mutual savings bank operates for guaranteeing the shares or accounts of such institutions;

(3) in the bonds or other obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby;

(4) in obligations of, or obligations issued by, any state or political subdivision thereof, including any agency, corporation or instrumentality of a state or political subdivision, except that no credit union may invest more than 10% of its shares, undivided earnings and reserves in the obligations of any one issuer, exclusive of general obligations

of the issuer; or

(5) in savings banks, state banks, trust companies and national banks, the accounts of which are insured by an insurer approved by the state in which the savings bank, state bank, trust company or national bank operates for guaranteeing the shares or accounts of such institutions.

(d) A credit union may enter into agreements with financial institutions or organizations for the extension of credit or debit services.

(e) A credit union may do all things necessary to obtain, continue, pay for and terminate insurance of its shares and share certificates with the national credit union share insurance fund or its successor. A credit union also may do all things necessary to obtain, continue, pay for and terminate private insurance coverage of its shares and share certificates in excess of the coverage for such shares and share certificates provided by the national credit union share insurance fund or its successor. Such excess coverage shall be obtained from an insurer approved by the commissioner of insurance.

(f) A credit union may receive from its members or other insured credit unions payments on shares and share certificates and may invest its funds in shares, share certificates or other accounts of insured credit unions.

(g) A corporate credit union, as defined by K.S.A. 17-2231(e), and amendments thereto, may buy and sell investment securities, as defined by the administrator, but the total amount of such investment securities of any one obligor or maker held by such credit union shall at no time exceed 15% of the shares, undivided earnings and reserves of the credit union, except that this limit shall not apply to obligations of the United States government or any agency thereof.

(h) Credit unions may enter into agreements to discount or sell student loans made pursuant to federally insured student loan programs under Pub. L. No. 89-329, title IV part (b) of the higher education act of 1965 as amended.

(i) A credit union may discount or sell to such corporate credit union or any financial institution or organization any real estate loan made by the credit union.

(j) A credit union may enter into agreements with a corporate credit union to discount or sell to such corporate credit union any obligation of the

United States government or any agency thereof, or of any state, municipality or any agency thereof, if the obligation at the time of purchase was a legal investment for credit unions.

(k) A credit union may provide that shares and share certificates may be withdrawn for payment to the account holder or to third parties, in such manner and in accordance with such procedures as may be established by the board of directors.

(l) Every credit union incorporated pursuant to or operating under the provisions of the state credit union code may exercise such powers, including incidental powers, as shall be necessary or requisite to enable it to carry on effectively the purposes and business for which it is incorporated.

(m) A credit union may receive from the national credit union central liquidity facility created by title III of the federal credit union act, 12 U.S.C. § 1795 et seq., payments on: (1) Shares that may be issued at varying dividend rates; (2) share certificates that may be issued at varying dividend rates and maturities; and (3) investments in any other accounts of the credit union. A credit union may invest its funds in the capital stock of the national credit union central liquidity facility.

(n) Subject to written guidelines issued by the administrator, a credit union may purchase notes made by individual borrowers to a financial institution at such prices as may be agreed upon by the board of directors of the purchasing credit union. No purchase may be made, however, under authority of this subsection, unless approved in writing by the administrator, if, upon the making of that purchase, the aggregate of the unpaid balances of notes of nonmembers purchased under authority of this subsection would exceed 5% of the shares, undivided earnings and reserves of the credit union.

(o) Subject to rules and regulations adopted by the administrator, a credit union, if designated by the administrator as a low-income credit union, may accept payments to share accounts by nonmembers. Such rules and regulations shall specify the maximum level of nonmember shares, the use of such shares, the term of such accounts and other requirements to address safety and soundness issues. Nonmember account holders shall not have the same rights and privileges as members.

History: L. 1929, ch. 141, § 4; L. 1951, ch. 204, § 1; L. 1955, ch. 138, § 1; L. 1968, ch. 160, §

3; L. 1969, ch. 112, § 56; L. 1971, ch. 75, § 1; L. 1972, ch. 58, § 1; L. 1974, ch. 98, § 1; L. 1975, ch. 136, § 3; L. 1977, ch. 75, § 1; L. 1981, ch. 101, § 2; L. 1982, ch. 103, § 2; L. 1984, ch. 90, § 1; L. 1987, ch. 85, § 1; L. 1992, ch. 225, § 1; L. 1995, ch. 64, § 1; L. 2012, ch. 161, § 1; L. 2019, ch. 22, § 5; July 1.

Cross References to Related Sections:

Authority to conduct savings promotion, see 9-1142.

Law Review and Bar Journal References:

"Taxation: Credit Union Share Accounts Subject to Federal Tax Levy[United States v. Bell Credit Union, 860 F.2d 365 (10th Cir. 1988)]," Donna F. Bohn, 28 W.L.J. 442, 452 (1989).

CASE ANNOTATIONS

1. Applied; credit union may purchase building which exceeds present space requirements; specific performance affirmed. *Anderson v. Overland Park Credit Union*, 231 K. 97, 105, 106, 643 P.2d 120 (1982).

17-2204a. Investments; limitations; definition of credit union services organization.

(a) Notwithstanding any other provision contained in the laws of this state providing for investments by credit unions, such credit unions may invest under written investment policies established by the board, in the bonds, debentures or other similar obligations issued under the authority of and pursuant to the act of congress known as the farm credit act of 1971, as amended. The total amount of such bonds, debentures or other similar obligations of any one obligor or maker shall at no time exceed 15% of the shares, undivided earnings and reserves of the credit union.

(b) Subject to rules and regulations of the administrator, credit unions may invest in a credit union services organization under written investment policies established by the board, if the credit union services organization is structured as a corporation, limited liability company or limited partnership. Subject to rules and regulations of the administrator, credit unions may make loans to such credit union services organization, except that any such investment in or loans to such credit union services organization shall not exceed, in the aggregate, 2% of the credit union's shares, undivided earnings and reserves. "Credit union services organization" means an organization established to provide operational and financial services primarily to credit unions.

(c) Subject to written guidelines issued by the administrator, a credit union may invest its funds

under written investment policies established by the board, in investment securities defined by the administrator. Except for obligations of wholly owned government corporations, or obligations that provide a return of principal and interest that is guaranteed by an agency of the federal government, the total amount of such investment securities of any one obligor or maker held by the credit union shall at no time exceed 15% of the shares, undivided earnings and reserves of the credit union.

(d) Except as provided in K.S.A. 17-2204, and amendments thereto, a credit union is prohibited from participating directly or indirectly in: (1) The purchase or sale of a standby commitment; (2) a futures contract; (3) adjusted trading; or (4) a short sale of a security. A credit union's directors, officials, committee members and employees, and immediate family members of such individuals, may not receive pecuniary consideration in connection with the making of an investment or deposit by the credit union.

(e) Nothing contained in this section shall be construed to prohibit any funds of a credit union from being invested as now provided by law.

History: L. 1957, ch. 153, § 1; L. 1971, ch. 76, § 1; L. 1973, ch. 93, § 1; L. 1987, ch. 85, § 2; L. 1995, ch. 128, § 1; L. 1996, ch. 72, § 1; L. 2007, ch. 71, § 1; L. 2019, ch. 22, § 6; July 1.

17-2205. Membership of credit union; continuation of branch operations, limitations.

(a) (1) The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more shares and have paid for the same, and have complied with such other requirements as the articles of incorporation may contain.

(2) Once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union.

(3) Members of a credit union also may include the following:

(A) The spouse of any person who died while such person was within the field of membership of the credit union;

(B) any employee of the credit union;

(C) any person who retired from any qualified employment group within the field of membership;

(D) any person of a volunteer group recognized by the management of the association or employee group within the field of membership and such person: (i) Has completed a training program offered by the volunteer group to further its goals; (ii) serves on the board of the volunteer group; or (iii) serves as an officer of the volunteer group;

(E) any member of such person's immediate family or household;

(F) any organization whose membership consists of persons within the field of membership; and

(G) any corporate or other legal entity within the field of membership as identified in the charter, articles of incorporation or bylaws of the credit union.

(4) For the purposes of subparagraph (E) of paragraph (3):

(A) Except as provided in subparagraph (B), the term "immediate family or household" shall mean spouse, parent, stepparent, grandparent, child, stepchild, sibling, grandchild or former spouse and persons living in the same residence maintaining a single economic unit with persons within the credit union's field of membership.

(B) If the credit union's bylaws adopted a definition of immediate family before June 30, 2008, the credit union may use that definition. A credit union may adopt a more restrictive definition of immediate family or household.

(C) If authorized in the credit union's bylaws, a member of the immediate family or household is eligible to join even when the eligible member has not joined the credit union.

(b) (1) Credit union organizations shall be limited to:

(A) A group having a single common bond of occupation or association;

(B) a group having multiple common bonds of occupation or association or any combination thereof. No such group shall have a membership of more than 3,000 except as permitted in subsections (c) or (d); or

(C) persons residing, working or worshipping in or organizations located within a geographic area.

(2) A common bond of occupation may include employees of the same employer, workers under contract with the same employer, businesses paid by the same employer on a continuing basis or employees in the same trade, industry or profession.

(3) A common bond of association may include members and employees of a recognized association as defined in such association's charter, bylaws or other equivalent document.

(c) A credit union which chooses to be limited as provided in subparagraph (C) of paragraph (1) of subsection (b) may include one or more common bonds of occupation or one or more common bonds of association or any combination thereof with no limitation on the number of members, if the employer or association is located in the geographic area of the credit union.

(d) A group formed with multiple common bonds of occupation or association may exceed 3,000 members if the administrator determines in writing that such group could not feasibly or reasonably establish a new single common bond credit union because the group:

(1) Lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

(2) does not meet the criteria established by the administrator indicating a likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

(3) would be unlikely to be able to operate in a safe and sound manner.

(e) (1) A geographic area may include:

(A) A single political jurisdiction;

(B) multiple contiguous political jurisdictions if the aggregate total of the population of the geographic area does not exceed 500,000, except as provided in subparagraph (C) or in subsections (i), (j), (k) and (l); or

(C) if the headquarters of the credit union is located in a MSA, the geographic area may include one or more political jurisdictions which share a common border to the MSA if the aggregate total of the population of the geographic area does not exceed 1,000,000. The maximum popula-

tion available for any credit union whose headquarters is located within a MSA shall be adjusted by the administrator based upon the population data for the largest MSA in the state of Kansas, or any portion thereof located within the state of Kansas. The maximum population available for any credit union whose headquarters is located within a MSA shall be determined by multiplying the population of the largest MSA in the state of Kansas, or that portion of such MSA located within the state of Kansas if the boundaries of such MSA extend outside the state of Kansas, as determined by the most recent population data, by the fraction having a numerator of 1,000,000 and a denominator of 750,000 for the purposes of this section, the administrator shall use population data based upon the adjusted federal census information presented to the legislature by the secretary of state pursuant to K.S.A. 11-304, and amendments thereto.

(2) Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008, no geographic area shall consist of any congressional district or the entire state of Kansas.

(f) (1) Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008, no credit union shall change or alter its field of membership except as provided in this section. Before a credit union can alter or change its field of membership, such credit union shall file, or cause to be filed, with the administrator, an application for amendment to its field of membership. The application shall include:

(A) Documentation showing that the proposed area or groups to be served meets the statutory requirements for field of membership set forth in this statute;

(B) pro forma financial statements for the first two years after the proposed alteration of or change in field of membership, including any assumption regarding growth in membership, shares, loans and assets;

(C) a marketing plan addressing how the proposed field of membership will be served;

(D) the financial services to be provided to the credit union's members;

(E) a local map showing the location of both current and proposed headquarters and branches; and

(F) the anticipated financial impact on the

credit union in terms of need for additional employees and fixed assets.

(2) (A) The application shall also include a proof of publication of the notice that the affected credit union intends to file or has filed an application to alter or change its field of membership. Such notice shall be in the form prescribed by the administrator and shall at a minimum contain the name and address of the applicant credit union and a description of the proposed alteration of or change in the field of membership.

(B) The notice shall be published for two consecutive weeks in the Kansas register. The required publications shall occur within 60 days of and prior to the effective date of the proposed change. The applicant shall provide proof of publication to the administrator.

(g) For the purposes of this section:

(1) "MSA" means a metropolitan statistical area as defined by the United States department of commerce which has more than one county located in Kansas. If the boundaries of such MSA extend outside the state of Kansas only that portion of such MSA located within the state of Kansas shall be considered for the purposes of this section.

(2) "Political jurisdiction" means a city, county, township or clearly identifiable neighborhood.

(3) "Population data" means official state population figures for the state of Kansas, or any portion thereof, which are identical to the decennial census data from the actual enumeration conducted by the United States bureau of the census and used for the apportionment of the United States house of representatives in accordance with K.S.A. 11-304, and amendments thereto.

(h) No increase in the population reflected by the population data shall require a modification to a field of membership as in existence on June 30, 2008.

(i) Notwithstanding any other provisions of this section, any person, including any member of such person's immediate family or household, or organization that is a member of any credit union which was in existence on June 30, 2008, may continue to be a member of such credit union after such date. For the purposes of this subsection, if the term "member" refers to an individual, the term member may include any other person who is

a member of such individual's immediate family or household as specified in subsection (a).

(j) (1) Notwithstanding any other provisions of this section:

(A) Any branch of a credit union that is in existence as of February 1, 2008, may continue to operate in the county where it is located on and after June 30, 2008. If such branch is unable to continue operations due to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that county.

(B) Any credit union which has taken an overt step toward the construction of a new building, facility or branch on or before February 1, 2008, may continue to construct and operate the new building, facility or branch in the city in which such new building, facility or branch is located even if the construction is not completed on or before June 30, 2008. If such branch is unable to continue operations due to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that city.

(2) For the purposes of this subsection, the term "overt act" includes the:

(A) Purchase of or entering into a contract for the purchase of any necessary tract of land for the location of such new building, facility or branch of an existing credit union.

(B) Acquisition or lease of a building for the purpose of housing a new facility or branch of an existing credit union.

(C) Adoption of architectural drawings for the construction of a new building, facility or branch of an existing credit union.

(D) Adoption of architectural drawings for the renovation of an existing building for use as a facility or branch of an existing credit union.

(k) Notwithstanding any other provisions of this section, a member of any occupation or association group whose members constituted a portion of the membership of any credit union as of February 1, 2008, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group on and after June 30, 2008. For purposes of this subsection, a patron of an organization is eligible for membership if such

patron is an individual who uses the products and services of the organization which is included in the field of membership of the credit union at the time the patron applies for membership in the credit union.

(l) Notwithstanding any other provisions of this section, any credit union:

(1) Which has been granted a field of membership on or before February 1, 2008, which includes the entire state of Kansas or its residents shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population not to exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. Any credit union with its headquarters located in a county that is not part of a MSA shall not include more than one MSA in its entirety in its adopted field of membership.

(2) With its headquarters located within a MSA as of February 1, 2008, may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000 as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total.

(3) With headquarters located in a county that is not part of a MSA may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000 population total. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000

as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000 population total. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. The adopted field of membership of such credit union shall not include more than one MSA in its entirety.

History: L. 1929, ch. 141, § 5; L. 1951, ch. 204, § 2; L. 1972, ch. 57, § 2; L. 2008, ch. 81, § 2; L. 2009, ch. 66, § 1; July 1.

17-2206. Supervision and powers of administrator; reports, fines; examination, fees.

(a) Credit unions shall be subject to the exclusive supervision of the administrator and shall make and keep current such books and records, prepare reports and establish plans and programs concerning the safety and soundness of the credit union as may be required by rules and regulations adopted by the administrator and shall make a report of condition to the administrator at least semiannually, on blank forms to be supplied by the administrator, notice of which reports shall be sent out by the administrator. Returns shall be verified under oath of the president or chairperson of the board, whomever has been elected by the board of directors pursuant to K.S.A. 17-2209, and amendments thereto, and treasurer, and additional reports may be required by the administrator. Copies of a current balance sheet shall be furnished without charge by the administrator to any person upon request. Any credit union that neglects to make the above reports shall be fined up to \$50 for each day of such neglect at the discretion of the administrator.

(b) Each credit union shall be examined at least once every 18 months by the administrator or the administrator's duly authorized deputy or agent. In lieu of any particular examination, the administrator may accept an examination report made by or under the authority of the national credit union administration or its successor or successors, by any such other appropriate federal agency or by an independent auditor or certified public accountant licensed to do business in the

state of Kansas if such audit and report meet the standards that the administrator may adopt by rules and regulations. The administrator may order other examinations, and the administrator's agents shall at all times be given free access to all books, papers, securities and other sources of information with respect to the credit union. The administrator shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the administrator. If a credit union neglects to make the required reports or to pay the charges required, including charges for delay in filing reports, for 15 days, the administrator shall notify the credit union of the administrator's intention to revoke the certificate of approval. If the neglect or failure continues for another 15 days, the administrator may revoke the certificate of approval and shall cause one of the administrator's agents to take possession of the business of such credit union and retain possession until such time as the administrator may permit such credit union to resume business or its affairs are finally liquidated.

(c) The administrator may issue cease and desist orders or orders for corrective action or both, if the administrator determines that a credit union is engaged or has engaged in an unsafe or unsound practice, or is violating or has violated any law, rules and regulations or any condition imposed in writing by the administrator or any written agreement made with the administrator.

(d) If the administrator determines that a credit union is insolvent, is in a deteriorating condition, as defined in rules and regulations adopted by the administrator, or, within a reasonable time, has failed to comply with any order mailed to the last address filed by the credit union with the administrator, the administrator, as conservator or liquidating agent, pursuant to any order shall immediately, or within a reasonable time thereafter, take possession of or appoint an agent to take possession of the business and property of the credit union and retain possession, as conservator or as liquidating agent, until such time as the administrator may permit it to resume business or its affairs are finally liquidated.

(e) The administrator may approve an emer-

agency merger in accordance with K.S.A. 17-2228, and amendments thereto, without regard to field of membership or other legal restraints. The credit union to be merged shall have a current CAMEL rating of 4 or 5, or the recognized regulatory equivalent thereof as defined in rules and regulations promulgated by the administrator, and be determined to be undercapitalized in accordance with regulatory standards as determined by the administrator by rules and regulations. The field of membership of the merged credit union will be retained by the continuing credit union resulting from the merger.

(f) Each credit union shall pay to the administrator a fee for examination, established in accordance with this subsection. Prior to June 1 of each year, the administrator, after advising the credit union council, shall establish such annual fees as the administrator determines to be sufficient to meet the budget requirements of the department of credit unions for the fiscal year beginning July 1. Such fees shall be due and payable 30 days after receipt of billing from the department of credit unions.

(g) For a corporate credit union, the administrator may accept an audit report by a certified public accountant in lieu of the credit union departmental examination of such credit union. If the administrator accepts a certified public accountant audit in lieu of the administrator's examination of such corporate credit union, the administrator may assess such corporate credit union a fee established in accordance with subsection (f).

(h) All administrative proceedings instituted or conducted by the administrator pursuant to this act shall be conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(i) The administrator, as conservator or liquidating agent:

(1) By operation of law, shall succeed to all rights, titles, powers and privileges of the credit union, and of any member, account holder, officer or director of such credit union with respect to the credit union and the assets of the credit union;

(2) shall take over the assets of and operate the credit union with all the powers of the members or shareholders, the directors and the officers of the credit union and shall be authorized to con-

duct all business of the credit union;

(3) may collect all obligations and money due the credit union;

(4) may perform all functions of the credit union in the name of the credit union which is consistent with the appointment as conservator or liquidating agent;

(5) shall preserve and conserve the assets and property of such credit union;

(6) may fix a reasonable amount for compensation of the conservator or liquidating agent as an expense of operation or liquidation of the credit union;

(7) may take such actions as may be necessary to put the credit union in a sound and solvent condition;

(8) may take such action as may be appropriate to carry on the business of the credit union and preserve and conserve the assets and property of the credit union; and

(9) as liquidating agent, place the credit union in liquidation and proceed to realize upon the assets of the credit union and liquidate such credit union in accordance with the provisions of K.S.A. 17-2230, and amendments thereto.

(j) A credit union approved to do business in this state under K.S.A. 17-2223a, and amendments thereto, shall pay to the administrator the same fees for examination that a state-chartered credit union is required to pay under the provisions of subsection (f). Such fees shall be paid in accordance with the provisions of subsection (f).

History: L. 1929, ch. 141, § 6; L. 1933, ch. 154, § 1; L. 1949, ch. 190, § 1; L. 1955, ch. 138, § 2; L. 1957, ch. 152, § 1; L. 1959, ch. 118, § 1; L. 1963, ch. 140, § 1; L. 1966, ch. 33, § 1 (Budget Session); L. 1968, ch. 160, § 4; L. 1972, ch. 59, § 1; L. 1975, ch. 136, § 5; L. 1976, ch. 106, § 1; L. 1977, ch. 76, § 1; L. 1980, ch. 79, § 1; L. 1980, ch. 270, § 3; L. 1982, ch. 102, § 2; L. 1987, ch. 86, § 1; L. 1992, ch. 225, § 2; L. 1995, ch. 128, § 2; L. 2005, ch. 36, § 1; L. 2008, ch. 81, § 3; L. 2019, ch. 22, § 7; July 1.

Cross References to Related Sections:

Rules and regulations authorized for savings promotion, see 9-1142.

17-2206a. Undelivered funds due creditors, depositors and shareholders of defunct credit union; duties of administrator and state

treasurer; undistributed assets of defunct credit unions fund. On and after July 1, 1972, and in every case occurring heretofore and hereafter, in which funds due to creditors, depositors and shareholders on liquidation of institutions under the jurisdiction of the credit union administrator under K.S.A. 17-2206 and 17-2230, and amendments thereto, are undelivered, they shall, together with accrued interest, if any, be paid to the credit union administrator, who shall remit such payments to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and credit such individual creditors, depositors or shareholders account in the undistributed assets of defunct credit union fund ledger. The state treasurer shall deposit the entire amount in the state treasury to the credit of the undistributed assets of defunct credit unions fund which is hereby created. Such fund shall be used only for refunds and payments of amounts due creditors, depositors and shareholders on claims filed with and approved by the credit union administrator. Any balance remaining in the fund from any single defunct credit union five years, during which time no person entitled thereto shall have appeared to claim such funds, shall be transferred by the credit union administrator to the state general fund and appropriate entries made in the individual creditors, depositors or shareholders record, showing the date and disposition of the funds and shall further recite that they were transferred by reason of this statute of limitation.

History: L. 1972, ch. 62, § 1; L. 2001, ch. 5, § 59; July 1.

17-2207. Fiscal year; meetings. The credit union fiscal year shall end at the close of business on December 31. The annual meeting and any special meetings of the members of the credit union shall be held in accordance with the credit union's bylaws.

History: L. 1929, ch. 141, § 7; L. 1959, ch. 117, § 2; L. 1982, ch. 102, § 3; L. 1997, ch. 5, § 1; L. 2019, ch. 22, § 8; July 1.

17-2208. Officers; board of directors; committees; suspension of members, when. (a) Annually the members of the credit union shall elect members of a board of directors as shall be provided in the bylaws. The bylaws shall state the manner of appointment or election of a supervisory

committee. If the bylaws provide for a credit committee, the credit committee may be appointed by the board of directors or elected by the members of the credit union. All directors and committee members shall be chosen from the membership. Directors and committee members shall hold office for such terms as may be provided in the bylaws.

(b) One member of the supervisory committee may be a director other than the treasurer. Regular terms of supervisory committee members shall be for such term as shall be provided in the bylaws and until the selection and qualification of their successors.

(c) All members of the board and committees and all officers shall be sworn and shall hold their several offices for such terms as may be provided in the bylaws. The oath shall be subscribed by the individual taking it and certified by the officer before whom it is taken and shall immediately be transmitted to the administrator and filed and preserved in the administrator's office.

(d) The board of directors may suspend or remove any or all members of the credit and supervisory committees for failure to perform their duties. Any vacancy shall be filled in accordance with the credit union's bylaws.

History: L. 1929, ch. 141, § 8; L. 1957, ch. 152, § 2; L. 1965, ch. 153, § 1; L. 1968, ch. 160, § 5; L. 1977, ch. 77, § 1; L. 1982, ch. 102, § 4; L. 2012, ch. 25, § 1; L. 2019, ch. 22, § 9; July 1.

17-2209. Directors to elect officers; duties of board; executive committee. (a) At the first meeting and at each first meeting in the fiscal year following the annual meeting of the credit union, the board of directors shall elect from their own number an executive officer who may be designated as chairperson of the board or president, a vice-chairperson of the board or one or more vice-presidents, a treasurer and a secretary, of whom the last two may be the same individual, and the persons so elected shall be the executive officers of the corporation.

(b) The board of directors shall:

(1) Set the par value of shares, if any, of the credit union.

(2) Set the minimum of shares, if any, required for membership.

(3) Designate those persons or positions

authorized to execute or certify documents or records on behalf of the credit union.

(4) Authorize the purchase of adequate fidelity and insurance coverage for officers, directors, committee members and employees and for losses caused by persons outside the credit union for which the credit union may be liable.

(5) Authorize the employment and compensation of the chief executive officer.

(6) Approve an annual operating budget for the credit union.

(7) Authorize the conveyance of real property.

(8) Review and approve the annual audit.

(9) Appoint any committees deemed necessary.

(10) Establish conditions under which a member may be removed for cause.

(11) Perform such other duties or authorize any action not inconsistent with the state credit union code.

(c) In addition, unless delegated, the board shall:

(1) Establish policies under which the credit union may borrow, lend and invest money to carry on the functions of the credit union.

(2) Act upon applications for membership in the credit union.

(3) Establish the loan policies under which loans may be approved.

(4) Declare dividends on shares and set the rates of interest on deposits.

(5) Determine the amount that may be loaned to a member, together with the terms and conditions of the loan.

(6) Approve the charge-off of credit union losses.

(d) No member of the board of directors or of the credit or supervisory committee shall receive any compensation as a member of the board or committee. The provision of reasonable life, health, accident, disability and similar insurance protection for a director or committee member shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of the business. The credit union may compensate any director, committee member or officer for loss of salary or wages due to the performance of business on behalf of the credit union.

History: L. 1929, ch. 141, § 9; L. 1951, ch. 204, § 3; L. 1957, ch. 152, § 3; L. 1963, ch. 140, § 2; L. 1965, ch. 153, § 2; L. 1968, ch. 160, § 6; L. 1973, ch. 94, § 1; L. 1982, ch. 102, § 5; L. 1992, ch. 225, § 3; L. 2019, ch. 22, § 10; July 1.

Attorney General's Opinions:

Credit unions; election of officers; duties of board; compensation. 90-29.

17-2210. Method of making loans. The credit committee, credit manager, or loan officer shall have the general supervision of all loans to members. The credit committee, credit manager or loan officer may approve or disapprove loans, subject to written policies established by the board of directors. The president or general manager or a designee thereof may serve as the credit manager.

History: L. 1929, ch. 141, § 10; L. 1941, ch. 181, § 2; L. 1959, ch. 117, § 3; L. 1976, ch. 107, § 1; L. 1982, ch. 103, § 3; L. 2012, ch. 25, § 2; L. 2019, ch. 22, § 11; July 1.

17-2211. Duties of supervisory committee; annual and supplementary audits; acceptance of certain audits. (a) The supervisory committee shall supervise the acts of the board of directors, credit committee and officers. The supervisory committee may suspend by a $\frac{2}{3}$ vote any officer of the credit union or any member of the credit committee or the board of directors, until the next meeting of the members of the credit union, which meeting shall be held within 60 days after such suspension and at which meeting such suspension shall be acted upon by the members of the credit union. Any person suspended shall have the right to appear and be heard at the meeting.

(b) The committee shall fill vacancies in their own number until the next annual meeting of the members or vacancies shall be filled in such a manner as is provided in the bylaws.

(c) Subject to rules and regulations adopted by the administrator, the supervisory committee shall make or cause to be made a thorough annual audit of the receipts, disbursements, income, assets and liabilities of the credit union and shall make a full report to the directors, which report shall be presented at the annual meeting and shall be filed and preserved with the records of the credit union. The supervisory committee shall make or cause to be made such supplementary audits as it deems necessary or as may be ordered by the adminis-

trator, and submit reports of the supplementary audits to the board of directors. The administrator may accept in lieu of any required audit, an audit by a certified public accountant or other independent accountant.

History: L. 1929, ch. 141, § 11; L. 1941, ch. 181, § 3; L. 1957, ch. 152, § 4; L. 1965, ch. 153, § 3; L. 1970, ch. 87, § 1; L. 1981, ch. 101, § 3; L. 1989, ch. 77, § 1; L. 1995, ch. 128, § 3; L. 2012, ch. 25, § 3; L. 2019, ch. 22, § 12; July 1.

Attorney General's Opinions:

Credit unions; election of officers; duties of board; compensation. 90-29.

17-2212. Capital and revenue of credit union; right of setoff; dormant accounts; unmatured shares; transfer to reserve fund, when.

(a) The capital of a credit union shall consist of the payments that have been made to such credit union on all types of shares. A credit union shall have a lien and right of setoff on the shares and on the dividends or other earnings payable thereon for and to the extent of any obligation of the member or other shareholder and of any dues and fines payable by the member or other shareholder. A credit union, upon the resignation or expulsion of a member, may cancel the shares of such member and apply the withdrawal value of such shares toward the liquidation of the member's indebtedness.

(b) A credit union may charge a membership fee, as may be established by the board of directors. Fully paid-up shares of a credit union may be transferred to any person upon election to membership, upon such terms as the board may establish. Any money received in the share account of any member which has not matured to one full share within a three-year period shall be refunded to such member. If such member cannot be located after due diligence by the officer in charge of operations or other authorized person or employee, such money shall be transferred to the reserve fund. Such due diligence shall include the sending to the member at the last known address of the member a notice of the intended action to transfer money to the reserve fund. For the purposes of this section, the last known address of the member is the address given by the member in any writing signed by the member and shown on the records of the credit union. Unless and until the

member notifies the credit union of a new or different address, the given address is presumed to be unchanged.

(c) At such time as the location of the member, beneficiary or other person named on any share account is unknown to the credit union and there has not been any activity generated by the member, shareholder, or other person named on the account for 12 months or longer, such account may be considered a dormant account and may be placed in a separate grouping under a control system which will adequately identify such accounts. Adequate controls shall be established to determine the validity of significant activity on dormant accounts. This subsection shall be subject to the provisions of K.S.A. 58-3901 et seq., and any amendments thereto.

History: L. 1929, ch. 141, § 12; L. 1951, ch. 204, § 4; L. 1982, ch. 102, § 6; L. 1992, ch. 225, § 4; July 1.

Revisor's Note:

58-3901 through 58-3933 were repealed in 1994; for later act, see 58-3934 et seq.

Law Review and Bar Journal References:

"Taxation: Credit Union Share Accounts Subject to Federal Tax Levy [United States v. Bell Credit Union, 860 F.2d 365 (10th Cir. 1988)]," Donna F. Bohn, 28 W.L.J. 442, 452 (1989).

CASE ANNOTATIONS

1. Credit union did not violate automatic stay by placing administrative freeze on debtor's account. *Stann v. Mid American Credit Union*, 39 B.R. 246, 247, 248 (1984).

2. Lien herein actually equitable right of setoff and inferior to I.R.S. tax levy. *United States v. Bell Credit Union*, 635 F.Supp. 501, 503 (1986).

17-2213. Shares to minors; joint tenancy shareholdings; trust accounts; credit union can act as trustee or custodian.

(a) Any credit union may receive money for the payment of shares from minors or in the name of minors and may pay the same to such minors whether or not the minors are emancipated until receiving a certified copy of the appointment of a legal guardian of such minor. Payments so made shall discharge the credit union forever from any further liability on account of such shareholdings for the money so paid by the credit union.

(b) Shares may be issued in the name of a minor and in trust in such way and manner as bylaws provide. All types of shares may be held in the name of a member in trust for a beneficiary or

beneficiaries or in the name of a nonmember in trust for a beneficiary who is a member. Beneficiaries may be minors, but no beneficiary unless a member shall be permitted to vote, obtain loans, hold office or be required to pay an entrance or membership fee. Payment of part or all of such a trust account to the party in whose name the account is held shall, to the extent of such payment, discharge the liability of the credit union to that party and to the beneficiary and the credit union shall be under no obligation to see to the application of such payment. In the event of death of the party in whose name a trust account is held the funds shall be paid to the beneficiary.

(c) A member may designate any person or persons, including minors, to hold shares with such member in joint tenancy with the right of survivorship, but no joint tenant, unless a member shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance fee or membership fee. Such joint tenancy shareholdings or any part thereof or any dividends or earnings due or payable thereon may be paid to or on order of any joint tenant, whether the other or others be living or not; and the receipt, order, or acquittance of the persons so paid shall be a valid and sufficient release and discharge to the credit union for any payment so made.

(d) A credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension plan which qualifies or qualified for specific tax treatment under section 401(d) or 408 of the internal revenue code, for its members or groups or organizations of its members, provided the funds of such plans are invested in share accounts or share certificate accounts of the credit union.

The plan shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation or organization other than the credit union or any person acting in a capacity as a director, employee or agent of the credit union, upon notice from the credit union or the administrator that the credit union is unwilling or unable to continue to act as trustee or custodian.

History: L. 1929, ch. 141, § 13; L. 1963, ch. 140, § 8; L. 1982, ch. 102, § 7; L. 1983, ch. 83, §

1; July 1.

17-2214. Corporate credit unions; powers; lending to members; credit unions lending to each other, approval. (a) Subject to rules and regulations prescribed by the administrator, corporate credit unions shall have the following additional powers to:

(1) Provide access for its shareholders on a mutual basis to financial systems and the services and products of financial institutions;

(2) provide its shareholders with research and consulting services concerning financial matters, institutions and products;

(3) provide financial system support services and facilities;

(4) establish and execute financial programs to assist its shareholders in meeting their needs;

(5) provide safekeeping or trustee services to or on behalf of its shareholders;

(6) issue shares or classes of shares with such terms and conditions as may vary from other shares authorized by this act as the administrator shall approve including, but not limited to, and notwithstanding the provisions of K.S.A. 17-2230, and amendments thereto, the subordination of such shares to other shares of the credit union without reducing the liability on all other shares, except that, such shares shall have a redemption priority in liquidation or termination of membership no earlier than provided to other shares authorized by this act; and

(7) purchase from or sell to its members participation interests in loans made by the corporate credit union or its members.

(b) A corporate credit union may lend to each member no more than 25% of the corporate credit union's assets, except that other credit unions, operating under the provisions of this act, may lend to each other only with the approval of the administrator, up to 25% of the shares, undivided earnings and reserves of the lending credit union.

(c) Subject to written policies adopted by its board of directors and approved by the administrator, a corporate credit union may:

(1) Make loans to;

(2) receive payments on shares, share certificates or investments in any other account of the corporate credit union from; or

(3) invest its funds in shares, stock or obliga-

tions of, organizations established to provide operational and financial services associated with the routine operations of credit unions.

Any investments in the capital stock of or loans to such organizations shall not exceed, in the aggregate, 2% of such credit union's shares and unimpaired capital.

History: L. 1929, ch. 141, § 14; L. 1951, ch. 204, § 5; L. 1965, ch. 153, § 4; L. 1968, ch. 160, § 7; L. 1970, ch. 88, § 1; L. 1973, ch. 85, § 134; L. 1988, ch. 97, § 1; L. 1992, ch. 225, § 5; L. 2019, ch. 22, § 13; July 1.

Law Review and Bar Journal References:

"Impact of the Uniform Consumer Credit Code upon Kansas," Barkley Clark, 18 K.L.R. 277, 278, 284, 296 (1970).

17-2215. Power to borrow money; limitations. A credit union shall have the power to borrow from any source, subject to special orders of or in accordance with such rules and regulations as may be prescribed by the administrator, but the total of such borrowing shall at no time exceed 50% of the shares, undivided earnings and reserves of the borrowing credit union. Any credit union may discount with or sell to any federal intermediate credit bank any eligible obligations up to the amount of its shares and share certificates.

History: L. 1929, ch. 141, § 15; L. 1981, ch. 101, § 4; L. 2019, ch. 22, § 14; July 1.

17-2215a. Power of corporate credit unions to borrow increased by amount of certain investments. For a corporate credit union, the power to borrow shall be increased by the amount of investments of such credit union in government securities, and, further, the administrator may authorize borrowing in excess thereof.

History: L. 1973, ch. 93, § 2; L. 1992, ch. 225, § 6; July 1.

17-2216. Loans to members; limitations. (a) Subject to rules and regulations of the administrator, a credit union may loan to its members, as provided, for such purposes and upon such security as the bylaws may provide and the credit committee, credit manager or duly authorized loan officer shall approve. Loans to members shall be made in conformity with criteria established by the board of directors. No loan shall be made in excess of 10% of the credit union's total assets.

(b) Any loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by the federal government, a state government or any agency of either may be made under the terms and conditions specified in the law under which such insurance, guarantee or commitment is provided.

History: L. 1929, ch. 141, § 16; L. 1941, ch. 181, § 4; L. 1949, ch. 190, § 2; L. 1951, ch. 204, § 6; L. 1953, ch. 131, § 1; L. 1959, ch. 117, § 4; L. 1963, ch. 140, § 3; L. 1965, ch. 153, § 5; L. 1972, ch. 60, § 1; L. 1976, ch. 108, § 1; L. 1981, ch. 101, § 5; L. 1983, ch. 83, § 2; L. 1992, ch. 225, § 7; L. 2013, ch. 41, § 1; L. 2019, ch. 22, § 15; July 1.

17-2216a. Loans to directors or members of credit or supervisory committees; conditions. Subject to rules and regulations of the administrator, a credit union may make loans to its directors, credit committee members and supervisory committee members or other members for which the director or committee member acts as guarantor or endorser who are not employees only if:

(a) Such a loan complies with all lawful requirements under the credit union law with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(b) in the case where, upon the making of the loan, the aggregate of loans outstanding to the borrower exceeds by \$100,000 the total amount of shares, share certificates and other shareholdings in any credit union, not otherwise encumbered or pledged, which are pledged as security for the loans of the borrower, the loan is approved by the credit committee or duly authorized loan officer and the board of directors; and

(c) the borrower takes no part in the consideration of the application and does not attend any committee or board meeting while the application is under consideration.

History: L. 1976, ch. 108, § 2; L. 1981, ch. 101, § 6; L. 1983, ch. 83, § 3; L. 1992, ch. 225, § 8; L. 1997, ch. 5, § 2; L. 2013, ch. 41, § 2; L. 2019, ch. 22, § 16; July 1.

17-2217. Reserve income; payments into reserve fund; rules and regulations. All entrance fees, transfer fees and charges shall, after the payment of the organization expenses, be known as

reserve income, and shall be added to the reserve fund of the credit union. At the close of the fiscal year or each dividend paying period there shall be set apart to the reserve fund, such sums as are provided for in this section.

(a) A credit union shall comply with the reserve requirements of the national credit union administration rules and regulations, 12 C.F.R. § 702 in effect on the effective date of this act, or any later version as adopted by the administrator in rules and regulations.

(b) A corporate credit union shall comply with the reserve requirements of the national credit union administration rules and regulations, 12 C.F.R. § 704 in effect on the effective date of this act, or any later version as adopted by the administrator in rules and regulations.

(c) The reserve fund shall belong to the credit union and shall be held to meet losses on loans. Other losses may be charged to the reserve fund with prior approval of the credit union administrator. The reserve fund shall not be distributed to the members except upon dissolution of the credit union.

History: L. 1929, ch. 141, § 17; L. 1941, ch. 181, § 5; L. 1965, ch. 153, § 6; L. 1968, ch. 160, § 8; L. 1971, ch. 77, § 1; L. 1975, ch. 136, § 6; L. 1981, ch. 101, § 7; L. 1992, ch. 225, § 9; L. 2001, ch. 84, § 1; L. 2019, ch. 22, § 17; July 1.

Attorney General's Opinions:

Credit unions; reserve funds. 79-310.

17-2218. Dividends. After providing for required reserves, the board of directors may declare a dividend to be paid from the net earnings or from other funds set aside for dividends at such intervals and in such a manner as the board of directors may authorize.

History: L. 1929, ch. 141, § 18; L. 1959, ch. 117, § 5; L. 1963, ch. 140, § 4; L. 1965, ch. 153, § 7; L. 1968, ch. 160, § 9; L. 1969, ch. 125, § 1; L. 1972, ch. 61, § 1; L. 1978, ch. 79, § 1; L. 1981, ch. 102, § 1; July 1.

17-2219. Expulsion of members, when; policy, notice; withdrawal of member from credit union. (a) Any member may be expelled from the credit union:

(1) By a $\frac{2}{3}$ vote of the members present at any regularly called meeting of the membership; or

(2) in accordance with the provisions of subsection (b), by the president, general manager or any other credit union employee designated by the board of directors for a member's abuse of member account privileges, a member's act or failure to act which causes financial loss to the credit union, a member's failure to purchase shares and utilize loan or other services of the credit union, or a member's failure to comply with the credit union's adopted policy regarding expulsion. The president or general manager shall report the expulsion of a member at the next regularly scheduled board meeting.

(b) The board of directors of a credit union may adopt a policy with respect to expulsion from membership for any reason set forth in subsection (a)(2). If such a policy is adopted, notice of the policy as adopted and effective date of such policy shall be provided to each member of the credit union no fewer than 30 days prior to the effective date of such policy. In addition, each new member shall be provided notice of any such policy prior to or upon applying for membership. An expelled member shall be informed of the reason for expulsion and may appeal the expulsion to the board of directors by making a written request to the board of directors within 30 days of the expulsion.

(c) A member may withdraw from a credit union, as hereinafter provided, by filing a written notice of such intention. All amounts paid on shares of an expelled or withdrawing member, with any dividends credited to the member's shares to the date of expulsion, or withdrawal, shall be paid to the member, but only as funds become available and after deducting any amounts due to the credit union by the member. All shares of an expelled or withdrawing member, with any interest accrued, shall be paid to the member, subject to 60 days' notice, and after deducting any amounts due to the credit union by the member. The member, when withdrawing shares, shall have no further right in the credit union or to any of its benefits, but such expulsion or withdrawal shall not operate to relieve such member from any remaining liability to the credit union.

History: L. 1929, ch. 141, § 19; L. 1983, ch. 83, § 4; L. 1989, ch. 77, § 2; L. 1993, ch. 26, § 1; L. 2018, ch. 56, § 1; L. 2019, ch. 22, § 18; July 1.

CASE ANNOTATIONS

1. Statute not applicable to withdrawing member of

declared insolvent credit union; applicable only to viable organization. *Kansas Credit Union League v. Redmond*, 216 K. 451, 456, 457, 532 P.2d 1039.

17-2220.

History: L. 1929, ch. 141, § 20; Repealed, L. 1963, ch. 140, § 13; June 30.

17-2221. Change in place of business; how accomplished. A credit union may change its place of business within this state only with the written consent of the administrator.

History: L. 1929, ch. 141, § 21; L. 1968, ch. 160, § 10; March 26.

17-2221a. Credit union branches; procedure. (a) After first applying for and obtaining the approval of the administrator, a credit union incorporated under the laws of this state, may establish and operate one or more branches or relocate an existing branch, in accordance with its stated field of membership as approved by the administrator. The application shall include proof of publication of notice that the applicant credit union intends to file or has filed an application to establish a branch or relocate an existing branch. The notice shall be published in a newspaper of general circulation in the county where the applicant credit union proposes to locate the branch. The notice shall be in the form prescribed by the administrator and at a minimum shall contain the name and address of the applicant credit union and the location of the proposed branch. The notice shall be published on the same day for two consecutive weeks.

(b) (1) If the credit union has a current CAMEL rating of 3, 4 or 5, or the recognized regulatory equivalent thereof as defined in rules and regulations promulgated by the administrator, the application shall also contain a solicitation for written comments and provide for a comment period of not less than 10 days after the date of the second publication. Upon receipt of the application and following expiration of the comment period, the administrator may hold a hearing in the county in which the applicant credit union seeks to operate the branch. The applicant shall publish notice of the time, date and place of such hearing in a newspaper of general circulation in the county where the applicant credit union proposes to locate the branch, not less than 10 nor more than 30 days

prior to the date of the hearing, and proof of publication shall be filed with the administrator. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the administrator, or the administrator's designee, in support of or in opposition to the branch. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the administrator.

(2) If the administrator determines a public hearing is not warranted, the administrator shall approve or disapprove the application within 15 days after receipt of a complete application but not prior to the end of the comment period. If a public hearing is held, the administrator shall approve or disapprove the application within 60 days after consideration of the complete application and the evidence gathered during the administrator's investigation. The period for consideration of the application may be extended if the administrator determines the application presents a significant supervisory concern. If the administrator finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch;

(B) the proposed branch is in accordance with the applicant's field of membership approved by the administrator as set forth in K.S.A. 17-2205, and amendments thereto; and

(C) the applicant credit union's financial condition is sound, including an analysis of the loan portfolio to ensure that the applicant credit union is not exceeding the limitation on member business loans provided in 12 U.S.C. § 1757a, the new branch or relocation shall be granted, otherwise, it shall be denied.

(3) Within 15 days after any final action of the administrator approving or disapproving an application, the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period, may request a hearing with the administrator. Upon receipt of a timely request, the administrator may conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the administrator is subject to review in accordance with the Kansas judicial review act.

(c) The administrator may adopt rules and regulations necessary to implement this section.

History: L. 2008, ch. 81, § 1; L. 2010, ch. 17, § 39; L. 2019, ch. 22, § 19; July 1.

17-2222. Conversion from state to federal credit union. A credit union organized under K.S.A. 17-2201 to 17-2221, both sections inclusive, and acts amendatory thereof and supplemental thereto, may be converted into a federal credit union by complying with the following requirements:

(a) The proposition for such conversion shall first be approved by a majority of the directors of the credit union. The proposition then shall be submitted to a vote of its members, the notice of which shall be in writing and shall be delivered in person to each member, or shall be mailed to each member at the address for such member appearing on the records of the credit union, not more than 30 nor less than seven days prior to the time of the vote. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members voting on the proposition.

(b) A copy of a statement of the results of the vote, verified by the affidavits of the executive officer of the board and the secretary of the board, shall be filed with the administrator within 10 days after the vote.

(c) Promptly after the vote is taken and in no event later than 90 days after such vote, the credit union shall take such action as may be necessary under the federal credit union act to make it a federal credit union, and within 10 days after receipt of the federal credit union charter there shall be filed with the administrator a copy of the charter thus issued. Upon such filing the credit union shall cease to be a state credit union.

(d) Upon ceasing to be a state credit union, such credit union shall no longer be subject to any of the provisions of the state law under which the credit union was organized. The successor federal credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the state credit union to the same extent as though the conversion had not taken place.

History: L. 1959, ch. 119, § 1; L. 1961, ch. 120, § 1; L. 1968, ch. 160, § 11; L. 1983, ch. 83, § 5; July 1.

17-2223. Incorporation in this state of federal credit union or credit union organized in another state; procedure; name; effect of

granting charter. Any credit union organized under the laws of any other state or the government of the United States may apply for articles of incorporation under K.S.A. 17-2201, and acts amendatory thereof and supplemental thereto, by any seven persons who are members of said credit union and who are residents of the state of Kansas taking the steps provided for under said section. Upon application duly made as provided under said section, said credit union may be granted a charter under the laws of this state subject to revocation in event proper steps are not timely taken to surrender the charter of the other jurisdiction. The name of the credit union may be changed to comply with law. The granting of a corporate charter to such credit union shall be for all purposes a continuation of the same credit union except under a different name and a changed jurisdiction. A formal transfer of assets and liabilities shall be unnecessary but shall follow as a matter of law upon the compliance with this section.

History: L. 1961, ch. 120, § 2; June 30.

17-2223a. Administrator's approval required before foreign credit union does business in state; examination; hearing. (a) Subject to the rules and regulations of the administrator, no credit union, except credit unions organized under the laws of the state of Kansas or the "federal credit union act," 12 U.S.C. § 1751 et seq., and amendments thereto, shall do business in this state until it has received the approval of the credit union administrator.

(b) The administrator shall require any such credit union to comply with the provisions of subsection (b) of K.S.A. 17-2206, and amendments thereto.

(c) If after a hearing or an opportunity for a hearing has been given such credit union in accordance with the provisions of the Kansas administrative procedure act, the administrator determines that such credit union has violated any provision of this act, the administrator may revoke such credit union's authority to do business in this state.

History: L. 1977, ch. 72, § 1; L. 1997, ch. 6, § 1; L. 2001, ch. 84, § 2; L. 2005, ch. 36, § 2; July 1.

17-2224.

History: L. 1963, ch. 140, § 5; Repealed, L.

2019, ch. 22, § 30; July 1.

17-2225.

History: L. 1963, ch. 140, § 6; Repealed, L. 2019, ch. 22, § 30; July 1.

17-2226. Purchase of real estate, material, equipment or improvements; lease and disposition of property. (a) Credit unions may purchase, lease, hold or rent real estate and improvements thereon for their current or future use and occupancy.

(b) A credit union may purchase, rent, hold, contract for, acquire or lease any material, equipment or service which may be necessary or incidental to its operation.

(c) A credit union may rent or lease a portion of its building, fixed assets or property and may acquire, lease, hold, assign, pledge, sell or otherwise dispose of property or other assets, either in whole or in part, necessary or incidental to its operations and purposes.

History: L. 1963, ch. 140, § 7; L. 1965, ch. 153, § 8; L. 1968, ch. 160, § 12; L. 1982, ch. 103, § 4; L. 1987, ch. 86, § 2; L. 1992, ch. 225, § 10; L. 2019, ch. 22, § 20; July 1.

CASE ANNOTATIONS

1. Credit union may purchase building which exceeds present space requirements; specific performance affirmed. *Anderson v. Overland Park Credit Union*, 231 K. 97, 99, 105, 107, 643 P.2d 120 (1982).

2. Credit union may purchase interest of prior lienholder to protect second mortgage on realty. *Tip Top Credit Union v. Lies*, 234 K. 925, 932, 677 P.2d 540 (1984).

17-2227. Information concerning credit unions; disclosure authorized; otherwise confidential; exceptions. (a) All information secured or produced by the administrator in making an investigation or examination of any credit union shall be deemed confidential information.

(b) All such confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon written approval of the administrator.

(c) Confidential information may be disclosed to federal or state agencies when necessary in the performance of their official duties or functions. No employees of such agencies may disclose such confidential information without express written authorization of the administrator.

(d) Confidential information may be disclosed

to the private insurer of any credit union regarding the credit union insured by such insurer when necessary in the performance of their official duties or functions. No employees of such private insurer may disclose such confidential information without express written authorization of the administrator.

(e) Confidential information may be released to other third parties if, in the administrator's determination, good cause exists for the disclosure. The administrator shall give prior notice of intent to disclose such information to the affected credit union. No person or other third party may disclose such confidential information without express written authorization of the administrator.

(f) Confidential information shall not otherwise be disclosed except as rendered necessary by law or under order of the court in an action involving credit unions or in criminal actions.

History: L. 1963, ch. 140, § 9; L. 1968, ch. 160, § 13; L. 1971, ch. 78, § 1; L. 1975, ch. 136, § 7; L. 1976, ch. 105, § 2; L. 1992, ch. 225, § 11; L. 1993, ch. 26, § 2; July 1.

17-2228. Merger with other credit union, procedure; certificate requirements; assets and liabilities; cancellation of terminated credit union charter. Any credit union, with the approval of the administrator, may merge with another credit union under the charter of such other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the members of each such credit union organized under the provisions of this act, either by the affirmative vote of a majority of those members present at a meeting of its members duly called for such purpose or by the affirmative vote in writing of a majority of its members who participate in the vote on the merger plan without a meeting. After such agreement by the directors and approval of the members of each credit union organized under the provisions of this act, the president or chairperson of the board and secretary of each credit union organized under the provisions of this act, shall execute a certificate of merger that shall set forth the following:

(a) The time and place of the meeting of the board of directors at which the plan was agreed upon;

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- (b) the vote in favor of adoption of the plan;
 - (c) a copy of the resolution or other action by which the plan was agreed upon;
 - (d) the time and place of the meeting of the members at which the plan agreed upon was approved; and
 - (e) the vote by which the plan was approved by the members.

Such certificate of merger, a copy of the plan of merger agreed upon, and any necessary approvals or consents for a merging credit union organized under the provisions of any other jurisdiction shall be forwarded to the administrator. Upon receipt of these documents, the administrator shall determine whether the merger meets the statutory requirements for field of membership set forth in K.S.A. 17-2205, and amendments thereto. If the merger is approved, a copy of the certificate, certified by the administrator, shall be returned to the merging credit unions within 30 days. The date of certification of the merger by the administrator shall constitute the date of approval. Upon any such merger so effected, all property, property rights and interest of the merged credit union shall vest in the continuing credit union without deed, endorsement or other instrument of transfer, and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the continuing credit union under whose charter the merger was effected.

This section shall be construed, whenever possible, to permit a credit union chartered under any other act to merge with one chartered under this act or to permit one chartered under this act to merge with one chartered under any other act. The charter of the terminating credit union shall, upon merger, be canceled and voided by operation of law.

History: L. 1963, ch. 140, § 10; L. 1968, ch. 160, § 14; L. 1982, ch. 102, § 8; L. 1984, ch. 90, § 2; L. 1992, ch. 225, § 12; L. 2008, ch. 81, § 4; L. 2019, ch. 22, § 21; July 1.

17-2229. Sale or purchase of assets to or of another credit union; agreement; approval of administrator; effective date; dissolution of selling credit union; reserves. (a) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance

with this section.

(b) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares to the selling credit union of the members thereof whether or not such members are members of the purchasing credit union.

(c) The selling credit union shall enter into an agreement with the purchasing credit union containing the terms and conditions of the sale. If the assets being sold are valued at an amount greater than 10% of either the purchasing credit union's or the selling credit union's total amount of shares, undivided earnings and reserves, the selling credit union shall file a copy of the agreement with the administrator within one month after it is signed. The agreement shall be approved or disapproved by the administrator within 30 days, otherwise the same shall be deemed approved.

(d) In the event the agreement does not specify an effective date, the administrator may fix a date upon which it will become effective.

(e) If the selling credit union has disposed of all assets under the agreement, it shall cease to carry on business on the effective date of agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter, and all reserves shall go to the purchasing credit union under the terms and conditions of the agreement.

History: L. 1963, ch. 140, § 11; L. 1968, ch. 160, § 15; L. 2019, ch. 22, § 22; July 1.

17-2230. Voluntary and involuntary dissolution; appointment of agent; liquidation procedure.

(a) *Voluntary.* At a meeting especially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy of the notice was mailed to the administrator at least 10 days prior thereto. Any member not present at such meeting may, within the next 20 days, vote in favor of dissolution by signing a statement in form approved by the administrator and such vote shall have the same force and effect as if cast at such meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the executive officer of the board and secretary of the board shall, within five days

following such meeting, notify the administrator of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses. Any credit union which has voted to enter into voluntary dissolution may by action of its board of directors make a written application to the administrator for the appointment of a liquidating agent and the administrator shall then exercise such powers of appointment, control and supervision of a liquidating agent as is provided in K.S.A. 17-2206, and amendments thereto, and liquidate such credit union in accordance with the provisions of this section.

(b) *Involuntary.* If it shall appear that any credit union is insolvent, or that it has violated any of the provisions of this act, the administrator may order such credit union to correct such condition and shall grant it a reasonable time under the circumstances of the case within which to comply, and failure to do so shall afford grounds for revocation of the corporate charter or the appointment of a conservator. When the administrator finds that a credit union is insolvent, the administrator, pursuant to order, shall become the conservator and may appoint an agent and require the agent to give such bond as the administrator deems proper. The administrator also shall fix reasonable compensation for the agent but the same shall be subject to approval of the district court of the county wherein such credit union is located upon application of any party in interest. The administrator may appoint as agent any person or the insurer or guarantee corporation required under K.S.A. 17-2246, and amendments thereto, for the credit union involved. Upon an order of the administrator to liquidate such credit union, such agent shall follow the liquidation procedure set out herein. Any agent appointed shall make a complete report to the administrator covering the acts and proceedings as such agent. The administrator may remove any agent, with or without cause, and appoint a successor. The agent, under the direction of the administrator, shall take charge of any insolvent credit union and all of its assets and property and liquidate the affairs and business for the benefit of its creditors and shareholders as provided in this section. The agent may sell or compound all bad and doubtful debts and sell all the property of any such credit union upon such terms as the adminis-

trator shall approve. The administrator shall have the general supervision of all the acts of the agent. All claims of creditors and shareholders must be filed with the agent within one year after the date of the agent's appointment, and if any shareholder claim or creditor claim is not so filed then it shall be barred from participation in the estate and assets of any such credit union. The agent of any insolvent credit union may borrow money and pledge the assets of such insolvent credit union but only upon prior written approval of the administrator. At least once each year the administrator shall examine every credit union in the hands of an agent and copies of such examination reports shall be available to any interested shareholder or creditor by written request made to the administrator. Every agent shall submit the records and affairs of such credit union to an examination by the administrator or the administrator's assistant and examiners whenever the agent is requested to do so. The agent of any credit union shall make reports to the administrator in the same manner as required of other credit unions.

(c) *Liquidating procedure.* The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted.

The board of directors, or the liquidating agent shall use the assets of the credit union to pay in the following order: (1) Expenses incidental to liquidation including any surety bond that may be required; (2) remaining liabilities other than shareholdings; and (3) the assets then remaining, if any, shall be distributed to the savings held by each member or other shareholder as of the date dissolution was voted.

As soon as the board or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution on a form prescribed by the administrator and file same with the register of deeds of the county wherein the credit union had its registered office, who shall, after recording and indexing same, forward it to the administrator, whereupon such credit union shall be dissolved. The administrator

shall furnish a copy of the certificate of dissolution to the secretary of state.

History: L. 1963, ch. 140, § 12; L. 1965, ch. 153, § 9; L. 1968, ch. 160, § 16; L. 1972, ch. 57, § 3; L. 1983, ch. 84, § 1; L. 1987, ch. 86, § 3; L. 1992, ch. 225, § 13; L. 2019, ch. 22, § 23; July 1.

CASE ANNOTATIONS

1. Cited in reversing district court's holding that shareholdings may be offset against indebtedness in liquidation of credit union. *Kansas Credit Union League v. Redmond*, 216 K. 451, 455, 456, 532 P.2d 1039.

17-2231. Definitions. The following words and terms used in chapter 17 of article 22 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them in this section.

(a) "Council" means the credit union council created by this act.

(b) "Administrator" means the credit union administrator provided for in K.S.A. 17-2233, and amendments thereto.

(c) "Credit union" means a cooperative, not-for-profit association, incorporated for the purpose of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members, and of providing the opportunity for people to use and control their money for their mutual benefit.

(d) "Department" or "credit union department" means the state department of credit unions established by K.S.A. 17-2234, and amendments thereto.

(e) "Corporate credit union" means a credit union that is cooperatively organized and owned by its members that offers liquidity, investment, back office processing, deposit and lending facilities and other products and services tailored to the unique needs of its members.

(f) "Not-for-profit association" means, for purposes of this act, an association whose individual operations are not intended to generate, in the aggregate, an excess of revenues over the sum of expenses, distribution returns to members, appropriate reserves and capital that are consistent with the credit union's purposes and measured on an ongoing basis of the credit union as a whole.

(g) "Low-income credit union" means a credit union with a field of membership in which more than one-half earn less than 80% of the national median household income; or the credit union may

document that more than 50% of its members make less than 80% of the national average wage.

(h) "Credit union services organization" means an organization established to provide operational and financial services to credit unions.

(i) "Federal intermediate credit bank" means a bank sponsored by the federal government to provide funds to financial institutions for the making of agricultural loans.

(j) "Electronic notice" means notice that is provided in writing and delivered by electronic means to the electronic mail address specified by the member for that purpose. A member who provides an electronic mail address to the credit union for such purposes shall be deemed to have consented to receive notices and correspondence by electronic means.

(k) "Branch" means any office, agency or other place of business located within the state, other than the place of business specified in the credit union's certificate of organization, at which deposits are received, checks paid or money lent.

History: L. 1968, ch. 160, § 17; L. 1973, ch. 95, § 1; L. 1975, ch. 137, § 1; L. 1992, ch. 225, § 14; L. 1995, ch. 64, § 2; L. 2019, ch. 22, § 24; July 1.

17-2232. Credit union council; membership, appointment, terms; meetings. (a) The governor shall appoint a seven-member credit union council. Each member shall be a resident of Kansas. Except as provided by subsection (b), appointments to the council shall be for terms of three years. Five of the persons appointed shall be members in good standing and officers of Kansas state chartered credit unions. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, of those five members, the governor shall appoint one from each congressional district and the remainder from the state at large. The council shall elect annually a chairperson, a vice-chairperson and a secretary for a term of one year or until their successors have been appointed and qualified. All members of the council shall serve until their successors have been appointed and qualified. Kansas state chartered credit unions regulated under the provisions of this act may submit annually to the governor, for consideration in making appointments to the credit union council, a list of persons having the prescribed qualifications

for membership on the council. The council may adopt such rules and regulations governing the compilation of such list as may be necessary. In the event of a vacancy on the council, the governor shall appoint a new member to fill the unexpired term. The mid-term appointment of a new council member to serve an unexpired term created by such a vacancy shall not be considered a full term for purposes of the two-term limit. Except as otherwise provided, no person shall serve more than two consecutive full three-year terms as a member of the council. No more than four members of the council shall be from the same political party.

(b) Members shall be appointed for terms of three years and serve until their successors are appointed and qualified.

(c) Council meetings shall be on call of a majority of the council or the chairperson. The council shall hold one regular meeting during each quarter of the year, upon such dates and at such places as designated by the council, and may hold such other meetings as the council considers necessary. The majority of the council shall constitute a quorum for doing business. The council may adopt such rules as advisable for conducting business and, until otherwise changed or modified, the council shall abide by Robert's rules of order in conducting business.

(d) The council shall serve as an advisor to the administrator on issues and needs of credit unions.

History: L. 1968, ch. 160, § 18; L. 1978, ch. 308, § 45; L. 1981, ch. 299, § 45; L. 1982, ch. 347, § 11; L. 1992, ch. 225, § 15; L. 1993, ch. 26, § 3; L. 1995, ch. 241, § 2; L. 2018, ch. 56, § 2; Apr. 26.

Revisor's Note:

Section was amended twice in 1992 session, see also 17-2232a.

Law Review and Bar Journal References:

"The Consumer Class Action," Arthur H. Travers, Jr. and Jonathan M. Landers, 18 K.L.R. 811, 813 (1970).

17-2232a.

History: L. 1968, ch. 160, § 18; L. 1978, ch. 308, § 45; L. 1981, ch. 299, § 45; L. 1982, ch. 347, § 11; L. 1992, ch. 262, § 2; Repealed, L. 1993, ch. 26, § 4; July 1.

17-2233. Credit union administrator; appointment, duties, salary, expenses and term.

The credit union administrator shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as administrator shall exercise any power, duty or function as administrator until confirmed by the senate. Any person appointed as the administrator shall have at least three years' actual, practical experience in the operation and management of a credit union. The administrator shall not be a member of the council. The governor shall fix the compensation of the administrator. In addition, the administrator shall be entitled to receive the actual and necessary expenses incurred in the performance of the administrator's duties. The administrator shall be in the unclassified service under the Kansas civil service act. The administrator shall be appointed for a term of four years and until a successor is appointed and confirmed. If a vacancy occurs, the governor shall appoint a successor to fill the vacancy for the unexpired term. The administrator shall attend the meetings of the council and shall have the general charge of the work of the council and the general supervision of credit unions. The administrator shall keep a permanent record of all meetings and proceedings of the council.

History: L. 1968, ch. 160, § 19; L. 1978, ch. 308, § 46; L. 1980, ch. 250, § 1; L. 1981, ch. 299, § 46; L. 1982, ch. 347, § 12; L. 1992, ch. 225, § 16; L. 2006, ch. 60, § 1; L. 2008, ch. 121, § 2; L. 2019, ch. 22, § 25; July 1.

Attorney General's Opinions:

Kansas state department of credit unions; administrator; eligibility for office. 79-306.

17-2234. Department of credit unions; supervision; employees; attorney; security background check.

(a) (1) There is hereby established the state department of credit unions, which shall be under the administrative supervision of the administrator as directed by law. The administrator may appoint or employ an attorney to assist the department in its functions under this act, and in accordance with the civil service law, such special assistants, deputies or examiners, and other employees, as may be necessary for the purpose of

administering and enforcing the provisions of this act.

(2) The administrator is hereby authorized to appoint financial examiners and other staff who shall be in the unclassified service under the Kansas civil service act. The administrator's salary schedule for unclassified positions shall be reported to the credit union council annually.

(b) Nothing in subsection (a) shall affect the classified status of any person employed with the department of credit unions on the day immediately preceding the effective day of this act.

(c) Each special assistant, deputy, examiner and other such employees as may be necessary for the purpose of administering and enforcing the provisions of this act shall submit to a security background check prior to being employed in such position. Upon the commencement of the interview process, every candidate shall be given a written notice that a security background check is required. The security background check shall be limited to criminal history record information as provided by K.S.A. 22-4701 et seq., and amendments thereto. If the criminal history record information reveals any conviction of crimes of dishonesty, such conviction may be used to disqualify a candidate for any position within the office of the department of credit unions. If the criminal history record information is used to disqualify a candidate, the candidate shall be informed in writing of that decision. Upon determining whether to hire or disqualify a candidate, the candidate's criminal history record information report shall be destroyed. The candidate's personnel file shall only contain a statement that a security background check was performed and the date thereof.

(d) The state department of credit unions shall submit an employment candidate's fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purpose of determining whether the applicant has a criminal record.

History: L. 1968, ch. 160, § 20; L. 1973, ch. 95, § 2; L. 1978, ch. 308, § 47; L. 1981, ch. 299, § 47; L. 1992, ch. 225, § 17; L. 1995, ch. 196, § 1; L. 2012, ch. 161, § 2; L. 2019, ch. 22, § 26; July 1.

Attorney General's Opinions:

Discusses whether records of "custody time," the amount of time a person has been incarcerated, are open or closed

depending on holder of records. 2002-29.

17-2235. Credit union council's compensation and expenses. Members of the credit union council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223.

History: L. 1968, ch. 160, § 21; L. 1974, ch. 348, § 10; July 1.

17-2236. Bonds of administrator, examiners and employees; disposition of moneys; credit union fee fund. (a) Before entering their respective duties, the administrator, each credit union examiner, and any other employee within the credit union department as determined in accordance with the provisions of K.S.A. 75-4104, and amendments thereto, shall give a bond set at a minimum of \$25,000 per individual conditioned upon the faithful and impartial discharge of their respective duties and the proper accounting for all funds which may come into their hands. Such bonds shall be executed by a surety company authorized to do business in this state. Such bonds shall be approved by the committee on surety bonds and insurance and filed, with the approval of such committee endorsed thereon together with the oaths of office of such officers and employees, with the secretary of state. Premium on such bonds shall be paid from the credit union fee fund. Suits may be maintained on such bonds in the name of the state for the use of the party or parties injured by a breach thereof.

(b) The administrator shall remit all moneys received by or for the administrator from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the credit union fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator. The compensation of members and employees, office costs

and other actual and necessary expenses of the department and expenses incurred in the administration and enforcement of this act shall be paid from the credit union fee fund.

History: L. 1968, ch. 160, § 22; L. 1970, ch. 89, § 1; L. 1973, ch. 309, § 7; L. 1980, ch. 270, § 4; L. 1992, ch. 225, § 18; L. 2001, ch. 5, § 60; L. 2011, ch. 53, § 7; July 1.

Cross References to Related Sections:

Purpose and limitation on moneys credited to state general fund, see 75-3170a.

Fees assessed credit unions insured by guarantee corporations, see 17-2265.

17-2237. Transfer of jurisdiction and records. On July 1, 1968, all the jurisdiction, authority, powers and duties now conferred and imposed by law upon the bank commissioner in relation to the management, control, regulation and general supervision of credit unions, are hereby transferred to, conferred and imposed upon the credit union council and the administrator. The books, records, documents, equipment and supplies of the bank commissioner relating to credit unions shall be transferred to the credit union department.

History: L. 1968, ch. 160, § 23; March 26.

17-2238. Continuity of previously organized credit unions. This act shall not be construed to disturb the continuing existence of any credit union heretofore chartered and existing under the law of this state, and all credit unions heretofore organized and existing under the law of this state shall be governed and controlled by the provisions of this act.

History: L. 1968, ch. 160, § 24; March 26.

17-2239. Continuity of proceedings. All proceedings heretofore instituted by an officer or officers charged with the supervision of credit unions and pending on the effective date of this act shall be continued in the name of the administrator.

History: L. 1968, ch. 160, § 25; March 26.

17-2240. Housing of department. Office quarters for the department and employees shall be provided by the secretary of administration pursuant to K.S.A. 75-3651, and amendments thereto. The cost and expense of such office quarters shall be paid for in the same manner as other expenses

of the department.

History: L. 1968, ch. 160, § 26; L. 1992, ch. 225, § 19; July 1.

17-2241. Appeals. An appeal from any final or nonfinal action of the administrator by any person with standing as defined in K.S.A. 77-611, and amendments thereto, shall be governed by the provisions of K.S.A. 77-601 through 77-627, and amendments thereto.

History: L. 1968, ch. 160, § 27; L. 1987, ch. 86, § 4; L. 1992, ch. 225, § 20; July 1.

17-2242.

History: L. 1968, ch. 160, § 28; L. 1987, ch. 86, § 5; L. 1992, ch. 225, § 21; L. 2007, ch. 187, § 1; Repealed, L. 2019, ch. 22, § 30; July 1.

17-2243. Invalidity of part. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1968, ch. 160, § 29; March 26.

17-2244. Authority to operate in same activities as other federally insured credit unions; powers of administrator; report to legislature. (a) In addition to any and all other powers granted to the credit union administrator, the administrator shall have the power to authorize any credit union to engage in any activity in which such credit union could engage were they operating as a federally insured credit union at the time such authority is granted, including but not by way of limitation because of enumeration, the power to do any act, and own, possess and carry as assets, property of such character including stocks, bonds or other debentures which, at the time such authority is granted, are authorized under applicable laws and regulations for transactions by federally insured credit unions notwithstanding any restrictions elsewhere contained in the statutes of the state of Kansas. Upon receipt of a written request from any state chartered credit union, the administrator shall exercise such power by the issuance of a special order therefor if the administrator deems it reasonably required to preserve and protect the

welfare of such an institution and promote the general economy of this state. The issuance of such special orders shall not be subject to the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto.

(b) The administrator shall, at the time of issuing any special order pursuant to this section, submit a written report thereof to the president and the minority leader of the senate and to the speaker and the minority leader of the house of representatives and the credit union council.

History: L. 1969, ch. 126, § 1; L. 1980, ch. 48, § 2; L. 1982, ch. 103, § 5; L. 1992, ch. 225, § 22; L. 2005, ch. 36, § 3; July 1.

Attorney General's Opinions:

Savings and loans; incorporation and organization; change of name; use of word "bank." 84-87.

Savings and loan association; incorporation and organization; use of words "banking" and "bank" in advertising and title. 84-125.

17-2245. Credit union may participate in loan with another credit union, financial organization or national cooperative bank.

(a) A credit union may agree to participate in the risk liability and income of loans to credit union members jointly with other credit unions, credit union organizations, financial institutions or financial organizations. Such participation loans shall be in accordance with written policies of the board of directors. A credit union which originates a loan for which participation agreements are made in accordance with this subsection shall retain an interest of at least 10% of the face amount of the loan.

(b) A credit union may agree to participate in the risk liability and income of loans or guarantees with the national cooperative bank established pursuant to the act of congress known as the national consumer cooperative bank act of 1978, and any amendments thereto. Such loans may be made to any eligible borrower under such act of congress and may be made jointly with any financial institution, agency, instrumentality or foundation authorized to do so under such act.

History: L. 1974, ch. 93, § 1; L. 1982, ch. 103, § 6; L. 1987, ch. 85, § 3; April 2.

17-2246. Share insurance required.

(1) Every credit union which is organized and operating under the laws of the state of Kansas,

except a corporate credit union, shall insure the shares of each shareholder of such credit union.

(2) Every credit union shall insure the shares of each shareholder of such credit union with the national credit union share insurance fund, NCUSIF, or its successor.

(b) (1) The application for NCUSIF insurance shall be filed with the Kansas department of credit unions, then forwarded to the national credit union administration.

(2) Every credit union chartered after the effective date of this act shall obtain NCUSIF insurance coverage prior to commencing business.

(3) The administrator may suspend the charter, merge, liquidate, or take possession of any credit union which fails to comply with the provisions of this section or which loses or allows such coverage to lapse.

(c) Every credit union shall forward a copy of the NCUSIF certificate of insurance to the administrator within 30 days after the credit union receives the certificate.

(d) (1) Every credit union shall take every action legally required to maintain NCUSIF insurance coverage in full force and effect, and shall refrain or desist from taking any action that is likely to cause termination of NCUSIF insurance coverage.

(2) The administrator shall order the merger, consolidation, or liquidation of any credit union whose NCUSIF insurance is terminated.

History: L. 1975, ch. 136, § 1; L. 1981, ch. 103, § 1; L. 1991, ch. 78, § 1; L. 1992, ch. 225, § 23; L. 2012, ch. 161, § 3; L. 2019, ch. 22, § 27; July 1.

CASE ANNOTATIONS

1. 1991 amendment to subsection (f) is not retroactive. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 886 F.Supp. 1529, 1542 (1995).

2. Credit union not entitled to reclaim capital contribution under impracticality of performance doctrine. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 102 F.3d 1097, 1101, 1110 (1996).

17-2247.

History: L. 1975, ch. 136, § 2; Repealed, L. 1992, ch. 225, § 24; July 1.

17-2248.

History: L. 1975, ch. 136, § 4; L. 1988, ch. 356, § 51; Repealed, L. 1992, ch. 225, § 24; July 1.

17-2249.

History: L. 1975, ch. 136, § 8; L. 1987, ch. 86, § 6; Repealed, L. 1992, ch. 225, § 24; July 1.

17-2250.

History: L. 1975, ch. 136, § 9; L. 1981, ch. 103, § 2; Repealed, L. 2012, ch. 161, § 18; May 31.

Cross References to Related Sections:

Fees assessed credit unions insured by guarantee corporations, see 17-2265.

17-2251.

History: L. 1975, ch. 136, § 10; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2252.

History: L. 1975, ch. 136, § 11; L. 1981, ch. 103, § 3; L. 1988, ch. 356, § 52; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2253.

History: L. 1975, ch. 136, § 12; L. 1981, ch. 103, § 4; L. 1988, ch. 356, § 53; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2254.

History: L. 1975, ch. 136, § 13; Repealed, L. 2012, ch. 161, § 18; May 31.

CASE ANNOTATIONS

1. Guarantee corporation not required to return credit union's capital contribution. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 886 F.Supp. 1529, 1540 (1995).

2. Corporation bylaw's forfeiture provisions concerning capital contributions did not constitute unenforceable penalty. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 102 F.3d 1097, 1105 (1996).

17-2255.

History: L. 1975, ch. 136, § 14; L. 1981, ch. 103, § 5; Repealed, L. 2012, ch. 161, § 18; May 31.

CASE ANNOTATIONS

1. Guarantee corporation not required to return credit union's capital contribution. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 886 F.Supp. 1529, 1540 (1995).

2. Corporation not required to return credit union's capital contribution. *Central Kansas Credit Union v. Mutual Guar. Corp.*, 102 F.3d 1097, 1101, 1104 (1996).

17-2256.

History: L. 1975, ch. 136, § 15; L. 1981, ch. 103, § 6; L. 1988, ch. 356, § 54; Repealed, L. 2012, ch. 161, § 18; May 31.

Attorney General's Opinions:

Disclosure of social security number; violation of protected right of privacy considered. 97-39.

17-2257.

History: L. 1975, ch. 136, § 16; L. 1981, ch. 103, § 7; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2258.

History: L. 1975, ch. 136, § 17; L. 1981, ch. 103, § 8; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2259.

History: L. 1975, ch. 136, § 18; L. 1981, ch. 103, § 9; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2260. Rules and regulations. The administrator may adopt rules and regulations to implement any of the provisions of this act.

History: L. 1975, ch. 136, § 19; L. 1981, ch. 103, § 10; July 1.

17-2261.

History: L. 1975, ch. 136, § 20; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2262. Severability. If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act, and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

History: L. 1975, ch. 136, § 21; July 1.

17-2263. Contracts for payment of members' accounts to beneficiaries upon members' deaths; rights of member during lifetime; change of beneficiary. (a) Subject to the provisions of this section and K.S.A. 17-2264, and amendments thereto, an individual adult or minor, hereafter referred to as the member, may enter into a written contract with any credit union located in this state providing that the balance of the member's account, or the balance of the member's legal share of an account, at the time of death of the member shall be made payable on the death of the member to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or

beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

(b) Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(c) Every contract authorized by this section shall be considered to contain a right on the part of the member during the member's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the member and, if there is a claim pursuant to K.S.A. 39-709, and amendments thereto, until such claim is satisfied.

(d) No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the credit union and delivered to the credit union prior to the death of the member.

(e) For the purposes of this section, the balance of the member's account or the balance of the member's legal share of an account shall not be construed to include any portion of the account that under the law of joint tenancy is the property of another joint tenant of the account, upon the death of the owner.

(f) As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto.

History: L. 1979, ch. 177, § 5; L. 1980, ch. 166, § 3; L. 1982, ch. 104, § 2; L. 1984, ch. 51, § 3; L. 1992, ch. 150, § 3; L. 2002, ch. 114, § 49; L. 2015, ch. 42, § 4; L. 2019, ch. 22, § 28; July 1.

Attorney General's Opinions:

Eligibility requirements for social welfare recipients; claims against estates of certain recipients. 92-156.

CASE ANNOTATIONS

1. IRA as revocable inter vivos trust subject to rights of nonconsenting surviving spouse determined. *McCarty v. State*

Bank of Fredonia, 14 K.A.2d 552, 555, 795 P.2d 940 (1990).

2. Summary judgment reversed where issue regarding heir's claim of constructive trust constituted material issue of fact. *Heck v. Archer*, 23 K.A.2d 57, 61, 927 P.2d 495 (1996).

17-2264. Same; duties of credit union; release and discharge thereof. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263, and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the secretary for children and families for a claim pursuant to K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the credit union shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

History: L. 1979, ch. 177, § 6; L. 1984, ch. 51, § 4; L. 1992, ch. 150, § 4; L. 2002, ch. 114, § 50; L. 2014, ch. 115, § 14; L. 2015, ch. 42, § 5; July 1.

Attorney General's Opinions:

Eligibility requirements for social welfare recipients; claims against estates of certain recipients. 92-156.

17-2265.

History: L. 1980, ch. 27, § 69; L. 1981, ch. 103, § 11; L. 2001, ch. 5, § 61; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2266.

History: L. 1981, ch. 103, § 12; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2267.

History: L. 1981, ch. 103, § 13; Repealed, L. 2012, ch. 161, § 18; May 31.

17-2268. Personal liability of officers and directors, exceptions. Except for persons who are executive officers, an officer or director of a credit union shall have no personal liability to the credit union or its members for monetary damages for breach of duty as an officer or director, except that such liability shall not be eliminated for: (a) Any breach of the officer's or director's duty of loyalty to the credit union or its members; (b) acts or omissions which constitute willful or gross and wanton negligent breach of the officer's or director's duty of care; (c) acts in violation of K.S.A. 17-2209, and amendments thereto; or (d) any transaction from which the officer or director derived an improper personal benefit. For purposes of this section, "executive officer" means the chairperson of the board, the president, each

vice-president, the secretary and the treasurer of a credit union unless such officer is excluded by resolution of the board of directors or by the bylaws of the credit union from participation in the policymaking functions of the credit union, and the officer does not actually participate in the policymaking functions of the credit union.

History: L. 1993, ch. 288, § 3; L. 2019, ch. 22, § 29; July 1.

Cross References to Related Sections:

Liability of officers and directors, applicable provisions and severability, see 9-1133 and 9-1134.

17-2269. Citation. Article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, shall be known and may be cited as the state credit union code.

History: L. 2019, ch. 22, § 1; July 1.



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