

Approved


Date 1-31-89

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS.

The meeting was called to order by Representative Clyde D. Graeber at
Chairperson

3:30 ~~xxx~~ a.m./p.m. on January 26, 1989 in room 527-S of the Capitol.

All members were present except: Representatives George Teagarden, Mary Jane Johnson, and Kenneth King, Excused.

Committee staff present: Bill Wolff, Legislative Research Department
Myrta Anderson, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Jerel Wright, Kansas Credit Union League
James Turner, President, Kansas League of
Savings Institutions

The meeting was called to order by the Chairman at 3:30 P.M. and announced there would be requests for possible introduction of committee bills.

Representative Wilbert moved and Representative Eckert seconded the motion that the minutes of the January 17 and 19 meetings be approved. There was no discussion and the motion carried.

The first conferee was James Turner, President, Kansas League of Savings Institutions, introduced a possible bill which is an act relating to state moneys; allowing savings banks and savings and loan associations to bid on certain state of Kansas active Fee accounts; amending K.S.A. 1988 Supp. 75-4201, 75-4214 and 75-4218 and repealing the existing sections. This bill is very similar to the bill that was brought before the Committee two years ago. (See Attachment No. 1).

Representative Justice moved and Representative Francisco seconded this be accepted as a Committee Bill.

The next conferee was Jerel Wright, Kansas Credit Union League, requesting an act relating to credit unions; concerning duties of supervisory committee; members withdrawal from membership; amending K.S.A. 17-2211 and 17-2219 and repealing the existing sections. (See Attachment No. 2).

The changes requested are: Change in verifying accounts, i.e., the current law is to have a 100% verification of accounts once every two years. The new provision requests that a controlled random statistical sampling which verifies accounts once every year. This verification is in addition to the examination by the Kansas State Department of Credit Unions once every 18 months.

The second change affects the method of expelling a credit union member from the credit union. The current law authorizes expulsion of a credit union member by a vote of the credit union members during a regularly called members meeting. The new provision would be: (1) abuses member account privileges or (2) acts or failure to act which causes a financial loss to the credit union. (See Attachment No. 3).

Representative Cates moved and Representative Francisco seconded the Committee accept this as a Committee Bill.

The Chairman asked if there were any others present wishing to bring a Bill before the Committee. There were no others appearing.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS,
room 527-S, Statehouse, at 3:30~~am~~/p.m. on January 26, 1989.

The Chairman stated there would be a meeting on Tuesday, January 31 to discuss H.B. 2004. Staff will distribute a report on Monday, January 30 providing a comparison of the Bill prepared by Legislative Research Staff and the Amendment prepared by H. Boone Porter, Attorney at Law, Overland Park, Kansas. After discussion, the Committee might take final action on H.B. 2004.

The meeting adjourned at 3:50 P.M.

By _____

AN ACT relating to state moneys; allowing savings banks and savings and loan associations to bid on certain active accounts; amending K.S.A. 1988 Supp. 75-4201, 75-4214 and 75-4218 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1988 Supp. 75-4201 is hereby amended to read as follows: 75-4201. As used in this act, unless the context otherwise requires:

- (a) "Treasurer" means state treasurer.
- (b) "Controller" means director of accounts and reports.
- (c) "Board" means the pooled money investment board.
- (d) "Bank" means a state or national bank or trust company doing business within the state of Kansas.
- (e) "State moneys" means all moneys in the treasury of the state or coming lawfully into the possession of the treasurer.
- (f) "Custodial moneys" means state moneys deposited with the treasurer which, in the written opinion of the attorney general, are required by contract, bequest or law to be segregated from other bank accounts.
- (g) "Special moneys" means moneys which are required to be or are deposited in a custodial bank account or a fee agency account by the state or any agency thereof.

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(h) "State bank account" means state moneys or special moneys deposited ~~in a designated bank~~ in accordance with the provisions of this act.

(i) "Active account" means a state bank account which (1) is payable or withdrawable, in whole or in part, on demand, and (2) is in a bank not having an inactive account.

(j) "Inactive account" means a state bank account which is not payable on demand but shall not include custodial accounts.

(k) "Time deposit, open account" means a state bank account which is a deposit, other than a time certificate of deposit, with respect to which there is in force a written contract which provides that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity or the expiration of the period of notice which must be given by the board in writing.

(l) "Custodial account" means a state bank account of custodial moneys.

(m) "Fee agency account" means a state bank account of any state agency consisting of fees, tuition or charges authorized by law prior to remittance to the state treasurer.

(n) "Disbursement" means a payment of any kind whatsoever made from the state treasury or from any active account, except transfer of state or special moneys between or among active accounts and inactive accounts or either or both of them.

(o) "Interest period" means three months commencing on the date an inactive account is initially deposited, and each three months thereafter, and in the case of time deposit, open accounts means the period of the deposit but not exceeding three months.

(p) "Securities" means any one or more of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States sponsored corporations which under federal law may be accepted as security for public funds.

(2) Kansas municipal bonds which are general obligations of the municipality issuing the same.

(3) Revenue bonds of any agency or arm of the state of Kansas.

(4) Revenue bonds of any municipality, as defined by K.S.A. 10-101, and amendments thereto, within the state of Kansas or bonds issued by a public building commission as authorized by K.S.A. 12-1761, and amendments thereto, if approved by the state bank commissioner, except (A) bonds issued under the provisions of K.S.A. 12-1740 et. seq., and amendments thereto, unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp. and (B) bonds secured by revenues of a utility which has been in operation for less than three years. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(5) Temporary notes of any municipal corporation or quasi-municipal corporation within the state of Kansas which are general obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation with the state of Kansas the issuance which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) All of such securities shall be current as to interest according to the terms thereof.

(9) Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if: (i) In the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (ii) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or (iii)

in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

(q) "Savings bank" means a federally chartered savings bank insured by a federal savings and loan insurance corporation and doing business within the state of Kansas.

(r) "Savings and loan association" means a state or federally chartered savings and loan association doing business within the state of Kansas.

Sec. 2. K.S.A. 1988 Supp. 75-4214 is hereby amended to read as follows: 75-4214(a) The board shall designate one or more banks, savings banks or savings and loan associations in each county in which a state agency making collection of any fee, tuition, or charge is located to have a fee agency account for the deposit of accounts of such agency having an average daily balance of \$10,000 or more.

(b) Any state agency making collection of fees, tuition or charges ~~may~~, with the approval of the board, may select a bank, savings bank or savings and loan association in the county in which the agency is located to have a fee agency account for the deposit of accounts of such agency having a average daily balance of less than \$10,000.

(c) At the end of each month any bank, savings bank or savings and loan association having a fee agency account shall forward to the board and the director of accounts and reports a detailed statement of such account on forms approved by the director of accounts and reports.

Sec. 3. K.S.A. 1988 Supp. 75-4218 is hereby amended to read as follows: 75-4218. (a) All state bank accounts shall be secured by pledge of securities as provided in this section.

(b) The bank, savings bank or savings and loan association receiving or having a state bank account shall deposit securities owned by it, in one of the following ways:

(1) Deposit with the treasurer.

(2) Deposit with a bank having adequate modern facilities for the safekeeping of securities and doing business in the state of Kansas, and which facilities shall have had the prior approval of the board. Any such bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the state in the event such bank relinquishes the custody of any such securities contrary to the provisions of this act or rules and regulations adopted thereunder. No such deposit of securities shall be made in any facility owned or controlled directly or indirectly by the bank depositing the same.

(3) Deposit with the federal reserve bank of Kansas City, Missouri.

(4) Deposit with the Federal Home Loan Bank of Topeka, Kansas.

(5) Any combination of (1), (2), (3) and (4).

(c) Any such deposit of securities, except with the treasurer, shall have a joint custody receipt taken therefor with one copy going to the treasurer and one copy going to the bank, savings bank, or savings and loan association, which deposits such securities. In lieu of the initial deposit of securities

provided for in this subsection (c), the treasurer or the treasurer's duly authorized deputy may, for a period of not to exceed 10 calendar days, accept the telephone assurance of a bank qualified as provided in (2) or (3) of subsection (b), that the depository bank has requested the issuance of a joint custody receipt with the state of Kansas, specifying the securities pledged, for the purpose of compliance with this section and that such joint custody receipt will be forthcoming.

(d) Securities deposited to comply with this section may be withdrawn on application of the bank, savings bank or savings and loan association depositing the ~~same-~~ securities, if such application is approved by the treasurer or the treasurer's duly authorized deputy and the director of accounts and reports or the director's duly authorized assistant for the reason that such deposit of securities is no longer needed to comply with this section or are required for collection by virtue of their maturity or for exchange shall be replaced within 15 calendar days, but until replaced the state shall retain a first lien on the withdrawn security or the proceeds therefrom.

(e) Active accounts, time deposit, open accounts, inactive accounts, fee agency accounts and custodial accounts shall be secured by pledge of securities the market value of which is equal to 100% of the amount of the account, less so much of any such account as is protected by the federal deposit insurance corporation or federal savings and loan insurance corporation.

Any agency responsible for a fee agency account shall transfer immediately all moneys not so secured to the state treasurer for deposit in the state treasury.

Sec. 4. K.S.A. 1988 Supp. 75-4201, 75-4214 and 75-4218 are hereby repealed.

Sec. 5. This act shall take effect and be in full force from and after its publication in the statute book.

BILL NO. _____

AN ACT relating to credit unions; concerning duties of supervisory committee; members withdrawal from membership; amending K.S.A. 17-2211 and 17-2219 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-2211 is hereby amended to read as follows: 17-2211 (a) The supervisory committee shall supervise the acts of the board of directors, credit committee and officers. The supervisory committee may suspend by a unanimous vote any officer of the credit union or any member of the credit committee or the board of directors, until the next members' meeting, which members' meeting shall be held not less than seven nor more than 21 days after such suspension, and at which meeting such suspension shall be acted upon by the members.

(b) By a majority vote the supervisory committee may call a meeting of the shareholders to consider any violation of this act or of the bylaws, or any practice of the credit union which, in the opinion of the committee, is unsafe and unauthorized.

(c) The committee shall fill the 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.

(d) 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 administrator, 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.

(e) The supervisory committee shall make, or cause to be made, a certification of all members' accounts ~~at least once each two years.~~ using either of the following methods:

(1) a controlled certification of 100 percent of members' accounts at least once each two years, or

(2) a controlled random statistical sampling in accordance with American Institute of Certified Public Accountants' guidelines which tests sufficient accounts in number and scope to assure accuracy of the members' accounts at least once each year.

Section 2. K.S.A. 17-2219 is hereby amended to read as follows: 17-2219 (a) Subject to the provisions of subsection (b) of this section, ~~at any regularly called meeting~~ the members, by two-thirds vote of those present at any regularly called meeting, may expel from the credit union any member thereof.

(b) The board of directors of a credit union may adopt a

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policy with respect to expulsion from membership based on nonparticipation by a member in the affairs of the credit union. The board of directors of a credit union shall provide the member with a notice of expulsion from the membership not less than 30 days prior to the effective date of the expulsion. Within the 30 day period, the member may, by written request, require the board of directors to bring the member's expulsion before the credit union membership at the next regularly scheduled members' meeting.

In establishing its policy, the board should consider a member's;

- (1) failure to vote in annual credit union elections,
- (2) failure to purchase shares from and obtain a loan from or lend to the credit union,
- (3) abuse of member account privileges,
- (4) act or failure to act which causes financial loss to the credit union.

If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than 30 days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.

(c) In addition to the provisions of subsection (a) of this section, the board of directors, subject to the provisions of subsection (b) of this section, may expel a member for a member's abuse of member account privileges or a member's act or failure to act which causes financial loss to the credit union. The board of directors shall report the expulsion of a member at the next regularly scheduled members' meeting.

~~(e)~~(d) 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.

Section 3. K.S.A. 17-2211 and 17-2219 are hereby repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE COMMERCIAL & FINANCIAL
INSTITUTIONS COMMITTEE

JANUARY 26, 1989

This bill proposal is a request for the committee to consider changes to two Kansas credit union laws.

FIRST CHANGE

Affects the method of verification of accounts:

This proposal authorizes the credit union supervisory committee to choose between

(1) a 100% verification of accounts once every two years
(current credit union law)

or

(2) a controlled random statistical sampling which verifies accounts once every year (new provision)

This verification is in addition to the examination by the Kansas State Department of Credit Unions once every 18 months.

SECOND CHANGE

Affects the method of expelling a credit union member from the credit union:

This proposal authorizes a credit union board of directors to expel a member who

(1) abuses member account privileges (new provision)

or

(2) acts or failure to act which causes a financial loss to the credit union (new provision)

(current credit union law authorizes expulsion of a credit union member by a vote of the credit union members during a regularly call members' meeting)