

CHAPTER 36
HOUSE BILL No. 2099

AN ACT relating to credit unions; concerning powers of the credit union administrator; amending K.S.A. 17-2206 and 17-2244 and K.S.A. 2004 Supp. 17-2223a and repealing the existing sections.

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

Section 1. K.S.A. 17-2206 is hereby amended to read as follows: 17-2206. (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, whichever 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 which neglects to make the above reports shall forfeit to the treasurer of the state 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 which the administrator may by regulation promulgate. 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 in 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, made over the administrator's official signature, having determined that a credit union is engaged, has engaged, or is about to engage, in an unsafe or unsound practice, or is violating, has violated, or is about to violate, 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 promulgated 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) 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.

(f) 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 (e).

(g) 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.

(h) 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 conduct 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.

(i) *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 (e). Such fees shall be paid in accordance with the provisions of subsection (e).*

Sec. 2. K.S.A. 2004 Supp. 17-2223a is hereby amended to read as follows: 17-2223a. (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 may shall require any such credit union to submit at least every 18 months 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 or state agency or by an independent auditor or certified public accountant. Such report shall meet the standards which the administrator has established~~ *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.

Sec. 3. K.S.A. 17-2244 is hereby amended to read as follows: 17-2244. (a) In addition to any and all other powers ~~heretofore~~ 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 ~~federal chartered or~~ 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 ~~federal~~ *applicable* laws and regulations for transactions by ~~federal or~~ 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.

Sec. 4. K.S.A. 17-2206 and 17-2244 and K.S.A. 2004 Supp. 17-2223a are hereby repealed.

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

Approved March 28, 2005.
