

## **State Credit Union Code—Amendments; Business Outside of the State, Civil Penalties, and Informal Agreement; HB 2561**

**HB 2561** amends and enacts law supplemental to the State Credit Union Code (Code) to authorize domestic credit unions to do business outside the state, permit the Credit Union Administrator to collect civil penalties for certain practices or violations, and allow the Credit Union Administrator (Administrator) to enter into informal agreements with credit unions. Among amendments to the Code, the bill removes requirements governing duplicate filings, establishes appeals procedures for a suspended member of a credit or supervisory committee, and updates a requirement concerning the approval of a credit union merger.

### ***Conducting Business Outside Kansas***

The bill permits domestic credit unions to do business outside of the state if permitted by the laws of that jurisdiction.

### ***Civil Penalties***

The bill authorizes the Administrator, after providing notice and opportunity for a public hearing in accordance with the Kansas Administrative Procedure Act, to assess against and collect a civil monetary penalty from any credit union that:

- Engages or participates in any unsafe or unsound practice in connection with a credit union; or
- Violates or knowingly permits any person to violate the provisions of the Code, rules and regulations promulgated pursuant to the Code, or any lawful order of the Administrator.

The bill places a limit on the civil monetary penalty of \$1,000 per day such violation occurs. The bill also specifies that the penalty cannot be assessed for the same act or practice if another governmental agency has taken similar action against the credit union. In determining the amount of the penalty, the Administrator must consider these criteria:

- The good faith of the credit union;
- The gravity of the violation;
- Any previous violations by the credit union;
- The nature and extent of any past violations; and
- Such matters as the Administrator deems appropriate.

The bill also provides, upon the waiver of the respondent of the right of a public hearing concerning the civil penalty assessment, the hearing or a portion of such hearing may be closed to the public when concern arises about the prompt withdrawal of moneys from or the safety and soundness of the credit union.

## ***Informal Agreements***

The bill permits the Administrator to enter into an informal agreement with any credit union for a plan of action to address possible safety or soundness concerns, violations of law, or any weakness displayed by the credit union if the Administrator determines that the credit union displays:

- Possible safety and soundness concerns or is violating, has violated, or is about to violate any law, rules and regulations, or order of the Administrator resulting in less than satisfactory condition but not to a degree requiring a formal administrative action; or
- Any weakness that if not properly addressed and corrected would be expected to result in future safety and soundness concerns, violations of the law or rules and regulations, and further deterioration in the condition of the credit union.

The bill further provides that the adoption of an informal agreement as established by the bill shall not be subject to the provisions of the Kansas Administrative Procedure Act or the Kansas Judicial Review Act. In addition, informal agreements could not be considered an order or any other agency action and would be considered confidential examination material pursuant to a Code statute pertaining to investigations and examinations by the Administrator.

## ***Code Amendments***

### ***Organization of a Credit Union, Filings; Obsolete Reference***

The bill removes a requirement that duplicate certificates of organization be signed and duplicate bylaws be submitted by the organizers of a credit union. The bill also removes reference to action of the Charter Board (which was abolished by the repeal of KSA 17-401 in 1972).

### ***Credit or Supervisory Committee Members; Appeal of Suspension***

The bill adds to an authorization that permits a credit union's board of directors to suspend or remove members of the credit and supervisory committees for failure to perform their duties to allow the suspended committee member to appeal their suspension. The bill requires the suspension to be acted upon at a meeting of members that must be held within 60 days after the suspension. The bill provides that the suspended person shall have the right to appear and be heard at such meeting.

### ***Credit Union Mergers; Voting by the Merging Credit Union Members***

The bill amends a requirement pertaining to the merging of credit unions to require approval of only the members of the merging credit union for such merger to take effect. Under prior law, merger approval must be approved by the members of each credit union planning to merge.