

2012 Kansas Statutes

17-2206. Supervision by administrator; reports, plans and programs; penalties; 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, 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) The administrator may approve an emergency 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 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.

(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; July 1.