

**Substitute for SENATE BILL No. 238**

By Committee on Financial Institutions and Insurance

2-26

1 AN ACT concerning financial institutions; relating to credit unions, field  
2 of membership; banks, trust companies and savings and loan  
3 associations, privilege tax, deduction of net interest received from  
4 certain business and single family residence loans; amending K.S.A.  
5 79-1109 and K.S.A. 2019 Supp. 17-2205 and repealing the existing  
6 sections.

7

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

9 Section 1. K.S.A. 2019 Supp. 17-2205 is hereby amended to read as  
10 follows: 17-2205. (a) (1) The membership shall consist of the organizers  
11 and such persons, societies, associations, copartnerships and corporations  
12 as have been duly elected to membership and have subscribed to one or  
13 more shares and have paid for the same, and have complied with such  
14 other requirements as the articles of incorporation may contain.

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

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

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

21 (B) any employee of the credit union;

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

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

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

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

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

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

36 (A) Except as provided in subparagraph (B), the term "immediate

1 family or household"—~~shall mean~~ *means* spouse, parent, stepparent,  
2 grandparent, child, stepchild, sibling, grandchild or former spouse and  
3 persons living in the same residence maintaining a single economic unit  
4 with persons within the credit union's field of membership.

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

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

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

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

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

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

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

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

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

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

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

40 (2) does not meet the criteria established by the administrator  
41 indicating a likelihood of success in establishing and managing a new  
42 credit union, including demographic characteristics such as geographical  
43 location of members, diversity of ages and income levels, and other factors

1 that may affect the financial viability and stability of a credit union; or

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

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

5 (A) A single political jurisdiction;

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

9 ~~(C) if the headquarters of the credit union is located in a MSA, the~~  
10 ~~geographic area may include one or more political jurisdictions which~~  
11 ~~share a common border to the MSA if the aggregate total of the population~~  
12 ~~of the geographic area does not exceed 1,000,000. The maximum~~  
13 ~~population available for any credit union whose headquarters is located~~  
14 ~~within a MSA shall be adjusted by the administrator based upon the~~  
15 ~~population data for the largest MSA in the state of Kansas, or any portion~~  
16 ~~thereof located within the state of Kansas. The maximum population~~  
17 ~~available for any credit union whose headquarters is located within a MSA~~  
18 ~~shall be determined by multiplying the population of the largest MSA in~~  
19 ~~the state of Kansas, or that portion of such MSA located within the state of~~  
20 ~~Kansas if the boundaries of such MSA extend outside the state of Kansas,~~  
21 ~~as determined by the most recent population data, by the fraction having a~~  
22 ~~numerator of 1,000,000 and a denominator of 750,000 for the purposes of~~  
23 ~~this section, the administrator shall use population data based upon the~~  
24 ~~adjusted federal census information presented to the legislature by the~~  
25 ~~secretary of state pursuant to K.S.A. 11-304, and amendments thereto~~  
26 ~~2,500,000, as determined by official state population figures for the state~~  
27 ~~of Kansas, or any portion thereof, that are identical to the decennial~~  
28 ~~census data from the actual enumeration conducted by the United States~~  
29 ~~bureau of the census and used for the apportionment of the United States~~  
30 ~~house of representatives in accordance with K.S.A. 11-304, and~~  
31 ~~amendments thereto.~~

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

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

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

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

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

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

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

10 (F) the anticipated financial impact on the credit union in terms of  
11 need for additional employees and fixed assets.

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

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

22 (g) For the purposes of this section:

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

28 (2) ~~—~~, "political jurisdiction" means a city, county, township or clearly  
29 identifiable neighborhood.

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

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

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

1 to an individual, the term member may include any other person who is a  
2 member of such individual's immediate family or household as specified in  
3 subsection (a).

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

5 (A) Any branch of a credit union that is in existence as of February 1,  
6 2008, may continue to operate in the county where it is located on and  
7 after June 30, 2008. If such branch is unable to continue operations due to  
8 a natural disaster, eminent domain proceedings, loss of lease, loss of  
9 sponsor space or any condition outside of the control of the credit union,  
10 the credit union may establish a replacement branch in that county.

11 (B) Any credit union which has taken an overt step toward the  
12 construction of a new building, facility or branch on or before February 1,  
13 2008, may continue to construct and operate the new building, facility or  
14 branch in the city in which such new building, facility or branch is located  
15 even if the construction is not completed on or before June 30, 2008. If  
16 such branch is unable to continue operations due to a natural disaster,  
17 eminent domain proceedings, loss of lease, loss of sponsor space or any  
18 condition outside of the control of the credit union, the credit union may  
19 establish a replacement branch in that city.

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

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

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

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

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

31 (k) Notwithstanding any other provisions of this section, a member of  
32 any occupation or association group whose members constituted a portion  
33 of the membership of any credit union as of February 1, 2008, shall  
34 continue to be eligible to become a member of that credit union, by virtue  
35 of membership in that group on and after June 30, 2008. For purposes of  
36 this subsection, a patron of an organization is eligible for membership if  
37 such patron is an individual who uses the products and services of the  
38 organization which is included in the field of membership of the credit  
39 union at the time the patron applies for membership in the credit union.

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

42 (1) Which has been granted a field of membership on or before  
43 February 1, 2008, which includes the entire state of Kansas or its residents

1 shall, on or before January 1, 2009, adopt a field of membership that may  
2 include multiple contiguous political jurisdictions having an aggregate  
3 total population not to exceed 1,000,000. The population of the county of  
4 any branch of such credit union not located within the adopted field of  
5 membership shall not be included in the 1,000,000 population total. Any  
6 credit union with its headquarters located in a county that is not part of a  
7 MSA shall not include more than one MSA in its entirety in its adopted  
8 field of membership.

9 (2) ~~With its headquarters located within a MSA as of February 1,~~  
10 ~~2008, may continue to include multiple contiguous political jurisdictions~~  
11 ~~that were included in its field of membership as of February 1, 2008, if the~~  
12 ~~aggregate total population of such multiple contiguous political~~  
13 ~~jurisdictions does not exceed 1,000,000. If the field of membership of any~~  
14 ~~credit union involves multiple contiguous political jurisdictions that have~~  
15 ~~an aggregate total population that exceeds 1,000,000 as of February 1,~~  
16 ~~2008, then such credit union shall, on or before January 1, 2009, adopt a~~  
17 ~~field of membership that may include multiple contiguous political~~  
18 ~~jurisdictions having an aggregate total population which does not exceed~~  
19 ~~1,000,000. The population of the county of any branch of such credit union~~  
20 ~~not located within the adopted field of membership shall not be included in~~  
21 ~~the 1,000,000 population total.~~

22 (3) ~~With headquarters located in a county that is not part of a MSA~~  
23 ~~may continue to include multiple contiguous political jurisdictions that~~  
24 ~~were included in its field of membership as of February 1, 2008, if the~~  
25 ~~aggregate total population of such multiple contiguous political~~  
26 ~~jurisdictions does not exceed 1,000,000 population total. If the field of~~  
27 ~~membership of any credit union involves multiple contiguous political~~  
28 ~~jurisdictions that have an aggregate total population that exceeds~~  
29 ~~1,000,000 as of February 1, 2008, then such credit union shall, on or~~  
30 ~~before January 1, 2009, adopt a field of membership that may include~~  
31 ~~multiple contiguous political jurisdictions having an aggregate total~~  
32 ~~population which does not exceed 1,000,000 population total. The~~  
33 ~~population of the county of any branch of such credit union not located~~  
34 ~~within the adopted field of membership shall not be included in the~~  
35 ~~1,000,000 population total. The adopted field of membership of such credit~~  
36 ~~union shall not include more than one MSA in its entirety.~~

37 Sec. 2. K.S.A. 79-1109 is hereby amended to read as follows: 79-  
38 1109. (a) As used in this act, "net income" ~~shall mean~~ *means* the Kansas  
39 taxable income of corporations as defined in K.S.A. 79-32,138, and  
40 amendments thereto, determined without regard to the provisions of  
41 K.S.A. 79-32,139, and amendments thereto, and the provisions of  
42 paragraph (xiv) of subsection (c) of K.S.A. 79-32,117(c)(xiv), and  
43 amendments thereto, plus income received from obligations or securities

1 of the United States or any authority, commission or instrumentality of the  
2 United States and its possessions to the extent not included in Kansas  
3 taxable income of a corporation and income received from obligations of  
4 this state or a political subdivision ~~thereof~~ *of this state that is*  
5 exempt from income tax under the laws of this state; less dividends  
6 received from stock issued by Kansas venture capital, inc. to the extent  
7 such dividends are included in the Kansas taxable income of a corporation,  
8 interest paid on time deposits or borrowed money and dividends paid on  
9 withdrawable shares of savings and loan associations to the extent not  
10 deducted in arriving at Kansas taxable income of a corporation.

11 (b) Savings and loan associations shall be allowed as a deduction  
12 from net income, as ~~hereinbefore~~ *defined in subsection (a)*, a reserve  
13 established for the sole purpose of meeting or absorbing losses, in the  
14 amount of 5% of such net income determined without benefit of such  
15 deduction, but no further deduction shall be allowed for losses when  
16 actually sustained and charged against such reserve, unless such reserve  
17 shall have been fully absorbed thereby; or, in the alternative, a reasonable  
18 addition to a reserve for losses based on past experience, under such rules  
19 and regulations as the secretary of revenue may prescribe.

20 (c) *For all taxable years commencing after December 31, 2019,*  
21 *national banking associations, state banks, trust companies and savings*  
22 *and loan associations shall be allowed as a deduction from net income, as*  
23 *defined in subsection (a), the net interest income received from business*  
24 *loans attributed to Kansas and the net interest income received from single*  
25 *family residence loans attributed to Kansas to the extent such interest is*  
26 *included in the Kansas taxable income of a corporation. As used in this*  
27 *subsection: (1) "Interest" means interest on indebtedness attributed to*  
28 *Kansas and incurred in the ordinary course of the active conduct of any*  
29 *business and interest on indebtedness incurred that is secured by a single*  
30 *family residence; (2) "business" means any entity operated primarily for*  
31 *commercial or agricultural purposes and is not an individual obtaining a*  
32 *loan primarily for personal, family or household purposes; (3) "single*  
33 *family residence" means a residence that: (A) Is the principal residence of*  
34 *its occupant; (B) is located in Kansas, in a rural area as defined by the*  
35 *United States department of agriculture that is not within a metropolitan*  
36 *statistical area and has a population of 2,500 or less as determined by the*  
37 *most recent census for which data is available; and (C) is purchased or*  
38 *improved with the proceeds of the loan; (4) "net interest income received*  
39 *from business loans attributed to Kansas" means the product of the ratio*  
40 *of the interest income earned on business loans over total interest income*  
41 *earned, in relation to the net income of the national banking association,*  
42 *state bank, trust company or savings and loan association without regard*  
43 *to this deduction; and (5) "net interest income received from single family*

1 *residence loans attributed to Kansas" means the product of the ratio of the*  
2 *interest income earned on single family residence loans as defined herein*  
3 *over total interest income earned, in relation to the net income of the*  
4 *national banking association, state bank, trust company or savings and*  
5 *loan association without regard to this deduction.*

6 Sec. 3. K.S.A. 79-1109 and K.S.A. 2019 Supp. 17-2205 are hereby  
7 repealed.

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