State Credit Union Code Designation; HB 2101

HB 2101 makes several amendments and technical updates to the laws governing credit unions and related credit union procedures and designates Article 22 of Chapter 17, *Kansas Statutes Annotated*, as the State Credit Union Code (Code).

Definitions and Changes in Terminology

Definitions

The bill modifies, moves to another section in the Code, and creates the following definitions:

- "Branch" (previously defined in KSA 2018 Supp. 17-2221a) to mean any office, agency, or other place of business located within the state, other than the place of business specified in the credit union's certificate of organization, at which deposits are received, checks paid, or money lent;

- "Corporate credit union" to mean a credit union that is cooperatively organized and owned by its members that offers liquidity, investment, back office processing, deposit and lending facilities, and other products and services tailored to the unique needs of its members;

- "Credit union services organization" to mean an organization established to provide operational and financial services to credit unions [*Note:* This term is also defined in KSA 17-2204a.];

- "Electronic notice" to mean notice provided in writing and delivered by electronic means to the electronic mail address specified by the member for that purpose. A member who provides an electronic mail address to the credit union for such purposes shall be deemed to have consented to receive notices and correspondence by electronic means; and

- "Federal intermediate credit bank" to mean a bank sponsored by the federal government to provide funds to financial institutions for the making of agricultural loans.

Terminology Updates

The bill generally replaces references to "nonprofit" with "not-for-profit." The bill also replaces references to "shareholder" with "member" in the statute relating to written contracts for payment of members' accounts to beneficiaries upon a member's death (KSA 2018 Supp. 17-2263). The bill also removes references to federally chartered credit unions (continuing law would apply only to state-chartered credit unions) in the statute addressing the personal liability of officers and directors of credit unions (KSA 17-2268).

Credit Unions—General Procedures and Organization

The bill amends and updates general procedures and organization of credit unions, including:

- Removing a requirement that two-thirds of a credit union's board of directors (board) must approve amendments to the credit union's bylaws or charter (KSA 2018 Supp. 17-2202);
- Stating an entity not organized under the Code and misrepresenting itself as a credit union or credit union organization in a website URL to be guilty of a class A misdemeanor (KSA 17-2203);
- Removing specific annual and special board meeting requirements, instead requiring such meetings to be held in accordance with the credit union's bylaws (KSA 17-2207);
- Removing the requirement that persons who are denied loans may appeal the denial if the bylaws provide for such an appeal (KSA 2018 Supp. 17-2210);
- Extending the amount of time a credit union must hold a board meeting after the supervisory committee suspends an officer or member of the credit committee or board from within 7 to 21 days after the suspension to within 60 days after the suspension (KSA 2018 Supp. 17-2211);
- Removing the authority of the supervisory committee to call a meeting of shareholders by a majority vote to consider any violation of the Code or bylaws or any other practice deemed unsafe and unauthorized (KSA 2018 Supp. 17-2211);
- Removing the requirement that the supervisory committee certify the accounts of its members at least once every two years using a controlled certification, or at least once a year using a controlled random statistical sampling of accounts (KSA 2018 Supp. 17-2211);
- Establishing 10.0 percent of the credit union's assets as the maximum loan amount (changed from $500 or 10.0 percent of the assets, whichever is greater) (KSA 2018 Supp. 17-2216);
- Increasing the limitation on the aggregate of outstanding loans from $50,000 to $100,000 in a provision governing loans to directors, credit committee members, and supervisory committee members or other members for which the director or committee acts as a guarantor or endorser and removing the requirement these loans be reported annually to the Credit Union Administrator (Administrator) (KSA 2018 Supp. 17-2216a);

- Clarifying corporate credit unions' compliance provisions to require compliance with the reserve requirements of the National Credit Union Administration rules and regulations (KSA 17-2217);

- Eliminating the requirement that written notice of the credit union's expulsion policy be mailed to each member of the credit union (KSA 2018 Supp. 17-2219); and

- Removing the requirement that, without the written approval of the Administrator, expenditures to purchase, lease, hold, or rent real estate, as well as make capital improvements, cannot exceed 5.0 percent of the total shareholdings, reserves, and undivided earnings of the credit union (KSA 17-2226).

Credit Unions—Powers

The bill amends provisions generally governing the powers of credit unions, including investment and the making of loans. Among the amendments, the bill:

- Clarifies a credit union may invest in all types of shares and accounts of a corporate credit union that is federally insured;

- Removes a requirement that the funds of a credit union must first be used for loans to members, with preference given to small loans, if not all loans can be approved; and

- Removes the requirement that investments, except those in corporate credit unions, must not exceed 25.0 percent of the investing credit union's shares, undivided earnings, and reserves (KSA 2018 Supp. 17-2204).

Credit Unions—Management and Oversight

The bill also amends statutes pertaining to the management in and oversight of state-chartered credit unions. Among those changes, the bill:

- Allows vacancies on the credit committee and supervisory committee to be filled in accordance with the credit union's bylaws. In addition, the board is allowed to remove members of these committees for failure to perform their duties (KSA 2018 Supp. 17-2208);

- Removes and clarifies general management provisions assigned to the board and replaces them with provisions requiring the board to:

    - Set the par value of shares of the credit union and the minimum of shares required for membership;
    - Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;

    - Authorize the purchase of insurance coverage and authorize the employment and compensation of the chief executive officer;
    - Approve an annual operating budget for the credit union;
    - Review and approve an annual audit;
    - Appoint any necessary committees;
    - Establish conditions under which a member may be removed for cause;
    - Perform such other duties or authorize any action not inconsistent with the Code;
    - Unless delegated, establish policies under which the credit union may borrow, lend, and invest money;
    - Unless delegated, act upon applications for membership;
    - Unless delegated, establish loan policies and determine loan amounts, terms, and conditions for members;
    - Unless delegated, declare dividends on shares and set interest rates on deposits; and
    - Unless delegated, approve the charge-off of credit union losses (KSA 17-2209);

- Removes the requirement that the board approve all employee salaries (KSA 17-2209);

- Provides that certificates of merger no longer need to be made in triplicate (KSA 2018 Supp. 17-2228);

- Creates a minimum threshold by requiring a credit union selling assets valued at greater than 10.0 percent of either the purchasing credit union's or the selling credit union's total amount of shares, undivided earnings, and reserves to file a copy of the agreement with the Administrator within one month of signing the agreement (KSA 17-2229);

- Removes requirements on the Administrator to establish an annual salary schedule for financial examiners, financial examiner administrators, case managers, a business manager, and administrative assistant based on an equitable salary schedule approved by the Governor (KSA 2018 Supp. 17-2234); and

- Removes the requirement on the salary schedule to not exceed the average compensation of corresponding state regulatory positions in similar areas (KSA 2018 Supp.17-2234). [*Note:* The salary schedule provisions were authorized by 2012 House Sub. for SB 287.]