

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2561

As Recommended by House Committee on
Financial Institutions and Pensions

Brief*

HB 2561 would amend and enact 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 would remove requirements governing duplicate filings, establish appeals procedures for a suspended member of a credit or supervisory committee, and update a requirement concerning the approval of a credit union merger.

Conducting Business Outside Kansas

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

Civil Penalties

The bill would allow 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:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- 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 would provide that the civil monetary penalty could not exceed \$1,000 per day such violation occurs. The bill would also specify 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 would also provide, 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 would permit 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 would further provide 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 would remove a requirement that duplicate certificates of organization be signed and duplicate bylaws be submitted by the organizers of a credit union. The bill would also remove reference to action of the Charter Board (this board was abolished by the repeal of KSA 17-401 in 1972).

Credit or Supervisory Committee Members; Appeal of Suspension

The bill would add 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 would require the suspension to be acted upon at a meeting of members that must be held within 60 days after the suspension. The bill would provide 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 would amend a requirement pertaining to the merging of a credit union to require approval of only the members of the merging credit union for such merger to take effect. Under current law, merger approval must be approved by the members of each credit union planning to merge.

Background

The bill was introduced by the House Committee on Financial Institutions and Pensions at the request of Michael Murray on behalf of the Kansas Credit Union Association.

House Committee on Financial Institutions and Pensions

In the House Committee hearing on January 31, 2024, the Credit Union Administrator, Kansas Department of Credit Unions (Department), provided **proponent** testimony, stating the bill is a result of a Department working group formed with state-chartered credit unions to review the Code and ensure the statutes were appropriate for current business conditions while providing necessary guidance to ensure safety and soundness of the credit union. The Administrator noted

provisions allowing state-chartered credit unions to operate outside state laws do not change the field of membership requirements in law, but would permit credit unions the ability to provide locations to membership that may live or work in a different state. The provisions pertaining to authorization of civil monetary penalties and informal agreements will provide the Department with the authority to provide a graduated level of enforcement actions. The President/ CEO of Azura Credit Union also provided proponent testimony, noting the bill would modernize statutes in the Code by simplifying the merger process, clarifying the Administrator's enforcement authority, and removing the barrier of operating solely within state boundaries.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Department of Credit Unions indicates it cannot estimate revenues it would collect from the civil penalties assessed under the bill, since this estimate would depend on the number of violations committed by a credit union. As a result, the Department cannot estimate the fiscal effect of the bill. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Financial institutions; credit unions; State Credit Union Code; Credit Union Administrator; civil penalties; informal agreements; appeals procedures