

## House Substitute for SENATE BILL No. 287

By Committee on Financial Institutions

3-16

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1 AN ACT concerning credit unions; relating to credit union insurance;  
2 amending K.S.A. 17-2204, 17-2234 and 17-2246 and repealing the  
3 existing sections; also repealing K.S.A. 17-2250, 17-2251, 17-2252,  
4 17-2253, 17-2254, 17-2255, 17-2256, 17-2257, 17-2258, 17-2259, 17-  
5 2261, 17-2265, 17-2266 and 17-2267.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 17-2204 is hereby amended to read as follows: 17-  
9 2204. A credit union shall have the following powers:

10 (a) It may receive the savings of its members in payment for shares,  
11 make contracts, sue and be sued, and provide negotiable checks, money  
12 orders, travelers checks, any other money type instruments or transfer  
13 methods, safe deposit boxes or similar safekeeping facilities to its  
14 members.

15 (b) It may make loans to members through the credit committee or  
16 authorized loan officer in the way and manner provided in K.S.A. 17-2201  
17 *et seq.*, and amendments thereto.

18 (c) It may invest, through its board of directors and under written  
19 investment policies established by the board:

20 (1) In all types of shares and accounts of a corporate credit union,  
21 located in the state of Kansas and under the supervision of the  
22 administrator;

23 (2) in shares or accounts of any savings and loan association or  
24 mutual savings bank the accounts of which are insured by an insurer  
25 approved by the state in which it operates for guaranteeing the shares or  
26 accounts of such institutions;

27 (3) in the bonds or other obligations of the United States of America,  
28 or securities fully guaranteed as to principal and interest thereby;

29 (4) in obligations of, or obligations issued by, any state or political  
30 subdivision thereof, including any agency, corporation or instrumentality  
31 of a state or political subdivision, except that no credit union may invest  
32 more than 10% of its shares, undivided earnings and reserves in the  
33 obligations of any one issuer exclusive of general obligations of the issuer;

34 (5) in savings banks, state banks, trust companies and national banks,  
35 the accounts of which are insured by an insurer approved by the state in  
36 which it operates for guaranteeing the shares or accounts of such

1 institutions.

2 (6) Unless the administrator authorizes otherwise, the funds of the  
3 credit union shall be used first for loans to members and preference shall  
4 be given to the smaller loans in the event the available funds do not permit  
5 all loans which have been approved by a loan officer or have passed the  
6 credit committee to be made.

7 (d) It may enter into agreements with financial institutions or  
8 organizations for the extension of credit or debit services.

9 (e) It may do all things necessary to obtain, continue, pay for and  
10 terminate insurance of its shares and share certificates with the national  
11 credit union share insurance fund or its successor ~~or successors or with an~~  
12 ~~insurer approved by the state commissioner of insurance or guarantee~~  
13 ~~corporation approved by the administrator under the provisions of this act~~  
14 ~~for such purpose.~~ *A credit union also may do all things necessary to*  
15 *obtain, continue, pay for and terminate private insurance coverage of its*  
16 *shares and share certificates in excess of the coverage for such shares and*  
17 *share certificates provided by the national credit union share insurance*  
18 *fund or its successor. Such excess coverage shall be obtained from an*  
19 *insurer approved by the commissioner of insurance.*

20 (f) It may receive from its members or other insured credit unions  
21 payments on shares and share certificates and may invest its funds in  
22 shares, share certificates or other accounts of insured credit unions. Except  
23 for investments in corporate credit unions, such investments may not  
24 exceed 25% of the investing credit unions' shares, undivided earnings and  
25 reserves.

26 (g) A corporate credit union, as defined by subsection (e) of K.S.A.  
27 17-2231, and amendments thereto, may buy and sell investment securities,  
28 as defined by the administrator, but the total amount of such investment  
29 securities of any one obligor or maker held by such credit union shall at no  
30 time exceed 15% of the shares, undivided earnings and reserves of the  
31 credit union except that this limit shall not apply to obligations of the  
32 United States government or any agency thereof.

33 (h) Credit unions may enter into agreements to discount or sell  
34 student loans made pursuant to federally insured student loan programs  
35 under public law 89-329, title IV part (b) of the higher education act of  
36 1965 as amended.

37 (i) A credit union may discount or sell to such corporate credit union  
38 or any financial institution or organization any real estate loan made by the  
39 credit union.

40 (j) Credit unions may enter into agreements with a corporate credit  
41 union to discount or sell to such corporate credit union any obligation of  
42 the United States government or any agency thereof, or of any state,  
43 municipality or any agency thereof, if the obligation at the time of

1 purchase was a legal investment for credit unions.

2 (k) It may provide that shares and share certificates may be  
3 withdrawn for payment to the account holder or to third parties, in such  
4 manner and in accordance with such procedures as may be established by  
5 the board of directors.

6 (l) Every credit union incorporated pursuant to or operating under the  
7 provisions of this act may exercise such powers, including incidental  
8 powers, as shall be necessary or requisite to enable it to carry on  
9 effectively the purposes and business for which it is incorporated.

10 (m) A credit union may receive from the national credit union central  
11 liquidity facility created by title III of the federal credit union act, 12  
12 U.S.C. § 1795, *et seq.*, payments on: (1) Shares which may be issued at  
13 varying dividend rates; (2) share certificates which may be issued at  
14 varying dividend rates and maturities; and (3) investments in any other  
15 accounts of the credit union. A credit union may invest its funds in the  
16 capital stock of the national credit union central liquidity facility.

17 (n) Subject to written guidelines issued by the administrator, a credit  
18 union may purchase notes made by individual borrowers to a financial  
19 institution at such prices as may be agreed upon by the board of directors  
20 of the purchasing credit union. No purchase may be made, however, under  
21 authority of this subsection, unless approved in writing by the  
22 administrator, if, upon the making of that purchase, the aggregate of the  
23 unpaid balances of notes of nonmembers purchased under authority of this  
24 subsection would exceed 5% of the shares, undivided earnings and  
25 reserves of the credit union.

26 (o) Subject to rules and regulations adopted by the administrator, a  
27 credit union, if designated by the administrator as a low-income credit  
28 union, may accept payments to share accounts by nonmembers. Such rules  
29 and regulations shall specify the maximum level of nonmember shares, the  
30 use of such shares, the term of such accounts and other requirements to  
31 address safety and soundness issues. Nonmember account holders do not  
32 have the same rights and privileges as members.

33 Sec. 2. K.S.A. 17-2234 is hereby amended to read as follows: 17-  
34 2234. (a) (1) There is hereby established the state department of credit  
35 unions, which shall be under the administrative supervision of the  
36 administrator as directed by law. The administrator may appoint or employ  
37 an attorney to assist the department in its functions under this act, and in  
38 accordance with the civil service law, such special assistants, deputies or  
39 examiners, and other employees, as may be necessary for the purpose of  
40 administering and enforcing the provisions of this act.

41 (2) *The administrator is hereby authorized to appoint financial*  
42 *examiners and an administrative assistant who shall be in the unclassified*  
43 *service under the Kansas civil service act and shall receive an annual*

1 *salary fixed by the administrator in accordance with an equitable salary*  
2 *schedule established by the administrator for all unclassified positions.*  
3 *The average of the salaries shall not exceed the average compensation of*  
4 *corresponding state regulatory positions in similar geographic areas.*  
5 *Each financial examiner and administrative assistant appointed after July*  
6 *1, 2013, shall be in the unclassified service under the Kansas civil service*  
7 *act.*

8 (b) *Nothing in subsection (a) shall affect the classified status of any*  
9 *person employed with the department of credit unions on the day*  
10 *immediately preceding the effective day of this act.*

11 (c) (1) *Subject to the provisions of the appropriation acts, the*  
12 *administrator may appoint financial examiners, financial examiner*  
13 *administrators, case managers and a business manager within the*  
14 *department of credit unions as determined necessary by the administrator*  
15 *to effectively carry out the mission of the department. Each financial*  
16 *examiner, financial examiner administrator, case manager or business*  
17 *manager appointed after the effective date of this act shall be in the*  
18 *unclassified service under the Kansas civil service act, shall have special*  
19 *training and qualifications for such positions and shall serve at the*  
20 *pleasure of the administrator. The administrator shall prepare and*  
21 *maintain an equitable salary schedule for such appointed positions.*

22 (2) *The average of the amount of compensation in the administrator's*  
23 *salary schedule for such appointed positions in the unclassified service*  
24 *shall not exceed the average compensation of corresponding state*  
25 *regulatory positions in similar geographic areas. The administrator's*  
26 *salary schedule for unclassified positions shall be reported to the credit*  
27 *union council annually.*

28 ~~(b)~~ (d) *Each special assistant, deputy, examiner and other such*  
29 *employees as may be necessary for the purpose of administering and*  
30 *enforcing the provisions of this act shall submit to a security background*  
31 *check prior to being employed in such position. Upon the commencement*  
32 *of the interview process, every candidate shall be given a written notice*  
33 *that a security background check is required. The security background*  
34 *check shall be limited to criminal history record information as provided*  
35 *by K.S.A. 22-4701 et seq., and amendments thereto. If the criminal history*  
36 *record information reveals any conviction of crimes of dishonesty, such*  
37 *conviction may be used to disqualify a candidate for any position within*  
38 *the office of the department of credit unions. If the criminal history record*  
39 *information is used to disqualify a candidate, the candidate shall be*  
40 *informed in writing of that decision. Upon determining whether to hire or*  
41 *disqualify a candidate, the candidate's criminal history record information*  
42 *report shall be destroyed. The candidate's personnel file shall only contain*  
43 *a statement that a security background check was performed and the date*

1 thereof.

2 (c) The state department of credit unions shall submit an employment  
3 candidate's fingerprints to the Kansas bureau of investigation and to the  
4 federal bureau of investigation for the purpose of determining whether the  
5 applicant has a criminal record.

6 Sec. 3. K.S.A. 17-2246 is hereby amended to read as follows: 17-  
7 2246. (a) (1) Every credit union which is organized and operating under  
8 the laws of the state of Kansas, except a corporate credit union, shall  
9 insure the shares of each shareholder of such credit union.

10 (2) Every credit union shall insure the shares of each shareholder of  
11 such credit union with the national credit union share insurance fund, or its  
12 successor, ~~or with an insurer approved by the state commissioner of~~  
13 ~~insurance or guarantee corporation approved by the administrator, for such~~  
14 ~~purpose as hereinafter provided in an amount not less than that provided~~  
15 ~~by the national credit union administration, except that the administrator~~  
16 ~~may grant a reasonable extension of time for compliance therewith under~~  
17 ~~such rules and regulations as the administrator may adopt.~~

18 (b) (1) ~~Notwithstanding the provisions of paragraph (2) of subsection~~  
19 ~~(a), every credit union which is organized and operating under the laws of~~  
20 ~~the state of Kansas and not currently insured by the national credit union~~  
21 ~~share insurance fund (NCUSIF), except a corporate credit union, shall~~  
22 ~~make application for insurance with the NCUSIF within 120 days of the~~  
23 ~~effective date of this act.~~

24 (2) The application for NCUSIF insurance shall be filed with the  
25 Kansas state department of credit unions, then forwarded to the national  
26 credit union administration.

27 (3) (2) Every credit union chartered after the effective date of this act  
28 shall obtain NCUSIF coverage prior to commencing business.

29 (4) (3) The administrator may suspend the charter, merge, liquidate,  
30 or take possession of any credit union which fails to comply with the  
31 provisions of this section or which loses or allows such coverage to lapse.

32 (c) (1) ~~Notwithstanding the provisions of paragraph (2) of subsection~~  
33 ~~(a), every credit union shall obtain a certificate of insurance from the~~  
34 ~~NCUSIF within 18 months of the effective date of this act.~~

35 (2) ~~The administrator may extend, for a period up to 18 months, the~~  
36 ~~date by which a credit union must obtain such certificate upon satisfactory~~  
37 ~~evidence that the credit union has made and is making good faith efforts to~~  
38 ~~acquire the coverage.~~

39 (3) ~~Any credit union which is unable to comply with this subsection~~  
40 ~~shall be liquidated by the administrator, unless the administrator approves~~  
41 ~~the merger or consolidation of such credit union with a NCUSIF insured~~  
42 ~~credit union.~~

43 (4) ~~Every credit union shall maintain their current share insurance-~~

1 ~~during the conversion process:~~

2     ~~(d)~~ Every credit union shall forward a copy of the NCUSIF certificate  
3 of insurance to the administrator within 30 days after the credit union  
4 receives the certificate.

5     ~~(e)~~ *(d)* (1) Every credit union shall take every action legally required  
6 to maintain NCUSIF insurance coverage in full force and effect, and shall  
7 refrain or desist from taking any action that is likely to cause termination  
8 of NCUSIF insurance coverage.

9     (2) The administrator shall order the merger, consolidation, or  
10 liquidation of any credit union whose NCUSIF insurance is terminated.

11     ~~(f) No bylaw amendment of any nonfederal insurer shall be binding~~  
12 ~~upon any Kansas credit union unless and until approved by the Kansas~~  
13 ~~state department of credit unions:~~

14     Sec. 4. K.S.A. 17-2204, 17-2234, 17-2246, 17-2250, 17-2251, 17-  
15 2252, 17-2253, 17-2254, 17-2255, 17-2256, 17-2257, 17-2258, 17-2259,  
16 17-2261, 17-2265, 17-2266 and 17-2267 are hereby repealed.

17     Sec. 5. This act shall take effect and be in force from and after its  
18 publication in the statute book.

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