

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2007

By: Weaver and Deutschendorf
of the House

and

Dickerson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to credit unions; amending 6 O.S.

1991, Section 2001, which relates to definitions; adding definition; amending 6 O.S. 1991, Section 2001.2, as last amended by Section 26, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 2001.2), which relates to powers of the State Credit Union Board; providing for deposit of fees and assessments; amending 6 O.S. 1991, Section 2006, as amended by Section 7, Chapter 90, O.S.L. 1992 (6 O.S. Supp. 1994, Section 2006), which relates to powers of credit unions; modifying certain guidelines and limitations pertaining to certain assets; modifying certain loan guidelines and limitations for credit unions; defining term; modifying certain investment powers of credit unions; amending 6 O.S. 1991, Section 2008, as amended by Section 8, Chapter 90, O.S.L. 1992 (6

O.S. Supp. 1994, Section 2008), which relates to examinations and reports of credit unions; modifying reporting and examination cycle; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 6 O.S. 1991, Section 2001, is amended to read as follows:

Section 2001. ~~A credit union is~~ As used in this chapter:

1. "Credit union" means a cooperative nonprofit society incorporated for the purpose of promoting thrift among its members, and creating a source of credit for them at legitimate rates of interest for provident or productive purposes; and

2. "Paid-in and unimpaired capital and surplus" means, the balance of all paid-in share accounts and other deposits, less any loss for which no reserve has been established or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of undivided earnings, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as a part of surplus.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 2001.2, as last amended by Section 26, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 2001.2), is amended to read as follows:

Section 2001.2 A. In addition to any other powers conferred by law, the State Credit Union Board shall have the power to:

1. Adopt and promulgate reasonable and uniform rules and regulations to govern the conduct, operation and management of credit unions; and to govern the examination, evaluation of assets and the statements and reports of credit unions, and the form on

which credit unions shall report their assets, liabilities and reserves, charge off their bad debts and otherwise keep their records and accounts; and otherwise to govern the administration of the laws of this state relating to credit unions. Such regulations shall serve to foster and maintain an effective level of credit union services and the security of member accounts. The provisions of the Administrative Procedures Act of this state, as now or hereafter amended, are hereby expressly adopted and incorporated herein as though a part of this provision, and shall apply to all regulations, procedures and orders of the State Credit Union Board. Final orders of the State Credit Union Board may be appealed to the Supreme Court of Oklahoma by any party directly affected and showing aggrievement by the order;

2. Restrict the withdrawal of share or deposit accounts or both from any credit union after having determined that circumstances make such restriction necessary for the proper protection of shareholders or depositors;

3. Issue cease and desist orders after having determined from competent and substantial evidence that a credit union is engaged or has engaged, or when the State Credit Union Board has reasonable cause to believe the credit union is about to engage in an unsafe or unsound practice, or is violating or has violated or the State Credit Union Board has reasonable cause to believe is about to violate a material provision of any law, regulation or any condition imposed in writing by the State Credit Union Board or any written agreement made with the State Credit Union Board;

4. Suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer or committee member who has committed any violation of a law, regulation or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in

any act, omission, or practice which constitutes a breach of that person's fiduciary duty as such director, officer or committee member, when the State Credit Union Board has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members;

5. Affirm, modify, reverse, and stay the enforcement of any order or ruling of the ~~Bank~~ State Banking Commissioner or Administrator relating to credit unions, their directors, officers, committee members or employees; and

6. 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 State Credit Union Board.

B. The ~~Bank~~ Commissioner may appoint an Administrator who, in addition to such duties and authority as are conferred by this act, shall have such duties and authority as the ~~Bank~~ Commissioner may assign ~~him~~ the Administrator. The bond of the Administrator shall be the same as that set for the State Deputy ~~Bank~~ Banking Commissioner. In addition to other powers conferred by this act, the ~~Bank~~ Commissioner shall have the power to:

1. Delegate the duties of ~~his office~~ the Office of the State Banking Commissioner under this act to the Administrator;

2. Exercise general supervision of credit unions organized under the laws of this state;

3. Require credit unions to cease and desist from engaging in any act or transaction, or doing any act in furtherance thereof, which would constitute a violation of the provisions of this act, or a lawful regulation issued thereunder, or to cease and desist in engaging in any unsafe or unsound credit union practice;

4. Suspend any officer, director or employee or committee member who is found, after hearing, to be dishonest, reckless, unfit

to participate in the conduct of the affairs of the credit union, or to have engaged or participated in any unsafe or unsound practice in connection with the credit union, or to be practicing a continuing disregard or violation of laws, rules, regulations or orders which are likely to cause substantial loss to the credit union or likely to seriously weaken the condition of the credit union; ~~provided,~~ ~~however, that.~~ However, any individual so suspended may within ten (10) days file a notice of protest for ~~said~~ the suspension with the Administrator and as soon as possible thereafter, but in no event more than thirty (30) days, the State Credit Union Board will review the order of ~~said Bank~~ the Commissioner and make such findings as it deems proper, and that, pending said time, the ~~said~~ officer, employee, director or committee member shall not perform any of the duties of ~~his~~ such office;

5. Assess credit unions on their assets in an amount set by rule of the Commissioner. ~~Said~~ The fee and assessment shall be paid in January of each year ~~and.~~ All assessments shall be deposited in the General Revenue Fund of this state and all fees shall be deposited in the State Banking Department Revolving Fund pursuant to the provisions of Section 222 of this title; and

6. Charge a fee of Fifty Dollars (\$50.00) per hour and actual expenses for each examiner for actual time consumed by the State Banking Department in making special examinations of a credit union. Payments received pursuant to this paragraph shall be deposited in the State Banking Department revolving fund pursuant to Section 222 of this title.

C. Upon failure of a credit union to comply with the ~~Bank~~ Commissioner's order or requirements, ~~he~~ the Commissioner shall report such failure to the State Credit Union Board for action with respect to suspension of such credit union's certificate of authority to transact business.

SECTION 3. AMENDATORY 6 O.S. 1991, Section 2006, as amended by Section 7, Chapter 90, O.S.L. 1992 (6 O.S. Supp. 1994, Section 2006), is amended to read as follows:

Section 2006. A credit union shall have succession in its corporate name during its existence and shall have power:

~~(1) 1.~~ To make contracts~~;~~

~~(2) 2.~~ To sue and be sued~~;~~

~~(3) 3.~~ To adopt and use a common seal and alter the same at pleasure~~;~~

~~(4) 4.~~ To purchase, lease, own, hold, and dispose of ~~property~~ any real estate, buildings, fixtures, equipment, furniture and furnishings necessary and, incidental and convenient to its the operation of the credit union, the aggregate book value of which shall not exceed five percent (5%) of the total assets of the credit union, unless otherwise specifically approved by the State Credit Union Board. A credit union may lease to any tenants as the credit union deems appropriate any portion of the facilities or premises of the credit union which are not utilized in the conduct of the business of the credit union;

~~(5) 5.~~ To make loans to its members for provident or productive purposes ~~as the credit committee may approve. Any director, credit committee member, or supervisory committee member may borrow from the credit union in excess of his shareholdings as long as the terms of the loan are not more favorable than the terms of the loans to other members, and as long as the conditions of the loan meet the requirements of the law, the credit union's bylaws, and the official policies established by the credit union's board of directors; and further provided that the aggregate amount of such loans not exceed twenty percent (20%) of the unimpaired capital and surplus of the credit union, and that the loan, if it exceeds the shares and/or deposits of the officer, be approved by both the credit committee and the board of directors, and that the applicant not attend any~~

~~board or committee meeting while his application is under consideration. No director, officer or committee member may endorse for borrowers. A borrower may repay his loan prior to maturity, in whole or in part, on any business day.,~~ the maturities of which shall not exceed twelve (12) years, except as otherwise provided herein and except as otherwise approved by the State Credit Union Board, and extend lines of credit to its members, to other credit unions and to credit union organizations and to participate with other credit unions, credit union organizations or financial organizations in making loans to credit union members, other credit unions and credit union organizations in accordance with the following:

- a. loans to credit union members shall be made in conformity with criteria established by the board of directors of the lending credit union; provided that:
- (1) a real estate loan secured by a first mortgage lien may have a maturity not exceeding thirty (30) years or any longer term which may be authorized by the State Credit Union Board,
 - (2) a loan to finance a manufactured home, which shall be secured by a first lien on such manufactured home, or a second mortgage loan secured by a dwelling, shall have a maturity not exceeding fifteen (15) years or any longer term which may be allowed by the State Credit Union Board,
 - (3) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, a state or federal governmental agency may be made for the maturity and under the terms and conditions specified in the state or federal law

under which such insurance, guarantee or
commitment is provided,

(4) a loan or aggregate of loans to a director or to
a member of the supervisory committee or the
credit committee of the lending credit union
which exceeds Twenty-five Thousand Dollars
(\$25,000.00) plus the amount of any pledged
shares shall be approved by the board of
directors of the lending credit union, and

(5) loans to credit union members for which any
director of the lending credit union or any
member of the supervisory committee or credit
committee of the lending credit union acts as a
guarantor or endorser shall be approved by the
board of directors of the lending credit union
when such loan, either standing alone or when
added to any outstanding loan or loans of the
guarantor or endorser, exceeds Twenty-five
Thousand Dollars (\$25,000.00) plus the amount of
any pledged shares,

b. loans to credit union members and other eligible
borrowers shall be made in accordance with and shall
be paid or amortized in accordance with any rules or
regulations as may be prescribed and adopted from time
to time by the State Credit Union Board, after taking
into account the needs or conditions of the borrowers,
the amounts and duration of the loans, the interests
of the members and the credit unions and such other
factors as the State Credit Union Board may deem
relevant,

c. unless approval by the board of directors of the
lending credit union is otherwise expressly required

herein, loans to credit union members and other eligible borrowers shall be approved by the credit committee or by a loan officer of the lending credit union in accordance with criteria established by the board of directors,

- d. no loan or line of credit may be made to or established for a credit union member if the amount of such loan or line of credit, when aggregated with all other outstanding loans and lines of credit made to or established for such credit union member, will cause the credit union member to be indebted to the lending credit union in an amount exceeding six percent (6%) of the paid-in and unimpaired capital and surplus of the lending credit union or six percent (6%) of the total assets of the lending credit union, whichever is greater,
- e. a self-replenishing line of credit may be established by a credit union for any eligible borrower to a stated maximum amount on terms and conditions which may differ from the terms and conditions established for other eligible borrowers,
- f. loans to other credit unions shall be approved by the board of directors of the lending credit union and shall not exceed twenty-five percent (25%) of the paid-in and unimpaired capital and surplus of the lending credit union,
- g. loans to credit union organizations shall be approved by the board of directors of the lending credit union and shall not exceed one percent (1%) of the paid-in and unimpaired capital and surplus of the lending credit union, except as otherwise approved by the State Credit Union Board. A "credit union

organization" means any organization which is established primarily to serve the needs of credit unions and whose business relates to the daily operations of the credit unions served by such credit union organization,

- h. participation loans with other credit unions, credit union organizations or other financial organizations shall be in accordance with written policies adopted by the board of directors of the lending credit union and shall be approved by the board of directors of the lending credit union. However, a credit union which originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least ten percent (10%) of the face amount of such loan,
- i. a credit union may participate in any guaranteed loan program of the federal government or of this state under the terms and conditions specified in the laws under which such program is provided,
- j. a credit union may finance for any person, whether or not such person is a member of the credit union, the purchase from the credit union of any real or personal property owned and held by the credit union, including any property obtained by the credit union as a result of defaults in obligations owed to the credit union, and
- k. a credit union may make loans to its officers and directors and to members of its supervisory and credit committees. However, such loans shall not be made on terms more favorable than those extended to other members of the credit union. A credit union may permit officers, directors and members of its

supervisory and credit committees to act as co-makers,
guarantors or endorsers of loans to other credit union
members;

~~(6)~~ 6. To receive from its members, and other credit unions, state and federal, doing business in this state, payments on shares and deposits, and to require such notice for withdrawal of shares and deposits as the bylaws may provide~~;~~;

~~(7)~~ 7. To amend its bylaws in the manner provided by the bylaws, but all amendments to the bylaws must be submitted to and approved by the State Credit Union Board before they become operative~~;~~;

~~(8)~~ 8. To invest its funds

~~(a) in loans exclusively to its members;~~

~~(b) in obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby;~~

~~(c) in accordance with rules and regulations prescribed by the State Credit Union Board, in the shares, deposits or loans to other credit unions in total amount in either case not exceeding twenty-five percent (25%) of its paid-in or unimpaired capital and surplus;~~

~~(d) in such other investments legal for savings or trust funds in the State of Oklahoma; and~~

~~(e) in shares or accounts of banks and savings and loan associations the accounts which are insured by an agency of the federal government. in accordance with the following:~~

a. investments shall be made in conformity with criteria established by the board of directors of the credit union and in accordance with any rules or regulations as may be prescribed and adopted from time to time by the State Credit Union Board, and

b. the following investments shall be authorized for credit unions:

(1) loans to credit union members and other loans authorized for credit unions under the laws of this state,

(2) obligations of the United States of America and obligations fully guaranteed as to principal and interest by any instrumentality or agency of the United States of America,

(3) general obligations and revenue obligations of any state or any political subdivision thereof; provided the aggregate of such investments shall not exceed ten percent (10%) of the paid-in and unimpaired capital and surplus of the credit union; and provided that such investments shall be limited to obligations rated among the three highest rating categories established by one or more national rating services for governmental obligations,

(4) obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board or any corporation designated by federal law as a wholly owned government corporation, or obligations, participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to the Federal

Home Loan Mortgage Corporation Act, or in other obligations or other instruments or securities of the Student Loan Marketing Association, or obligations, participations, securities or other instruments of or issued by or fully guaranteed as to principal and interest by any other agency of the United States of America,

(5) shares of, deposits with or loans to other federally insured credit unions in a total amount, in either case, not exceeding twenty-five percent (25%) of the paid-in and unimpaired capital and surplus of the investing credit union,

(6) shares of, or accounts or deposits with any state or federal banks, mutual savings banks and savings and loan associations, the accounts of which are insured by an agency of the federal government,

(7) shares of, deposits with or loans to any Federal Reserve Bank or any central liquidity facility established under state or federal law,

(8) shares of, deposits with or loans to any central credit union or corporate credit union organized under state or federal law,

(9) shares of, deposits with or loans to any organization, corporation or association providing services associated with the general purposes of the investing credit union or engaging in activities incidental to the operations of any credit union; provided that such investments in the aggregate may not exceed

one percent (1%) of the unimpaired capital and surplus of the investing credit union,

(10) any obligations or securities authorized for investment by federal credit unions under the laws of the United States of America. However, such investments shall be in compliance with any restrictions or limitations pertaining thereto under the laws of the United States of America or under the regulations of the National Credit Union Administration,

(11) money market funds rated among the three highest rating categories established by one or more national rating services for corporate or governmental securities,

(12) shares of mutual funds if the investments and investment transactions of the fund are authorized for credit unions under the laws of this state, or

(13) such other investments or types of investments as may be authorized from time to time by the State Credit Union Board;

~~(9)~~ 9. To make deposits in national banks and in state banks, trust companies, savings and loan associations, and credit unions organized under the laws of this state, any other state, or the United States, operating in accordance with the laws of the State of Oklahoma, or of the laws of the United States and approved by State Credit Union Board as depositories;

~~(10)~~ 10. To borrow, from any source, in an aggregate amount not exceeding fifty percent (50%) of its shares, deposits and undivided earnings; such borrowed money may be borrowed either by means of bills payable or through rediscounts of its negotiable instruments,

and credit unions may pledge their assets as collateral securities therefor;

~~(11)~~ 11. To fine members, in accordance with the bylaws, for failure to meet their obligations promptly to their credit union;

~~(12)~~ 12. To impress and enforce a lien upon the shares, deposits, dividends, and interest of any member to the extent of any loan made to him or endorsed by him and any interest or fines payable by him;

~~(13)~~ 13. To charge an entrance fee as provided in the bylaws;

~~(14)~~ 14. To hire clerical help; and

~~(15)~~ 15. To exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

SECTION 4. AMENDATORY 6 O.S. 1991, Section 2008, as amended by Section 8, Chapter 90, O.S.L. 1992 (6 O.S. Supp. 1994, Section 2008), is amended to read as follows:

Section 2008. ~~(A)~~ A. A regular examination of credit unions organized under the laws of this state shall be made by or under the supervision of the Administrator appointed by the ~~Bank~~ State Banking Commissioner. Credit unions shall report to the Administrator at least ~~annually~~ semiannually or upon request by the Administrator on forms supplied for that purpose. The Administrator shall ~~annually,~~ ~~or more often if the Administrator and the State Credit Union Board deem it necessary,~~ investigate and examine credit unions organized under this act at least every eighteen (18) months, or more often if the Administrator and the State Credit Union Board deem it necessary, and for the purpose of making such examinations shall have full access to all books, papers, securities, records and other sources of information under the control of credit unions.

~~(B)~~ B. In lieu of making an examination of a credit union, an examination or audit report of the condition of the credit union

made by the National Credit Union Administration may be accepted by the Administrator.

~~(C)~~ C. Every credit union which fails to make and transmit or to publish any report required within the discretion of the Administrator shall be liable for an administrative violation and subject to a fine not to exceed Five Dollars (\$5.00) for each day, after the period respectively therein mentioned, that the credit union delays to make and transmit its report or its proof of publication. Whenever any credit union delays or refuses to pay the fine herein imposed for a failure to make and transmit or to publish a report, the ~~Bank~~ Commissioner is hereby authorized to maintain an action in the name of the state against the delinquent credit union for the recovery of such fine, and all sums collected by such action shall be paid into the State Treasury to be credited to the General Revenue Fund.

~~(D)~~ D. In order to simplify the organization of credit unions the Administrator shall cause to be prepared a form of organization certificate which shall be used by credit unions organized hereunder and a form of bylaws consistent with this act, which may be used by credit union incorporators and shall be supplied upon request.

~~(E)~~ E. The Administrator shall issue each year as of December 31 a report showing the financial condition of all credit unions under ~~his~~ the supervision of the Administrator.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.