ENGROSSED SENATE
BILL NO. 1344

By: Monson and Stipe of the Senate

and

Weaver of the House

An Act relating to financial institutions; amending Sections 13 and 78, Chapter 111, O.S.L. 1997, 6 O.S. 1991, Sections 2001.2, as last amended by Section 2, Chapter 151, O.S.L. 1995, 2007 and 2008, as last amended by Section 4, Chapter 151, O.S.L. 1995 (6 O.S. Supp. 1999, Sections 211.1, 903.1, 2001.2 and 2008), which relate to deposit accounts for minors and credit unions; applying provisions relating to bank deposit accounts for minors to credit union deposit accounts for minors; modifying powers and authority of State Credit Union Board; modifying powers of State Banking Commissioner; defining term; modifying fund to which certain monies deposited; modifying requirements for and limitations upon credit union membership; modifying procedure for submission and review of report of examination by credit union board of directors and supervisory committee; requiring publication of certain report; repealing 6 O.S. 1991, Section 2011, which relates to credit union reserve funds; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 78, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 903.1), is amended to read as follows:

Section 903.1 A. Except as otherwise provided by this section, a bank <u>or credit union</u> lawfully doing business in this state may enter into a deposit account with a minor as the sole and absolute owner of the account and may pay checks and withdrawals and otherwise act with respect to the account on the order of the minor. A payment or delivery of rights to a minor who holds a deposit account evidenced by a receipt or <u>other</u> acquittance signed by the minor discharges the bank <u>or credit union</u> to the extent of the payment made or rights delivered.

B. If the minor is the sole and absolute owner of the deposit account, the disabilities of minority are removed for the limited purposes of enabling:

1. The minor to enter into a depository contract with ~~the~~ a bank or credit union; and

2. The bank or credit union to enforce the contract against the minor, including collection of overdrafts and account fees and submission of account history to account reporting agencies and credit reporting bureaus.

C. A parent or legal guardian of a minor may deny the minor's authority to control, transfer, draft on, or make withdrawals from the minor's deposit account by notifying the bank or credit union in writing. On receipt of the notice by the bank or credit union, the minor may not control, transfer, draft on, or make withdrawals from the account during minority except with the joinder of a parent or legal guardian of the minor.

D. If a minor with a deposit account dies, the receipt or other acquittance of the minor's parent or legal guardian discharges the liability of the bank or credit union to the extent of the receipt ~~of~~ or other acquittance, except that the aggregate discharges under this subsection may not exceed Three Thousand Dollars ($3,000.00).

E. Subsection A of this section does not authorize a loan to the minor by the bank or credit union, whether on pledge of the minor's savings account or otherwise, or bind the minor to repay a loan made except as provided by subsection B of this section or other law or unless the depository institution has obtained the express consent and joinder of a parent or legal guardian of the minor. This subsection does not apply to an inadvertent extension of credit because of an overdraft from insufficient funds, returned checks or deposits, or other shortages in a depository account resulting from normal banking or credit union operations.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 2001.2, as last amended by Section 2, Chapter 151, O.S.L. 1995 (6 O.S. Supp. 1999, 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. Regulate its own procedures and practice, except as may be hereafter provided by law;

2. Define any term not defined in Oklahoma Laws relating to credit unions;

3. Adopt and promulgate reasonable and uniform rules and regulations to:

a. govern the conduct, operation and management of credit unions~~; and to~~,

b. 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

c. govern the administration of the laws of this state relating to credit unions.

Such rules or 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 rules or 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.~~ 4. 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.~~ 5. 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, rule, 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.~~ 6. 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, rule or 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.~~ 7. Affirm, modify, reverse, and stay the enforcement of any order or ruling of the State Banking Commissioner or Administrator appointed pursuant to the provisions of subsection B of this section relating to credit unions, their directors, officers, committee members or employees; ~~and~~

~~6.~~ 8. 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; and

9. Charge application fees for processing submissions by a credit union to the Board, Commissioner or Administrator. The Board may charge a fee for the items enumerated herein; provided, the Board's fee schedule shall not be limited solely to the following submissions:

a. an application for a merger or acquisition,

b. an application to amend a credit union's bylaws,

c. an application to be heard by the Board to add a special employee group, or

d. an application to add a special employee group by using any simplified expansion process.

The Board may adopt and promulgate, from time to time, a fee schedule for the processing of submissions by credit unions. Any payments received pursuant to the provisions of this paragraph shall be deposited to the revolving fund for the State Banking Department created in Section 211.1 of this title.

B. The Commissioner may appoint an Administrator who, in addition to such duties and authority as are conferred by Section 2001 et seq. of this ~~act~~ title, shall have such duties and authority as the Commissioner may assign the Administrator. The bond of the Administrator shall be the same as that set for the State Deputy Banking Commissioner. In addition to other powers conferred by Section 2001 et seq. of this ~~act~~ title, the Commissioner shall have the power to:

1. Delegate the duties of the Office of the State Banking Commissioner under Section 2001 et seq. of this ~~act~~ title 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 Section 2001

et seq. of this ~~act~~ title, 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. However, any individual so suspended may within ten (10) days file a notice of protest for 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 the Commissioner and make such findings as it deems proper, and pending that, ~~pending said time,~~ the officer, employee, director or committee member shall not perform any of the duties of such office;

5. Assess credit unions on their assets in an amount set by rule of the Commissioner. The fee and assessment shall be paid in January of each year. All assessments shall be deposited in the General Revenue Fund of this state and all fees shall be deposited in the revolving fund for the State Banking Department ~~Revolving Fund~~ pursuant to the provisions of Section ~~222~~ 211.1 of this title; and

6. Charge a fee ~~of~~ not to exceed 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. A "special examination" shall be any limited scope examination conducted at a frequency more often than once each eighteen (18) months, when deemed necessary by the Administrator and the Commissioner. Payments received pursuant to this paragraph

shall be deposited in the revolving fund for the State Banking Department ~~revolving fund~~ pursuant to Section ~~222~~ 211.1 of this title.

C. Upon failure of a credit union to comply with the Commissioner's order or requirements, 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 2007, is amended to read as follows:

Section 2007. A. Credit union membership shall consist of the incorporators, and such other persons and incorporated and unincorporated organizations and their employees, as may be elected to membership ~~and, as such,~~. Each member shall ~~each~~ subscribe to at least one share of ~~its~~ the credit union's stock and pay the entrance fee~~; except that credit~~. Credit union membership shall be limited to groups having a common bond of occupation or association, which shall be limited to one of the following categories:

1. Groups that have the same common bond of occupation or association;

2. Persons or organizations within a well-defined community, neighborhood or rural district; or

3. Groups which have, as to each individual group, a common bond of occupation or association, but, as to all such groups, need not have the same common bond of occupation or association as other groups within the credit union.

B. A central credit union may be organized to which members of existing credit unions operating in accordance with the law of the State of Oklahoma, or of the United States, may belong, and to which credit unions organized and operating under the State of Oklahoma or of the United States may also belong.

SECTION 4. AMENDATORY 6 O.S. 1991, Section 2008, as last amended by Section 4, Chapter 151, O.S.L. 1995 (6 O.S. Supp. 1999, Section 2008), is amended to read as follows:

Section 2008. 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 State Banking Commissioner. ~~Credit unions shall report to the Administrator at least semiannually or upon request by the Administrator on forms supplied for that purpose.~~ The Administrator shall investigate and examine credit unions organized under Section 2001 et seq. of this ~~act~~ title at least every eighteen (18) months, or more often if the Administrator and the ~~State Credit Union Board~~ State Banking Commissioner deem it necessary~~, and for~~. For the purpose of making such examinations, examiners shall have full access to all books, papers, securities, records and other sources of information under the control of credit unions.

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. Upon receipt by the credit union or any officer thereof, the report of examination shall be submitted by the officer receiving it to the board of directors and the supervisory committee for review at the next meeting of the board and duly noted in the minutes of the board in such form and in such manner as may be prescribed and directed by the Commissioner.

D. Credit unions shall report to the Administrator at least semiannually or upon request by the Administrator on forms supplied for that purpose. 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 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.~~ E. 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 Section 2001 et seq. of this ~~act~~ title, which may be used by credit union incorporators and shall be supplied upon request.

~~E.~~ F. The Administrator shall ~~issue~~ prepare a report each year ~~as of December 31 a report~~ showing the financial condition of all credit unions under the supervision of the Administrator as of December 31 of the preceding year. The report shall be published in the annual report of the Commissioner, which shall be a public document and shall include such other matters as the Commissioner deems advisable.

SECTION 5. AMENDATORY Section 13, Chapter 111, O.S.L. 1997 (6 O.S. Supp. 1999, Section 211.1), is amended to read as follows:

Section 211.1 There is hereby created in the State Treasury a revolving fund for the Banking Department. The revolving fund shall consist of all monies received by the Commissioner under Sections 104, 303, 415 and 501.1 of this title and Section 381.16 of Title 18 of the Oklahoma Statutes and those payments required to be deposited in the revolving fund pursuant to Sections 211, 1103, 1206, 2001.2, 2008, 2107 and 2113 of this title and Section 381.15 of Title 18 of

the Oklahoma Statutes. The revolving fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the fund shall be made pursuant to the laws of this state and the statutes relating to the Department, and without legislative appropriation. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Department and approved for payment by the Director of State Finance.

SECTION 6. REPEALER 6 O.S. 1991, Section 2011, is hereby repealed.

SECTION 7. 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.

Passed the Senate the 7th day of March, 2000.

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President of the Senate

Passed the House of Representatives the ____ day of _____, 2000.

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Speaker of the House of Representatives