

## LEGISLATIVE BILL 375

Approved by the Governor May 12, 2017

Introduced by Schumacher, 22.

A BILL FOR AN ACT relating to the Credit Union Act; to amend sections 21-1701, 21-1709, 21-1724, 21-1736, 21-1740, 21-1741, and 21-1782, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change procedures relating to application notifications and examination reports; to change provisions relating to credit unions' powers, safe deposit boxes, and joint accounts; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 21-1725 and 21-17,116, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 21-1701, Reissue Revised Statutes of Nebraska, is amended to read:

21-1701 Sections 21-1701 to ~~21-17,115~~ and section 2 of this act ~~21-17,116~~ shall be known and may be cited as the Credit Union Act.

Sec. 2. Financial institution shall mean a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the United States, the department, or a foreign state agency; any other similar organization which is covered by federal deposit insurance; or a trust company.

Sec. 3. Section 21-1709, Reissue Revised Statutes of Nebraska, is amended to read:

21-1709 Fixed asset shall mean assets as prescribed in generally accepted accounting principles ~~a structure, land, furniture, fixture, or equipment, including computer hardware and software and heating and cooling equipment, affixed to premises.~~

Sec. 4. Section 21-1724, Reissue Revised Statutes of Nebraska, is amended to read:

21-1724 (1) Any nine or more individuals residing in the State of Nebraska who are nineteen years of age or older and who have a common bond pursuant to section 21-1743 may apply to the department on forms prescribed by the department for permission to organize a credit union and to become charter members and subscribers of the credit union.

(2) The subscribers shall execute in duplicate articles of association and shall agree to the terms of the articles of association. The terms shall state:

(a) The name, which shall include the words "credit union" and shall not be the same as the name of any other credit union in this state, whether or not organized under the Credit Union Act, and the location where the proposed credit union will have its principal place of business;

(b) The names and addresses of the subscribers to the articles of association and the number of shares subscribed by each;

(c) The par value of the shares of the credit union which shall be established by its board of directors. A credit union may have more than one class of shares;

(d) The common bond of members of the credit union; and

(e) That the existence of the credit union shall be perpetual.

(3) The subscribers shall prepare and adopt bylaws for the governance of the credit union. The bylaws shall be consistent with the Credit Union Act and shall be executed in duplicate.

(4) The subscribers shall select at least five qualified individuals to serve on the board of directors of the credit union, at least three qualified individuals to serve on the supervisory committee of the credit union, and at least three qualified individuals to serve on the credit committee of the credit union, if any. Such individuals shall execute a signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later.

(5) The articles of association and the bylaws, both executed in duplicate, shall be forwarded by the subscribers along with the required fee, if any, to the director, as an application for a certificate of approval.

(6) The director shall ~~act upon the application~~ within one hundred twenty calendar days after receipt of the articles of association and the bylaws: (a) Act upon the application to determine whether the articles of association conform with this section and whether or not the character of the applicants and the conditions existing are favorable for the success of the credit union; and (b) notify the applicants of his or her decision.

~~(7) The director shall notify an applicant of his or her decision on the application.~~ If the decision is favorable, the director shall issue a certificate of approval to the credit union. The certificate of approval shall be attached to the duplicate articles of association and returned, with the duplicate bylaws, to such subscribers.

(8) The subscribers shall file the certificate of approval with the articles of association attached in the office of the county clerk of the county in which the credit union is to locate its principal place of business. The county clerk shall accept and record the documents if they are accompanied

by the proper fee and, after indexing, forward to the department proper documentation that the certificate of approval with the articles of association attached have been properly filed and recorded. When the documents are so recorded, the credit union shall be organized in accordance with the Credit Union Act and may begin transacting business.

(9) If the director's decision on the application is unfavorable, he or she shall notify the subscribers of the reasons for the decision. The subscribers may then request a public hearing if no such hearing was held at the time the application was submitted for consideration.

(10) The request for a public hearing shall be made in writing to the director not more than thirty calendar days after his or her decision. The director, within ten calendar days after receipt of a request for a hearing, shall set a date for the hearing at a time and place convenient to the director and the subscribers, but no longer than sixty calendar days after receipt of such request. The director may request a stenographic record of the hearing.

Sec. 5. Section 21-1736, Reissue Revised Statutes of Nebraska, is amended to read:

21-1736 (1) The director shall examine or cause to be examined each credit union as often as deemed necessary. Each credit union and all of its officials and agents shall give the director or any of the examiners appointed by him or her free and full access to all books, papers, securities, and other sources of information relative to such credit union. For purposes of the examination, the director may subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

(2) The department shall forward a report of the examination to the chairperson of the board of directors within ninety calendar days after completion. The report shall contain comments relative to the management of the affairs of the credit union and the general condition of its assets. Within ninety calendar days after the receipt of such report, the members of the board of directors and the members of the supervisory committee and credit committee, if any, ~~committees~~ shall meet to consider the matters contained in the report.

(3) The director may require special examinations of and special financial reports from a credit union or a credit union service organization in which a credit union loans, invests, or delegates substantially all managerial duties and responsibilities when he or she determines that such examinations and reports are necessary to enable the director to determine the safety of a credit union's operations or its solvency. The cost to the department of such special examinations shall be borne by the credit union being examined.

(4) The director may accept, in lieu of any examination of a credit union authorized by the laws of this state, a report of an examination made of a credit union by the National Credit Union Administration or may examine any such credit union jointly with such federal agency. The director may make available to the National Credit Union Administration copies of reports of any examination or any information furnished to or obtained by the director in any examination.

Sec. 6. Section 21-1740, Reissue Revised Statutes of Nebraska, is amended to read:

21-1740 (1) A credit union shall have all the powers specified in this section and all the powers specified by any other provision of the Credit Union Act.

(2) A credit union may make contracts.

(3) A credit union may sue and be sued.

(4) A credit union may adopt a seal and alter the same.

(5) A credit union may individually or jointly with other credit unions purchase, lease, or otherwise acquire and hold tangible personal property necessary or incidental to its operations. A credit union shall depreciate or appreciate such personal property in the manner and at the rates the director may prescribe by rule or order from time to time.

(6) A credit union may, in whole or part, sell, lease, assign, pledge, hypothecate, or otherwise dispose of its tangible personal property, including such property obtained as a result of defaults under obligations owing to it.

(7) A credit union may incur and pay necessary and incidental operating expenses.

(8) A credit union may receive, from a member, from another credit union, from an officer, or from an employee, payments representing equity on (a) share accounts which may be issued at varying dividend rates, (b) share account certificates which may be issued at varying dividend rates and maturities, and (c) share draft accounts, subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the department. A credit union shall provide for the transfer and withdrawal of funds from accounts by the means and through the payment system that the board of directors determines best serves the convenience and needs of members.

(9) A credit union may lend its funds to its members as provided in the Credit Union Act.

(10) A credit union may borrow from any source in an amount not exceeding fifty percent of its capital and deposits.

(11) A credit union may provide debt counseling and other financial counseling services to its members.

(12) A credit union may, in whole or in part, discount, sell, assign, pledge, hypothecate, or otherwise dispose of its intangible personal property. The approval of the director shall be required before a credit union may discount, sell, assign, pledge, hypothecate, or otherwise dispose of twenty percent or more of its intangible personal property within one month unless the

credit union is in liquidation.

(13) A credit union may purchase any of the assets of another financial institution credit union or assume any of the liabilities of another financial institution credit union with the approval of the director. A credit union may also purchase any of the assets of a financial institution credit union which is in liquidation or receivership.

(14) A credit union may make deposits in or loans to banks, savings banks, savings and loan associations, and trust companies, purchase shares in mutual savings and loan associations, and make deposits in or loans to or purchase shares of other credit unions, including corporate central credit unions, if such institutions are either insured by an agency of the federal government or are eligible under the laws of the United States to apply for such insurance and invest funds as otherwise provided in sections 21-17,100 to 21-17,102.

(15) A credit union may make deposits in, make loans to, or purchase shares of any federal reserve bank or central liquidity facility established under state or federal law.

(16) A credit union may hold membership in associations and organizations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law.

(17) A credit union may engage in activities and programs of the federal government, any state, or any agency or political subdivision thereof when approved by the board of directors and not inconsistent with the Credit Union Act.

(18) A credit union may receive funds either as shares or deposits from other credit unions.

(19) A credit union may lease tangible personal property to its members if the credit union acquires no interest in the property prior to its selection by the member.

(20) A credit union may, in whole or in part, purchase, sell, pledge, discount, or otherwise acquire and dispose of obligations of its members in accordance with the rules and regulations promulgated by the director. This subsection shall not apply to participation loans originated pursuant to section 21-1794.

(21) A credit union may, at its own expense, purchase insurance for its members in connection with its members' shares, loans, and other accounts.

(22) A credit union may establish, operate, participate in, and hold membership in systems that allow the transfer of credit union funds and funds of its members by electronic or other means, including, but not limited to, clearinghouse associations, data processing and other electronic networks, the federal reserve system, or any other government payment or liquidity program.

(23) A credit union may issue credit cards and debit cards to allow members to obtain access to their shares and extensions of credit if such issuance is not inconsistent with the rules of the department. The department may by rule or regulation allow the use of devices similar to credit cards and debit cards to allow members to access their shares and extensions of credit.

(24) A credit union may service the loans it sells, in whole or in part, to a third party.

(25) In addition to loan and investment powers otherwise authorized by the Credit Union Act, a credit union may organize, invest in, and make loans to corporations or other organizations (a) which engage in activities incidental to the conduct of a credit union or in activities which further or facilitate the purposes of a credit union or (b) which furnish services to credit unions. The director shall determine by rule, regulation, or order the activities and services which fall within the meaning of this subsection. A credit union shall notify the director of any such investment or loan if it would cause the aggregate of such investments and loans to exceed two percent of the credit union's capital and deposits. Such investments and loans may not, in the aggregate, exceed five percent of the capital and deposits of the credit union.

(26) A credit union may purchase, lease, construct, or otherwise acquire and hold land and buildings for the purpose of providing adequate facilities for the transaction of present and potential future business. A credit union may use such land and buildings for the principal office functions, service facilities, and any other activity in which it engages. A credit union may rent excess space as a source of income. A credit union shall depreciate or appreciate such buildings owned by it in the manner and at the rates the director may prescribe by rule, regulation, or order from time to time. A credit union's investment and contractual obligations, direct, indirect, or contingent, in land and buildings under this subsection shall not exceed seven percent of its capital and deposits without prior approval of the director. This subsection shall not affect the legality of investments in land and buildings made prior to October 1, 1996.

(27) A credit union may, in whole or in part, sell, lease, assign, mortgage, pledge, hypothecate, or otherwise dispose of its land and buildings, including land and buildings obtained as a result of defaults under obligations owing to it.

Sec. 7. Section 21-1741, Reissue Revised Statutes of Nebraska, is amended to read:

21-1741 ~~(1)~~ A credit union, by action of its board of directors, may, to the same extent as a bank organized under the laws of this state, operate a safe safety deposit box service for its members pursuant to sections 8-501 and 8-502.

~~(2) Before granting approval for a credit union to operate a safety deposit box service, the director shall consider the reserve position of the~~

~~credit union, the performance qualifications of its management, the rules of the credit union for the operation of its safety deposit box service, security measures, bonding and insurance, and the general safe and sound condition of the credit union.~~

~~(3) A credit union shall not spend more than twenty five thousand dollars or an amount equal to one percent of its capital, whichever is greater, on the capital expenditures of its safety deposit box service.~~

Sec. 8. Section 21-1782, Reissue Revised Statutes of Nebraska, is amended to read:

21-1782 (1) A credit union member may designate any person or persons to own a share account with the member in joint tenancy with right of survivorship, as a tenant in common, or under any other form of joint ownership permitted by law and allowed by the credit union, ~~but no co-owner, unless a member in his or her own right, shall be permitted to vote, obtain loans, or hold office. In the event of the death of the person who owns the share account, the share account funds and any dividends thereon shall be paid to the co-owner and shall not be maintained in a share account unless the co-owner is a member in his or her own right.~~

(2) ~~Payment may be made, in whole or in part, of part or all of such accounts to any of the joint owners if an agreement permitting such payment was signed and dated by all persons when the shares were issued or thereafter. Payment made pursuant to this section discharges the credit union from all claims for amounts paid, whether or not the payment is consistent with the beneficial ownership of the account co-owners shall, to the extent of such payment, discharge the credit union's liability to all such co-owners unless the account agreement contains a prohibition or limitation on such payment.~~

~~(3) If more than one joint owner seeks credit union membership through a joint account, each prospective member must meet any membership requirements described in the credit union's bylaws.~~

Sec. 9. Original sections 21-1701, 21-1709, 21-1724, 21-1736, 21-1740, 21-1741, and 21-1782, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 10. The following sections are outright repealed: Sections 21-1725 and 21-17,116, Reissue Revised Statutes of Nebraska.