

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 375

Introduced by Schumacher, 22.

Read first time January 13, 2017

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Credit Union Act; to amend sections
2 21-1701, 21-1709, 21-1724, 21-1736, 21-1740, 21-1741, and 21-1782,
3 Reissue Revised Statutes of Nebraska; to define and redefine terms;
4 to change procedures relating to application notifications and
5 examination reports; to change provisions relating to credit unions'
6 powers, safe deposit boxes, and joint accounts; to eliminate
7 obsolete provisions; to harmonize provisions; to repeal the original
8 sections; and to outright repeal sections 21-1725 and 21-17,116,
9 Reissue Revised Statutes of Nebraska.
10 Be it enacted by the people of the State of Nebraska,

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

3 21-1701 Sections 21-1701 to 21-17,115 and section 2 of this act
4 ~~21-17,116~~ shall be known and may be cited as the Credit Union Act.

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

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

12 21-1709 Fixed asset shall mean assets as prescribed in generally
13 accepted accounting principles ~~a structure, land, furniture, fixture, or~~
14 ~~equipment, including computer hardware and software and heating and~~
15 ~~cooling equipment, affixed to premises.~~

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

18 21-1724 (1) Any nine or more individuals residing in the State of
19 Nebraska who are nineteen years of age or older and who have a common
20 bond pursuant to section 21-1743 may apply to the department on forms
21 prescribed by the department for permission to organize a credit union
22 and to become charter members and subscribers of the credit union.

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

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

31 (b) The names and addresses of the subscribers to the articles of

1 association and the number of shares subscribed by each;

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

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

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

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

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

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

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

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

1 with the duplicate bylaws, to such subscribers.

2 (8) The subscribers shall file the certificate of approval with the
3 articles of association attached in the office of the county clerk of the
4 county in which the credit union is to locate its principal place of
5 business. The county clerk shall accept and record the documents if they
6 are accompanied by the proper fee and, after indexing, forward to the
7 department proper documentation that the certificate of approval with the
8 articles of association attached have been properly filed and recorded.
9 When the documents are so recorded, the credit union shall be organized
10 in accordance with the Credit Union Act and may begin transacting
11 business.

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

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

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

25 21-1736 (1) The director shall examine or cause to be examined each
26 credit union as often as deemed necessary. Each credit union and all of
27 its officials and agents shall give the director or any of the examiners
28 appointed by him or her free and full access to all books, papers,
29 securities, and other sources of information relative to such credit
30 union. For purposes of the examination, the director may subpoena
31 witnesses, administer oaths, compel the giving of testimony, and require

1 the submission of documents.

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

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

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

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

27 21-1740 (1) A credit union shall have all the powers specified in
28 this section and all the powers specified by any other provision of the
29 Credit Union Act.

30 (2) A credit union may make contracts.

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

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

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

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

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

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

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

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

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

29 (12) A credit union may, in whole or in part, discount, sell,
30 assign, pledge, hypothecate, or otherwise dispose of its intangible
31 personal property. The approval of the director shall be required before

1 a credit union may discount, sell, assign, pledge, hypothecate, or
2 otherwise dispose of twenty percent or more of its intangible personal
3 property within one month unless the credit union is in liquidation.

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

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

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

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

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

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

31 (19) A credit union may lease tangible personal property to its

1 members if the credit union acquires no interest in the property prior to
2 its selection by the member.

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

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

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

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

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

25 (25) In addition to loan and investment powers otherwise authorized
26 by the Credit Union Act, a credit union may organize, invest in, and make
27 loans to corporations or other organizations (a) which engage in
28 activities incidental to the conduct of a credit union or in activities
29 which further or facilitate the purposes of a credit union or (b) which
30 furnish services to credit unions. The director shall determine by rule,
31 regulation, or order the activities and services which fall within the

1 meaning of this subsection. A credit union shall notify the director of
2 any such investment or loan if it would cause the aggregate of such
3 investments and loans to exceed two percent of the credit union's capital
4 and deposits. Such investments and loans may not, in the aggregate,
5 exceed five percent of the capital and deposits of the credit union.

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

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

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

26 21-1741 ~~(1)~~ A credit union, by action of its board of directors,
27 may, to the same extent as a bank organized under the laws of this state,
28 operate a safe ~~safety~~ deposit box service for its members pursuant to
29 sections 8-501 and 8-502.

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

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

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

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

10 21-1782 (1) A credit union member may designate any person or
11 persons to own a share account with the member in joint tenancy with
12 right of survivorship, as a tenant in common, or under any other form of
13 joint ownership permitted by law and allowed by the credit union, ~~but no~~
14 ~~co-owner, unless a member in his or her own right, shall be permitted to~~
15 ~~vote, obtain loans, or hold office. In the event of the death of the~~
16 ~~person who owns the share account, the share account funds and any~~
17 ~~dividends thereon shall be paid to the co-owner and shall not be~~
18 ~~maintained in a share account unless the co-owner is a member in his or~~
19 ~~her own right.~~

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

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

1 Sec. 9. Original sections 21-1701, 21-1709, 21-1724, 21-1736,
2 21-1740, 21-1741, and 21-1782, Reissue Revised Statutes of Nebraska, are
3 repealed.

4 Sec. 10. The following sections are outright repealed: Sections
5 21-1725 and 21-17,116, Reissue Revised Statutes of Nebraska.