



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

March 11, 1975

Opinion No. 75- 109

Mr. Ronald F. Loewen
Kansas Credit Union Council
Post Office Box 1010
1500 North West Street
Wichita, Kansas 67201

Dear Mr. Loewen:

On behalf of Mr. Robert Arnold, administrator of the Kansas Credit Union Council, you request our opinion concerning several questions which have arisen recently in the work of the Council.

First, you inquire whether an established and recognized credit union may open a so-called "branch office" in a town other than that where the parent office is located, without the written consent of the administrator. In this connection, you cite K.S.A. 17-2221 which states thus:

"A credit union may change its place of business within this state only with the written consent of the administrator."

Under K.S.A. 17-2201(a), the articles of incorporation of a credit union must set forth, in pertinent part, the following:

"(1) The name of the proposed credit union which shall contain the words 'credit union' and the city, town or village in which its business office is located.

* * *

(4) The address, which shall include the street, number, city and county of the corporation's registered office in this state, and the name of its resident agent at such address."

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The administrator must be satisfied that "the proposed field of operation is favorable to the success of such credit union"

Within this statutory framework of close regulation, there is little basis upon which to imply an unlimited and unregulated authority to establish branch offices. Indeed, the sole statutory references to the business office of a credit union are references to the business office of a credit union, and not to multiple offices. The very nature of credit union organizations precludes any justifiable implication of unlimited branching, for under K.S.A. 17-2205,

"Credit union organizations shall be limited to groups (of both large and small membership) having a common bond of occupation or association or to groups residing within a well-defined neighborhood, community or rural district."

There is no reference whatever in K.S.A. 17-2201 et seq. to the operation by credit unions organized thereunder of branch offices, and similarly, there is express statutory provision whereby application may be made to, and approval granted by, the administrator for the establishment of a branch office.

If the articles of incorporation authorize the organization to establish a branch office, however, it is our opinion that the establishment of such a branch constitutes a change of place of business which requires the approval of the administrator. The opening of a branch office constitutes precisely a change of place of business, even though it does not entail an abandonment or closing of the main business office. The opening of a new and additional office is equally a change of place of business, by addition, as it were, as the changing of the main business office.

Since the members of the Credit Union Council are appointed by the governor, and the administrator is paid by state funds, and authority is vested in the council to promulgate rules and regulations, the Credit Union Council is clearly subject to K.S.A. 75-4318. This is further supported by the language of the statute which renders any agency receiving, expending and supported in whole or part by public funds subject to the open meeting law. The statute contains no specific notice requirement. However in light of the policy

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provision of K.S.A. 74-4317, it would be desirable that the Council promulgate a rule or regulation specifying when regular meetings are to be held. No formal notice requirements are contained in K.S.A. 75-4318 et seq. However, the time and place of any meeting of the Council should be available to any interested person inquiring therefor to the office of the administrator.

As to whether the language of K.S.A. 17-2206 is broad enough to permit the administrator in his discretion to charge a central credit union an examination fee of one thousand dollars (\$1,000) although the administrator accepts a certified public accountant audit in lieu of his own examination, the answer is affirmative. The rule is that when the language is not susceptible to any other meaning and when the words employed are clear and ambiguous, courts are not allowed to read in a contradictory construction. The exercise of discretion does not however authorize arbitrary action by the administrator. There must be some basis to support the discretionary assessment of a fee under the circumstances you describe. In other words, the administrator is not permitted to charge a \$1,000 fee per audit performed by a CPA unless there is some factor present which justifies such an exercise of discretion.

We agree with the conclusion that the phrase "Kansas credit union" as used in K.S.A. 17-2232 refers to only those credit unions organized under the laws of Kansas. Examination of other statutes applicable to credit unions reveals that when a provision applies to both a federal and state chartered credit union within this state, the term "credit union" is employed. If the statute applies to only a federal credit union, the phrase "organized under the laws of the federal government" is employed. See K.S.A. 17-2223. Therefore, only credit unions organized under the laws of this state may submit names to the credit union council for membership in that body.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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