



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
*Attorney General*

March 27, 1975

Opinion No. 75- 139

Mr. Robert A. Arnold, Administrator  
Kansas State Department of Credit Unions  
234 Kansas Avenue  
Topeka, Kansas 66603

Dear Mr. Arnold:

You have requested an opinion from this office concerning the authority of the administrator to promulgate rules and regulations in connection with his general duty to supervise the credit unions of this state. As you have indicated, the Kansas Credit Union law does not have a specific statutory delegation of such authority to the administrator. Although, supporting such an implied grant of authority, you point to the references contained in K.S.A. 17-2006 and 17-2237 which indicate the existence of such powers.

K.S.A. 17-2006 makes reference to the "standards which the administrator may by regulation promulgate." The context of this phrase, in conjunction with other credit union statutes, negates the conclusion that it, in and of itself, delegates to the administrator alone, the broad power to promulgate rules in the performance of his supervisory duties. The above phrase refers to the acceptance of an examination report by or under the authority of the national credit union administration in lieu of an audit being performed by or at the direction of the administrator. In other words, the statute gives the administrator the power to promulgate standards and regulations relating to the acceptance of the national audit rather than conducting his own examination. Standing alone, this limited statement of regulatory authority cannot be construed as an implicit grant of power to promulgate rules and regulations covering the entire spectrum of credit union law.

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It must be admitted that several of the credit union statutes refer to the supervisory power of the administrator. Specifically, K.S.A. 17-2237 provides in pertinent part:

"On July 1, 1968, all the jurisdiction, authority, powers and duties now conferred and imposed by law upon the bank commissioner in relation to the management, control, regulation and general supervision of credit unions, are hereby transferred to, conferred and imposed upon the credit union council and the administrator."

It should be noted that these powers are transferred, conferred and imposed on the credit union council and administrator conjunctively. The extent of the relationship between administrator and council is more clearly articulated in K.S.A. 17-2233 which provides in pertinent part:

"Said administrator shall attend the meetings of the council and shall have the general charge of the work of the council and the general supervision of credit unions subject to the orders and directions of said council, and shall keep a permanent record of all meetings and proceedings of said council at his office."

The obvious conclusion to be derived is that the administrator is entrusted with general supervisory powers to implement the orders and directives of the council. In other words, the council, except as provided in K.S.A. 17-2206, is responsible for the promulgation of rules and regulations necessary to effectuate the purposes of the credit union law as expressed in K.S.A. 17-2201 et seq. Under those limited circumstances expressed in K.S.A. 17-2206, the administrator may promulgate rules and regulations without the council's approval.

The analogy to the broad power of the bank commissioner under K.S.A. 9-1713 to promulgate rules and regulations necessary to effectuate the purposes of the banking code, K.S.A. 9-701 et seq. bespeaks

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the difference. The banking code contains a specific grant of this power to the commissioner. By contrast, the credit union law is deficient in this respect. By token of the fact that the legislature enacted K.S.A. 9-1713 three (3) years prior to passage of most of K.S.A. 17-2201 et seq., the clear implication is that the legislature did not intend to make such a broad grant of authority to the administrator. If such was their desire, inclusion of a statute similar to K.S.A. 9-1713 and appropriate to credit unions could have been easily accomplished. If such represents a deficiency in the present credit union law, the remedy is with the legislature to insert the needed provision.

Accordingly, it is the opinion of this office that the administrator is not given the authority, except as provided in K.S.A. 17-2206, to promulgate rules and regulation.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:HW:kj:tb:ksn