

FIRST REGULAR SESSION

# SENATE BILL NO. 591

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT AND GIBBONS.

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TERRY L. SPIELER, Secretary.

2296S.02I

## AN ACT

To repeal sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, and to enact in lieu thereof six new sections relating to credit unions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 370.005, 370.071, 370.080, 370.081, 370.082, and 370.088, to read as follows:

370.005. [As used in this chapter, the term "director" means the director of the division of credit unions of the department of economic development.] **As used in sections 370.005 to 370.400, the following terms mean:**

(1) **"Credit union", a not-for-profit corporation organized for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, providing for the mutual benefit and general welfare of its members with the earnings, savings, benefits, and services being distributed to its members, for financial and financially-related services, and for an opportunity for its members to improved their economic and social conditions;**

(2) **"Director", the director of the division of credit unions.**

370.071. A credit union may have the following additional powers:

(1) To contract for group insurance plans, approved by the state of Missouri, on behalf of members electing to participate in such insurance programs and to charge a fee for providing such services;

(2) To exercise such additional powers, with the approval of the director, as federally chartered credit unions may be authorized under federal statutes;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

7 **however, this section shall not apply to field-of-membership provisions**  
8 **within this chapter;**

9 (3) To hold membership in central credit unions whose field of  
10 membership includes credit unions, and to invest funds in shares of corporations  
11 to aid the liquidity of credit unions;

12 (4) To act as the fiscal or transfer agent of the United States, of any state,  
13 municipality, or political subdivision and in such capacity to receive and disburse  
14 money, to transfer, register and countersign certificates of stock, bonds and other  
15 evidences of indebtedness;

16 (5) Notwithstanding any other law to the contrary, a credit union may  
17 charge initial and/or recurring membership fees, provided such fees have been  
18 approved by a majority of the membership in attendance at any regular or special  
19 meeting or by a mail ballot as provided in the credit union bylaws, after notice  
20 of the purpose thereof shall have been mailed at least seven days and no longer  
21 than sixty days prior to the date of such meeting. Such membership fees shall  
22 not be construed as reserve income but shall be used at the sole discretion of the  
23 board of directors for the benefit of the credit union.

370.080. 1. The membership shall consist of the organizers and such  
2 persons, societies, associations, copartnerships and corporations as have been  
3 duly elected to membership and have subscribed to one or more general shares,  
4 or one membership share and/or membership fee when required, and have paid  
5 for the same in the whole or in part, with the entrance fee as required by the  
6 bylaws, and have complied with such other requirements as the certificate of  
7 organization may contain.

8 2. A credit union shall be composed of one or more groups of persons. The  
9 members of each such individual group must share:

10 (1) A common occupation, association, employer or;

11 (2) **[A credit union may include those persons who reside or work in a**  
12 **well-defined local neighborhood, community or rural district as such terms are**  
13 **defined by the commission.] A geographic area which may include all**  
14 **those persons who reside or work in a city not within a county or a**  
15 **county, in which the main office of the credit union is located as**  
16 **reported on the National Credit Union Administration (NCUA) 2006**  
17 **year-end 5300 call report, and counties contiguous to such areas as may**  
18 **be approved by the director. The director shall not allow a geographic**  
19 **area credit union to expand beyond counties contiguous to a city not**

20 **within a county or a county in which its main office is located. The**  
21 **director shall not allow a credit union to expand its geographic area**  
22 **due to a relocation of the credit union's main office.**

23 3. No individual shall be eligible for membership in a credit union on the  
24 basis of the relationship of such individual to another person who is eligible for  
25 membership in such credit union unless the individual is a member of the  
26 immediate family or household, as such terms are defined by the commission, of  
27 such person. Except as provided in section 370.340, once a person becomes a  
28 member of a credit union in accordance with this chapter, such person or  
29 organization may remain a member of such credit union until the person or  
30 organization chooses to withdraw from the membership of the credit union.

31 4. Each credit union may, at the option of the board, create one or more  
32 classes of shares which shall be known as "membership share" representing the  
33 member's ownership interest in the credit union on such terms and conditions as  
34 the board of directors may determine, not inconsistent with the bylaws, provided  
35 that each membership share shall have a par value of not less than twenty-five  
36 nor more than one hundred dollars. A membership share shall not be pledged as  
37 security on any loan.

38 5. Notwithstanding any other provisions of this chapter to the contrary,  
39 in the event of liquidation of the assets of the credit union, the membership share  
40 shall be at risk, uninsured, and shall be subordinated to the claims of all  
41 nonmembers and participate in the assets of the credit union after all creditors  
42 and holders of all other shares, and the National Credit Union Administration.

370.081. 1. A credit union may add to its membership additional groups  
2 or geographic areas that comply with the provisions of subsection 2 of section  
3 370.080 if the credit union meets the criteria set forth in this section.

4 2. Except as provided in subdivisions (1) and (2) of this subsection, [each  
5 state chartered credit union shall be subject to limitations on groups of members  
6 that are no less restrictive than those applicable to federally chartered credit  
7 unions under federal laws and regulations, as such limitations are amended or  
8 added from time to time, they shall be applicable to each state chartered credit  
9 union, and in the absence of federal law or regulation relating to the size of  
10 membership groups, only groups with fewer than three thousand members shall  
11 be eligible to be included in the credit union's field of membership;] **only**  
12 **employer groups with fewer than three thousand members shall be**  
13 **eligible to be included in the credit union's field of membership, unless:**

14 (1) Any **employer** group which the commission determines, in writing  
15 and in accordance with the guidelines it has set forth, could not feasibly or  
16 reasonably establish a new single common-bond credit union because:

17 (a) The **employer** group lacks sufficient volunteer or other resources to  
18 support the efficient and effective operation of a credit union;

19 (b) The **employer** group does not meet the criteria which the commission  
20 has determined to be important for the likelihood of success in establishing and  
21 maintaining a new credit union;

22 (c) The **employer** group would be unlikely to operate a safe and sound  
23 credit union;

24 (2) Any groups transferred from another credit union in connection with  
25 a merger or consolidation approved by the director of the division of credit unions  
26 or in the director's capacity as conservator or liquidating agent with respect to  
27 such credit unions, **provided when making this determination the director**  
28 **shall:**

29 (a) **Determine whether the service area of the merging credit**  
30 **union is contiguous to the area served by the continuing credit union;**

31 (b) **Assess the breadth of the service area of the combined credit**  
32 **unions;**

33 (c) **Assess the ability of the continuing credit union to serve the**  
34 **combined area; and**

35 (d) **Assess the number of voluntary mergers the acquiring credit**  
36 **union has requested, or received approval for, during the five-year**  
37 **period preceding the proposed merger.**

38 **The director shall not permit state-chartered credit unions to merge**  
39 **without a thorough assessment by the director that the combined field**  
40 **of membership is consistent with this chapter and is reasonable in**  
41 **terms of size, service area, and geographic location.**

42 3. Notwithstanding subsection 2 of section 370.080, the director of the  
43 division of credit unions may allow the membership of a credit union serving  
44 groups of occupation, association or employer, to include any person within a  
45 [community, neighborhood or rural district,] **proximate geographic area** if:

46 (1) Such an area meets the definition of a low-income or underserved  
47 community as defined by the credit union commission or the National Credit  
48 Union Administration;

49 (2) A merger or consolidation has been approved by the director of the

50 division of credit unions which involves any [community charter] **geographic**  
51 **area** credit union.

52 4. The credit union may apply and receive approval from the director of  
53 the division of credit unions to include the proposed new **occupation, employer,**  
54 **or association** groups or geographic areas in the credit union's membership. In  
55 the case of a new credit union application, the organizers of such credit union as  
56 provided in subsection 1 of section 370.080 shall specify the membership group  
57 selected as provided in subsection 2 of section 370.080. If an existing credit union  
58 applies for a field of membership expansion, such credit union shall select either  
59 a [community group or another] **geographic area or occupation, employer,**  
60 **or association** group as provided in subsection 2 of section 370.080 which shall  
61 be binding for all future expansions. **When a credit union serving**  
62 **occupation, association, or employer groups has converted to a**  
63 **geographic area credit union, that credit union shall not accept as**  
64 **members new groups that are headquartered outside the geographic**  
65 **area of the credit union, or new employees or new members of those**  
66 **groups who work or reside outside the geographic area of the credit**  
67 **union.** Upon receipt of an application from a credit union to include a new group  
68 or new geographic area in its membership, **and no later than five business**  
69 **days after an application has been received,** the director [of the division of  
70 credit unions] shall cause notice of the application to be published in the  
71 [Missouri Register] **division's electronic bulletin and sent electronically**  
72 **to any party who has requested notification of such applications.** From  
73 the date such notice is published, there shall be a ten-business-day comment  
74 period during which any person or entity desiring to do so may comment on such  
75 proposal in writing. Comments received shall become a part of the credit union's  
76 application file, subject to public inspection and copying. Within ten days after  
77 the comment period ends, the director of the division of credit unions shall issue  
78 a decision either granting or rejecting the credit union's application and stating  
79 the reasons therefor. In addition to any other requirements required by law or  
80 rule, prior to granting the application, the director of the division of credit unions  
81 shall [make the following findings] **determine that:**

82 (1) The credit union has the immediate ability to serve the additional  
83 group or geographic area[; and]. **In making this determination, the director**  
84 **shall consider the data required to be reported on an annual basis by**  
85 **the state-chartered credit unions that includes aggregated information**

86 **about the census tracts in which members reside, the actual or**  
87 **estimated annual income of members, and types and numbers of loans**  
88 **or extensions of credit for which members received approval. For the**  
89 **purposes of this section, the term "member data" shall mean**  
90 **information on the income levels of credit union members that credit**  
91 **unions are required to report; provided, however, that no member data**  
92 **includes the names, account numbers, or taxpayer identification**  
93 **numbers. In the event that the National Credit Union Association**  
94 **(NCUA) has a regulation on member data reporting requirements, the**  
95 **state annual member data report shall be made consistent with NCUA**  
96 **reporting requirements. The director shall determine the non-**  
97 **proprietary data to be included in the annual member data report**  
98 **which shall be made available to the public.**

99       (2) [The proposed additional group or geographic area meets the  
100 requirements of subsection 2 of section 370.080. The director of the division of  
101 credit unions shall cause the decision, along with the findings, to be published in  
102 the Missouri Register.] **No later than five business days after an expansion**  
103 **or merger has been granted, the director shall cause the decision and**  
104 **findings to be published in the division's electronic bulletin and sent**  
105 **electronically to any party who has requested notification of such**  
106 **actions.**

107       5. Within fifteen days after the decision is published [in the Missouri  
108 Register], any person or entity [claiming to be adversely affected] **who is**  
109 **aggrieved by said decision and upon a showing of actual damages,** shall  
110 have the right to contest the decision by appealing the decision to the credit  
111 union commission utilizing the procedure as set out in section 370.063. If the  
112 commission finds that the decision or the findings of the director of the division  
113 of credit unions was arbitrary and capricious or not based on evidence in the  
114 director's possession, the commission shall set aside the findings and decision of  
115 the director of the division of credit unions and enter its own findings and  
116 decision. Any party who is aggrieved by a final decision of the commission  
117 entered pursuant to this subsection and who has exhausted all administrative  
118 remedies provided by law may appeal the decision to the circuit court of Cole  
119 County.

120       6. Subject to the restrictions contained in this chapter, the director of the  
121 division of credit unions shall have the authority to approve applications to

122 amend bylaws regarding credit union membership or to organize credit unions  
123 that include single or multiple groups.

370.082. Notwithstanding any law or court decision to the contrary, all  
2 credit unions shall have the right to continue to include in their field of  
3 membership all persons, groups and geographic areas that were included or were  
4 applied for as of April 1, 1998. **Any geographic area credit union that was**  
5 **granted a field-of-membership expansion after April 1, 1998, that is**  
6 **consistent with the field-of-membership provisions of this chapter shall**  
7 **be allowed to:**

8 (1) **Retain the expansion or expansions in its field of**  
9 **membership;**

10 (2) **Serve the county where the credit union main office is**  
11 **located; and**

12 (3) **Include in its field of membership the county or counties**  
13 **where branch offices are located.**

370.088. **Any geographic area credit union branch where deposits**  
2 **or shares are accepted for member's accounts, loan applications are**  
3 **accepted, or loans are disbursed shall be located in the geographic area**  
4 **of that credit union.**

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