

SENATE BILL No. 82

AN ACT concerning financial institutions; relating to the state banking code; form of delivery of certain notices; certificates of existence; conversion to state banks; amending K.S.A. 2018 Supp. 9-550, 9-808, 9-908 and 9-1506 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2018 Supp. 9-550 is hereby amended to read as follows: 9-550. (a) For any deposit account, loan account or other banking relationship hereinafter referred to as "account," that is opened by one or more persons acting or purporting to act for or on behalf of an entity with any financial institution transacting business in this state, such person may provide the financial institution with a certificate to provide evidence of the existence of the entity and the authority of the person to act for or on behalf of the entity with respect to the account.

(b) The certificate of existence and authority shall be an affidavit executed by such person and shall include the following, as applicable:

- (1) The name and mailing address of the entity;
- (2) the type of entity and the state, country or other governmental authority, under which laws, the entity was formed;
- (3) the organization date of the entity;
- (4) the name, mailing address and office or other position held by the person executing the certificate; and
- (5) a statement that the board of directors, managers, members, general partners or other governing body of the entity opening the account has duly taken all action legally required to open the account in the name of the entity and the name, office or other position of the person who has been duly authorized to engage in transactions with respect to the account, including any limitation that may exist upon the authority of such person to bind the entity and any other matters concerning the manner in which such person may deal with the account.

(c) If a financial institution accepts a certificate of existence and authority pursuant to this section, the financial institution may open and administer the account in accordance with the information set forth therein and shall not be liable for so doing, even if any such information is inaccurate, unless the financial institution has actual knowledge of such inaccuracy or knowledge sufficient to cause a reasonably prudent person to doubt the accuracy of such information.

(d) Nothing in this section shall be construed to prohibit a financial institution from requesting additional information or requiring other agreements in order to establish an account for an entity, including, without limitation, a resolution, certificate of good standing, request for a taxpayer identification number, entity agreements or documents or parts thereof evidencing the existence of the entity or the authority of the person executing the certificate, and an indemnification that is acceptable to the financial institution. *No party may infer that the financial institution relying on the certificate of existence has knowledge of the terms of the entity's documentation solely because it holds a copy of all or a part of the entity's documentation.*

(e) As used in this section:

(1) "Entity" means any government or governmental subdivision or agency, any domestic or foreign corporation, limited liability company, general partnership, limited liability partnership, joint venture, cooperative, association or other legal entity, whether operated for profit or not-for-profit; and

(2) "financial institution" means any federal- or state-chartered commercial bank, savings and loan association or savings bank.

(f) This section shall be a part of and supplemental to the state banking code.

Sec. 2. K.S.A. 2018 Supp. 9-808 is hereby amended to read as follows: 9-808. (a) Any national bank, federal savings association or federal savings bank organized under the laws of the United States and located in this state may become a state bank upon the affirmative vote of

not less than $\frac{2}{3}$ of the institution's outstanding voting stock or *voting interests of* members. Any national bank, federal savings association or federal savings bank desiring to become a state bank shall apply to the commissioner for permission to convert to a state bank and:

(1) Shall submit a transcript of the minutes of the meeting of the institution's stockholders or *voting interests of* members showing approval of the proposed conversion;

(2) the name selected for the bank shall not be the name of any other bank: (A) Doing business in the same city or town; or

(B) within a 15-mile radius of the location of the converted institution. The name shall be accepted or rejected by the commissioner, although any bank may request exemption from the commissioner from this paragraph; and

(3) provide any other information required in the application form prescribed by the commissioner.

(b) A federal savings association or federal savings bank operating in a mutual form and ~~which seeks~~ *seeking* to become a stock bank must also convert to a stock form prior to converting to a state bank and shall submit appropriate documentation to the commissioner to show that the appropriate federal regulator has approved such mutual to stock conversion.

(c) Upon receipt of each of the items required by this section the commissioner shall make or cause to be made such investigation as the commissioner deems necessary to determine whether:

(1) All state and federal requirements for a conversion have been satisfied;

(2) the conversion or the financial condition of the bank will not adversely affect the interests of the depositors;

(3) the resulting state bank will have an adequate capital structure in accordance with K.S.A. 9-901a et seq., and amendments thereto; and

(4) the competence, experience or integrity of the proposed management personnel indicates that approving the conversion would be in the interest of the depositors of the bank and in the interest of the public.

(d) If the commissioner determines each of the matters in subsection (c) favorably, the conversion shall be approved, and the commissioner shall issue a certificate of authority. Upon issuance of a certificate of authority, the articles of incorporation, duly executed as required by the Kansas corporate code, shall be filed with the Kansas secretary of state's office.

(e) In any conversion authorized by this section, the resulting state bank by operation of law shall continue all trust functions being exercised by the national bank, federal savings association or federal savings bank and shall be substituted for the national bank, federal savings association or federal savings bank and shall have the right to exercise trust or fiduciary powers created by any instrument designating the national bank, federal savings association or federal savings bank, even though such instruments are not yet effective.

(f) In any conversion authorized by this section, the resulting state bank shall succeed by operation of law without any conveyance or transfer by the act of the national bank, federal savings association or federal savings bank to all the actual or potential assets, real property, tangible personal property, intangible personal property, rights, franchises and interests, including those in a fiduciary capacity of the national bank, federal savings association or federal savings bank and shall be subject to all of the liabilities of the national bank, federal savings association or federal savings bank.

(g) In any conversion authorized by this section the corporate existence of the national bank, federal savings association or federal

savings bank shall be continued in the resulting state bank, and the resulting state bank shall be deemed to be the identical corporate entity as the national bank, federal savings association or federal savings bank.

(h) Within a reasonable time after the effective date of the conversion, the resulting state bank shall divest all assets and liabilities that do not conform to state banking laws and rules and regulations. The length of this transition period shall be determined by the commissioner.

Sec. 3. K.S.A. 2018 Supp. 9-908 is hereby amended to read as follows: 9-908. (a) Upon the affirmative vote of $\frac{2}{3}$ of the voting shares of the common stock of a stock bank or trust company, and with the prior approval of the commissioner, a stock bank or trust company may issue preferred stock of one or more classes. The stockholders shall have a meeting to vote on the issuance of preferred stock. Notice of this meeting shall be given to all stockholders at least five days in advance of the date of the meeting by registered *or certified* mail, *or electronically pursuant to the uniform electronic transactions act, K.S.A. 16-1601 et seq., and amendments thereto.*

(b) No preferred stock shall be retired unless the common stock shall be increased in an amount equal to the amount of the preferred stock retired. All preferred stock shall be retired consistent with safety to the depositors.

Sec. 4. K.S.A. 2018 Supp. 9-1506 is hereby amended to read as follows: 9-1506. (a) The lessor shall have a lien upon the contents of any safe deposit box for the rental thereon.

(b) The lessor may, after giving not less than 60 days' written notice to the lessee of such lessor's intention to enter the box, remove the contents and sell the same for the payment of rent due or other expenses incurred by the bank in keeping the contents, open the box forcibly and remove the contents in the presence of two of the lessor's employees, one of whom shall be an officer, when:

(1) The lessee has not paid the rent within 30 days after the same is due; or

(2) the lessee has failed to surrender possession of any box within 30 days from the date of the termination of the lease.

(c) The lessor shall retain such contents for at least 90 days after opening the box. The lessor then may sell any part or all of the contents at public sale pursuant to the requirements for a commercially reasonable sale under article 9 of the Kansas uniform commercial code and retain from the proceeds of sale the rent due, the costs of opening and repairing the box, the costs of sale and any other amounts due to the lessor.

(d) Any article, item or document without apparent market value may be destroyed after two years from the date of giving or mailing the required notice.

(e) Any notice required by this section shall be delivered either personally or by registered *or certified* mail, *or electronically pursuant to the uniform electronic transactions act, K.S.A. 16-1601 et seq., and amendments thereto*, delivered to the latest address shown on the safe deposit records of the lessor.

Sec. 5. K.S.A. 2018 Supp. 9-550, 9-808, 9-908 and 9-1506 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.