

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2505

As Recommended by House Committee on
Financial Institutions

Brief*

HB 2505 would amend and insert definitions in the provisions of the Banking Code that apply to lending limits to include derivative transactions.

Specifically, the bill would add a new provision to the meaning of the term, "loan," to include "any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction or securities borrowing transaction between a bank and that borrower."

The bill also would create a definition in the Banking Code for the term, "derivative transaction" and would assign the following definition: any transaction that is a contract agreement, swap, warrant, note or option that is based in whole, or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices or other assets.

The bill would take effect and be in force from and after January 21, 2013 (requirements of Dodd-Frank Wall Street Reform and Consumer Protection Act [Sections 610 and 611] become effective), and its publication in the statute book.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The bill was introduced at the request of the Kansas Bankers Association whose representative indicated the bill will ensure that state-chartered banks in Kansas can continue to engage in derivative transactions to the same extent as national-chartered banks. The representative reviewed provisions regulating derivative transactions of national-chartered banks in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, noting the Act further provided that state-chartered banks only could continue to engage in derivative transactions if the state lending limit law was amended to take into consideration the credit exposure involved in such transactions. The Deputy Bank Commissioner, Office of the State Bank Commissioner, (OSBC) submitted neutral testimony on the bill. The testimony indicated that five Kansas state-chartered banks currently hold investments in derivative products, and examiners (OSBC), as part of the regular bank examinations, review a portion of the bank's asset portfolio for credit risks, including derivative assets.

There were no opponents to the bill at the time of the House Committee hearing.

The fiscal note prepared by the Division of the Budget states that the Office of the State Bank Commissioner indicates that the bill would have no fiscal effect on its operations or the operations of any state-chartered bank. The agency indicates that it already reviews derivative transactions during its regular bank examination schedule.