

SENATE BILL No. 390

By Committee on Financial Institutions and Insurance

2-1

1 AN ACT concerning the state banking code; relating to the state bank
2 commissioner; amending K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-
3 801, 9-802, 9-803, 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-
4 816, 9-901a, 9-902, 9-903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-
5 1104, 9-1111, 9-1112, 9-1114, 9-1122, 9-1124, 9-1127c, 9-1130, 9-
6 1137, 9-1213, 9-1304, 9-1401, 9-1402, 9-1405, 9-1408, 9-1504, 9-
7 1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704, 9-1712, 9-1715, 9-
8 1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905, 9-1906, 9-
9 1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104, 9-2107
10 and 9-2108 and repealing the existing sections.
11

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

13 Section 1. K.S.A. 2015 Supp. 9-519 is hereby amended to read as
14 follows: 9-519. For the purposes of K.S.A. 9-520 through 9-524, and
15 amendments thereto, and K.S.A. 9-532 through 9-541, and amendments
16 thereto, unless otherwise required by the context:

17 (a) "Bank" means an insured bank as defined in 12 U.S.C. § 1813(h)
18 except the term shall not include a national bank that: (1) Engages only in
19 credit card operations;

20 (2) does not accept demand deposits or deposits that the depositor
21 may withdraw by check or similar means for payment to third parties or
22 others;

23 (3) does not accept any savings or time deposits of less than
24 \$100,000;

25 (4) maintains only one office that accepts deposits; and

26 (5) does not engage in the business of making commercial loans.

27 (b) (1) "Bank holding company" means any company *that*:

28 (A) ~~which~~ Directly or indirectly owns, controls, or has power to vote
29 25% or more of any class of the voting shares of a bank or 25% or more of
30 any class of the voting shares of a company ~~which~~ *that* is or becomes a
31 bank holding company by virtue of this act;

32 (B) ~~which~~ controls in any manner the election of a majority of the
33 directors of a bank or of a company ~~which~~ *that* is or becomes a bank
34 holding company by virtue of this act;

1 (C) ~~which~~ the commissioner determines, after notice and opportunity
2 for a hearing, ~~that the company~~ directly or indirectly exercises a
3 controlling influence over the management or policies of the bank or
4 company.

5 (2) Notwithstanding paragraph (1), no company:

6 (A) Shall be deemed to be a bank holding company by virtue of the
7 company's ownership or control of shares acquired by the company in
8 connection with such company's underwriting of securities if such shares
9 are held only for such period of time as will permit the sale thereof on a
10 reasonable basis;

11 (B) formed for the sole purpose of participating in a proxy solicitation
12 shall be deemed to be a bank holding company by virtue of the company's
13 control of voting rights of shares acquired in the course of such
14 solicitation;

15 (C) shall be deemed to be a bank holding company by virtue of the
16 company's ownership or control of shares acquired in securing or
17 collecting a debt previously contracted in good faith, provided such shares
18 are disposed of within a period of two years from the date on which such
19 shares could have been disposed of by such company; or

20 (D) owning or controlling voting shares of a bank shall be deemed to
21 be a bank holding company by virtue of the company's ownership or
22 control of shares held in a fiduciary capacity except where such shares are
23 held for the benefit of such company or the company's shareholders.

24 (c) "Company" means any corporation, limited liability company,
25 trust, partnership, association or similar organization including a bank, but
26 shall not include any corporation the majority of the shares of which are
27 owned by the United States or by any state or include any individual,
28 partnership or qualified family partnership upon the determination by the
29 commissioner that a general or limited partnership qualifies under the
30 definition in 12 U.S.C. § 1841(o)(10).

31 (d) "Foreign bank" means any company organized under the laws of a
32 foreign country, a territory of the United States, Puerto Rico, Guam,
33 American Samoa or the Virgin Islands or any subsidiary or affiliate
34 organized under such laws, which engages in the business of banking.

35 (e) "Kansas bank" means any bank, as defined by subsection (a),
36 ~~which that~~, in the case of a state chartered bank, is a bank chartered under
37 the authority of the state of Kansas, and in the case of a national banking
38 association, a bank with its charter location in Kansas.

39 (f) "Kansas bank holding company" means a bank holding company,
40 as defined by subsection (b), with total subsidiary bank deposits in Kansas
41 ~~which that~~ exceed the bank holding company's subsidiary bank deposits in
42 any other state.

43 (g) "Out-of-state bank holding company" means any holding

1 company ~~which~~ *that* is not a Kansas bank holding company as defined in
2 subsection (f).

3 (h) "Subsidiary" means, with respect to a specified bank holding
4 company:

5 (1) Any company with more than 5% of the voting shares, excluding
6 shares owned by the United States or by any company wholly owned by
7 the United States, that are directly or indirectly owned or controlled by, or
8 held with power to vote, such bank holding company; or

9 (2) any company, the election of a majority of the directors of which,
10 is controlled in any manner by such bank holding company.

11 Sec. 2. K.S.A. 2015 Supp. 9-534 is hereby amended to read as
12 follows: 9-534. In determining whether to approve an application filed
13 pursuant to K.S.A. 9-532, and amendments thereto, the commissioner shall
14 consider the following factors:

15 (a) Whether the subsidiary banks of the applicant are operated in a
16 safe, sound and prudent manner.

17 (b) Whether the subsidiary banks of the applicant have provided
18 adequate and appropriate services to their communities, including services
19 contemplated by 12 U.S.C. § 2901 et seq.

20 (c) Whether the applicant proposes to provide adequate and
21 appropriate services, including services contemplated by 12 U.S.C. § 2901
22 et seq., in the communities served by the Kansas state chartered bank or by
23 the Kansas bank subsidiaries of the bank holding company that has an
24 ownership interest in a Kansas state chartered bank.

25 (d) Whether the proposed acquisition will result in a Kansas state
26 chartered bank or bank holding company that has an ownership interest in
27 a Kansas state chartered bank that has adequate capital and good earnings
28 prospects.

29 (e) Whether the financial condition of the applicant or any of ~~its~~ *the*
30 *applicant's* subsidiary banks would jeopardize the financial stability of the
31 Kansas state chartered bank or bank holding company that has an
32 ownership interest in a Kansas state chartered bank which is the subject of
33 the application.

34 (f) Whether the competence, experience and integrity of the
35 managerial resources of the applicant or any proposed management
36 personnel of any Kansas state chartered bank or any Kansas bank
37 subsidiaries of the bank holding company that has an ownership interest in
38 a Kansas state chartered bank indicates that to permit such person to
39 control a bank would not be in the interest of the depositors of a bank or in
40 the interest of the public.

41 Sec. 3. K.S.A. 2015 Supp. 9-701 is hereby amended to read as
42 follows: 9-701. Unless otherwise clearly indicated by the context, the
43 following words when used in the state banking code, for the purposes of

1 the state banking code, shall have the meanings respectively ascribed to
2 them in this section:

3 (a) "Bank" means a state bank incorporated under the laws of Kansas.

4 (b) "Business of banking" means receiving or accepting money on
5 deposit, and may include the performance of related activities that are not
6 exclusive to banks, including paying drafts or checks, lending money or
7 any other activity authorized by applicable law. *"Business of banking"*
8 *shall not include any activity conducted by a student bank.*

9 (c) "Trust company" means a trust company incorporated under the
10 laws of Kansas and which does not accept deposits.

11 (d) "Commissioner" means the Kansas state bank commissioner.

12 (e) "Executive officer" means a person who participates or has
13 authority to participate, other than in the capacity of a director, in major
14 policymaking functions of the bank or trust company, whether or not the
15 officer has an official title, the title designates the officer as an assistant or
16 the officer is serving without salary or other compensation. The
17 chairperson of the board, the president, every vice president, the cashier,
18 the secretary and the treasurer of a company or bank are considered
19 executive officers.

20 (1) A bank may, by resolution of the board of directors or by the
21 bylaws of the bank or trust company, exempt an officer from participation,
22 other than in the capacity of a director, in major policymaking functions of
23 the bank or trust company if the officer does not actually participate
24 therein.

25 (2) The commissioner may make the determination that a person is an
26 executive officer if the commissioner determines that the criteria are met
27 despite the existence of a resolution allowed pursuant to this subsection.

28 (f) "Demand deposit" means a deposit that: (1) (A) Is payable on
29 demand;

30 (B) is issued with an original maturity or required notice period of
31 less than seven days;

32 (C) represents funds for which the depository institution does not
33 reserve the right to require at least seven days' written notice of an
34 intended withdrawal; or

35 (D) represents funds for which the depository institution does reserve
36 the right to require at least seven days' written notice of an intended
37 withdrawal; and

38 (2) is not also a negotiable order of withdraw account.

39 (3) "Demand deposit" does not include "time deposits" or "savings
40 deposits" as defined in this section.

41 (g) "Time deposit," also known as a certificate of deposit, means a
42 deposit that the depositor does not have a right and is not permitted to
43 make withdrawals from within six days after the date of deposit unless the

1 deposit is subject to an early withdrawal penalty of at least seven days'
2 simple interest on amounts withdrawn within the first six days after
3 deposit. A time deposit from which partial early withdrawals are permitted
4 must impose additional early withdrawal penalties for at least seven days'
5 simple interest on amounts withdrawn within six days after each partial
6 withdrawal. If such additional early withdrawal penalties are not
7 contractually imposed, the account ceases to be a time deposit, but may
8 become a savings deposit if the account meets the requirements for a
9 savings deposit.

10 (h) "Savings deposit" means a deposit or account with respect to
11 which the depositor is not required by the deposit contract, but may at any
12 time, be required by the depository institution to give written notice of an
13 intended withdrawal not less than seven days before such withdrawal is
14 made and that is not payable on a specified date or at the expiration of a
15 specified time after the date of deposit.

16 (i) "Public moneys" means all moneys coming into the custody of the
17 United States government or any board, commission or agency thereof,
18 and also shall mean all moneys coming into the custody of any officer of
19 any municipal or quasi-municipal or public corporation, the state or any
20 political subdivision thereof, pursuant to any provision of law authorizing
21 any such official to collect or receive the same.

22 (j) "Municipal corporation" means any city incorporated under the
23 laws of Kansas.

24 (k) "Quasi-municipal corporation" means any county, township,
25 school district, drainage district, rural water district or any other
26 governmental subdivision in the state of Kansas having authority to
27 receive or hold moneys or funds.

28 (l) "Certificate of authority" means a certificate signed and sealed by
29 the commissioner evidencing the authority of a bank or trust company to
30 transact a general banking or trust business as provided by law.

31 (m) "Trust business" means engaging in, or holding out to the public
32 as willing to engage in, the business of acting as a fiduciary for hire,
33 except that no accountant, attorney, credit union, insurance broker,
34 insurance company, investment adviser, real estate broker or sales agent,
35 savings and loan association, savings bank, securities broker or dealer, real
36 estate title insurance company or real estate escrow company shall be
37 deemed to be engaged in a trust company business with respect to
38 fiduciary services customarily performed by ~~them~~ *those persons or entities*
39 for compensation as a traditional incident to their regular business
40 activities.

41 (n) "Community and economic development entity" means an entity
42 that makes investments or conducts activities that primarily benefit low-
43 income and moderate-income individuals, low-income and moderate-

1 income areas, or other areas targeted by a governmental entity for
2 redevelopment, or would receive consideration as "qualified investments"
3 under the community reinvestment act pub. L. 95-128, title VIII, 91 stat.
4 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund
5 established pursuant to K.S.A. 74-8904, and amendments thereto.

6 (o) "Depository institution" means any state bank, national banking
7 association, state savings and loan or federal savings association, without
8 regard to the state where the institution is chartered or the state in which
9 the institution's main office is located.

10 (p) "Student bank" means any nonprofit program offered by a high
11 school accredited by the state board of education, where deposits are
12 received, checks are paid or money is lent for limited in-school purposes.

13 Sec. 4. K.S.A. 2015 Supp. 9-801 is hereby amended to read as
14 follows: 9-801. (a) No bank or trust company shall be organized or
15 incorporated under the laws of this state nor transact either a banking
16 business or a trust business in this state, until the application for such
17 bank's or trust company's incorporation and application for certificate of
18 authority has been submitted to and approved by the state banking board.
19 The form for making any such application shall be prescribed by the state
20 banking board and any application made to the state banking board shall
21 contain such information as the state banking board shall require.

22 (b) No private bank shall engage in the banking business in this state.

23 (c) The state banking board shall not accept an application unless:

24 (1) The bank or trust company is organized by five or more persons
25 who shall also be stockholders of the proposed bank or trust company or
26 parent company of the proposed bank or trust company;

27 (2) at least five of the organizers are residents of the state of Kansas
28 and at least those five sign and acknowledge the articles of incorporation;

29 (3) the name selected for a bank is different from that of any other
30 bank: (A) Doing business in the same city or town; and

31 (B) within a 15-mile radius of the proposed location, ~~and~~;

32 (4) the name selected for the trust company is different *or*
33 *substantially dissimilar* from any other trust company doing business in
34 this state. ~~Although, any bank or trust company may request exemption~~
35 ~~from the commissioner from the provisions of this subsection; and~~

36 ~~(4) (5) the articles of incorporation contain the names and addresses~~
37 ~~of its the bank's or the trust company's~~ stockholders and the amount of
38 common stock subscribed by each. The articles of incorporation may
39 contain such other provisions as are consistent with the general
40 corporation code.

41 (d) *Any bank or trust company may request an exemption from the*
42 *commissioner from the provisions of subsections (c)(3) and (c)(4).*

43 ~~(d) (e)~~ (e) If the state banking board shall determine any of the following

1 factors unfavorably to the applicants, the application may be denied:

2 (1) The financial standing, general business experience and character
3 of the organizers and incorporators;

4 (2) the character, qualifications and experience of the officers of the
5 proposed bank or trust company;

6 (3) the public need for the proposed bank or trust company in the
7 community wherein it is proposed to locate the same and whether existing
8 banks or trust companies are meeting such need;

9 (4) the prospects for success of the proposed bank or trust company;
10 and

11 (5) any other criteria the state banking board may require.

12 (e) (f) The state banking board shall not make membership in any
13 federal government agency a condition precedent to the granting of the
14 authority to do business.

15 (f) (g) The state banking board may require fingerprinting of any
16 officer, director, incorporator or any other person of the proposed trust
17 company related to the application deemed necessary by the state banking
18 board. Such fingerprints may be submitted to the Kansas bureau of
19 investigation and the federal bureau of investigation for a state and
20 national criminal history record check. The fingerprints shall be used to
21 identify the person and to determine whether the person has a record of
22 arrests and convictions in this state or other jurisdictions. The state
23 banking board may use information obtained from fingerprinting and the
24 criminal history for purposes of verifying the identification of the person
25 and in the official determination of the qualifications and fitness of the
26 persons associated with the applicant trust company to be issued a charter.
27 Whenever the state banking board requires fingerprinting, any associated
28 costs shall be paid by the applicant or the parties to the application.

29 ~~(g) In the event two or more applications for incorporation and~~
30 ~~authority to do business seeking to serve the same general territory are~~
31 ~~pending before the state banking board and the state banking board~~
32 ~~determines all of such matters favorably in two or more such applications;~~
33 ~~the state banking board may approve the application of the proposed bank~~
34 ~~or trust company which the state banking board determines will best serve~~
35 ~~the needs of the territory sought to be served.~~

36 ~~(h) The state banking board may approve the application of an~~
37 ~~existing bank or trust company to change such bank's or trust company's~~
38 ~~place of business and deny the application or applications for~~
39 ~~incorporation and authority to do business if:~~

40 ~~(1) One or more such applications seeking to serve a territory are~~
41 ~~pending before the state banking board;~~

42 ~~(2) the board has determined all of such matters favorably in one or~~
43 ~~more of such applications;~~

1 ~~(3) there is an application of an existing bank or trust company~~
2 ~~pending before the state banking board to change such bank's or trust~~
3 ~~company's place of business to serve the same territory which the state~~
4 ~~banking board determines should be approved; and~~

5 ~~(4) the board determines that there is public need for only one bank or~~
6 ~~trust company to serve the territory.~~

7 ~~(i) (h)~~ Any final action of the state banking board approving or
8 disapproving an application shall be subject to review in accordance with
9 the Kansas judicial review act.

10 ~~(j) (i)~~ If upon the dissolution, insolvency or appointment of a receiver
11 of any bank, trust company, national bank association, savings and loan
12 association, savings bank or credit union, the commissioner is of the
13 opinion that by reason of the loss of services in the community, an
14 emergency exists which may result in serious inconvenience or losses to
15 the depositors or the public interest in the community, the commissioner
16 may accept and approve an application for incorporation and an
17 application for authority to do business from applicants for the
18 organization and establishment of a successor bank or trust company.

19 Sec. 5. K.S.A. 2015 Supp. 9-802 is hereby amended to read as
20 follows: 9-802. (a) The existence of any bank or trust company as a
21 corporation shall date from the filing of the bank's or trust company's
22 articles of incorporation with the Kansas secretary of state's office from
23 which time such bank or trust company shall have and may exercise the
24 incidental powers conferred by law upon corporations, except that no bank
25 or trust company shall transact any business except the election of officers,
26 the taking and approving of ~~their~~ official bonds, the receipts of payment
27 upon stock subscriptions and other business incidental to ~~its~~ *their*
28 organization, until such bank or trust company has secured the approval of
29 the state banking board and the authorization of the commissioner to
30 commence business.

31 (b) The full amount of the common stock including the surplus and
32 undivided profits as required by the Kansas banking code shall be
33 subscribed before the articles of incorporation are filed with the Kansas
34 secretary of state's office.

35 Sec. 6. K.S.A. 2015 Supp. 9-803 is hereby amended to read as
36 follows: 9-803. (a) Any bank ~~whose~~ *with* articles of incorporation ~~has~~ *that*
37 *have* lapsed, or hereafter shall lapse, may renew and extend the bank's
38 corporate existence in the manner provided by law and upon payment of
39 the requisite fees.

40 (b) The acts of any bank or trust company ~~whose~~ *with* articles of
41 incorporation *that* have lapsed or terminated by the expiration of time and
42 ~~whose~~ *such bank's or trust company's* corporate existence is renewed and
43 extended are hereby legalized and declared to be valid in the same manner

1 and to the same effect as though the banks and trust companies had been
2 duly authorized at all times since their organization.

3 Sec. 7. K.S.A. 2015 Supp. 9-804 is hereby amended to read as
4 follows: 9-804. (a) Upon approval of an application to organize a bank or
5 trust company with the state banking board, such board shall cause to be
6 made by and through the commissioner, a careful examination and
7 investigation concerning:

8 (1) The amount of moneys paid in for capital, surplus and undivided
9 profits, the persons that paid and the amount of capital stock owned in
10 good faith by each stockholder;

11 (2) whether such bank or trust company has complied with the
12 applicable provisions of law; and

13 (3) any other criteria the commissioner may require.

14 (b) When the capital of any bank or trust company shall have been
15 paid in, the president or cashier shall transmit to the commissioner a
16 verified statement showing the names and addresses of all stockholders,
17 the amount of stock each subscribed and the amount paid in by each.

18 (c) If the commissioner finds, after examination and investigation,
19 that the bank or trust company has been organized as provided by law, has
20 complied with the provisions of law and has secured the preliminary
21 approval of the commissioner, if required by K.S.A. 9-801~~(e)~~(i), and
22 amendments thereto, or upon the approval of the state banking board, the
23 commissioner shall issue a certificate showing that such bank or trust
24 company has been organized and ~~its~~ capital *has been* paid in as required by
25 law, and that ~~it~~ *the bank or trust company* is authorized to transact a
26 general banking or trust business as provided by law.

27 Sec. 8. K.S.A. 2015 Supp. 9-808 is hereby amended to read as
28 follows: 9-808. (a) ~~Upon the affirmative vote of not less than $\frac{2}{3}$ of its~~
29 ~~outstanding voting stock,~~ Any national bank, federal savings association or
30 federal savings bank organized under the laws of the United States and
31 located in this state may become a state bank *upon the affirmative vote of*
32 *not less than $\frac{2}{3}$ of the institution's outstanding voting stock.* Any national
33 bank, federal savings association or federal savings bank desiring to
34 become a state bank shall apply to the commissioner for permission to
35 convert to a state bank and:

36 (1) Shall submit a transcript of the minutes of the meeting of ~~its~~ *the*
37 *institution's* stockholders showing approval of the proposed conversion;

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

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

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

3 (b) A federal savings association or federal savings bank operating in
4 a mutual form must also convert to a stock form prior to converting to a
5 state bank and shall submit appropriate documentation to the
6 commissioner to show that the appropriate federal regulator has approved
7 such mutual to stock conversion.

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

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

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

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

17 (4) the competence, experience or integrity of the proposed
18 management personnel indicates ~~it~~ *that approving the conversion* would be
19 in the interest of the depositors of the bank and in the interest of the public
20 ~~to permit the conversion.~~

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

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

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

43 (g) In any conversion authorized by this section the corporate

1 existence of the national bank, federal savings association or federal
2 savings bank shall be continued in the resulting state bank, and the
3 resulting state bank shall be deemed to be the identical corporate entity as
4 the national bank, federal savings association or federal savings bank.

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

9 Sec. 9. K.S.A. 2015 Supp. 9-809 is hereby amended to read as
10 follows: 9-809. ~~(a) Upon the affirmative vote of not less than $\frac{2}{3}$ of its~~
11 ~~outstanding voting stock,~~ Any state bank may convert to a national bank
12 *upon the affirmative vote of not less than $\frac{2}{3}$ of the bank's outstanding*
13 *voting stock.*

14 (b) The state bank shall provide a copy of the application submitted to
15 the comptroller of currency to the commissioner within 10 days after the
16 date the state bank applies for approval to convert to a national banking
17 association from the office of the comptroller of the currency.

18 (c) The state bank shall provide to the commissioner written notice of
19 approval by the comptroller of currency to convert to a national bank
20 within 10 days of receiving the approval.

21 (d) Within 15 days following the issuance of a charter certificate to
22 the bank by the comptroller, the bank shall surrender its state certificate of
23 authority or charter and shall certify in writing that notice of the
24 conversion has been given to the Kansas secretary of state's office.

25 Sec. 10. K.S.A. 2015 Supp. 9-811 is hereby amended to read as
26 follows: 9-811. No financial institution ~~whose~~ *with* deposits ~~are~~ insured by
27 the federal deposit insurance corporation shall conduct business in this
28 state unless such institution: (a) Has the legal right to accept deposits that
29 the depositor has the legal right to withdraw on demand and to engage in
30 the business of making commercial loans; or; (b) is a national bank which
31 engages only in credit card operations, does not accept demand deposits or
32 deposits that the depositor may withdraw by check or similar means for
33 payment to third parties or others, does not accept any savings or time
34 deposits of less than \$100,000, maintains only one office that accepts
35 deposits and does not engage in the business of making commercial loans.

36 Sec. 11. K.S.A. 2015 Supp. 9-812 is hereby amended to read as
37 follows: 9-812. (a) No bank or trust company shall change its name until
38 such name change has been submitted to and approved by the
39 commissioner.

40 (b) The commissioner shall not approve the name selected for the
41 bank if it is the name of any other bank: (1) Doing business in the same
42 city or town; or

43 (2) within a 15-mile radius of ~~the proposed location~~ *any bank or*

1 *branch bank.*

2 (c) The commissioner shall not approve the name selected for the
3 trust company if it is the same or substantially similar name of any other
4 trust company doing business in the state of Kansas.

5 (d) Any bank or trust company may request exemption from the
6 commissioner from subsection (b) or (c).

7 (e) Upon approval of such name change, the bank *or trust company*
8 must notify and make the necessary filings as may be required by the
9 Kansas secretary of state's office.

10 (f) Any bank or trust company authorized to do business pursuant to
11 the state banking code may use a name other than the name approved by
12 the commissioner, provided:

13 (1) The bank or trust company must notify the commissioner, and the
14 commissioner must approve, any use of a name other than the name
15 approved by the commissioner;

16 (2) the bank's or trust company's actual name is prominently
17 displayed adjacent to any other name displayed; and

18 (3) the bank or trust company continues to use the name approved by
19 the commissioner in all legally enforceable documents and memoranda.

20 Sec. 12. K.S.A. 2015 Supp. 9-814 is hereby amended to read as
21 follows: 9-814. (a) No bank or trust company organized under the laws of
22 this state shall change the bank's or trust company's place of business,
23 from one city or town to another or from one location to another within the
24 same city or town, without prior approval. Any such bank or trust
25 company desiring to change the bank's or trust company's place of
26 business shall file written application with the office of the state bank
27 commissioner in such form and containing such information the
28 commissioner shall require. Notice of the proposed relocation shall be
29 published in a newspaper of general circulation in the county where the
30 main bank or trust company is currently located and in the county to which
31 the bank or trust company proposes to relocate. The notice shall be in the
32 form prescribed by the commissioner and at a minimum shall contain the
33 name and address of the applicant bank or trust company, the address of
34 the proposed new location and a solicitation for written comments. The
35 notice shall be published on the same day for two consecutive weeks and
36 provide for a comment period of not less than 10 calendar days after the
37 date of the second publication. The applicant shall provide proof of
38 publication to the commissioner.

39 (b) The commissioner shall examine and investigate the application.
40 The commissioner shall approve the application if it is found *that*:

41 (1) There is a reasonable probability of usefulness and success of the
42 bank or trust company in the proposed location;

43 (2) the applicant bank's or trust company's financial history and

1 condition is sound; and

2 (3) the name selected for the bank is different from that of any other
3 bank: (A) Doing business in the same city or town; and

4 (B) within a 15-mile radius of the proposed location—~~although any~~
5 ~~bank or trust company may request exemption from the commissioner~~
6 ~~from this paragraph; and~~

7 (4) *the name selected for a trust company is different or substantially*
8 *dissimilar from any other trust company doing business in this state.*

9 (c) *any bank or trust company may request an exemption from the*
10 *commissioner from the provisions of subsection (b)(3) or (b)(4).*

11 ~~(e)~~ (d) If the commissioner denies an application, the applicant shall
12 have the right to a hearing before the state banking board to be conducted
13 in accordance with the Kansas administrative procedure act. Any action of
14 the state banking board pursuant to this section is subject to review in
15 accordance with the Kansas judicial review act.

16 ~~(d)~~ (e) Upon approval of such place of business change, the bank or
17 trust company must notify and make the necessary filings as may be
18 required by the secretary of state's office.

19 Sec. 13. K.S.A. 2015 Supp. 9-815 is hereby amended to read as
20 follows: 9-815. (a) Any applicant making application under article 8 of
21 chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall
22 pay to the commissioner a fee in an amount established pursuant to K.S.A.
23 2015 Supp. 9-1726, and amendments thereto, to defray the expenses of the
24 state banking board, commissioner or other designees in the examination
25 and investigation of the application.

26 (b) The commissioner shall remit all moneys received under this
27 section to the state treasurer in accordance with the provisions of K.S.A.
28 75-4215, and amendments thereto. Upon receipt of each such remittance,
29 the state treasurer shall deposit the entire amount in the state treasury to
30 the credit of the bank investigation fund. The moneys in the bank
31 investigation fund shall be used to pay the expenses of the commissioner,
32 or designee, in the examination and investigation of such applications and
33 any unused balance shall be transferred to the bank commissioner fee
34 fund.

35 (c) Any members of the state banking board who make such an
36 examination or investigation shall be paid the sum of \$35 per diem for the
37 time ~~they~~ *the members* actually are engaged in performing ~~their~~
38 members of ~~such~~ *the state banking* board and shall be compensated *from*
39 *such funds* all ~~their~~ *the* actual and necessary expenses incurred in the
40 performance of ~~such~~ *the members'* duties ~~from such funds~~.

41 Sec. 14. K.S.A. 2015 Supp. 9-816 is hereby amended to read as
42 follows: 9-816. (a) As used in this section, "bankers' bank" means a state
43 bank which is owned exclusively, except to the extent directors' qualifying

1 shares are required by law, by other state banks, federally chartered banks
2 or a one-bank holding company and is organized to engage exclusively in
3 providing services for other state banks or federally chartered banks and
4 ~~their~~ *the banks'* officers, directors and employees.

5 (b) The state banking board may approve the application for the
6 organization of a state bankers' bank under the provisions of K.S.A. 9-801
7 et seq., and amendments thereto.

8 Sec. 15. K.S.A. 2015 Supp. 9-901a is hereby amended to read as
9 follows: 9-901a. (a) For purposes of this section: (1) "Capital" means the
10 total of the aggregate par value of ~~its~~ *a bank's or trust company's*
11 outstanding shares of capital stock, its surplus and its undivided profits;

12 (2) "equity capital" means the total of common stock, preferred stock,
13 surplus and undivided profits less intangibles; and

14 (3) "total assets" means the total of all tangible bank assets as
15 reported on the daily balance sheet of the bank.

16 (b) (1) For banks organized on or after July 1, 2015, the minimum
17 capital of a bank at the time of organization shall be the greater of
18 \$3,000,000 or an amount equal to 8% of the proposed bank's estimated
19 deposits five years after its organization. The capital shall be divided with
20 60% of the amount as the aggregate par value of outstanding shares of
21 capital stock, 30% as surplus and 10% as undivided profits.

22 (2) For trust companies organized on or after July 1, 2015, the
23 minimum capital shall at all times be \$500,000. The capital shall be
24 divided with 60% of the amount as the aggregate par value of outstanding
25 shares of capital stock, 30% as surplus and 10% as undivided profits.

26 (3) The state banking board may require that a bank or trust company
27 have capital in excess of the amounts specified in this subsection if the
28 state banking board determines that excess capital is necessary based on
29 the character and qualifications of the proposed board of directors and the
30 nature of the business of the bank or trust company.

31 (c) The minimum capital of a bank or trust company organized
32 pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined
33 by the commissioner, provided that the successor bank has obtained
34 deposit insurance from the federal deposit insurance corporation or ~~its~~ *any*
35 successor.

36 (d) All banks shall maintain a capital ratio of at least 5% of equity
37 capital to total assets at all times.

38 (e) Any bank that relocates its main office from one city to another
39 pursuant to K.S.A. 2015 Supp. 9-814, and amendments thereto, shall have
40 equity capital equal to the greater of \$3,000,000 or 8% of its estimated
41 deposits five years after the relocation.

42 (1) The commissioner, in the commissioner's discretion, may approve
43 a relocation with a smaller equity capital amount if the bank can show that

1 the circumstances surrounding the relocation warrant consideration of a
2 lesser amount and the safety of depositors would not be impacted by
3 requiring a lesser amount.

4 (2) If the main office relocation is part of an interchange of the main
5 office with a branch location that has been in operation for at least one
6 year, this equity capital requirement shall not apply.

7 (f) Any national bank, federal savings association or federal savings
8 bank which converts its charter to a state bank pursuant to K.S.A. 9-808,
9 and amendments thereto, shall have a minimum capital ratio of 5% of
10 equity capital to total assets at the time of its conversion. The capital
11 division requirements of subsection (b) shall not apply.

12 (g) The commissioner may require that a bank or trust company have
13 capital in excess of the amounts specified in subsections (b) through (d) if
14 the commissioner determines that excess capital is necessary based on the
15 character and qualifications of the proposed board of directors and nature
16 of the business of the bank or trust company.

17 (h) Any bank that fails to meet the minimum capital ratio of 5% of
18 equity capital to total assets required by this section shall notify the
19 commissioner within three business days. Upon notice, the commissioner
20 may require the bank to submit a written plan for restoring capital
21 approved by the commissioner.

22 Sec. 16. K.S.A. 2015 Supp. 9-902 is hereby amended to read as
23 follows: 9-902. (a) The common and preferred stock of any bank or trust
24 company hereafter created shall be divided into shares of \$1 each, or any
25 whole number multiple thereof. All subscriptions to such stock shall be
26 paid in cash and any bank or trust company may change the par value of
27 its shares to conform with this section.

28 (b) Any bank or trust company may reduce the number of shares of
29 common stock and replace ~~them~~ *the shares of common stock* with a like
30 amount of *shares of* preferred stock, as long as the total dollar amount of
31 capital stock is not changed. In lieu of reducing the number of shares of
32 common stock, the bank may reduce the par value of the common stock
33 and ~~replace it with~~ *issue* preferred stock with a par value that is equal to
34 the amount of the reduction in the par value of the common stock. When
35 the preferred stock is retired, the par value of the common shares shall be
36 restored.

37 (c) The requirements for a capital reduction pursuant to K.S.A. 9-904,
38 and amendments thereto, and the requirements for new issue of preferred
39 stock pursuant to K.S.A. 9-908, and amendments thereto, shall not apply
40 to the circumstance described in this section.

41 Sec. 17. K.S.A. 2015 Supp. 9-903 is hereby amended to read as
42 follows: 9-903. (a) The shares of stock of any bank or trust company shall
43 be deemed personal property and shall be transferred on the books of the

1 bank or trust company in such manner as the bylaws thereof may direct.

2 (b) No transfer of stock shall be valid against the issuing bank or trust
3 company so long as the registered owner thereof shall be liable as
4 principal debtor, surety or otherwise to the bank or trust company on a
5 matured, charged off or forgiven obligation. No dividend, interest or profit
6 shall be paid on such stock so long as the registered owner thereof is
7 indebted to the bank or trust company on a matured, charged off or
8 forgiven obligation. All such dividends or profits shall be retained by the
9 bank or trust company and applied to the discharge of any such
10 obligations.

11 (c) No stock shall be transferred on the books of any bank or trust
12 company when the bank or trust company is in a failing condition, or when
13 its capital stock is impaired, except upon approval of the commissioner.

14 (d) The president or other chief executive officer of a bank or trust
15 company shall report to the commissioner within 10 days of the transfer of
16 shares of stock on the books of the bank or trust company if there is a
17 transfer of:

18 (1) Shares of stock that results in the direct or indirect ownership by a
19 stockholder or an affiliated group of stockholders of 10% or more of the
20 outstanding stock of the bank or trust company; or

21 (2) additional shares of stock to stockholders or an affiliated group of
22 stockholders who own 10% or more of the outstanding stock of a bank or
23 trust company.

24 (e) If there is a transfer of shares of stock that results in the direct or
25 indirect ownership by a stockholder or an affiliate group of stockholders of
26 25% or more of the outstanding stock of the bank or trust company, a
27 change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and
28 amendments thereto.

29 Sec. 18. K.S.A. 2015 Supp. 9-904 is hereby amended to read as
30 follows: 9-904. (a) With prior approval of the commissioner, a bank or
31 trust company may reduce the amount of its capital stock account. No such
32 reduction shall be approved unless the commissioner finds that:

33 (1) The proposed reduction is necessary to provide greater
34 operational flexibility to an adequately capitalized, well-managed
35 institution;

36 (2) the proposed reduction does not result in or is not in furtherance
37 of a reduction in the institution's capital to an amount below the amount
38 required by K.S.A. 9-901(a), and amendments thereto;

39 (3) the proposed reduction is not intended to delay, prevent or be in
40 lieu of capital stock impairment or a stockholder's assessment pursuant to
41 K.S.A. 9-906, and amendments thereto;

42 (4) the proposed reduction poses no significant risk to the financial
43 stability, safety or soundness of the institution;

1 (5) the bank's *or trust company's* surplus account will be increased in
2 an amount equal to the amount of the proposed reduction in the capital
3 stock account, unless a waiver is granted by the commissioner; and

4 (6) a resolution approving the reduction has been adopted by the
5 stockholders representing $\frac{2}{3}$ of the voting stock of the bank or trust
6 company.

7 (b) Upon completion of the reduction, the bank or trust company
8 shall file with the commissioner a list of its stockholders and the amount of
9 stock held by each.

10 (c) Whenever the capital stock of any bank or trust company shall be
11 reduced as herein provided, every stockholder, owner or holder of any
12 stock certificate shall surrender the same for cancellation and shall be
13 entitled to receive a new certificate for such person's proportion of the new
14 stock. No dividends shall be paid to any such stockholder until the old
15 certificate is surrendered.

16 Sec. 19. K.S.A. 2015 Supp. 9-906 is hereby amended to read as
17 follows: 9-906. (a) Whenever it shall appear that the capital stock of any
18 bank or trust company is impaired, the commissioner shall notify the bank
19 or trust company to restore the capital stock within 90 days of receipt of
20 such notice.

21 (b) For purposes of this section, "impairment" means that charges or
22 losses to the bank or trust company's capital accounts have been sufficient
23 to eliminate all of the bank or trust company's allowance for loan and lease
24 loss, undivided profits, surplus fund and any other capital reserves and has
25 brought the book amount of the capital stock ~~value~~ below ~~its~~ *the* par value
26 *of the capital stock*.

27 (c) Within 15 days of receipt of the impairment notice from the
28 commissioner, the board of directors of the bank or trust company shall
29 levy an assessment on the common stockholders sufficient to restore the
30 capital stock.

31 (d) A bank or trust company may reduce its capital stock to the extent
32 of the impairment, if such reduction is conducted pursuant to the
33 requirements of K.S.A. 9-904, and amendments thereto.

34 Sec. 20. K.S.A. 2015 Supp. 9-907 is hereby amended to read as
35 follows: 9-907. (a) Whenever any stockholder of a bank or trust company
36 or an assignee of such stockholder, fails to pay any assessment as required
37 by K.S.A. 9-906, and amendments thereto, the directors of the bank or
38 trust company may sell the stock of such delinquent stockholder, or so
39 much of the stock as necessary, to satisfy the assessment and any related
40 incidental expenses within 120 days of the bank or trust company's receipt
41 of impairment notice.

42 (b) The sale of stock of a delinquent stockholder may be either public
43 or private. The bank or trust company may sell the stock to any person

1 paying the highest price, however, the price shall not be less than the
2 amount due upon the stock, including any incidental expenses. If the stock
3 is sold at private sale and the price offered by any non-stockholder does
4 not exceed the highest bid of any stockholder, then such stock shall be sold
5 to the stockholder. If the stock is sold at a public sale, then notice of the
6 public sale shall be published on the same day for two consecutive weeks,
7 in a newspaper of general circulation in the city or county where the bank
8 or trust company is located.

9 (c) Any excess moneys realized from the sale of the stock shall be
10 paid to the delinquent stockholder, unless the stockholder is indebted to the
11 bank or trust company. If the stockholder has debt, then the excess may be
12 retained by the bank or trust company as an offset against the debt.

13 (d) If no purchaser can be found for the stock at the public or private
14 sale, ~~it~~ *the stock* shall be forfeited to the bank or trust company to be
15 disposed of as the board of directors shall determine within six months
16 from the date of the public or private sale. If the stock cannot be disposed
17 of within six months, the bank or trust company may request permission
18 from the commissioner for additional time to dispose of the stock.

19 Sec. 21. K.S.A. 2015 Supp. 9-1101 is hereby amended to read as
20 follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board
21 of directors or duly authorized officers or agents, subject to law, the
22 following powers:

23 (1) To receive and to pay interest on deposits. The commissioner,
24 with approval of the state banking board, may by rules and regulations fix
25 maximum rates of interest to be paid on deposit accounts other than
26 accounts for public moneys;

27 (2) to buy, sell, discount or negotiate domestic currency, gold, silver,
28 foreign currency, bullion, commercial paper, bills of exchange, notes and
29 bonds. Foreign currency shall not be bought, sold, discounted or
30 negotiated for investment purposes;

31 (3) to make all types of loans, subject to the loan limitations
32 contained in the state banking code;

33 (4) (A) to buy and sell: (i) Bonds, securities; or other evidences of
34 indebtedness, including temporary notes, of: *the United States of America;*

35 ~~(i) Bonds, securities or other evidences of indebtedness, including~~
36 ~~temporary notes, fully guaranteed, directly or indirectly, by the United~~
37 ~~States of America or those fully guaranteed, directly or indirectly, by it; or~~

38 ~~(ii) general obligations~~ (iii) *general obligation bonds* of any state of
39 the United States of America or any municipality or quasi-municipality
40 thereof.

41 (B) No bank shall invest in bonds, securities or other evidences of
42 indebtedness if:

43 (i) The direct and overlapping indebtedness of such municipality or

1 quasi-municipality is in excess of 10% of its assessed valuation, excluding
2 therefrom all valuations on intangibles and homestead exemption
3 valuation; or

4 (ii) any bond, security, or evidence of indebtedness of any such
5 municipality or quasi-municipality that has been in default in the payment
6 of principal or interest within 10 years prior to the time that any bank
7 acquires any such bonds, security or evidence of indebtedness;

8 (5) to buy and sell investment securities which are evidences of
9 indebtedness limited to buying and selling without recourse marketable
10 obligations evidencing indebtedness of any state or federal agency,
11 including revenue bonds issued pursuant to K.S.A. 76-6a15, and
12 amendments thereto, or the state armory board in the form of bonds, notes
13 or debentures or both. The total amount of such investment securities of
14 any one obligor or maker held by such bank shall at no time exceed 25%
15 of the capital stock, surplus, undivided profits, 100% of the allowance for
16 loan and lease loss, capital notes and debentures and reserve for
17 contingencies of such bank, except that this limit shall not apply to
18 obligations of the United States government or any agency thereof;

19 (6) to buy and sell investment securities which are evidences of
20 indebtedness limited to buying and selling without recourse marketable
21 obligations evidencing indebtedness of any person, copartnership,
22 association or corporation. The total amount of such investment securities
23 of any one obligor or maker held by such bank shall at no time exceed
24 25% of the capital stock surplus, undivided profits, 100% of the allowance
25 for loan and lease loss, capital notes and debentures and reserve for
26 contingencies of such bank;

27 (7) to subscribe to, buy, hold and sell stock of:

28 (A) The federal national mortgage association in accordance with the
29 national housing act;

30 (B) the federal home loan mortgage corporation in accordance with
31 the federal home loan mortgage corporation act;

32 (C) the federal agricultural mortgage corporation, provided no bank's
33 investment in such corporation shall exceed 5% of ~~its~~ *the bank's* capital
34 stock, surplus and undivided profits; and

35 (D) a federal home loan bank. Any bank may also become a member
36 of a federal home loan bank;

37 (8) to subscribe to, buy and own stock in one or more small business
38 investment companies in Kansas as otherwise authorized by federal law,
39 except that in no event shall any bank acquire shares in any small business
40 investment company if, upon the ~~making of that~~ acquisition, the aggregate
41 amount of shares in small business investment companies then held by the
42 bank would exceed 5% of ~~its~~ *the bank's* capital and surplus;

43 (9) to subscribe to, buy and own stock in any agricultural credit

1 corporation or livestock loan company, or its affiliate, organized pursuant
2 to the provisions of the laws of the United States providing for the
3 information and operation of agricultural credit corporations and livestock
4 loan companies, in an amount not exceeding either the undivided profits or
5 10% of the capital stock and surplus and undivided profits from such bank,
6 whichever is greater;

7 (10) to buy, hold and sell any type of investment securities not
8 enumerated in this section with approval of the commissioner and upon
9 such conditions and under such regulations as are prescribed by the state
10 banking board;

11 (11) to act as escrow agent;

12 (12) to subscribe to, acquire, hold and dispose of stock of a
13 corporation ~~having as its purpose the acquisition, holding and disposition~~
14 *the purpose of which is to acquire, hold and dispose* of loans secured by
15 real estate mortgages, and to acquire, hold and dispose of the debentures
16 and capital notes of such corporation. No bank's investment in such stock,
17 debentures and capital notes shall exceed 2% of its capital stock, surplus
18 and undivided profits;

19 (13) to purchase and sell securities and stock without recourse solely
20 upon the order, and for the account, of customers;

21 (14) to subscribe to, acquire, hold and dispose of any class of stock,
22 debentures and capital notes of MABSCO agricultural services, inc. or any
23 similar corporation ~~having as its purpose the acquisition, holding and~~
24 *disposition the purpose of which is to acquire, hold and dispose* of
25 agricultural loans originated by Kansas banks. No bank's investment in
26 such stock, debentures and capital notes shall exceed 2% of its capital
27 stock, surplus and undivided profits;

28 (15) to engage in financial future contracts on United States
29 government and agency securities subject to such rules and regulations as
30 the commissioner may prescribe pursuant to K.S.A. 9-1713, and
31 amendments thereto, to promote safe and sound banking practices;

32 (16) to subscribe to, buy and own stock in a bankers' bank organized
33 under the laws of the United States, this state or any other state, or a one
34 bank holding company which owns or controls such a bankers' bank,
35 except no bank's investment in such stock shall exceed 10% of its capital
36 stock, surplus and undivided profits;

37 (17) to buy, hold and sell shares of an open-end investment company
38 in a manner consistent with the parameters outlined by the office of the
39 comptroller of the currency in banking circular 220, as such circular was
40 issued on November 21, 1986;

41 (18) subject to the prior approval of the commissioner and subject to
42 such rules and regulations as are adopted by the commissioner pursuant to
43 K.S.A. 9-1713, and amendments thereto, to promote safe and sound

1 banking practices, a bank may establish a subsidiary which engages in the
2 following securities activities: (A) Selling or distributing stocks, bonds,
3 debentures, notes, mutual funds and other securities; (B) issuing and
4 underwriting municipal bonds; (C) organizing, sponsoring and operating
5 mutual funds; or (D) acting as a securities broker-dealer;

6 (19) to subscribe to, buy and own stock in an insurance company
7 incorporated prior to 1910, under the laws of Kansas, with corporate
8 headquarters in this state, which only provides insurance to financial
9 institutions. The investment in such stock shall not exceed 2% of the
10 bank's capital stock, surplus and undivided profits;

11 (20) to purchase and hold an interest in life insurance policies and, to
12 the extent applicable, to purchase and hold an annuity in a manner
13 consistent with the parameters outlined in the interagency statement of the
14 purchase and risk management of life insurance, issued by the office of the
15 comptroller of the currency, the board of governors of the federal reserve
16 system, the federal deposit insurance corporation and the office of the
17 thrift supervision on December 7, 2004; and set out in the respective
18 agencies' issuances, including the federal deposit insurance corporation
19 financial institution letter 127-2004, effective December 7, 2004, subject
20 to the following limitations:

21 (A) The cash surrender value of any life insurance policy or policies
22 underwritten by any one life insurance company shall not at any time
23 exceed 15% *of the total* of the bank's capital stock, surplus, undivided
24 profits, *100% of the* allowance for loan and lease losses, capital notes and
25 debentures and reserve for ~~contingency~~ *contingencies*, unless the bank has
26 obtained the prior approval of the commissioner;

27 (B) the cash surrender value of life insurance policies, in the
28 aggregate from all companies, cannot at any time exceed 25% of the *total*
29 *of the* bank's capital stock, surplus, undivided profits, *100% of the*
30 allowance for loan and lease losses, capital notes and debentures and
31 reserve for ~~contingency~~ *contingencies*, unless the bank has obtained the
32 prior approval of the state bank commissioner; ~~and~~

33 (C) the limitations set forth in subparagraphs (A) and (B) shall not
34 apply to any life insurance policy in place prior to July 1, 1993; *and*

35 (D) *for the purposes of subsections (a)(20)(A) and (a)(20)(B),*
36 *intangibles, such as goodwill, shall not be included in the calculation of*
37 *capital.*

38 (21) act as an agent and receive deposits, renew time deposits, close
39 loans, service loans and receive payments on loans and other obligations
40 for any company which is a subsidiary, as defined in K.S.A. 9-519, and
41 amendments thereto, of the bank holding company which owns the bank.
42 Nothing in this subsection shall authorize a bank to conduct activities as an
43 agent which the bank or the subsidiary would be prohibited from

1 conducting as a principal under any applicable federal or state law. Any
2 bank which enters or terminates any agreement pursuant to this subsection
3 shall within 30 days of the effective date of the agreement or termination
4 provide written notification to the commissioner which details all parties
5 involved and services to be performed or terminated;

6 (22) to make loans to the bank's stockholders or the bank's controlling
7 holding company stockholders on the security of the shares of the bank or
8 the bank's controlling bank holding company, but loans on the security of
9 the shares of the bank may occur only if the bank would have extended
10 credit to such stockholder on exactly the same terms without the bank
11 shares pledged as collateral;

12 (23) to make investments in and loans to community and economic
13 development entities as defined in K.S.A. 9-701, and amendments thereto,
14 subject to the limitations prescribed by community reinvestment act pub. l.
15 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

16 (24) to participate in a school savings deposit program authorized
17 under K.S.A. 9-1138, and amendments thereto;

18 (25) with prior approval of the commissioner, to control or hold an
19 interest in a financial subsidiary.

20 (A) The financial subsidiary may engage in one or more of the
21 following activities:

22 (i) Lending, exchanging, transferring, investing for others or
23 safeguarding money or securities;

24 (ii) acting as agent or broker for purposes of insuring, guaranteeing or
25 indemnifying against loss, harm, damage, illness, disability, death or
26 providing annuities as agent or broker subject to the requirements of
27 chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

28 (iii) issuing or selling instruments representing interests in pools or
29 assets permissible for a bank to hold directly;

30 (iv) operating a travel agency; and

31 (v) activities that are financial in nature as determined by the
32 commissioner.

33 (B) Such activities do not include:

34 (i) Insuring, guaranteeing or indemnifying against loss, harm,
35 damage, illness, disability, death or providing or issuing annuities the
36 income of which is subject to tax treatment under 26 U.S.C. § 72;

37 (ii) real estate development or real estate investment, except as
38 otherwise expressly authorized by Kansas law; or

39 (iii) any activity permitted for financial holding companies under 12
40 U.S.C. § 1843(k)(4)(H) and (I).

41 (C) As used in subsection (a)(25), "control" means:

42 (i) Directly or indirectly owning, controlling or having power to vote
43 25% or more of any class of the voting shares of a financial subsidiary;

1 (ii) controlling in any manner the election of a majority of the
2 directors or trustees of the financial subsidiary; or

3 (iii) otherwise directly or indirectly exercising a controlling influence
4 over the management or policies of the financial subsidiary, as determined
5 by the commissioner;

6 (26) to maintain and operate a postal substation on banking premises,
7 in accordance with the rules and regulations of the United States postal
8 service. The bank may advertise the services of the substation for the
9 purpose of attracting customers to the bank and receive income therefrom.
10 The bank shall keep the books and records of the substation separate from
11 ~~those~~ *the records* of other banking operations;

12 (27) with prior approval of the commissioner, to invest in foreign
13 bonds an amount not to exceed 1% of the bank's capital or surplus as long
14 as such bonds comply with the form and definition of investment
15 securities;

16 (28) to act as an agent for any credit life, health and accident
17 insurance, sometimes referred to as credit life and disability insurance, and
18 mortgage life and disability insurance in connection with extensions of
19 credit and only as a source of protection for such extension of credit;

20 (29) to act as agent for any fire, life or other insurance company
21 authorized to do business in this state at any approved office of the bank
22 which is located in any place the population does not exceed 5,000
23 inhabitants. Such insurance may be sold to existing and potential
24 customers of the bank regardless of the geographic location of the
25 customers;

26 (30) to become a stockholder and member of the federal reserve bank
27 of the federal reserve district where such bank is located;

28 (31) with prior approval of the commissioner, to acquire the stock of,
29 or establish and operate a subsidiary to acquire the stock of, another
30 insured depository institution or the holding company of the insured
31 depository institution provided such acquisition is incidental to a
32 reorganization otherwise authorized by the law of this state and which
33 occurs nearly simultaneously with such acquisition;

34 (32) with prior approval of the commissioner, to establish and operate
35 a subsidiary for the purpose of owning, holding and managing all or part
36 of the bank's securities portfolio provided the parent bank owns 100% of
37 the stock of the subsidiary and the subsidiary shall not own, hold or
38 manage securities for any party other than the parent bank. The subsidiary
39 shall be subject to:

40 (A) All banking laws and rules and regulations applicable to the
41 parent bank unless otherwise provided;

42 (B) consolidation with the parent bank of pertinent book figures for
43 the purpose of applying all applicable statutory limitations including, but

1 not limited to, capital requirements, owning and holding real estate and
2 legal lending limitations;

3 (C) examination and supervision by the commissioner, the cost and
4 responsibility of which will be attributable to the parent bank; and

5 (D) any additional terms or conditions required by the commissioner
6 to address any legal or safety and soundness concerns;

7 (33) with prior approval of the commissioner, to establish or acquire
8 operating subsidiaries for the purpose of engaging in any activity which is
9 part or incidental to the business of banking as long as the parent bank
10 owns at least 50% of the stock of the subsidiary. The subsidiary shall be
11 subject to:

12 (A) All banking laws and regulations applicable to the parent bank
13 unless otherwise provided;

14 (B) consolidation with the parent bank of pertinent book figures for
15 the purpose of applying all applicable statutory limitations including, but
16 not limited to, capital requirements, owning and holding real estate and
17 legal lending limitations;

18 (C) examination and supervision by the commissioner the cost and
19 responsibility of which will be attributable to the parent bank; and

20 (D) any additional terms or conditions required by the commissioner
21 to address any legal or safety and soundness concerns;

22 (34) to invest in, without limitation, obligations of or obligations
23 which are insured as to principal and interest by or evidences of
24 indebtedness that are fully collateralized by obligations of the federal
25 home loan banks, the federal national mortgage association, the
26 government national mortgage association, the federal home loan
27 mortgage corporation, the student loan marketing association and the
28 federal farm credit banks; and

29 (35) any bank or trust company may invest in bonds or notes secured
30 by mortgages which in turn are insured or upon which there is a
31 commitment to insure by the federal housing administration, or any
32 successor thereto, in debentures issued by the federal housing
33 administration or ~~its~~ any successor, and in obligations of national mortgage
34 associations.

35 (b) Any bank hereby is authorized to exercise by the bank's board of
36 directors or duly authorized officers or agents, subject to approval by the
37 commissioner, any incidental power necessary to carry on the business of
38 banking.

39 Sec. 22. K.S.A. 2015 Supp. 9-1102 is hereby amended to read as
40 follows: 9-1102. (a) Any bank or trust company may own, purchase, lease,
41 hold, encumber or convey real property, including any building or
42 buildings necessary for the bank's or trust company's accommodation in
43 the transaction of its business. Real property shall be disposed of or

1 charged off the bank's or trust company's books not later than seven years
2 after the real property's intended use for bank or trust purposes ends.
3 Before the end of the holding period, a bank or trust company may request
4 authorization from the commissioner to hold the real property for an
5 additional year. No bank or trust company shall be granted more than three
6 requests for additional time to hold any one parcel of real property.

7 (b) Any bank or trust company may own, purchase, lease, hold,
8 encumber or convey certain personal property necessary for the bank's or
9 trust company's accommodation in the transaction of such bank's or trust
10 company's business.

11 (c) Any bank may own all or part of the stock in a single trust
12 company or safe deposit company organized under the laws of the state of
13 Kansas.

14 (d) Any bank may own all of the stock in a corporation or limited
15 liability company organized under the laws of the state of Kansas, owning
16 real estate, all or a part of which is occupied or to be occupied by the bank
17 or trust company.

18 (e) A bank's or trust company's total investment or ownership at all
19 times in any one or more of the following shall not exceed 50% of ~~its~~
20 ~~unimpaired capital stock, surplus, undivided profits and capital notes and~~
21 ~~debentures and the total of capital stock, surplus, undivided profits, 100%~~
22 ~~of the allowance for loan and lease loss, capital notes and debentures and~~
23 ~~reserve for contingencies. For purposes of this subsection, intangibles,~~
24 ~~such as goodwill, shall not be included in the calculation of capital. Any~~
25 such excess shall be removed from the bank's or trust company's books
26 unless approval is granted by the commissioner:

27 (1) The book value of real estate plus all encumbrances thereon;

28 (2) the book value of furniture and fixtures;

29 (3) the book value of stock in a safe deposit company;

30 (4) the book value of stock in a trust company; or

31 (5) the book value of stock in a corporation organized under the laws
32 of this state owning real estate occupied by the bank or trust company and
33 advances to such corporation acquired or made after July 1, 1973, except
34 that any real estate not necessary for the accommodation of the bank's or
35 trust company's business shall be disposed of or charged off its books
36 according to subsection (a).

37 (f) Any bank or trust company may acquire or purchase real estate in
38 satisfaction of any debts due such bank or trust company, and may
39 purchase real estate at judicial sales, subject to the following:

40 (1) No bank or trust company shall bid at any judicial sale a larger
41 amount than is necessary to protect its debts and costs.

42 (2) No real estate or interest in oil and gas leasehold acquired in the
43 satisfaction of debts or upon judicial sales shall be carried as a book asset

1 of the bank or trust company for more than 10 years.

2 (3) At the termination of the 10 years such real estate shall be charged
3 off. The commissioner may grant an extension not to exceed four years, if
4 in the commissioner's judgment, ~~it will be to the advantage of the bank or~~
5 ~~trust company to carry~~ *carrying* the real estate as an asset for such
6 extended period *will be to the advantage of the bank or trust company*.
7 Any such extensions issued shall be reviewed by the commissioner on an
8 annual basis.

9 (g) No bank or trust company may buy and sell real estate as a
10 business.

11 (h) A bank may hold or sell any personal property coming into
12 ownership of the bank in the collection of debts. All such property, except
13 legal investments, shall be sold within one year of acquisition, provided a
14 commercially reasonable sale can occur. If a commercially reasonable sale
15 cannot occur within one year, the commissioner may authorize a bank to
16 carry such property as a book asset for a longer period. The bank shall not
17 carry such property as a nonbook asset.

18 (i) The time periods for holding real estate or other property shall
19 begin when:

20 (1) The bank has received title or deed to the property;

21 (2) the property is in a redemption period following the bank's
22 purchase at a judicial sale; or

23 (3) the bank has actual control of the property.

24 (j) With prior notification to the commissioner, any bank may operate
25 a wholly owned subsidiary corporation or limited liability company which
26 holds and manages property acquired through debt previously contracted.
27 The subsidiary shall be subject to:

28 (1) All banking laws and rules and regulations applicable to the
29 parent bank unless otherwise provided;

30 (2) consolidation with the parent bank of pertinent book figures for
31 the purpose of applying all applicable statutory limitations including, but
32 not limited to, capital requirements, owning and holding real estate and
33 legal lending limitations;

34 (3) examination and supervision by the commissioner, the cost and
35 responsibility of which will be attributable to the parent bank; and

36 (4) any additional terms or conditions required by the commissioner
37 to address any legal or safety and soundness concerns.

38 (k) (1) With prior approval of the commissioner, any bank may
39 exchange such bank's participation interest in real estate acquired or
40 purchased in satisfaction of any debts previously contracted for an interest
41 in a corporation or limited liability company which will manage, market
42 and dispose of the real property. Prior to the exchange, the bank's directors
43 must:

1 (A) Find and document that the exchange is in the best interest of the
2 bank and would improve the ability of the bank to recover, or otherwise
3 limit, the bank's loss on real estate acquired through debts previously
4 contracted;

5 (B) certify that the bank's loss exposure is limited, as a legal and
6 accounting matter, and that the bank does not have open-ended liability for
7 the obligations of the corporation or limited liability company;

8 (C) certify that the corporation or limited liability company agrees to
9 be subject to the supervision and examination by the commissioner; and

10 (D) ensure that the corporation or limited liability company complies
11 with this section and K.A.R. 17-11-17, including obtaining a current
12 appraisal of the real estate.

13 (2) A bank may not further exchange the bank's interest in the
14 corporation or limited liability company for an interest in any other real or
15 personal property.

16 Sec. 23. K.S.A. 2015 Supp. 9-1104 is hereby amended to read as
17 follows: 9-1104. (a) *Definitions*. As used in this section:

18 (1) "Borrower" means an individual, sole proprietorship, partnership,
19 joint venture, association, trust, estate, business trust, corporation, limited
20 liability company, not-for-profit corporation, state government of the
21 United States or a United States government unit or agency,
22 instrumentality or political subdivision thereof or any similar entity or
23 organization.

24 (2) "Capital" means the total of capital stock, surplus, undivided
25 profits, 100% of the allowance for loan and lease loss, capital notes and
26 debentures and reserve for contingencies. Intangibles, such as goodwill,
27 shall not be included in the definition of capital when determining lending
28 limits.

29 (3) "Loan" means:

30 (A) A bank's direct or indirect advance of funds to or on behalf of a
31 borrower based on an obligation of the borrower to repay the funds;

32 (B) a contractual commitment to advance funds;

33 (C) an overdraft;

34 (D) loans that have been charged off the bank's books in whole or in
35 part, unless the loan is unenforceable by reason of:

36 (i) Discharge in bankruptcy;

37 (ii) expiration of the statute of limitations;

38 (iii) judicial decision; or

39 (iv) the bank's forgiveness of the debt;

40 (E) any credit exposure to a borrower arising from a derivative
41 transaction, repurchase agreement, reverse repurchase agreement,
42 securities lending transaction or securities borrowing transaction between
43 a bank and that borrower.

1 (4) "Derivative transaction" means any transaction that is a contract,
2 agreement, swap, warrant, note or option that is based in whole, or in part,
3 on the value of any interest in, or any quantitative measure or the
4 occurrence of any event relating to, one or more commodities, securities,
5 currencies, interest or other rates, indices or other assets.

6 (b) *General lending limit rule.* Subject to the provisions in
7 subsections (d), (e) and (f), loans to one borrower, including any bank
8 officer or employee, shall not exceed 25% of a bank's capital.

9 (c) *Calculation of the lending limit.* (1) The bank's lending limit shall
10 be calculated on the date the loan or written commitment is made. The
11 renewal or refinancing of a loan shall not constitute a new lending limit
12 calculation date unless new funds are advanced.

13 (2) If the bank's lending limit increases subsequent to the origination
14 date, a bank may use the current lending limit to determine compliance
15 when advancing funds. An advance of funds includes the lending of
16 money or the repurchase of any portion of a participation.

17 (3) If the bank's lending limit decreases subsequent to the origination
18 date, a bank is not prohibited from advancing on a prior commitment that
19 was legal on the date the commitment was made.

20 (d) *Exemptions.* (1) Overnight federal funds.

21 (2) That portion of a loan which is continuously secured on a dollar
22 for dollar basis by any of the following will be exempt from any lending
23 limit:

24 (A) A guaranty, commitment or agreement to take over or to
25 purchase, made by any federal reserve bank or by any department, bureau,
26 board, commission, agency or establishment of the United States of
27 America, including any corporation wholly owned, directly or indirectly
28 by the United States;

29 (B) a perfected interest in a time deposit account in the lending bank.
30 In the case of a time deposit which may be withdrawn in whole or in part
31 prior to maturity, the bank shall establish written internal procedures to
32 prevent the release of the deposit;

33 (C) a bonded warehouse receipt issued to the borrower by some other
34 person;

35 (D) treasury bills, certificates of indebtedness or bonds or notes of, *or*
36 *fully guaranteed by*, the United States of America or instrumentalities or
37 agencies thereof ~~or those fully guaranteed by them~~;

38 (E) general obligation bonds or notes of the state of Kansas or any
39 other state in the United States of America;

40 (F) general obligation bonds or notes of any Kansas municipality or
41 quasi-municipality; or

42 (G) a perfected interest in a repurchase agreement of United States
43 government securities with the lending bank.

1 (e) *Special rules.* (1) The total liability of any borrower may exceed
2 the general 25% limit by up to an additional 10% of the bank's capital. To
3 qualify for this expanded limit:

4 (A) The bank shall have as collateral a recorded first lien or liens on
5 real estate securing a portion of the borrower's total liability equal to at
6 least the amount by which the total liability exceeds the 25% limit;

7 (B) the appraised value of the real estate shall equal at least twice the
8 amount by which the borrower's total liability exceeds the 25% limit; and

9 (C) a portion of the borrower's total liability, equal to at least the
10 amount by which the total liability exceeds the 25% limit, shall amortize
11 within 20 years by regularly scheduled installment payments.

12 (2) That portion of any loan endorsed or guaranteed by a borrower
13 will not be added to that borrower's liability until the endorsed or
14 guaranteed loan is past due 10 days.

15 (3) If the total liability of any shareholder owning 25% or more of
16 any class of voting shares, officers or directors will exceed \$50,000, prior
17 approval from the bank's board of directors shall be noted in the minutes.

18 (4) To the extent ~~they~~ *time deposits* are insured by the federal deposit
19 insurance corporation, ~~time~~ *such* deposits purchased by a bank from
20 another financial institution shall not be considered a loan to that financial
21 institution and shall not be subject to the bank's lending limit.

22 (5) Third-party paper purchased by the bank will not be considered a
23 loan to the seller unless and until the bank has the right under the
24 agreement to require the seller to repurchase the paper.

25 (f) *Combination rules.*

26 (1) *General rule.* Loans to one borrower will be attributed to another
27 borrower and ~~their~~ *the borrowers'* total liability will be combined:

28 (A) When proceeds of a loan are to be used for the direct benefit of
29 the other borrower, to the extent of the proceeds so used; or

30 (B) when a common enterprise is deemed to exist between the
31 borrowers.

32 (2) *Direct benefit.* The proceeds of a loan to a borrower will be
33 deemed to be used for the direct benefit of another person and will be
34 attributed to the other person when the proceeds, or assets purchased with
35 the proceeds, are transferred to another person, other than in a bona fide
36 arm's length transaction where the proceeds are used to acquire property,
37 goods or services.

38 (3) *Common enterprise.* A common enterprise will be deemed to exist
39 and loans to separate borrowers will be aggregated:

40 (A) When the expected source of repayment for each loan or
41 extension of credit is the same for each borrower and neither borrower has
42 another source of income from which the loan, together with the
43 borrower's other obligations, may be fully repaid;

1 (B) when both of the following circumstances are present:

2 (i) Loans are made to borrowers—~~who~~ *that* are related directly or
3 indirectly through common control, including where one borrower is
4 directly or indirectly controlled by another borrower. Common control
5 means to own, control or have the power to vote 25% or more of any class
6 of voting securities or voting interests or to control, in any manner, the
7 election of a majority of the directors or to have the power to exercise a
8 controlling influence over the management or policies of another person;
9 and

10 (ii) substantial financial interdependence exists between or among the
11 borrowers. Substantial financial interdependence is deemed to exist when
12 50% or more of one borrower's gross receipts or gross expenditures, on an
13 annual basis, are derived from transactions with the other borrower. Gross
14 receipts and expenditures include gross revenues, expenses, intercompany
15 loans, dividends, capital contributions and similar receipts or payments; or

16 (C) when separate persons borrow from a bank to acquire a business
17 enterprise of which those borrowers will own more than 50% of the voting
18 securities or voting interests, in which case a common enterprise is
19 deemed to exist between the borrowers for purposes of combining the
20 acquisition loan.

21 (D) An employer will not be treated as a source of repayment for
22 purposes of determining a common enterprise because of wages and
23 salaries paid to an employee.

24 (4) *Special rules for loans to a corporate group.* (A) Loans by a bank
25 to a borrower and the borrower's subsidiaries shall not, in the aggregate,
26 exceed 50% of the bank's capital. At no time shall loans to any one
27 borrower or to any one subsidiary exceed the general lending limit of 25%,
28 except as allowed by other provisions of this section. For purposes of this
29 paragraph, a corporation or a limited liability company is a subsidiary of a
30 borrower if the borrower owns or beneficially owns directly or indirectly
31 more than 50% of the voting securities or voting interests of the
32 corporation or company.

33 (B) Loans to a borrower and a borrower's subsidiaries that do not
34 meet the test contained in subsection (f)(4)(A) will not be combined unless
35 either the direct benefit or the common enterprise test is met.

36 (5) *Special rules for loans to partnerships, joint ventures and*
37 *associations.* (A) As used in this paragraph, the term "partnership" shall
38 include a partnership, joint venture or association. The term partner shall
39 include a partner in a partnership or a member in a joint venture or
40 association.

41 (B) *General partner.* Loans to a partnership are considered to be
42 loans to a partner if, by the terms of the partnership agreement, that partner
43 is held generally liable for debts or actions of the partnership.

1 (C) *Limited partner.* If the liability of a partner is limited by the terms
2 of the partnership agreement, the amount of the partnership debt
3 attributable to the partner is in direct proportion to that partner's limited
4 partnership liability.

5 (D) Notwithstanding the provisions of subsections (f)(5)(B) and (f)(5)
6 (C), if by the terms of the loan agreement the liability of any partner is
7 different than delineated in the partnership agreement, for the purpose of
8 attributing debt to the partner, the loan agreement shall control.

9 (E) Loans to a partner are not attributed to the partnership unless
10 either the direct benefit or the common enterprise test is met.

11 (F) Loans to one partner are not attributed to other partners unless
12 either the direct benefit or common enterprise test is met.

13 (G) When a loan is made to a partner to purchase an interest in a
14 partnership, both the direct benefit and common enterprise tests are
15 deemed to be met, and the loan is attributed to the partnership.

16 (6) Notwithstanding the provisions of this subsection, the
17 commissioner may determine, based upon an evaluation of the facts and
18 circumstances of a particular transaction, that a loan to one borrower may
19 be attributed to another borrower.

20 (g) The commissioner may order a bank to correct any loan not in
21 compliance with this section within 60 days. A violation of this section
22 shall be deemed corrected if that portion of the borrower's liability which
23 created the violation could be legally advanced under current lending
24 limits.

25 Sec. 24. K.S.A. 2015 Supp. 9-1111 is hereby amended to read as
26 follows: 9-1111. The general business of every bank shall be transacted at
27 the place of business specified in the bank's certificate of authority and at
28 one or more branch banks established and operated as provided in this
29 section. It shall be unlawful for any bank to establish and operate any
30 branch bank or relocate an existing branch bank except as hereinafter
31 provided. Notwithstanding the provisions of this section, any location at
32 which a depository institution, as defined by K.S.A. 9-701, and
33 amendments thereto, receives deposits, renews time deposits, closes loans,
34 services loans or receives payments on loans or other obligations, as agent,
35 for a bank pursuant to K.S.A. 9-1101(a)(25), and amendments thereto, or
36 other applicable state or federal law, or is authorized to open accounts or
37 receive deposits under K.S.A. 9-1101(a)(28), and amendments thereto,
38 shall not be deemed to be a branch bank:

39 (a) For the purposes of this section, the term "branch bank" means
40 any office, agency or other place of business located within this state, other
41 than the place of business specified in the bank's certificate of authority, at
42 which deposits are received, checks paid, money lent or trust authority
43 exercised, if approval has been granted by the commissioner pursuant to

1 K.S.A. 9-1602, and amendments thereto;

2 (b) establishment of a new branch *bank* or relocation of an existing
3 branch ~~for eligible~~ banks:

4 (1) After first applying for and obtaining the approval of the
5 commissioner, a bank incorporated under the laws of this state, may
6 establish and operate one or more branch banks or relocate an existing
7 branch bank, anywhere within this state;

8 (2) the application shall include the nature of the banking business to
9 be conducted at the proposed branch bank, the primary geographical area
10 to be served by the proposed branch bank, the personnel and office
11 facilities to be provided at the proposed branch bank and other information
12 the commissioner may require;

13 (3) the application shall include the name selected for the proposed
14 branch bank. The name selected for the proposed branch bank shall not be
15 the name of any other bank or branch bank: (A) Doing business in the
16 same city or town; or

17 (B) within a 15-mile radius of the proposed location, nor shall the
18 name selected be required to contain the name of the applicant bank. If the
19 name selected for the proposed branch bank does not contain the name of
20 the applicant bank, the branch bank shall provide in the public lobby of
21 such branch bank, a public notice that it is a branch bank of the applicant
22 bank. Any bank may request exemption from the commissioner from the
23 provisions of this paragraph;

24 (4) the application shall include proof of publication of notice that the
25 applicant bank intends to file or has filed an application to establish a
26 branch bank or relocate an existing branch bank. The notice shall be
27 published in a newspaper of general circulation in the county where the
28 applicant bank proposes to locate the branch bank. The notice shall be in
29 the form prescribed by the commissioner and at a minimum shall contain
30 the name and address of the applicant bank, the location of the proposed
31 branch and a solicitation for written comments. The notice shall be
32 published on the same day for two consecutive weeks and provide for a
33 comment period of not less than 10 days after the date of the second
34 publication;

35 (5) upon receipt of the application, and following expiration of the
36 comment period, the commissioner may hold a hearing in the county in
37 which the applicant bank seeks to operate the branch bank. The applicant
38 shall publish notice of the time, date and place of such hearing in a
39 newspaper of general circulation in the county where the applicant bank
40 proposes to locate the branch bank, not less than 10, nor more than 30,
41 days prior to the date of the hearing, and proof of publication shall be filed
42 with the commissioner. At any such hearing, all interested persons shall be
43 allowed to present written and oral evidence to the commissioner, or the

1 commissioner's designee, in support of or in opposition to the branch bank.
2 Upon completion of a transcript of the testimony given at any such
3 hearing, the transcript shall be filed in the office of the commissioner;

4 (6) if the commissioner determines a public hearing is not warranted,
5 the commissioner shall approve or disapprove the application within 15
6 days after receipt of a complete application, but not prior to the end of the
7 comment period. If a public hearing is held, the commissioner shall
8 approve or disapprove the application within 60 days after consideration of
9 the complete application and the evidence gathered during the
10 commissioner's investigation. The period for consideration of the
11 application may be extended if the commissioner determines the
12 application presents a significant supervisory concern. The new branch or
13 relocation shall only be granted if the commissioner finds that:

14 (A) There is a reasonable probability of usefulness and success of the
15 proposed branch bank; and

16 (B) the applicant bank's financial history and condition is sound;

17 (7) within 15 days after any final action of the commissioner
18 approving or disapproving an application, the applicant, or any adversely
19 affected or aggrieved person ~~who~~ *that* provided written comments during
20 the specified comment period, may request a hearing with the state
21 banking board. Upon receipt of a timely request, the state banking board
22 shall conduct a hearing in accordance with the provisions of the Kansas
23 administrative procedure act. Any decision of the state banking board is
24 subject to review in accordance with the Kansas judicial review act;

25 (c) upon the request of any bank ~~or trust company~~ proposing to
26 relocate an existing branch less than one mile from the existing location,
27 the commissioner may exempt such bank ~~or trust company~~ from the
28 requirements of this section;

29 (d) any branch bank lawfully established and operating on the
30 effective date of this act may continue to be operated by the bank then
31 operating the branch bank and by any successor bank;

32 (e) any bank location which has been established and is being
33 maintained by a bank at the time of ~~its~~ *the bank's* merger into or
34 consolidation with another bank or at the time the bank's assets are
35 purchased and the bank's liabilities are assumed by another bank may
36 continue to be operated by the surviving, resulting or purchasing and
37 assuming bank;

38 (f) any state bank or national banking association may provide and
39 engage in banking transactions by means of remote service units wherever
40 located, which remote service units shall not be considered to be branch
41 banks. Any banking transaction effected by use of a remote service unit
42 shall be deemed to be transacted at a bank and not at a remote service unit;

43 (g) as a condition to the operation and use of any remote service unit

1 in this state, a state bank or national banking association, each hereinafter
2 referred to as a bank, which desires to operate or enable its customers to
3 utilize a remote service unit must agree that such remote service unit will
4 be available for use by customers of any other bank or banks upon the
5 request of such bank or banks to share ~~its use~~ *the use of the remote service*
6 *unit* and the agreement of such bank or banks to share all costs, including a
7 reasonable return on capital expenditures incurred in connection with the
8 remote service unit's development, installation and operation. The owner
9 of the remote service unit, whether a bank or any other person, shall make
10 the remote service unit available for use by other banks and their
11 customers on a nondiscriminatory basis, conditioned upon payment of a
12 reasonable proportion of all costs, including a reasonable return on capital
13 expenditures incurred in connection with the development, installation and
14 operation of the remote service unit. Notwithstanding the foregoing
15 provisions of this subsection, a remote service unit located on the property
16 owned or leased by the bank where the principal place of business of a
17 bank, ~~or an attached auxiliary teller facility~~ or branch bank of a bank, is
18 located need not be made available for use by any other bank or banks or
19 customers of any other bank or banks;

20 (h) for purposes of this section, "remote service unit" means an
21 electronic information processing device, including associated equipment,
22 structures and systems, through or by means of which information relating
23 to financial services rendered to the public is stored and transmitted to a
24 bank and which, for activation and account access, is dependent upon the
25 use of a machine-readable instrument in the possession and control of the
26 holder of an account with a bank or is activated by a person upon
27 verifiable personal identification. The term shall include "online" computer
28 terminals which may be equipped with a telephone or televideo device that
29 allows contact with bank personnel and "offline" automated cash
30 dispensing machines and automated teller machines. Withdrawals by
31 means of "offline" systems shall not exceed \$300 per transaction and shall
32 be restricted to individual not corporate or commercial accounts;

33 (i) upon providing notice to the commissioner, any state bank may
34 conduct loan production activity at locations other than the place of
35 business specified in the bank's certificate of authority or approved branch
36 banks.

37 (1) Loan production activity shall consist of the following:

38 (A) Soliciting, assembling or processing of credit information and
39 loan applications;

40 (B) approval of loan applications; or

41 (C) loan closing activities, such as the execution of promissory notes
42 and deeds of trust.

43 (2) No customer shall be allowed to take actual receipt of the loan

1 funds;

2 (j) upon providing notice to the commissioner, any state bank may
3 conduct deposit production activity at locations other than the place of
4 business specified in the bank's certificate of authority or approved branch
5 banks provided there is no acceptance of actual deposits in person or by
6 drop box;

7 (k) upon providing notice to the commissioner, any state bank may
8 provide any of the following at a location other than the place of business
9 specified in the bank's certificate of authority without becoming a branch
10 bank:

11 (1) Operate safe deposit boxes;

12 (2) sell travelers checks and saving bonds; and

13 (3) operate check cashing services so long as no actual account
14 withdrawal occurs;

15 (l) any bank or trust company closing a branch bank, loan production
16 office, deposit production office or other location shall provide notice to
17 the commissioner.

18 Sec. 25. K.S.A. 2015 Supp. 9-1112 is hereby amended to read as
19 follows: 9-1112. (a) No bank *or trust company* shall buy, sell or trade
20 tangible property as a business or invest in the stock of another bank or
21 corporation, except as specifically authorized.

22 (b) Unless prior approval of the commissioner is granted, no bank *or*
23 *trust company* shall sell, give or purchase any instrument, contract,
24 security or other asset or asset dividend to or from:

25 (1) Any employee or to an employee's related interest;

26 (2) any director or to a director's related interest;

27 (3) the ~~bank's~~ parent company; or

28 (4) a subsidiary of the ~~bank's~~ parent company.

29 This paragraph shall not apply to assignment of loans and related
30 security agreements to or from a subsidiary of the bank's parent company.

31 (c) No bank shall acquire or make a loan on the bank's own shares of
32 stock, or the stock of the bank's parent company or a subsidiary of the
33 bank's parent company, except as otherwise specifically authorized.

34 (d) No bank shall give any preference to any depositor either by
35 pledging any of the bank's assets as collateral security or in any other
36 manner, except:

37 (1) As provided under the provisions of K.S.A. 9-1603, and
38 amendments thereto; and

39 (2) the deposit of public moneys and funds in the custody of the
40 federal court or any of the court's officers may be secured as elsewhere
41 provided in the state banking code or as required by the federal court.

42 Sec. 26. K.S.A. 2015 Supp. 9-1114 is hereby amended to read as
43 follows: 9-1114. (a) The business of any bank or trust company shall be

1 managed and controlled by such bank's or trust company's board of
2 directors.

3 (b) The board shall consist of not less than five nor more than 25
4 members who shall be elected by the stockholders at any regular annual
5 meeting which shall be held on the date specified in the bank's or trust
6 company's bylaws. A majority of the directors shall be residents of this
7 state.

8 (c) If for any reason the meeting cannot be held on the date specified
9 in the bylaws, the meeting shall be held on a subsequent day within 60
10 days of the day fixed, to be designated by the board of directors, or, if the
11 directors fail to fix the day, by the shareholders representing $\frac{2}{3}$ of the
12 shares.

13 (d) In all cases, at least 10 days' notice of the date for the annual
14 meeting shall have been given by first-class mail to the shareholders.

15 (e) Any newly created directorship must be approved and elected by
16 the shareholders in the manner provided in the general corporation code. A
17 special meeting of the shareholders may be convened at any time for such
18 purpose.

19 (f) Any vacancy in the board of directors may be filled by the board
20 of directors in the manner provided in the general corporation code.

21 (g) Any director of any bank or trust company who shall become
22 indebted to such bank or trust company on any judgment or whose
23 indebtedness is charged off or forgiven shall forfeit such person's position
24 as director.

25 (h) Within 15 days after the annual meeting the president or cashier
26 of every bank and every trust company shall submit to the commissioner a
27 certified list of stockholders and the number of shares owned by each. This
28 list of stockholders shall be kept and maintained in the bank's or trust
29 company's main office and shall be subject to inspection by all
30 stockholders during the business hours of the bank or trust company. The
31 commissioner may require the list to be filed using an electronic means.

32 (i) Each director shall take and subscribe an oath to administer the
33 affairs of such bank or trust company diligently and honestly and to not
34 knowingly or willfully permit any of the laws relating to banks or trust
35 companies to be violated. A copy of each oath shall be ~~filed with the~~
36 ~~commissioner within 15 days of the election of any officer or director~~
37 *retained by the bank or trust company in the bank's or trust company's*
38 *records after the election of any officer or director, for review by the*
39 *commissioner's staff during the next examination.* The commissioner may
40 require the oath to be filed using an electronic means.

41 (j) Every bank and trust company shall notify the commissioner of
42 any change in the chief executive officer, president or directors, including
43 in such bank's or trust company's report a statement of the past and current

1 business and professional affiliations of the new chief executive officer,
2 president or directors.

3 Sec. 27. K.S.A. 2015 Supp. 9-1122 is hereby amended to read as
4 follows: 9-1122. (a) As used in this section:

5 (1) "Officers" means the person or persons designated by the board of
6 directors of a bank or trust company to act for the bank or trust company in
7 carrying out the provisions of this act or, in the absence of any such
8 designation or of the officer or officers so designated, the president or any
9 other officer currently in charge of the bank or trust company;

10 (2) "office" means any place at which a bank transacts business; *and*

11 (3) "emergency" means any condition or occurrence which may
12 interfere physically with the conduct of normal business operations at the
13 offices of a bank or trust company or which poses an imminent or existing
14 threat to the safety or security of persons or property, or both. An
15 emergency may arise as a result of and any one or more of the following,
16 but is not limited to, fire, flood, earthquake, hurricane, tornado, wind, rain
17 or snow storm, labor strike by bank or trust company employees, power
18 failure, transportation failure, interruption of communications facilities,
19 shortage of fuel, housing, food, transportation or labor, robbery or
20 attempted robbery, actual or threatened enemy attack, epidemic or other
21 catastrophe, riot, civil commotion and other acts of lawlessness or
22 violence, actual or threatened.

23 (b) A bank or trust company may remain closed on any one business
24 day of every week or may make a permanent change in the bank's or trust
25 company's hours of business. The bank or trust company shall post the
26 resolution in a conspicuous place at the main office and all branch
27 locations of the bank or trust company at least 15 days in advance of any
28 closing or change in business hours. If the business day designated in any
29 resolution regarding closing is a legal public holiday, the bank or trust
30 company may close on the business day preceding or following the legal
31 public holiday.

32 (c) The officers of a bank or trust company may close the bank's or
33 trust company's offices on any day or days designated by proclamation of
34 the president of the United States or the governor or legislature of this
35 state, as a day or days of mourning, rejoicing or other special observance
36 and on such other day or days of local or special observance—as in the
37 reasonable and proper exercise of their discretion the officers feel the bank
38 or trust company should observe. If the bank or trust company is closed
39 pursuant to this subsection, the bank or trust company shall give
40 reasonable notice of the closing by posting a notice in a conspicuous place
41 at the main office and all branch locations of the bank or trust company
42 and through any other means the bank or trust company deems
43 appropriate, including publication in a newspaper of general circulation in

1 the community, if time allows.

2 (d) Whenever the officers of a bank or trust company are of the
3 opinion that an emergency exists, or is impending, which affects, or may
4 affect, a bank's or trust company's offices, the officers shall have the
5 authority, in the reasonable and proper exercise of the officers' discretion,
6 to determine not to open such offices on any business or banking day or, if
7 having opened, to close such offices during the continuation of such
8 emergency. The officers shall notify the commissioner of the emergency,
9 the closing, the duration and the subsequent reopening within 48 hours of
10 any such event, if practical. In no case shall such offices remain closed for
11 more than 48 consecutive hours, excluding other legal holidays, without
12 requesting and obtaining the approval of the commissioner.

13 (e) Every day on which any bank or trust company shall remain
14 closed pursuant to this section shall be deemed a holiday for all of the
15 purposes of chapter 84 of the Kansas Statutes Annotated, and amendments
16 thereto, and with respect to any bank or trust company business of any
17 character. No bank or trust company shall be required to permit access to
18 the bank's or trust company's safe, deposit vault or vaults on any such day.
19 Where the terms of a contract requires the payment of money or the
20 performance of a condition on any such day by, through, with or at any
21 bank or trust company, then the payment may be made or condition
22 performed on the next business day with the same force and effect as if
23 made or performed in accordance with the terms of the contract. No
24 liability or loss of rights of any kind shall result from the delay.

25 (f) The posting of the notice provided for in this section shall be
26 notice to everyone of the closing or change in hours of the bank or trust
27 company, and thereafter no liability shall be incurred by the bank or trust
28 company by reason of closing or changing the bank hours pursuant to this
29 section.

30 (g) The provisions of this section shall be construed and applied as
31 being in addition to, and not in substitution for, or limitation of, any other
32 law of this state or of the United States, authorizing the closing of a bank
33 or trust company or excusing the delay by a bank or trust company in the
34 performance of the bank's or trust company's duties and obligations
35 because of emergencies or conditions beyond the bank's or trust company's
36 control or otherwise.

37 Sec. 28. K.S.A. 2015 Supp. 9-1124 is hereby amended to read as
38 follows: 9-1124. No limitation or prohibition otherwise imposed by any
39 provision of state law exclusively relating to banks shall prevent any state
40 bank or banks from investing not more than 10% of the paid-in and
41 unimpaired capital and unimpaired surplus in a bank service company. No
42 bank shall invest more than 5% of ~~its~~ *the bank's* total assets in bank service
43 companies.

1 Sec. 29. K.S.A. 2015 Supp. 9-1127c is hereby amended to read as
2 follows: 9-1127c. (a) No state bank shall invest in the capital stock of a
3 bank service company that performs any service under K.S.A. 9-1127b(c),
4 (d) or (e), and amendments thereto, without the prior approval of the
5 commissioner.

6 (b) No state bank shall invest in the capital stock of a bank service
7 company that performs any service under authority of K.S.A. 9-1127b(f),
8 and amendments thereto, and no bank service company shall perform any
9 activity under K.S.A. 9-1127b(f), and amendments thereto, without the
10 prior approval of the commissioner.

11 (c) In determining whether to approve or deny any application for
12 prior approval under K.S.A. 9-1124 through 9-1127c, and amendments
13 thereto, the commissioner is authorized to consider the financial and
14 managerial resources and future prospects of the bank or banks and bank
15 service company involved, including the financial capability of the bank to
16 make a proposed investment under this act, and possible adverse affects
17 such as undue concentration of resources, unfair or decreased competition,
18 conflicts of interest or unsafe or unsound banking practices.

19 (d) In the event the commissioner fails to act on any application under
20 this section within 90 days of the submission of a complete application ~~to~~
21 ~~them~~, the application shall be deemed approved.

22 Sec. 30. K.S.A. 2015 Supp. 9-1130 is hereby amended to read as
23 follows: 9-1130. (a) Every bank and trust company shall retain such bank's
24 and trust company's business records for such periods as are or may be
25 prescribed by or in accordance with the provisions of this section.

26 (b) Each bank and trust company shall retain permanently such bank's
27 or trust company's:

- 28 (1) Minute books of ~~its~~ *the* stockholders and directors;
- 29 (2) capital stock ledger and capital stock certificate ledger or stubs;
- 30 (3) general ledger or the record kept in lieu thereof;
- 31 (4) daily statements of condition; and
- 32 (5) all records which the commissioner shall, in accordance with the
33 provisions of this section, require to be retained permanently.

34 (c) All other records of a bank or trust company shall be retained for
35 such periods as the commissioner shall *prescribe*, in accordance with the
36 provisions of this section, ~~prescribe~~.

37 (d) The commissioner shall, in accordance with the provisions of
38 K.S.A. 9-1713, and amendments thereto, adopt and promulgate rules and
39 regulations classifying all records kept by banks and trust companies,
40 prescribing the period for which records of each class shall be retained,
41 and requiring to be kept such record of destruction of records as the
42 commissioner deems advisable. Such periods may be permanent or for a
43 term of years. Prior to the adoption, amendment or revocation of such

1 rules and regulations the commissioner shall consider:

2 (1) Actions and administrative proceedings in which the production
3 of bank or trust company records might be necessary or desirable;

4 (2) state and federal statutes of limitation applicable to such actions
5 or proceedings;

6 (3) the availability of information contained in bank and trust
7 company records from other sources; and

8 (4) such other matters as the commissioner shall deem pertinent to the
9 interest of customers and shareholders of banks and trust companies and of
10 the people of this state having such records available.

11 (e) Any bank or trust company may destroy any record which has
12 been retained for the period prescribed, in accordance with the terms of
13 this section for retention of records of such bank's or trust company's class,
14 and shall, after destroying such record, thereafter be under no duty to
15 produce such record.

16 (f) In lieu of retention of the original records with the exception of the
17 document or documents creating the fiduciary relationship, any bank or
18 trust company may cause any, or all, of such bank's or trust company's
19 records, and records at any time in the custody of such bank or trust
20 company, including those held by it as a fiduciary, to be photographed or
21 otherwise reproduced to permanent form. Any such photograph or
22 reproduction shall have the same force and effect as the original thereof
23 and be admitted in evidence equally with the original.

24 (g) Any bank or trust company may cause any, or all, transactions,
25 information and data occurring in the regular course of such bank's or trust
26 company's operations to be recorded and maintained by electronic means.
27 When the electronic records of such transactions, information and data are
28 converted to writing, such writings shall constitute the original records of
29 such transactions, information and data and shall have the force and effect
30 thereof.

31 (h) To the extent that ~~they~~ *the provisions of this section* are not in
32 contravention of any statute of the United States or regulations
33 promulgated thereunder, the provisions of this section shall apply to all
34 banks and trust companies doing business in this state.

35 (i) Nothing in this section shall be construed to affect any duty of a
36 bank or trust company to preserve the confidentiality of their records.

37 Sec. 31. K.S.A. 2015 Supp. 9-1137 is hereby amended to read as
38 follows: 9-1137. (a) For the purposes of this section:

39 (1) "Bank" means a state chartered or federally chartered bank, trust
40 company or bank holding company as defined in K.S.A. 9-519, and
41 amendments thereto, located in this state;

42 (2) "compliance review committee" means:

43 (A) An audit, loan review or compliance committee appointed by the

1 board of directors of a bank ~~whose~~ *that* functions ~~are~~ to evaluate and ~~seek~~
2 *seeks* to improve loan underwriting standards, asset quality, financial
3 reporting to federal or state regulatory agencies or compliance with federal
4 or state statutory or regulatory requirements; or

5 (B) any other person to the extent the person acts in an investigatory
6 capacity at the direction of a compliance review committee;

7 (3) "compliance review documents" means documents prepared for or
8 created by a compliance review committee;

9 (4) "loan review committee" means a person or group of persons
10 who, on behalf of a bank, reviews loans held by the institution for the
11 purpose of assessing the credit quality of the loans, compliance with the
12 institution's loan policies and compliance with applicable laws and
13 regulations; or

14 (5) "person" means an individual, group of individuals, board,
15 committee, partnership, firm, association, corporation or other entity.

16 (b) Except as provided in subsection (c):

17 (1) Compliance review documents are confidential and are not
18 discoverable or admissible in evidence in any civil action arising out of
19 matters evaluated by the compliance review committee; and

20 (2) compliance review documents delivered to a federal or state
21 governmental agency remain confidential and are not discoverable or
22 admissible in evidence in any civil action arising out of matters evaluated
23 by the compliance review committee.

24 (c) Subsection (b) does not apply to any information required by
25 statute or rules and regulations to be maintained by or provided to a
26 governmental agency while the information is in the possession of the
27 governmental agency to the extent applicable law expressly authorizes ~~its~~
28 *disclosure of such information.*

29 (d) This section may not be construed to limit the discovery or
30 admissibility in any civil action of any documents that are not compliance
31 review documents.

32 Sec. 32. K.S.A. 2015 Supp. 9-1213 is hereby amended to read as
33 follows: 9-1213. When any drawee bank shall be presented with a draft
34 drawn on ~~it~~ *the drawee bank* in the usual course of business by a drawer
35 bank that has failed or been closed by operation of law or legal action, the
36 drawee bank shall accept and pay such draft regardless of having received
37 notice, constructive or otherwise, of the failure or closing of the drawer
38 bank if the:

39 (a) Draft was issued prior to the failure or closing of the drawer bank;

40 (b) drawee bank has, on deposit to the credit of the failed or closed
41 drawer bank, sufficient funds to pay the draft; and

42 (c) drawee bank has received proof that the draft represents payment
43 of cash letters covering checks that had been charged to the individual

1 accounts of the failed or closed drawer bank prior to the failure or closing
2 of the drawer bank.

3 Sec. 33. K.S.A. 2015 Supp. 9-1304 is hereby amended to read as
4 follows: 9-1304. (a) Upon the approval of the commissioner, the receiver
5 or liquidator or the board of directors of any bank which may be closed
6 because of ~~its~~ *the bank's* inability to meet the demands of its depositors
7 may borrow from the federal deposit insurance corporation or its
8 successor, and pledge any part or all of ~~its~~ *the bank's* assets as security.

9 (b) The assets, or any portion thereof, of any bank which may close
10 because of ~~its~~ *the bank's* inability to meet the demands of its depositors
11 may be sold to the federal deposit insurance corporation or its successor
12 upon such terms and conditions as the commissioner shall approve.
13 Nothing contained in this section shall limit the power of any bank, the
14 commissioner or receiver or liquidator thereof to pledge or sell any assets
15 in accordance with other provisions of the state banking code and existing
16 laws.

17 Sec. 34. K.S.A. 2015 Supp. 9-1401 is hereby amended to read as
18 follows: 9-1401. (a) The governing body of any municipal corporation or
19 quasi-municipal corporation shall designate by official action recorded
20 upon ~~its~~ *the governing body's* minutes the banks, savings and loan
21 associations and savings banks which shall serve as depositories of ~~its~~ *the*
22 *governing body's* funds and the officer and official having the custody of
23 such funds shall not deposit such funds other than at such designated
24 banks, savings and loan associations and savings banks. The banks,
25 savings and loan associations and savings banks which have main or
26 branch offices in the county or counties in which all or part of such
27 municipal corporation or quasi-municipal corporation is located shall be
28 designated as such official depositories if the municipal or quasi-municipal
29 corporation can obtain satisfactory security therefor.

30 (b) Every officer or person depositing public funds shall deposit all
31 such public funds coming into ~~such officer~~ *the officer's* or person's
32 possession in their name and official title as such officer. If the governing
33 body of the municipal corporation or quasi-municipal corporation fails to
34 designate an official depository or depositories, the officer thereof having
35 custody of ~~its~~ *the governing body's* funds shall deposit such funds with one
36 or more banks, savings and loan associations or savings banks which have
37 main or branch offices in the county or counties in which all or part of
38 such municipal corporation or quasi-municipal corporation is located if
39 satisfactory security can be obtained therefor ~~and if not then elsewhere, but~~
40 ~~upon so doing. If the officer having custody is unable to obtain~~
41 *satisfactory security at a depository within the county or counties where*
42 *the governing body is located, then the officer may deposit funds*
43 *elsewhere. If the governing body's funds are deposited elsewhere, the*

1 *officer* shall serve notice in writing on the governing body showing the
2 names and locations of ~~such the~~ banks, savings and loan associations and
3 savings banks where ~~such the~~ funds are deposited, and upon so doing the
4 officer having custody of ~~such the~~ funds shall not be liable for the loss of
5 any portion thereof except for official misconduct or for the
6 misappropriation of such funds by such officer.

7 (c) If eligible banks, savings and loan associations or savings banks
8 under subsections (a) or (b) cannot or will not provide an acceptable bid,
9 which shall include services, for the depositing of public funds under this
10 section, then banks, savings and loan associations or savings banks which
11 have main or branch offices in an adjoining county to the county in which
12 all or part of such municipal or quasi-municipal corporation is located may
13 receive deposits of such municipal corporation or quasi-municipal
14 corporation, if such banks, savings and loan associations or savings banks
15 have been designated as official depositories under subsection (a) and the
16 municipal corporation or quasi-municipal corporation can obtain
17 satisfactory security therefor.

18 (d) The depository bank, savings and loan association or savings bank
19 and any agent, trustee, wholly owned subsidiary or affiliate having
20 identical ownership granting a security interest shall enter into a written
21 agreement with the municipal corporation or quasi-municipal corporation
22 which so designates the bank as a depository for the municipal corporation
23 or quasi-municipal corporation's public moneys.

24 (1) The agreement shall secure the public moneys of the municipal
25 corporation or quasi-municipal corporation by granting a security interest
26 in securities held by the depository bank, savings and loan association or
27 savings bank and any agent, trustee, wholly owned subsidiary or affiliate
28 having identical ownership pursuant to K.S.A. 9-1402, and amendments
29 thereto.

30 (2) The depository bank, savings and loan association or savings bank
31 and any agent, trustee, wholly owned subsidiary or affiliate having
32 identical ownership shall perfect the security interest causing control to be
33 given to the municipal corporation or quasi-municipal corporation in
34 accordance with the Kansas uniform commercial code.

35 (3) The security agreement shall be in writing, executed by all parties
36 thereto, maintained as part of ~~their the parties'~~ official records, *and* except
37 for the municipal corporations or quasi-municipal corporations, approved
38 by ~~their the~~ boards of directors or ~~their~~ loan committees, which approvals
39 shall be reflected in the minutes of the boards or committees.

40 Sec. 35. K.S.A. 2015 Supp. 9-1402 is hereby amended to read as
41 follows: 9-1402. (a) Before any deposit of public moneys or funds shall be
42 made by any municipal corporation or quasi-municipal corporation of the
43 state of Kansas with any bank, savings and loan association or savings

1 bank, such municipal or quasi-municipal corporation shall obtain security
2 for such deposit in one of the following manners prescribed by this
3 section.

4 (b) Such bank, savings and loan association or savings bank may give
5 a corporate surety bond of some surety corporation authorized to do
6 business in this state, which bond shall be in an amount equal to the public
7 moneys or funds on deposit at any given time less the amount of such
8 public moneys or funds which is insured by the federal deposit insurance
9 corporation or its successor and such bond shall be conditioned that such
10 deposit shall be paid promptly on the order of the municipal corporation or
11 quasi-municipal corporation making such deposits.

12 (c) Such bank, savings and loan association or savings bank may
13 deposit, maintain, pledge, assign and grant a security interest in, or cause
14 its agent, trustee, wholly owned subsidiary or affiliate having identical
15 ownership to deposit, maintain, pledge, assign and grant a security interest
16 in, for the benefit of the governing body of the municipal corporation or
17 quasi-municipal corporation in the manner provided in this section,
18 securities, security entitlements, financial assets and securities accounts
19 owned by the depository institution directly or indirectly through ~~its~~ *the*
20 *institution's* agent or trustee holding securities on ~~its~~ *the institution's*
21 behalf, or owned by the depository institutions wholly owned subsidiary or
22 by such affiliate, the market value of which is equal to 100% of the total
23 deposits at any given time, and such securities, security entitlements,
24 financial assets and securities accounts, may be accepted or rejected by the
25 governing body of the municipal corporation or quasi-municipal
26 corporation and shall consist of the following and security entitlements
27 thereto:

28 (1) Direct obligations of, or obligations that are insured as to principal
29 and interest by, the United States of America or any agency thereof and
30 obligations, including, but not limited to, letters of credit and securities of
31 United States sponsored corporations which under federal law may be
32 accepted as security for public funds;

33 (2) bonds of any municipal corporation or quasi-municipal
34 corporation of the state of Kansas which have been refunded in advance of
35 ~~their~~ *the bonds'* maturity and are fully secured as to payment of principal
36 and interest thereon by deposit in trust, under escrow agreement with a
37 bank, of direct obligations of, or obligations the principal of and the
38 interest on which are unconditionally guaranteed by, the United States of
39 America;

40 (3) bonds of the state of Kansas;

41 (4) general obligation bonds of any municipal corporation or quasi-
42 municipal corporation of the state of Kansas;

43 (5) revenue bonds of any municipal corporation or quasi-municipal

1 corporation of the state of Kansas if approved by the commissioner;

2 (6) temporary notes of any municipal corporation or quasi-municipal
3 corporation of the state of Kansas which are general obligations of the
4 municipal or quasi-municipal corporation issuing the same;

5 (7) warrants of any municipal corporation or quasi-municipal
6 corporation of the state of Kansas the issuance of which is authorized by
7 the state board of tax appeals and which are payable from the proceeds of
8 a mandatory tax levy;

9 (8) bonds of either a Kansas not-for-profit corporation or of a local
10 housing authority that are rated at least Aa by Moody's investors service or
11 AA by Standard & Poor's corp.;

12 (9) bonds issued pursuant to K.S.A. 12-1740 et seq., and amendments
13 thereto, that are rated at least MIG-1 or Aa by Moody's investors service or
14 AA by Standard & Poor's corp.;

15 (10) notes of a Kansas not-for-profit corporation that are issued to
16 provide only the interim funds for a mortgage loan that is insured by the
17 federal housing administration;

18 (11) bonds issued pursuant to K.S.A. 74-8901 through 74-8916, and
19 amendments thereto;

20 (12) bonds issued pursuant to K.S.A. 68-2319 through 68-2330, and
21 amendments thereto;

22 (13) commercial paper that does not exceed 270 days to maturity and
23 which has received one of the two highest commercial paper credit ratings
24 by a nationally recognized investment rating firm; or

25 (14) (A) negotiable promissory notes together with first lien
26 mortgages on one to four family residential real estate located in Kansas
27 securing payment of such notes when such notes or mortgages:

28 (i) Are underwritten by the federal national mortgage association, the
29 federal home loan mortgage corporation, the federal housing
30 administration or the veterans administration standards;

31 (ii) have been in existence with the same borrower for at least two
32 years and with no history of any installment being unpaid for 30 days or
33 more; and

34 (iii) are valued at not to exceed 50% of the lesser of the following
35 three values: Outstanding mortgage balance, current appraised value of the
36 real estate or discounted present value based upon current federal national
37 mortgage association or government national mortgage association interest
38 rates quoted for conventional, federal housing administration or veterans
39 administration mortgage loans.

40 (B) Securities under paragraph (A) shall be taken at their value for
41 not more than 50% of the security required under the provisions of this
42 section.

43 (C) Securities under paragraph (A) shall be withdrawn immediately

1 from the collateral pool if any installment is unpaid for 30 days or more.

2 (D) A status report on all such loans shall be provided to the investing
3 governmental entity by the financial institution on a quarterly basis.

4 (d) No such bank, savings and loan association or savings bank may
5 deposit and maintain for the benefit of the governing body of a municipal
6 or quasi-municipal corporation of the state of Kansas, any securities which
7 consist of:

8 (1) Bonds secured by revenues of a utility which has been in
9 operation for less than three years; or

10 (2) bonds issued under K.S.A. 12-1740 et seq., and amendments
11 thereto, unless such bonds have been refunded in advance of their maturity
12 as provided in subsection (d) or such bonds are rated at least Aa by
13 Moody's investors service or AA by Standard & Poor's corp.

14 (e) Any applicant requesting approval of a revenue bond pursuant to
15 subsection (c)(5) shall pay to the commissioner a fee in an amount
16 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
17 thereto, to defray the expenses of the commissioner in the examination and
18 investigation of the application. The commissioner shall remit all amounts
19 received under this section to the state treasurer in accordance with the
20 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
21 each such remittance, the state treasurer shall deposit the entire amount in
22 the state treasury to the credit of the bank investigation fund. The moneys
23 in the bank investigation fund shall be used to pay the expenses of the
24 commissioner in the examination and investigation of such applications
25 and any unused balance shall be transferred to the bank commissioner fee
26 fund.

27 Sec. 36. K.S.A. 2015 Supp. 9-1405 is hereby amended to read as
28 follows: 9-1405. (a) All bonds and securities given by any bank, savings
29 and loan association or savings bank to secure public moneys of the
30 United States or any board, commission or agency thereof, shall be
31 deposited as required by the United States government or any ~~of its~~
32 designated *federal* agencies.

33 (b) All securities, security entitlements and financial assets securing
34 the deposits of any municipal corporation or quasi-municipal corporation
35 shall be deposited as described in subsection (c) or (d) or in a securities
36 account with one of the following custodial banks or trust companies:

37 (1) A Kansas state bank;

38 (2) a Kansas national bank;

39 (3) a state bank organized in another state and which has a branch
40 office in this state;

41 (4) a trust company incorporated under the laws of this state or
42 another state; or

43 (5) the federal home loan bank of Topeka.

1 (c) Securities, security entitlements and financial assets securing the
2 deposits of any municipal corporation or quasi-municipal corporation may
3 be deposited with the state treasurer pursuant to a written custodial
4 agreement and a receipt issued with one copy going to the municipal
5 corporation or quasi-municipal corporation making the public deposit and
6 one copy going to the bank, savings and loan association or savings bank
7 which has secured such public deposits. The receipt shall identify the
8 securities, security entitlements and financial assets which are subject to a
9 security interest to secure payment of the deposits of the municipal
10 corporation or quasi-municipal corporation.

11 (d) Securities, security entitlements and financial assets securing the
12 deposits of any municipal corporation or quasi-municipal corporation may
13 be deposited with the federal reserve bank of Kansas City to be there held
14 in such manner, under regulations and operating letters of the federal
15 reserve bank of Kansas City, as to secure payment of the deposits of the
16 municipal corporation or quasi-municipal corporation in the depository
17 institution.

18 (e) This section shall not prohibit any custodial bank or trust
19 company from depositing securities, security entitlements and financial
20 assets in the custodial bank or trust company's account if:

21 (1) The custodial bank or trust company's account is located at a bank
22 or trust company organized under the laws of any state, the United States
23 or any centralized securities depository wherever located within the United
24 States; and

25 (2) the custodial bank or trust company issues a receipt which
26 identifies the securities, security entitlements and financial assets on
27 deposit at the custodial bank or trust company.

28 (f) No securities, security entitlements and financial assets securing
29 public deposits shall be deposited in any custodial bank or trust company
30 which has the following commonalities with the depository bank, savings
31 and loan association or savings bank:

32 (1) Direct or indirect ownership by any parent corporation;

33 (2) common controlling shareholders;

34 (3) common majority of the board of directors; or

35 (4) common directors with the ability to control or influence directly
36 or indirectly the acts or policies of the depository bank, savings and loan
37 association or savings bank securing such public deposits.

38 (g) When securities, security entitlements and financial assets are
39 deposited with the state treasurer as authorized by this section, the state
40 treasurer shall make a charge for such service which is equivalent to the
41 reasonable and customary charge made therefor.

42 (h) The custodial agreement shall be in writing, executed by all
43 parties thereto, maintained as part of ~~their~~ *the parties'* official records, and

1 except for the municipal corporations or quasi-municipal corporation,
2 approved by ~~their~~ *the* boards of directors or ~~their~~ loan committees, which
3 approvals shall be reflected in the minutes of the boards or committees.

4 (i) A bank, savings and loan association or savings bank which fails
5 to pay ~~according to its terms~~ any deposit of public moneys of any
6 municipal or quasi-municipal corporation *according to the terms of the*
7 *security agreement* shall immediately take action to enable bonds and
8 securities pledged to secure ~~such~~ *the* deposit to be sold to satisfy ~~its~~ *the*
9 *bank's or association's* obligation to the municipal or quasi-municipal
10 corporation.

11 Sec. 37. K.S.A. 2015 Supp. 9-1408 is hereby amended to read as
12 follows: 9-1408. As used in article 14 of chapter 9 of the Kansas Statutes
13 Annotated, and amendments thereto:

14 (a) "Branch" means any office within this state or another state, other
15 than the main office, that is approved as a branch by a federal or state
16 supervisory agency and at which deposits are received, checks paid or
17 money lent. Branch does not include an automated teller machine, remote
18 service unit or similar device, a loan production office or a deposit
19 production office;

20 (b) "centralized securities depository" means a clearing agency
21 registered with the securities and exchange commission which provides
22 safekeeping and book-entry settlement services to ~~its~~ *the agency's*
23 participants;

24 (c) "government unit" means any state, county, municipality or other
25 political subdivision thereof;

26 (d) "Kansas national bank" means a federally chartered bank which
27 has a main office or branch located in this state;

28 (e) "Kansas state bank" means a Kansas state chartered bank;

29 (f) "main office" means the place of business specified in the articles
30 of association, certificate of authority or similar document where the
31 business of the institution is carried on and which is not a branch;

32 (g) "municipal corporation" or "quasi-municipal corporation"
33 includes each investing governmental unit under K.S.A. 12-1675, and
34 amendments thereto;

35 (h) "savings and loan association" means any savings and loan
36 association incorporated under the laws of this state or any other state or
37 organized under the laws of the United States and which has a main or
38 branch office in this state;

39 (i) "savings bank" means any savings bank organized under the laws
40 of the United States and which has a main or branch office in this state;
41 and

42 (j) "securities," "security entitlements," "financial assets," "securities
43 account," "security agreement," "security interest," "perfection" and

1 "control" shall have the meanings given such terms under the Kansas
2 uniform commercial code.

3 Sec. 38. K.S.A. 2015 Supp. 9-1504 is hereby amended to read as
4 follows: 9-1504. (a) In the event the sole lessee or all lessees in joint
5 tenancy named in the lease agreement covering a safe deposit box rental
6 shall die, the safe deposit box may be opened, forcibly if necessary, at any
7 time thereafter, in the presence of persons holding a legal or beneficial
8 interest relating to the lessee, by two employees of the lessor, one of whom
9 shall be an officer of the lessor. The contents shall be disposed of as
10 follows:

11 (1) Instruments of a testamentary nature may be removed by the
12 named executor. If no executor is named or if the named executor fails to
13 act within 60 days after the date of death of the lessee, such employees
14 may remove all instruments of a testamentary nature and deposit the same
15 with the district court ~~pursuant to K.S.A. 59-601 et seq., and amendments~~
16 ~~thereto.~~

17 (2) The employees in their discretion may deliver life insurance
18 policies therein contained to the beneficiaries named in such policies, and
19 any deed to a cemetery lot and any burial instructions found therein to the
20 appropriate parties.

21 (3) Any and all other contents of such box so opened shall be kept
22 and retained by the bank, trust company or safe deposit company and shall
23 be delivered only to the parties legally entitled to the same.

24 (b) In the event no person claims to be interested in the contents of
25 such box within 60 days after the death of the lessee, the lessor may open
26 the box by forcible entry and remove all instruments of a testamentary
27 nature and deposit the same with the district court ~~pursuant to K.S.A. 59-~~
28 ~~601 et seq., and amendments thereto,~~ subject to payment of rentals,
29 expenses and repairs. Any and all other contents of such box so opened
30 shall be kept and retained by the bank or trust company and shall be
31 delivered only to the parties legally entitled to the same.

32 Sec. 39. K.S.A. 2015 Supp. 9-1506 is hereby amended to read as
33 follows: 9-1506. (a) The lessor shall have a lien upon the contents of any
34 safe deposit box for the rental thereon.

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

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

43 (2) the lessee has failed to surrender possession of any box within 30

1 days from the date of the termination of the lease.

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

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

11 (e) Any notice required by this section shall be delivered either
12 personally or by registered mail delivered to the latest address shown on
13 the safe deposit records of the lessor.

14 Sec. 40. K.S.A. 2015 Supp. 9-1601 is hereby amended to read as
15 follows: 9-1601. (a) Any bank, upon the affirmative vote of at least $\frac{2}{3}$ of
16 the voting stock, may apply to the commissioner for approval to conduct
17 trust business. If approval is granted by the commissioner, a special permit
18 shall be issued and the bank shall be authorized, subject to such conditions
19 as the commissioner may require, to exercise all powers necessary or
20 incidental to carrying on a trust business and also may exercise the
21 following powers to:

22 (1) Receive for safekeeping personal property of every description;

23 (2) accept and execute any trust agreement and perform any trustee
24 duties as required by such trust agreement;

25 (3) act as agent, trustee, executor, administrator, registrar of stocks
26 and bonds, conservator, assignee, receiver, custodian, corporate trustee or
27 attorney-in-fact in any agreed-upon capacity;

28 (4) accept and execute all trusts and to perform any fiduciary duties
29 as may be committed or transferred to ~~it~~ *the bank* by order, judgment or
30 decree of any court of record of competent jurisdiction;

31 (5) act as executor or trustee under the last will and testament, or as
32 administrator, with or without the will annexed to the letters of
33 administration, of the estate of any deceased person;

34 (6) be a conservator for any minor, incapacitated person or trustee for
35 any convict under the appointment of any court of competent jurisdiction;

36 (7) receive money in trust for investment in real or personal property
37 of every kind and nature and to reinvest the proceeds thereof;

38 (8) act as either an originating trustee or as a contracting trustee
39 pursuant to K.S.A. 9-2107, and amendments thereto;

40 (9) buy and sell foreign or domestic exchange, gold, silver, coin or
41 bullion;

42 (10) act in any fiduciary capacity and to perform any act as a
43 fiduciary which trust companies incorporated under the laws of this state

1 may perform under any provision of the banking or insurance laws of this
2 state, including, without limitation, acting as a successor fiduciary to any
3 trust company upon liquidation pursuant to K.S.A. 9-2107, and
4 amendments thereto; and

5 (11) to perform or purchase trust services for or from a bank or
6 service corporation through a trust service agency agreement provided the
7 commissioner is notified 30 days after contracting for the service. Such
8 notification shall include the trust services provided, the name of the
9 servicer and the date the service will commence.

10 (b) (1) The commissioner has the discretion to grant or reject the
11 application of any bank to acquire trust authority. In making such
12 determination, the commissioner shall take into consideration:

13 (A) The reasonable probability of usefulness and success of the bank
14 having trust authority;

15 (B) the financial history and condition of the bank and the character,
16 qualifications and experience of the trust officers and personnel; and

17 (C) any other facts and circumstances that the commissioner deems
18 appropriate.

19 (2) If the commissioner denies an application, the applicant shall have
20 the right to a hearing to be conducted in accordance with the Kansas
21 administrative procedure act. Any final order of the commissioner
22 pursuant to this section is subject to review in accordance with the Kansas
23 judicial review act.

24 (c) (1) If the governing instrument limits investment of funds to
25 deposit in time or savings deposits in the bank, any bank may act as trustee
26 or custodian for any of the following without being issued a special
27 permit:

28 (A) Individual retirement accounts established pursuant to 26 U.S.C.
29 § 408;

30 (B) trusts established pursuant to 26 U.S.C. § 401; and

31 (C) medical savings accounts established pursuant to 26 U.S.C. §
32 220.

33 (2) If the governing instrument limits investment of funds to deposit
34 in time, savings or demand deposits in the bank, any bank may act as a
35 trustee or custodian for any health savings accounts established pursuant to
36 26 U.S.C. § 223, without being issued a special permit pursuant to
37 subsection (a).

38 (d) Any state bank having been granted trust authority by the
39 commissioner may add "and trust company" to its corporate name.

40 (e) A bank making application to the commissioner for approval to
41 conduct trust business shall pay to the commissioner a fee, in an amount
42 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
43 thereto, to defray the expenses of the commissioner in the examination and

1 investigation of the application. The commissioner shall remit all moneys
2 received under this section to the state treasurer in accordance with the
3 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
4 each such remittance, the state treasurer shall deposit the entire amount in
5 the state treasury to the credit of the bank investigation fund. The moneys
6 in the bank investigation fund shall be used to pay the expenses of the
7 commissioner in the examination and investigation of such applications
8 and any unused balance shall be transferred to the bank commissioner fee
9 fund.

10 Sec. 41. K.S.A. 2015 Supp. 9-1607 is hereby amended to read as
11 follows: 9-1607. (a) Any bank or trust company, when acting as a fiduciary
12 or a co-fiduciary with others and with the consent of its co-fiduciary or co-
13 fiduciaries, if any, ~~who~~ *that* are hereby authorized to give such consent,
14 may cause any investment held in any such capacity to be registered and
15 held in the name of a nominee or nominees of such bank or trust company.
16 Such bank or trust company shall be liable for the acts of any such
17 nominee with respect to any investment so registered.

18 (b) The records of the bank or trust company shall at all times show
19 the ownership of any investment registered and held in the name of a
20 nominee, which investment shall be in the control of the bank or trust
21 company and be kept separate and apart from the assets of the bank or
22 trust company.

23 Sec. 42. K.S.A. 2015 Supp. 9-1609 is hereby amended to read as
24 follows: 9-1609. (a) Any bank or trust company authorized to act as
25 fiduciary may establish common trust funds for the purpose of furnishing
26 investments to:

- 27 (1) Such bank or trust company as fiduciary;
- 28 (2) such bank or trust company and others, as co-fiduciaries;
- 29 (3) another state or national bank or trust company, as fiduciary,
30 which is a subsidiary of the same bank holding company of which ~~is~~ *the*
31 *bank or trust company* is a subsidiary, as such terms are defined in K.S.A.
32 9-519, and amendments thereto; or
- 33 (4) another state or national bank or trust company with which ~~is~~ *the*
34 *bank or trust company* is affiliated through common control, as defined in
35 K.S.A. 9-1612, and amendments thereto.

36 (b) Any bank or trust company authorized to act as fiduciary may, as
37 such fiduciary or co-fiduciary, invest funds which it lawfully holds for
38 investment in interests in such common trust funds, if such investment is
39 not prohibited by the instrument, judgment, decree or order creating such
40 fiduciary relationship, and if, in the case of co-fiduciaries, the bank or trust
41 company procures the consent of its co-fiduciaries to such investment.

42 Sec. 43. K.S.A. 2015 Supp. 9-1611 is hereby amended to read as
43 follows: 9-1611. Whenever the governing instrument of any trust

1 authorizes a bank or trust company acting as fiduciary to engage in any of
2 the following activities, such instrument shall also be deemed to authorize
3 the bank or trust company to engage in the following activities, with any
4 company which has or acquires control of such bank or trust company:

5 (a) Hold as a trust investment ~~its~~ *the bank's or trust company's* own
6 stock or obligations, or property acquired from the bank or trust company;
7 or

8 (b) sell or transfer, by loan or otherwise, property held as fiduciary to
9 the bank or trust company; or

10 (c) purchase for investment the stock or obligations of, or property
11 from, the bank or trust company.

12 Sec. 44. K.S.A. 2015 Supp. 9-1704 is hereby amended to read as
13 follows: 9-1704. (a) Each bank or trust company shall be required to make
14 a report to the commissioner at any time upon the commissioner's request.
15 Such reports shall be in a form and manner prescribed by the
16 commissioner and shall be verified by the president, chief executive
17 officer or cashier and attested *to* by at least three directors of the bank or
18 trust company, none of whom shall have verified the report. The report
19 shall show in detail the assets and liabilities of the bank or trust company
20 at the close of business upon the date determined by the commissioner.
21 The commissioner may require a copy of the report, or a portion thereof, to
22 be published in a newspaper, published in or having a general circulation
23 in the place where the bank or trust company is located, within 10 days
24 after the report is forwarded to the commissioner. The expense of
25 publication shall be paid by the bank or trust company.

26 (b) Each trust company shall report to the commissioner all assets
27 held by the trust company in a fiduciary capacity as of December 31 of
28 each year. The report shall be in the form and manner prescribed by the
29 commissioner and shall be filed with the commissioner by January 30 of
30 each year. The commissioner may require the report to be filed using an
31 electronic means.

32 (c) Each trust department of a bank shall report to the commissioner
33 all assets held by the trust department in a fiduciary capacity at any time
34 upon the commissioner's request. The report shall be in the form
35 prescribed by the commissioner. The commissioner may require the report
36 to be filed using an electronic means.

37 (d) A request for information made pursuant to this section shall be
38 made in writing and mailed to each bank and trust company. The request
39 shall be deemed to be legal notice to each bank and trust company. The
40 request may include the requirement for the filing of information by the
41 bank or trust company using electronic means.

42 Sec. 45. K.S.A. 2015 Supp. 9-1712 is hereby amended to read as
43 follows: 9-1712. (a) All information the state bank commissioner generates

1 in making an investigation or examination of a state bank or trust company
2 shall be confidential information.

3 (b) All confidential information shall be the property of the state of
4 Kansas and shall not be disclosed except upon the written approval of the
5 commissioner.

6 (c) Except for disclosure pursuant to subsection (e) and K.S.A. 9-
7 2014, and amendments thereto, the commissioner shall give 10 days prior
8 written notice to the affected bank or trust company of intent to disclose
9 confidential information.

10 (d) Any bank or trust company receiving notice of the intent to
11 disclose confidential information may object to the disclosure of the
12 confidential information and shall be afforded the right to a hearing in
13 accordance with the provisions of the Kansas administrative procedure act.

14 (e) (1) The commissioner may furnish to the federal deposit insurance
15 corporation, or to any officer or examiner thereof, a copy of any or all
16 examination reports made by the commissioner, or the commissioner's
17 examiners, of any bank or trust company insured by such corporation. The
18 commissioner may disclose to the federal deposit insurance corporation, or
19 any official or examiner thereof, any and all information contained in the
20 commissioner's office concerning the condition of any bank or trust
21 company insured by such corporation.

22 (2) The commissioner may disclose any and all information contained
23 in the commissioner's office concerning the condition of any bank or trust
24 company to the:

- 25 (A) Federal reserve bank;
- 26 (B) office of the comptroller of currency;
- 27 (C) federal home loan bank;
- 28 (D) office of thrift supervision;
- 29 (E) financial crimes enforcement network; or
- 30 (F) consumer financial protection bureau.

31 (3) The commissioner may furnish to the state treasurer a copy of any
32 or all examination information relating specifically to apparent violations
33 of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978,
34 and amendments thereto.

35 (4) To reduce the potential for duplicative and burdensome filings,
36 examinations and other regulatory activities, the commissioner, by
37 agreement, may establish an information sharing and exchange program
38 with any regulatory agency of this state, another state or the United States
39 concerning activities that are financial in nature, incidental to financial
40 activities, or complementary to financial activities, as those terms are used
41 in 15 U.S.C. § 6801 et seq. on the effective date of this act. Each agency
42 that is party to such an agreement shall agree to maintain confidentiality of
43 information that is confidential under applicable state or federal law and to

1 take all reasonable steps to oppose any effort to secure disclosure of the
2 information by such agency.

3 (5) Disclosure of information by or to the commissioner pursuant to
4 this section shall not constitute a waiver of or otherwise affect or diminish
5 a privilege to which the information is otherwise subject, whether or not
6 the disclosure is governed by a confidentiality agreement. "Privilege"
7 includes any work product, attorney-client or other privilege recognized
8 under federal or state law.

9 (6) Nothing in this section shall be construed to limit the powers of
10 the commissioner with reference to examinations and reports required by
11 the state banking code.

12 (f) As used in this section, "information" means, but is not limited to,
13 all documents, oral and written communication and all electronic data.

14 (g) Any person ~~who~~ *that* violates this section, upon conviction, shall
15 be guilty of a class C misdemeanor.

16 (h) The commissioner may provide any person with a letter of good
17 standing upon request. Any person requesting a letter of good standing
18 shall pay to the commissioner a fee in an amount established pursuant to
19 K.S.A. 2015 Supp. 9-1726, and amendments thereto, to defray the
20 expenses of the commissioner in investigating and complying with the
21 request. The commissioner shall remit all moneys received under this
22 section to the state treasurer in accordance with the provisions of K.S.A.
23 75-4215, and amendments thereto. Upon receipt of each such remittance,
24 the state treasurer shall deposit the entire amount in the state treasury to
25 the credit of the bank investigation fund. The moneys in the bank
26 investigation fund shall be used to pay the expenses of the commissioner
27 in the examination and investigation of such applications and any unused
28 balance shall be transferred to the bank commissioner fee fund.

29 Sec. 46. K.S.A. 2015 Supp. 9-1715 is hereby amended to read as
30 follows: 9-1715. (a) (1) Notwithstanding any provision of law to the
31 contrary, the commissioner shall have the power to authorize any or all
32 banks to engage in any activity in which any other bank, savings and loan
33 association or a savings bank, organized under the laws of the United
34 States, this state or any other state ~~whose~~ *with* deposits ~~are~~ insured by the
35 United States government is lawfully authorized to engage in at the time
36 authority is granted.

37 (2) The commissioner shall have the power to authorize any or all
38 Kansas trust companies, trust departments or both to engage in any trust-
39 related activity in which any trust company or trust department, organized
40 under the laws of the United States, this state or any other state, is lawfully
41 authorized to engage in at the time authority is granted.

42 (b) (1) The commissioner shall exercise the power granted in
43 subsection (a) by the issuance of a special order if the commissioner

1 deems ~~it~~ *such action is* reasonably required to: (A) Preserve and protect
2 the welfare of a particular institution; or (B) preserve the welfare of all
3 state banks or trust companies and to promote competitive equality of state
4 and other insured depository institutions.

5 Such special order shall provide for the effective date thereof and upon
6 and after such date shall be in full force and effect until amended or
7 revoked by the commissioner. Promptly following issuance, the
8 commissioner shall mail a copy of each special order to all state banks and
9 trust companies and shall be published in the Kansas register.

10 (c) The commissioner, at the time of issuing any special order
11 pursuant to this section, shall prepare a written report, which shall include
12 a description of the special order and a copy of the special order and
13 submit the written report to:

14 (1) The president and the minority leader of the senate;

15 (2) the chairperson and ranking minority member of the senate
16 standing committee on financial institutions and insurance;

17 (3) the speaker and the minority leader of the house of
18 representatives;

19 (4) the chairperson and ranking minority member of the house of
20 representatives standing committee on financial institutions; and

21 (5) the governor.

22 (d) Within two weeks of the beginning of each legislative session, the
23 commissioner shall submit to the senate committee on financial
24 institutions and insurance and the house of representatives committee on
25 financial institutions, a written summary of each special order issued
26 during the preceding year. Upon request of the chair of the senate standing
27 committee on financial institutions and insurance or the chair of the house
28 standing committee on financial institutions, the commissioner, or the
29 commissioner's designee, shall appear before the committee to discuss any
30 special order issued during the preceding year. If the committee desires
31 information concerning the economic impact of any special order, the
32 committee chair or ranking minority member may request assistance from
33 the division of budget.

34 (e) The issuance of special orders under this section shall not be
35 subject to the provisions of article 4 of chapter 77 of the Kansas Statutes
36 Annotated, and amendments thereto.

37 (f) The powers contained in this section shall be in addition to any
38 and all other powers granted to the commissioner.

39 Sec. 47. K.S.A. 2015 Supp. 9-1720 is hereby amended to read as
40 follows: 9-1720. **(a)** Except with the *prior written* approval of the
41 commissioner, or as otherwise permitted by the state banking code, it shall
42 be unlawful for ~~a person, acting directly or indirectly or through concert~~
43 ~~with one or more persons to:~~

1 ~~(a) (1) A person, acting directly or indirectly or through concert with~~
 2 ~~one or more persons, to acquire control of any bank or trust company; or~~

3 ~~(b) (2) commence any merger transaction with a bank or trust~~
 4 ~~company which includes, but is not limited to, any merger, consolidation,~~
 5 ~~acquisition of assets or assumption of any liabilities a bank to merge or~~
 6 ~~consolidate with any bank or institution, or either directly or indirectly~~
 7 ~~acquire the assets of, or assume the liability to pay any deposit made in~~
 8 ~~any other bank or institution, referred to hereinafter as a merger~~
 9 ~~transaction; or~~

10 ~~(3) a trust company to merge or consolidate with any trust~~
 11 ~~company, or either directly or indirectly acquire the assets of any other~~
 12 ~~trust company, referred to hereinafter as a merger transaction.~~

13 ~~(b) A trust company may merge or consolidate with a trust~~
 14 ~~company{, with the prior written approval of the commissioner}~~
 15 ~~chartered by:~~

16 ~~(1) The comptroller of the currency; or~~

17 ~~(2) another state with the prior written approval of the~~
 18 ~~commissioner.~~

19 *An application filed pursuant to this subsection shall be subject to the*
 20 *provisions of K.S.A. 9-1721, 9-1722 and 9-1724, and amendments*
 21 *thereto.*

22 Sec. 48. K.S.A. 2015 Supp. 9-1721 is hereby amended to read as
 23 follows: 9-1721. (a) ~~The party~~ *person* proposing to acquire; control or
 24 effectuate ~~a bank or trust company undertaking a merger transaction,~~
 25 hereinafter referred to as the applicant, shall ~~apply in writing for approval~~
 26 ~~from~~ *file an application with the commissioner* at least 60 days prior to the
 27 proposed change of control or merger transaction. If the commissioner
 28 does not act on the application within the 60-day time period, the
 29 application shall stand approved. The commissioner may, for any reason,
 30 extend the time period to act on an application for an additional 30 days.
 31 The time period to act on an application may be further extended if the
 32 commissioner determines that the applicant has not furnished all the
 33 information required under K.S.A. 9-1722, and amendments thereto, or
 34 that, in the commissioner's judgment, any material information submitted
 35 is substantially inaccurate.

36 (b) Upon the filing of an application, the commissioner shall make an
 37 investigation of ~~each party to~~ *the applicant* for the change of control or
 38 merger transaction. The commissioner may deny the application if the
 39 commissioner finds the:

40 (1) Proposed change of control or merger transaction would result in
 41 a monopoly or would be in furtherance of any combination or conspiracy
 42 to monopolize or attempt to monopolize the business of banking or trust
 43 services in any part of this state;

1 (2) financial condition of ~~any party to a change of control or merger~~
2 ~~transaction~~ *the applicant* might jeopardize the financial stability of the
3 bank or trust company or prejudice the interests of the depositors of a
4 bank;

5 (3) competence, experience or integrity of ~~any party to a change of~~
6 ~~control or merger transaction~~ *the applicant* or of any of the proposed
7 management personnel *of the bank or trust company or resulting bank or*
8 *trust company* indicates it would not be in the interest of the depositors of
9 the bank, the clients of trust services, or in the interest of the public ~~to~~
10 ~~permit such person to control the bank or trust company~~; or

11 (4) applicant neglects, fails or refuses to furnish the commissioner
12 with all of the information required by the commissioner.

13 (c) Upon service of an order denying an application, the applicant
14 shall have the right to a hearing to be conducted in accordance with the
15 Kansas administrative procedure act before the state banking board. Any
16 final order of the commissioner pursuant to this section is subject to
17 review in accordance with the Kansas judicial review act.

18 Sec. 49. K.S.A. 2015 Supp. 9-1722 is hereby amended to read as
19 follows: 9-1722. (a) ~~An~~ *A change of control* application filed pursuant to
20 K.S.A. 9-1721, and amendments thereto, shall contain the following
21 information:

22 (1) The identity, personal history, business background and
23 experience of each person by ~~whom or on whose behalf~~ *or for whom* the
24 change of control ~~or merger transaction~~ is to be made, including the
25 material business activities and affiliations during the past five years and a
26 description of any material pending legal or administrative proceedings in
27 which the person is a party and any criminal indictment or conviction of
28 such person by a state or federal court;

29 (2) a statement of the assets and liabilities of each person by ~~whom or~~
30 ~~on whose behalf~~ *or for whom* the change of control ~~or merger transaction~~
31 is to be made, along with any related statements of income and source and
32 application of funds, as of a date not more than 90 days prior to the date of
33 the application. Individuals who own 10% or more shares in a bank
34 holding company, as defined in K.S.A. 9-519, and amendments thereto,
35 shall file the financial information required by this paragraph;

36 (3) the terms and conditions of the proposed change of control ~~or~~
37 ~~merger transaction~~ and the manner in which such change of control ~~or~~
38 ~~merger transaction~~ is to be made;

39 (4) the identity, source and amount of the funds or other
40 considerations used or to be used in making the change of control ~~or~~
41 ~~merger transaction~~ and, if any part of these funds or other considerations
42 has been or is to be borrowed or otherwise obtained for such purpose, a
43 description of the transaction, the names of the parties, and any

1 arrangements, agreements or understandings with such persons;

2 (5) any plans or proposals which any applicant may have to liquidate
3 the bank or trust company or to make any other major change in ~~its~~ *the*
4 *bank's or trust company's* business or corporate structure or management;

5 (6) the identification of any person employed, retained or to be
6 compensated by any party or by any person on such person's behalf to
7 make solicitations or recommendations to stockholders for the purpose of
8 assisting in the change of control ~~or merger transaction~~ and a brief
9 description of the terms of such employment, retainer or arrangement for
10 compensation;

11 (7) copies of all invitations or tenders or advertisements making a
12 tender offer to stockholders for purchase of their stock to be used in
13 connection with the proposed change of control ~~or merger transaction~~;

14 (8) when applicable, the certified copies of the stockholder
15 proceedings showing a majority of the outstanding voting stock was voted
16 in favor of the change of control ~~or merger transaction~~; and

17 (9) any additional relevant information in the form and manner
18 prescribed by the commissioner.

19 (b) *A merger transaction application filed pursuant to K.S.A. 9-1721,*
20 *and amendments thereto, shall contain the following information:*

21 (1) *The structure, terms and conditions and financing arrangements*
22 *of the proposed merger transaction;*

23 (2) *a complete and final copy of the merger transaction agreement;*

24 (3) *certified copies of the stockholder proceedings showing a*
25 *majority of the outstanding voting stock of the banks **or trust companies** in*
26 *the merger transaction was voted in favor of the merger transaction;*

27 (4) *a list of directors and senior executive officers of the resulting*
28 *bank **or trust company**;*

29 (5) *one year pro forma statements of financial conditions and future*
30 *prospects of the resulting bank **or trust company**, including capital*
31 *positions;*

32 (6) *how the merger transaction will meet the convenience and needs*
33 *of the community; and*

34 (7) *any other relevant information in the form and manner prescribed*
35 *by the commissioner.*

36 (b) (c) With regard to any trust company which files a notice pursuant
37 to this section, the commissioner may require fingerprinting of any
38 proposed officer, director, shareholder or any other person deemed
39 necessary by the commissioner. Such fingerprints may be submitted to the
40 Kansas bureau of investigation and the federal bureau of investigation for
41 a state and national criminal history record check. The fingerprints shall be
42 used to identify the person and to determine whether the person has a
43 record of arrests and convictions in this state or *any* other jurisdiction. The

1 commissioner may use information obtained from fingerprinting and the
2 criminal history for purposes of verifying the identification of the person
3 and in the official determination of the qualifications and fitness of the
4 persons proposing to acquire the trust company. Whenever the
5 commissioner requires fingerprinting, any associated costs shall be paid by
6 the applicant or the parties to the application.

7 ~~(e)~~ (d) The commissioner may accept an application filed with the
8 federal reserve bank or federal deposit insurance corporation in lieu of ~~a~~
9 ~~statement~~ *an application* filed pursuant to subsection (a). The
10 commissioner may, in addition to such application, request additional
11 relevant information.

12 ~~(d)~~ (e) At the time of filing an application pursuant to K.S.A. 9-1721,
13 and amendments thereto, or an application filed pursuant to subsection ~~(e)~~
14 (d), the applicant shall pay to the commissioner a fee in an amount
15 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
16 thereto, to defray the expenses of the commissioner in the examination and
17 investigation of the application. The commissioner shall remit all moneys
18 received under this section to the state treasurer in accordance with the
19 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
20 each such remittance, the state treasurer shall deposit the entire amount in
21 the state treasury to the credit of the bank investigation fund. The moneys
22 in the bank investigation fund shall be used to pay the expenses of the
23 commissioner in the examination and investigation of such applications
24 and any unused balance shall be transferred to the bank commissioner fee
25 fund.

26 Sec. 50. K.S.A. 2015 Supp. 9-1724 is hereby amended to read as
27 follows: 9-1724. (a) The provisions of K.S.A. 9-1720 through 9-1724, and
28 amendments thereto, shall not apply to the merger transaction of a bank or
29 trust company when the surviving entity is a national banking association
30 or other federally chartered financial institution *or a trust company*
31 *chartered by:*

32 (1) *The comptroller of the currency; or*

33 (2) *another state*, except that the bank shall provide written
34 notification to the commissioner of such a merger, consolidation or
35 transfer of assets and liabilities at least 10 days prior to ~~its~~ *the*
36 *consummation of any such transaction.*

37 (b) Not more than 15 days following any merger transaction, any
38 bank or trust company that will cease to exist shall surrender such bank's
39 or trust company's state certificate of authority or charter and shall certify
40 in writing that the proper instruments have been executed and filed in
41 accordance with K.S.A. 17-6003, and amendments thereto.

42 (c) Notice of the merger transaction shall be published twice in a
43 newspaper of general circulation in each city or county in which the bank

1 *or trust company* is located, or the newspaper nearest such city or county
2 and a certified copy of each notice shall be filed with the commissioner.
3 The first publication shall be no later than five days after an application is
4 filed. The second publication shall be on the 14th day after the date of the
5 first publication or, if the newspaper does not publish on the 14th day, then
6 the date that is the closest to the 14th day. The notice shall be in the form
7 prescribed by the commissioner and shall provide for a comment period of
8 not less than 10 days after the date of the second publication.

9 Sec. 51. K.S.A. 2015 Supp. 9-1807 is hereby amended to read as
10 follows: 9-1807. (a) If the commissioner finds that any bank or trust
11 company is engaging, has engaged or is about to engage in an unsafe or
12 unsound practice or if the commissioner finds that any bank or trust
13 company is violating, has violated or is about to violate a law, rule and
14 regulation or order of the commissioner or state banking board, the
15 commissioner may issue and serve upon the bank or trust company a
16 notice of charges. The notice of charges shall contain a statement of the
17 facts that forms the basis for a proposed cease and desist order and shall
18 state the time and place at which a hearing will be held by the state
19 banking board to determine whether an order to cease and desist therefrom
20 should be issued by the state banking board against the bank or trust
21 company. Such hearing shall be fixed for a date not earlier than 30 days
22 nor later than 60 days after service of such notice.

23 (b) Unless the bank or trust company shall appear at the hearing, such
24 bank or trust company shall be deemed to have consented to the issuance
25 of the cease and desist order. In the event of such consent, or if upon the
26 record made at any such hearing, the state banking board shall find that
27 any unsafe or unsound practice or violation specified in the notice of
28 charges has been established, the state banking board may issue and serve
29 upon the bank or trust company an order to cease and desist from any such
30 practice or violation. Such order may require the bank or trust company
31 and such bank's or trust company's directors, officers, employees or agents
32 to cease and desist or to take affirmative action to correct the conditions
33 resulting from any such practice or violation. A cease and desist order shall
34 become effective at the time specified therein and shall remain effective
35 and enforceable as provided therein, except to such extent as it is stayed,
36 modified or terminated by the state banking board.

37 (c) Whenever the commissioner finds that a bank's or trust company's
38 unsafe or unsound practice or violation, or the continuation thereof, is
39 likely to cause insolvency, substantial dissipation of assets or earnings or is
40 likely to otherwise seriously prejudice the interests of ~~its~~ *the bank's*
41 *depositors or trust company's clients*, the commissioner may issue a
42 temporary order requiring the bank or trust company to cease and desist
43 from any such practice or violation. The order shall contain a notice of

1 charges with a statement of the facts that forms the basis for a proposed
2 temporary cease and desist order. Such order shall be effective upon
3 service on the bank or trust company and shall remain effective and
4 enforceable pending the completion of the proceedings pursuant to such
5 notice and until such time as the state banking board shall dismiss the
6 charges specified in such notice, or if a cease and desist order is issued
7 against the bank or trust company, until the effective date of any such
8 order.

9 Sec. 52. K.S.A. 2015 Supp. 9-1902 is hereby amended to read as
10 follows: 9-1902. A bank or trust company shall be deemed to be insolvent
11 when: (a) The actual cash market value of a bank's or trust company's
12 assets is insufficient to pay such bank's or trust company's creditor
13 liabilities, except that for this purpose unconditional evidence of
14 indebtedness of the United States of America may be valued, at the
15 discretion of the commissioner, at par or cost whichever is the lesser; or
16 (b) ~~when it the bank or trust company~~ is unable to meet the demands of its
17 creditors in the usual and customary manner.

18 Sec. 53. K.S.A. 2015 Supp. 9-1905 is hereby amended to read as
19 follows: 9-1905. (a) In the event the commissioner appoints a receiver for
20 any bank or trust company, the commissioner shall appoint:

21 (1) The federal deposit insurance corporation; or

22 (2) any individual, partnership, association, limited liability company,
23 corporation or any other business entity which shall have accounting,
24 regulatory, legal or other relevant experience in the field of banking or
25 trust as shall be determined by the commissioner.

26 (b) Any receiver other than the federal deposit insurance corporation
27 shall give such bond as the commissioner deems proper and immediately
28 file in the district court of the county where the bank or trust company is
29 located for liquidation, disposition and dissolution pursuant to the state
30 banking code, ~~and K.S.A. 17-101 et seq., and amendments thereto~~ *the*
31 *Kansas general corporation code*, and as may be ordered by the court.

32 (1) The receiver shall be entitled to reasonable compensation subject
33 to the approval of the district court.

34 (2) Upon written application made within 30 days after the filing in
35 district court, the court may appoint as receiver any person ~~whom~~ *that*
36 holders of more than 60% in amount of the claims against such bank or
37 trust company shall agree upon in writing. The creditors so agreeing may
38 also agree upon the compensation and charges to be paid such receiver.
39 Each receiver so appointed shall make a complete report to the
40 commissioner covering the receiver's acts and proceedings as such.

41 (c) The bank or trust company shall have the right to petition for
42 review of the commissioner's order taking charge, appointment of a special
43 deputy or appointment of a receiver. Such review shall not be subject to

1 the provisions of K.S.A. 77-501 et seq., and amendments thereto. A
2 petition for review shall be filed within 10 days of the commissioner's
3 action. Notwithstanding any provision of law to the contrary, or by order
4 of the court, review shall proceed as expeditiously as possible pursuant to
5 the provisions of K.S.A. 77-601 et seq., and amendments thereto.
6 Notwithstanding any provision of law to the contrary, the decision of the
7 district court may be appealed only to the supreme court of Kansas. The
8 time within which an appeal may be taken shall be 10 days from final
9 disposition of the district court.

10 Sec. 54. K.S.A. 2015 Supp. 9-1906 is hereby amended to read as
11 follows: 9-1906. (a) A receiver appointed pursuant to K.S.A. 9-1905, and
12 amendments thereto, other than the federal deposit insurance corporation,
13 shall take charge of any bank or trust company and all of ~~its~~ *the bank's or*
14 *trust company's* assets and property, and liquidate the affairs and business
15 thereof for the benefit of ~~its~~ *the* depositors, creditors and stockholders *of*
16 *the bank or trust company*. The receiver may sell all the property of the
17 bank or trust company upon such terms as the district court of the county
18 where the bank or trust company is located shall approve. The receiver
19 shall pay over all moneys received to the creditors and depositors of such
20 bank or trust company.

21 (b) In distributing assets of the bank or trust company in payment of
22 its liabilities, the order of payment, in the event its assets are insufficient to
23 pay in full all of its liabilities, shall be by category as follows:

24 (1) The costs and expenses of the receivership and real and personal
25 property taxes assessed against the bank or trust company pursuant to
26 applicable law;

27 (2) claims which are secured or given priority by applicable law;

28 (3) claims of unsecured depositors;

29 (4) all other claims exclusive of claims on capital notes and
30 debentures; and

31 (5) claims on capital notes and debentures.

32 Should the assets be insufficient for the payment in full of all claims
33 within a category, such claims shall be paid in the order provided by other
34 applicable law or, in the absence of such applicable law, pro rata.

35 Sec. 55. K.S.A. 2015 Supp. 9-1907 is hereby amended to read as
36 follows: 9-1907. The federal deposit insurance corporation or ~~its~~ *any*
37 successor, hereby is authorized and empowered to be and act without bond
38 as receiver of any bank, the deposits in which are to any extent insured by
39 such corporation. If the federal deposit insurance corporation, or ~~its~~ *any*
40 successor, accepts the appointment, then the federal deposit insurance
41 corporation, or ~~its~~ *any* successor, shall succeed to all the rights, titles,
42 powers and privileges of the bank and of any stockholder, member,
43 account holder, depositor, officer or director of the bank with respect to the

1 bank.

2 Sec. 56. K.S.A. 2015 Supp. 9-1908 is hereby amended to read as
3 follows: 9-1908. Whenever the federal deposit insurance corporation, or ~~its~~
4 *any* successor, shall accept the appointment as receiver for any bank the
5 possession of and title to all of the assets, business and property of every
6 kind of such bank shall pass to and vest in the federal deposit insurance
7 corporation, or ~~its~~ *any* successor, as receiver without the execution of any
8 instruments of assignment, endorsement, transfer or conveyance.

9 Sec. 57. K.S.A. 2015 Supp. 9-1909 is hereby amended to read as
10 follows: 9-1909. All claims of depositors and other creditors must be filed
11 with the receiver within one year after the date of the receiver's
12 appointment, and if any claim is not filed, then ~~it~~ *the claim* shall be barred
13 from participation in the estate and assets of any such bank or trust
14 company.

15 Sec. 58. K.S.A. 2015 Supp. 9-1910 is hereby amended to read as
16 follows: 9-1910. Upon the affirmative vote of $\frac{2}{3}$ of the outstanding voting
17 stock, the shareholders of a bank or trust company may transfer all of ~~its~~
18 *the bank's or trust company's* assets and property of whatever nature and
19 any rights thereto to the possession and control of the commissioner and
20 waive any right to the Kansas administrative procedure act, the Kansas
21 judicial review act or any other lawful right to challenge the
22 commissioner's authority without the execution of any instruments of
23 assignment, endorsement, transfer or conveyance. Such action shall
24 operate as a bar to any attachment proceedings.

25 Sec. 59. K.S.A. 2015 Supp. 9-1915 is hereby amended to read as
26 follows: 9-1915. It shall be unlawful for the president, director, managing
27 officer, cashier or any other officer of any bank to agree to accept deposits,
28 in an amount that would create an excess above the federal deposit
29 insurance corporation insured deposit amount, after such person has
30 knowledge of the fact that such bank is insolvent or in failing
31 circumstances. It hereby is made the duty of every such officer or
32 managing officer to examine into the affairs of every such bank and know
33 its condition if possible. Upon failure to discharge such duty such person
34 shall be held to have had knowledge of the insolvency of such bank or that
35 ~~it~~ *the bank* was in failing circumstances, for the purposes of this section.
36 Every person ~~who shall violate~~ *that violates* the provisions of this section
37 shall be responsible individually for such deposits so received, except that
38 any director or officer who may have paid more than such person's share
39 of the liabilities mentioned in this section shall have the proper remedy at
40 law against such other persons as shall not have paid their full share of
41 such liabilities.

42 Sec. 60. K.S.A. 2015 Supp. 9-2007 is hereby amended to read as
43 follows: 9-2007. Any receiver of an insolvent bank or trust company, other

1 than the federal deposit insurance corporation, ~~who~~ *or any successor, that*
2 fails to comply with the provisions of the state banking code, upon
3 conviction shall be guilty of a class A, nonperson misdemeanor.

4 Sec. 61. K.S.A. 2015 Supp. 9-2011 is hereby amended to read as
5 follows: 9-2011. It shall be unlawful for any individual, firm or
6 corporation to advertise, publish or otherwise promulgate that ~~they are the~~
7 *individual, firm or corporation is* engaged in the banking business or trust
8 business without first having obtained authority from the commissioner.
9 Any such individual or member of any such firm or officer of any such
10 corporation violating this section, upon conviction shall be guilty of a class
11 A, nonperson misdemeanor.

12 Sec. 62. K.S.A. 2015 Supp. 9-2104 is hereby amended to read as
13 follows: 9-2104. (a) No executor, administrator, conservator or trustee
14 holding trust company stock shall be personally subject to any liability as
15 stockholders in such trust company.

16 (b) No person holding trust company stock as collateral security shall
17 be personally subject to any liability as stockholders in such trust
18 company.

19 (c) The person owning the stock or the person pledging such stock
20 shall be deemed the person liable as a stockholder in the trust company.

21 (d) Any executor, administrator, conservator or trustee holding trust
22 company stock shall be liable in the normal course of acting and carrying
23 out the fiduciary duties of an executor, administrator, conservator or
24 trustee.

25 (e) (1) Any executor, administrator, conservator or trustee holding
26 shares of stock may vote as a shareholder.

27 (2) Any person ~~who~~ *that* has pledged such person's stock as collateral
28 security may represent the same at all meetings and may vote accordingly
29 as a shareholder.

30 Sec. 63. K.S.A. 2015 Supp. 9-2107 is hereby amended to read as
31 follows: 9-2107. (a) As used in this section:

32 (1) "Contracting trustee" means any trust company, as defined in
33 K.S.A. 9-701, and amendments thereto, any bank that has been granted
34 trust authority by the commissioner under K.S.A. 9-1602, and amendments
35 thereto, any national bank chartered to do business in Kansas that has been
36 granted trust authority by the comptroller of the currency under 12 U.S.C.
37 § 92a, any bank that has been granted trust authority or any trust company,
38 regardless of where such bank or trust company is located, that is
39 controlled, as defined in K.S.A. 9-1612, and amendments thereto, by the
40 same bank holding company as any trust company, state bank or national
41 bank chartered to do business in Kansas, which accepts or succeeds to any
42 fiduciary responsibility as provided in this section;

43 (2) "originating trustee" means any trust company, bank, national

1 banking association, savings and loan association or savings bank which
2 has trust powers and its principal place of business is in this state and
3 which places or transfers any fiduciary responsibility to a contracting
4 trustee as provided in this section; *and*

5 (3) "financial institution" means any bank, national banking
6 association, savings and loan association or savings bank which has its
7 principal place of business in this state but which does not have trust
8 powers.

9 (b) Any contracting trustee and any originating trustee may enter into
10 an agreement by which the contracting trustee, without any further
11 authorization of any kind, succeeds to and is substituted for the originating
12 trustee as to all fiduciary powers, rights, duties, privileges and liabilities
13 with respect to all accounts for which the originating trustee serves in any
14 fiduciary capacity, except as may be provided otherwise in the agreement.
15 Notwithstanding the provisions of this section, no contracting trustee
16 ~~having its~~ *with a* home office outside the state of Kansas shall enter into an
17 agreement except with an originating trustee which is commonly
18 controlled as defined in K.S.A. 9-1612, and amendments thereto, by the
19 same bank holding company.

20 (c) Unless the agreement expressly provides otherwise, upon the
21 effective date of the substitution:

22 (1) The contracting trustee shall be deemed to be named as the
23 fiduciary in all writings, including, without limitation, trust agreements,
24 wills and court orders, which pertain to the affected fiduciary accounts;
25 *and*

26 (2) the originating trustee is absolved from all fiduciary duties and
27 obligations arising under such writings and shall discontinue the exercise
28 of any fiduciary duties with respect to such writings, except that the
29 originating trustee is not absolved or discharged from any duty to account
30 required by K.S.A. 59-1709, and amendments thereto, or any other
31 applicable statute, rule of law, rules and regulations or court order, nor
32 shall the originating trustee be absolved from any breach of fiduciary duty
33 or obligation occurring prior to the effective date of the agreement.

34 (d) The agreement may authorize the contracting trustee:

35 (1) To establish a trust service desk at any office of the originating
36 trustee at which the contracting trustee may conduct any trust business and
37 any business incidental thereto and which the contracting trustee may
38 otherwise conduct at its principal place of business; and

39 (2) to engage the originating trustee as the agent of the contracting
40 trustee, on a disclosed basis to customers, for the purposes of providing
41 administrative, advertising and safekeeping services incident to the
42 fiduciary services provided by the contracting trustee.

43 (e) Any contracting trustee may enter into an agreement with a

1 financial institution providing that the contracting trustee may establish a
2 trust service desk as authorized by subsection (d) in the offices of such
3 financial institution and which provides such financial institution, on a
4 disclosed basis to customers, may act as the agent of contracting trustee for
5 purposes of providing administrative services and advertising incident to
6 the fiduciary services to be performed by the contracting trustee.

7 (f) No activity authorized by subsections (b) through (e) shall be
8 conducted by any contracting trustee, originating trustee or financial
9 institution until an application for such authority has been submitted to and
10 approved by the commissioner. The application shall be in the form and
11 contain the information required by the commissioner, which shall at a
12 minimum include certified copies of the following documents:

13 (1) The agreement;

14 (2) the written action taken by the board of directors of the
15 originating trustee or financial institution approving the agreement;

16 (3) all other required regulatory approvals;

17 (4) proof of publication of notice that the applicant intends to file or
18 has filed an application pursuant to this section. The notice shall be
19 published in a newspaper of general circulation in the county where the
20 principal office of the originating trustee or financial institution is located.
21 The notice shall be in the form prescribed by the commissioner and shall
22 contain the name of the applicant contracting trustee and the originating
23 trustee, ~~the proposed date of filing of the application with the~~
24 ~~commissioner~~ and a solicitation for written comments. The notice shall be
25 published on the same day for two consecutive weeks and provide for a
26 comment period of not less than 10 days after the date of the second
27 publication; and

28 (5) a certification by the parties to the agreement that written notice
29 of the proposed substitution was sent by first-class mail to each co-
30 fiduciary, each surviving settlor of a trust, each ward of a guardianship,
31 each person ~~who~~ that has sole or shared power to remove the originating
32 trustee as fiduciary and each adult beneficiary currently receiving or
33 entitled to receive a distribution of principle or income from a fiduciary
34 account affected by the agreement, and that such notice was sent to each
35 such person's address as shown in the originating trustee's records. An
36 unintentional failure to give such notice shall not impair the validity or
37 effect of any such agreement, except an intentional failure to give such
38 notice shall render the agreement null and void as to the party not
39 receiving the notice of substitution.

40 (g) A contracting trustee making application to the commissioner for
41 approval of any agreement pursuant to this section shall pay to the
42 commissioner a fee, in an amount established pursuant to K.S.A. 2015
43 Supp. 9-1726, and amendments thereto, to defray the expenses of the

1 commissioner in the examination and investigation of the application. The
2 commissioner shall remit all moneys received under this section to the
3 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
4 amendments thereto. Upon receipt of each such remittance, the state
5 treasurer shall deposit the entire amount in the state treasury to the credit
6 of the bank investigation fund. The moneys in the bank investigation fund
7 shall be used to pay the expenses of the commissioner, or designee, in the
8 examination and investigation of such applications and any unused balance
9 shall be transferred to the bank commissioner fee fund.

10 (h) Upon the filing of a complete application with the commissioner,
11 the commissioner shall make or cause to be made, a careful examination
12 and investigation of the proposed agreement. If the commissioner finds
13 any of the following matters unfavorably, the commissioner may deny the
14 application:

15 (1) The reasonable probability of usefulness and success of the
16 contracting trustee; and

17 (2) the financial history and condition of the contracting trustee
18 including the character, qualifications and experience of the officers
19 employed by the contracting trustee.

20 (i) The commissioner shall render approval or disapproval of the
21 application within 90 days of receiving a complete application.

22 (j) Upon service of an order denying an application, the applicant
23 shall have the right to a hearing to be conducted in accordance with the
24 Kansas administrative procedure act before the state banking board. Any
25 final order of the commissioner pursuant to this section is subject to
26 review in accordance with the Kansas judicial review act.

27 (k) When the commissioner determines that any contracting trustee
28 domiciled in this state has entered into a contracting agreement in violation
29 of the laws governing the operation of such contracting trustee, the
30 commissioner may take such action as available under K.S.A. 9-1714, 9-
31 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such
32 violation.

33 (l) Any party entitled to receive a notice under subsection (f)(5) may
34 file a petition in the court having jurisdiction over the fiduciary
35 relationship, or if none, in the district court in the county where the
36 originating trustee has its principal office, seeking to remove any
37 contracting trustee substituted or about to be substituted as fiduciary
38 pursuant to this section. Unless the contracting trustee files a written
39 consent to its removal or a written declination to act subsequent to the
40 filing of the petition, the court, upon notice and hearing, shall determine
41 the best interest of the petitioner and all other parties concerned and shall
42 fashion such relief as ~~it~~ *the court* deems appropriate in the circumstances,
43 including the awarding of reasonable attorney fees. The right to file a

1 petition under this subsection shall be in addition to any other rights to
2 remove [the] fiduciary provided by any other statute or regulation or by
3 the writing creating the fiduciary relationship. If the removal of the
4 fiduciary is prompted solely as a result of the contracting agreement, any
5 reasonable cost associated with such removal and transfer shall be paid by
6 the originating trustee or financial institution entering into the agreement.

7 Sec. 64. K.S.A. 2015 Supp. 9-2108 is hereby amended to read as
8 follows: 9-2108. It is unlawful for any trust company to establish or
9 operate a trust service office or relocate an existing trust service office
10 except as provided herein.

11 (a) As used in this section: "Trust service office" means any office,
12 agency or other place of business located within this state, other than the
13 place of business specified in the trust company's certificate of authority, at
14 which the powers granted to trust companies under K.S.A. 9-2103, and
15 amendments thereto, are exercised. For the purposes of this section, any
16 activity in compliance with K.S.A. 9-2107, and amendments thereto, does
17 not constitute a trust service office.

18 (b) After first applying for and obtaining the approval of the
19 commissioner under this section, one or more trust service offices may be
20 established or operated in any city within this state by a trust company
21 incorporated under the laws of this state.

22 (c) An application to establish or operate a trust service office or to
23 relocate an existing trust service office shall be in the form and manner
24 prescribed by the commissioner and provide the following documents:

25 (1) A certified copy of the written action taken by the board of
26 directors of the trust company approving the establishment or operation of
27 the proposed trust service office or the proposed relocation of the trust
28 service office;

29 (2) all other required regulatory approvals;

30 (3) proof of publication of notice that the applicant intends to file or
31 has filed an application pursuant to this section. The notice shall be
32 published in a newspaper of general circulation where the proposed trust
33 service office is to be located. The notice shall be in the form prescribed by
34 the commissioner and shall contain the name of the applicant, the location
35 of the proposed trust service office, ~~the proposed date of filing of the~~
36 ~~application with the commissioner~~ and a solicitation for written comments.
37 The notice shall be published on the same day for two consecutive weeks
38 and provide for a comment period of not less than 10 days after the date of
39 the second publication; and

40 (4) the application shall include the name selected for the proposed
41 trust service office. The name selected for the proposed trust service office
42 shall not be the *same or substantially similar to the* name of any other trust
43 company or trust service office doing business in the state of Kansas, nor

1 shall the name selected be required to contain the name of the applicant
2 trust company. If the name selected for the proposed trust service office
3 does not contain the name of the applicant trust company, the trust service
4 office shall provide in the public lobby of such trust service office, a public
5 notice that it is a trust service office of the applicant trust company. Any
6 trust company may request exemption from the commissioner from the
7 provisions of this subsection.

8 (d) A trust company making application to the commissioner for
9 approval of a trust service office under this section shall pay to the
10 commissioner a fee, in an amount established pursuant to K.S.A. 2015
11 Supp. 9-1726, and amendments thereto, to defray the expenses of the
12 commissioner in the examination and investigation of the application. The
13 commissioner shall remit all moneys received under this section to the
14 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
15 amendments thereto. Upon receipt of each such remittance, the state
16 treasurer shall deposit the entire amount in the state treasury to the credit
17 of the bank investigation fund. The moneys in the bank investigation fund
18 shall be used to pay the expenses of the commissioner or designee in the
19 examination and investigation of such applications and any unused balance
20 shall be transferred to the bank commissioner fee fund.

21 (e) *Upon the request of any trust company proposing to relocate an*
22 *existing trust service office less than one mile from the trust company's*
23 *existing location, the commissioner may exempt such trust company from*
24 *the requirements of this section.*

25 (f) Upon the filing of a complete application with the
26 commissioner, the commissioner shall make or cause to be made, a careful
27 examination and investigation. If the commissioner finds any of the
28 following matters unfavorably, the commissioner may deny the
29 application:

30 (1) The reasonable probability of usefulness and success of the
31 proposed trust service office; and

32 (2) the applicant trust company's financial history and condition
33 including the character, qualifications and experience of the officers
34 employed by the trust company.

35 (g) Upon service of an order denying an application, the applicant
36 shall have the right to a hearing to be conducted in accordance with the
37 Kansas administrative procedure act before the state banking board. Any
38 final order of the state banking board pursuant to this section is subject to
39 review in accordance with the Kansas judicial review act.

40 (h) When the commissioner determines that a trust company
41 domiciled in this state has established or is operating a trust service office
42 in violation of the laws governing the operation of such trust company, the
43 commissioner may take such action as available under K.S.A. 9-1714, 9-

1 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such
2 violation.

3 Sec. 65. K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-801, 9-802, 9-803,
4 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-816, 9-901a, 9-902, 9-
5 903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-1104, 9-1111, 9-1112, 9-1114,
6 9-1122, 9-1124, 9-1127c, 9-1130, 9-1137, 9-1213, 9-1304, 9-1401, 9-1402,
7 9-1405, 9-1408, 9-1504, 9-1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704,
8 9-1712, 9-1715, 9-1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905,
9 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104,
10 9-2107 and 9-2108 are hereby repealed.

11 Sec. 66. This act shall take effect and be in force from and after its
12 publication in the statute book.