

Banking Code Amendments; Savings Promotion Programs; SB 390

SB 390 amends and makes technical updates to provisions in the Kansas Banking Code [statutes are noted] and enacts new law to allow banks, credit unions, and other specified financial institutions to conduct savings promotion programs.

Banking Code—Amendments

In addition to making technical amendments, the bill addresses:

- **The naming of trust companies and trust service offices.** The bill modifies an application requirement relating to the name of a proposed trust company or a trust company seeking to change its name to specify the selected name must be either different (continuing law) or substantially dissimilar from that of any other trust company [KSA 2015 Supp. 9-801; KSA 2015 Supp. 9-814]. The bill also modifies an application requirement for a proposed trust service office to specify the selected name cannot be the same as or substantially similar to the name of any other trust company or trust service office doing business in Kansas.

Further, upon a request of a trust company to relocate an existing trust service office less than one mile from the trust company's current location, the State Bank Commissioner (Commissioner) will be permitted to exempt the trust company from certain application requirements [KSA 2015 Supp. 9-2108].

- **Certain procedures assigned to the State Banking Board.** The bill eliminates a procedure the State Banking Board must follow in the event two or more applications for new charters are filed at the same time and these applicants intend to serve the same territory (generally, the same city). Additionally, the bill eliminates a similar procedure associated with the event of a filing of a new charter application and an existing bank files an application to move to the same territory [KSA 2015 Supp. 9-801].
- **Calculation of capital.** The bill clarifies, in statutes addressing the adequacy of a bank's capital and the related calculation of appropriate limits, that intangibles, such as goodwill, will not be included in the calculation of capital. Under continuing law [KSA 2015 Supp. 9-1104], the definition of "capital" provides that intangibles, such as goodwill, shall not be included in the definition of capital when determining lending limits [KSA 2015 Supp. 9-1101; KSA 2015 Supp. 9-1102].
- **Assets of a trust company.** The bill adds "trust company" to a statute regarding unlawful transactions, to require a bank or trust company to obtain the approval of the Commissioner prior to the sale, gifting, or purchase of an asset to or from persons and entities associated with the bank or trust company (e.g., any employee or to an employee's related interest, any director or to a director's related interest, its parent company, or a subsidiary of its parent company) [KSA 2015 Supp. 9-1112].

- **Retention of annual oaths.** The bill deletes a requirement that officers' and directors' oaths be filed with the Commissioner within 15 days of the election of the officer or director and instead requires the copy of each oath be retained by the bank or trust company in its records after such election, for review during the next examination by the Commissioner's staff [KSA 2015 Supp. 9-1114].
- **Change of control and merger transaction applications.** The bill provides clarification regarding the person or applicant associated with an application for the change of control or a merger transaction and whether provisions in the statutes refer to a change of control or the merger transaction application. The bill also lists application requirements associated with the filing of a merger transaction application.

Further, the bill permits a trust company to merge or consolidate with any trust company (termed by the bill as a "merger transaction"). The bill further clarifies a trust company, with the prior written approval of the Commissioner, is permitted to merge or consolidate with a trust company chartered either by the Comptroller of the Currency or another state. The bill also makes technical and clarifying amendments to merger transaction provisions which, under prior law, referred only to bank applications, by inserting "or trust company" [KSA 2015 Supp. 9-1720; KSA 2015 Supp. 9-1721; KSA 2015 Supp. 9-1722; KSA 2015 Supp. 9-1724].

Savings Promotion

The bill also enacts new law to allow a bank, savings bank, savings and loan association, or a credit union to conduct a savings promotion in which a person would deposit money into a savings account or other savings program in order to obtain entries and participate in the promotion. The bill requires the promotions be conducted in a manner that ensures each entry has an equal chance of winning the designated prize.

The bill further stipulates the bank, savings bank, savings and loan association, or credit union offering the promotion must:

- Fully disclose the terms and conditions of the promotion to each of its account holders;
- Maintain records sufficient to facilitate an audit of the promotion;
- Ensure that only account holders 18 years of age and older are permitted to participate;
- Not require any consideration; and
- Offer an interest rate and charge fees on any promotion-qualifying account that are approximately the same as for a comparable account that does not qualify for the promotion.

The Commissioner and the Credit Union Administrator are authorized by the bill to promulgate rules and regulations, as necessary, to effectuate the provisions pertaining to their respective financial institutions. Such rules and regulations must be promulgated by July 1, 2017. The bill further directs the Commissioner and Credit Union Administrator to collaborate in order to promulgate rules and regulations affecting account holders that are consistent, other than the type of institution to which the regulations apply.