

9-1601. Application and authority to act as trust company; exemptions. (a) Any bank, upon the affirmative vote of at least 2/3 of the voting stock, may apply to the commissioner for approval to conduct trust business. If approval is granted by the commissioner, a special permit shall be issued and the bank shall be authorized, subject to such conditions as the commissioner may require, to exercise all powers necessary or incidental to carrying on a trust business and also may exercise the following powers to:

- (1) Receive for safekeeping personal property of every description;
- (2) accept and execute any trust agreement and perform any trustee duties as required by such trust agreement;
- (3) act as agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, corporate trustee or attorney-in-fact in any agreed-upon capacity;
- (4) accept and execute all trusts and to perform any fiduciary duties as may be committed or transferred to the bank by order, judgment or decree of any court of record of competent jurisdiction;
- (5) act as executor or trustee under the last will and testament, or as administrator, with or without the will annexed to the letters of administration, of the estate of any deceased person;
- (6) be a conservator for any minor, incapacitated person or trustee for any convict under the appointment of any court of competent jurisdiction;
- (7) receive money in trust for investment in real or personal property of every kind and nature and to reinvest the proceeds thereof;
- (8) act as either an originating trustee or as a contracting trustee pursuant to K.S.A. 9-2107, and amendments thereto;
- (9) buy and sell foreign or domestic exchange, gold, silver, coin or bullion;
- (10) act in any fiduciary capacity and to perform any act as a fiduciary which trust companies incorporated under the laws of this state may perform under any provision of the banking or insurance laws of this state, including, without limitation, acting as a successor fiduciary to any trust company upon liquidation pursuant to K.S.A. 9-2107, and amendments thereto; and
- (11) to perform or purchase trust services for or from a bank or service corporation through a trust service agency agreement provided the commissioner is notified 30 days after contracting for the service. Such notification shall include the trust services provided, the name of the servicer and the date the service will commence.

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

- (A) The reasonable probability of usefulness and success of the bank having trust authority;
- (B) the financial history and condition of the bank and the character, qualifications and experience of the trust officers and personnel; and
- (C) any other facts and circumstances that the commissioner deems appropriate.

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

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

- (A) Individual retirement accounts established pursuant to 26 U.S.C. § 408;
- (B) trusts established pursuant to 26 U.S.C. § 401; and
- (C) medical savings accounts established pursuant to 26 U.S.C. § 220.

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

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

(e) A bank making application to the commissioner for approval to conduct trust business shall pay to the commissioner a fee, in an amount established pursuant to K.S.A. 2016 Supp. 9-1726, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

History: L. 1947, ch. 102, § 77; L. 1965, ch. 77, § 1; L. 1967, ch. 72, § 2; L. 1975, ch. 44, § 28; L. 2005, ch. 20, § 1; L. 2005, ch. 133, § 2; L. 2015, ch. 38, § 89; L. 2016, ch. 54, § 40; July 1.