

1 "qualified investment":

2 (i) May include, as part of satisfying the square footage requirements,
3 the suitable office space of such trust bank, as provided in section 9, and
4 amendments thereto, if owned by the trust bank;

5 (ii) shall be exempt from the provisions and limitations of K.S.A. 9-
6 1102, and amendments thereto;

7 (iii) may be retained by a trust bank for as long as the trust bank
8 operates in this state; and

9 (iv) may be sold, transferred or otherwise disposed of, including a
10 sale or transfer to an affiliate of the trust bank, if the trust bank continues
11 to maintain its principal office in an economic growth zone pursuant to
12 section 9, and amendments thereto;

13 (B) notwithstanding the foregoing provisions, if a trust bank leases
14 any portion of a qualified investment made by another trust bank as the
15 lessee trust bank's suitable office space:

16 (i) The lessee trust bank shall make, or cause to be made, a qualified
17 investment in an economic growth zone other than the economic growth
18 zone where such trust bank maintains its principal office;

19 (ii) the leased square footage shall count toward the square footage
20 requirement applicable to a qualified investment under this section, if such
21 lease has an initial term of not less than five years; and

22 (iii) the square footage requirement otherwise applicable to a
23 qualified investment of the lessee trust bank shall be reduced from 10,000
24 square feet to 5,000 square feet;

25 (12) "technology-enabled ~~trust bank~~" or "~~trust bank~~" means any
26 limited liability company, limited partnership or corporation that:

27 (A) Is organized to perform any one or more of the activities and
28 services authorized by this act;

29 (B) has been authorized to conduct business as a ~~trust bank~~ under this
30 chapter pursuant to the provisions of section 2, and amendments thereto;

31 (C) has made, committed to make or caused to be made a qualified
32 investment; and

33 (D) has committed, in or as a part of the application provided in
34 section 2, and amendments thereto, to conduct any fidfin transactions in
35 accordance with section 11, and amendments thereto, including the
36 distributions required therein;

37 (13) "trust advisor" means a fiduciary granted authority by an
38 instrument to exercise, consent, direct, including the power to direct as
39 provided in K.S.A. 58a-808, and amendments thereto, or approve all or
40 any portion of the powers and discretion conferred upon the trustee of a
41 fidfin trust, including the power to invest the assets of a fidfin trust or
42 make or cause distributions to be made from such fidfin trust; and

43 (14) the definitions of K.S.A. 9-701, and amendments thereto, apply

fiduciary financial institution

Replace all references to "trust bank" with
"fiduciary financial institution" throughout
the bill

1 schedules in the Kansas register as the department of commerce deems
2 reasonably necessary to facilitate economic growth and development in
3 one or more economic growth zones. No such schedule shall be effective
4 until after its publication in the Kansas register. The department of
5 commerce shall timely submit to the commissioner any schedule published
6 under this section. The commissioner shall provide a copy of such
7 schedule to any applicant for a trust bank charter prior to the issuance of
8 such charter. A trust bank shall be subject to the schedule in existence on
9 the date such trust bank's charter is issued and shall not be subject to any
10 schedules published after such date;

11 (C) the department of commerce shall remit all distributions under
12 this subsection to the state treasurer in accordance with the provisions of
13 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
14 remittance, the state treasurer shall deposit the entire amount in the state
15 treasury to the credit of the technology-enabled trust bank development
16 and expansion fund established in section 24, and amendments thereto;
17 and

18 (2) the balance of the applicable distribution required under
19 subsection (h) shall be distributed to one or more qualified charities as
20 defined in section 28, and amendments thereto, as shall be selected by the
21 trust bank. Nothing in this section shall preclude a distribution to one or
22 more qualified charities in excess of the amounts provided in this section.

23 Sec. 3. (a) Every trust bank shall be assessed an initial fee of
24 \$500,000 to be remitted concurrently with the issuance of such trust bank's
25 charter. The expense of every annual regular trust bank examination,
26 together with the expense of administering trust laws, including salaries,
27 travel expenses, supplies and equipment, shall be paid by the trust banks of
28 this state. Prior to the beginning of each fiscal year, the commissioner shall
29 make an estimate of the trust expenses to be incurred by the office of the
30 state bank commissioner during such fiscal year in an amount not less than
31 \$1,000,000. The commissioner shall allocate and assess each trust bank in
32 this state on the basis of such trust bank's total fidfin transaction balances,
33 consisting of the aggregate fidfin financing balances of the trust bank
34 reflected in the last December 31 report filed with the commissioner
35 pursuant to K.S.A. 9-1704, and amendments thereto. If a trust bank has no
36 fidfin transaction balances, but such trust bank otherwise providing
37 custodial services or trust services, the commissioner shall allocate and
38 assess such trust bank in a manner the commissioner deems reasonable and
39 appropriate. A trust bank that has no fidfin transaction balances and no
40 alternative asset custody accounts reflected in the last December 31 report
41 filed with the commissioner may be granted inactive status by the
42 commissioner. The annual assessment shall not exceed \$10,000 for such an
43 inactive trust bank. The annual fee shall be first assessed for the year

An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

1 accounting principles; and
 2 (4) evaluate the safety of a trust bank based on the background and
 3 qualifications of such trust bank's executive officers and directors and the
 4 internal controls and audit processes enacted by the trust bank to ensure
 5 adherence to its policies and procedures.

6 (c) Profitability shall not be a consideration in evaluating the safety
 7 and soundness of a trust bank if sufficient capital and equity exist in the
 8 business, including, without limitation, membership capital, surplus,
 9 undivided profits and commitments by members to contribute additional
 10 capital to the trust bank pursuant to section 5, and amendments thereto, to
 11 satisfy the trust bank's obligations.

12 Sec. 8. A trust bank may use in such trust bank's business name or
 13 advertising the words "~~trust~~," "~~trust company~~," "~~trust bank~~" or any similar
 14 term or phrase, but may not use the word "bank" or any term that tends to
 15 imply that the business is holding out to the public that such ~~trust bank~~
 16 engages in the business of banking unless the commissioner has approved
 17 the use in writing after finding that the use will not be misleading.

18 Sec. 9. (a) A trust bank shall:
 19 (1) Maintain suitable office space in an economic growth zone, as
 20 defined in section 1, and amendments thereto, for fidfin transactions,
 21 custodial services and trust business and for the storage of, and access to,
 22 trust bank records;

23 (2) employ, engage or contract with at least three employees to
 24 provide services for the trust bank in Kansas related to the powers of the
 25 trust bank and to facilitate the examinations required by this act; and
 26 (3) perform fidfin transactions, custodial services and trust business
 27 in Kansas, and a trust bank may also engage in fidfin transactions,
 28 custodial services and trust business in other states to the extent permitted
 29 by applicable law.

30 (b) As used in this section, the term "suitable office space" means at
 31 least 2,000 square feet of class A office space located in an economic
 32 growth zone selected by the trust bank that the trust bank utilizes as such
 33 trust bank's principal office.

34 (c) The trust bank's principal office shall:
 35 (1) Be in premises distinct and divided from the office space of any
 36 other entity;
 37 (2) be located in an economic growth zone selected by the trust bank;
 38 (3) have the name, charter and certificate of authority of the trust
 39 company prominently displayed;
 40 (4) have access to premises in or adjacent to the office space
 41 sufficient to facilitate on-site examinations by the state banking board or
 42 commissioner;
 43 (5) to the extent the trust bank maintains hard copies of any

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, "trust company"

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, or engages in the business of a trust company,

1 the date such trust bank's charter is issued and shall not be subject to any
2 schedules published after such date;

3 (C) the department of commerce shall remit all distributions under
4 this subsection to the state treasurer in accordance with the provisions of
5 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
6 remittance, the state treasurer shall deposit the entire amount in the state
7 treasury to the credit of the technology-enabled trust bank development
8 and expansion fund established in section 24, and amendments thereto;
9 and

10 (2) the balance of the required distribution amount shall be distributed
11 to one or more qualified charities as defined in section 28, and
12 amendments thereto, as shall be selected by the trust bank.

13 (g) The form, treatment and character of fidfin transactions under the
14 laws of this state shall be respected for all purposes of this act
15 notwithstanding the treatment or characterization of such transactions
16 under generally accepted accounting principles or for tax purposes.

17 Sec. 12. (a) Subject to the requirements of section 9(d), and
18 amendments thereto, a trust bank may:

19 (1) Employ attorneys, accountants, investment advisors, agents or
20 other persons, even if they are affiliated or associated with the trust bank,
21 to advise or assist the trust bank in the performance of such trust bank's
22 fidfin transactions, custodial services and trust business and act without
23 independent investigation upon such recommendations;

24 (2) employ one or more agents to perform any act of fidfin
25 transactions, custodial services or trust business;

26 (3) license internet-related services, including web services, software,
27 mobile applications, technology-enabled platforms and processes to or
28 from affiliates, third parties, other trust banks and their affiliates;

29 (4) license fidfin products and forms, as defined in section 21, and
30 amendments thereto, to or from other trust banks and their affiliates;

31 (5) perform any services that a trust bank is authorized to perform
32 under the laws of this state on behalf of another trust bank; and

33 (6) employ another trust bank to perform any services that a trust
34 bank is authorized to perform under the laws of this state.

35 (b) A party engaged by a trust bank pursuant to subsection (a) shall
36 not be deemed to have engaged in fidfin transactions, custodial services or
37 trust business in this state nor shall such party be deemed a trust service
38 office of the trust bank under K.S.A. 9-2110, and amendments thereto, or a
39 trust facility or out-of-state facility under K.S.A. 9-2111, and amendments
40 thereto, by reason of providing services to a trust bank or licensing
41 products, platforms, systems or processes to such trust bank.

42 (c) A trust bank that provides services or licenses fidfin products or
43 forms pursuant to subsection (a) shall not be deemed a trust service office

An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

1 shall no longer be considered approved or reviewed and examined until the
2 provisions of this section have been satisfied with respect to such revised
3 form.

4 (g) A trust bank that has licensed a form from another trust bank
5 pursuant to section 12, and amendments thereto, may represent that such
6 form is approved or reviewed and examined, as the case may be, if the
7 trust bank from which the license was acquired has satisfied the provisions
8 of this section and is entitled to make such representation with respect to
9 such form.

10 Sec. 22. Pursuant to K.S.A. 9-1713, and amendments thereto, the
11 commissioner shall adopt rules and regulations on or before January 1,
12 2022, as are necessary to administer this act.

13 Sec. 23. Notwithstanding the provisions of chapter 16 of the Kansas
14 Statutes Annotated, and amendments thereto, to the contrary, or any other
15 statute, there is no maximum interest rate or charge or usury rate
16 restriction between or among a trust bank and a fidfin trust if the interest
17 rate or charge is established by written agreement. A "written agreement"
18 means a document in writing, whether in physical or electronic form, in
19 which the parties have demonstrated their agreement to the terms and
20 conditions of an extension of credit, including the rate of interest.

21 Sec. 24. (a) There is hereby established in the state treasury the
22 technology-enabled trust bank development and expansion fund to be
23 administered by the secretary of commerce. Expenditures from the fund
24 shall be for the ~~purpose of~~ promoting and facilitating the development,
25 growth and expansion of trust banks, fidfin activities and custodial
26 services in the state and to locate such trust banks' office space in an
27 economic growth zone as defined in section 1, and amendments thereto.
28 All expenditures from the technology-enabled trust bank development and
29 expansion fund shall be made in accordance with appropriation acts upon
30 warrants of the director of accounts and reports issued pursuant to
31 vouchers approved by the secretary of commerce or the secretary's
32 designee.

33 (b) On or before the 10th day of each month, the director of accounts
34 and reports shall transfer from the state general fund to the technology-
35 enabled trust bank development and expansion fund interest earnings
36 based on:

- 37 (1) The average daily balance of moneys in the technology-enabled
- 38 trust bank development and expansion fund for the preceding month; and
- 39 (2) the net earnings rate for the pooled money investment portfolio
- 40 for the preceding month.

41 Sec. 25. (a) On July 1, 2021, the commissioner shall:

- 42 (1) Grant a trust bank charter to beneficiary trust bank upon
- 43 beneficiary trust bank:

purposes of distributing to economic growth
zones for the purposes of economic development
projects or opportunities and

- 1 (A) Filing an application with the commissioner;
- 2 (B) satisfying the requirements of sections 2(c)(1) through (5), and
- 3 amendments thereto;
- 4 (C) satisfying the requirements of section 2(f), and amendments
- 5 thereto; and
- 6 (D) satisfying the capital requirements imposed under section 5, and
- 7 amendments thereto; and
- 8 (2) designate a community within Harvey county, as selected by
- 9 beneficiary trust bank, as the first economic growth zone.
- 10 (b) On July 1, 2021, the commissioner shall establish a fidfin trust
- 11 bank pilot program that:
- 12 (1) Includes beneficiary trust bank as a participant in such pilot
- 13 program;
- 14 (2) assesses beneficiary trust bank an initial fee of \$1,000,000 in lieu
- 15 of the initial fee provided in section 3, and amendments thereto; and
- 16 (3) imposes a requirement for beneficiary trust bank to distribute,
- 17 cause to be distributed or otherwise facilitate a distribution of case,
- 18 beneficial interests or other assets having an aggregate value of \$9,000,000
- 19 in accordance with the requirements of section 2(i), and amendments
- 20 thereto, and such amount shall be construed as the applicable distribution
- 21 amount for purposes of section 2, and amendments thereto.
- 22 (c) Upon issuance of the trust bank charter, beneficiary trust bank
- 23 shall be subject to all requirements imposed on trust banks under this act
- 24 but may not commence fidfin transactions, custodial services or trust
- 25 business in this state until the earlier of:
- 26 (1) December 31, 2021; or
- 27 (2) the date the commissioner adopts rules and regulations pursuant
- 28 to section 22, and amendments thereto.

Except as provided by subsection (d),

(d) The commissioner may extend the period that the beneficiary company may not commence fidfin transactions, custodial services or trust business in this state for a period not to exceed six months from the date specified in subsection (c) if the commissioner submits a report to the senate financial institutions and insurance committee and to the house of representatives financial institutions and rural development identifying the specific reasons for which such extension was necessary. Such report shall be submitted on or before January 10, 2022. Notwithstanding the provisions of this subsection, the beneficiary company may satisfy the applicable distribution requirement of section 2(i), and amendments thereto, and the required distribution amount requirement of section 11(f), and amendments thereto, by placing assets in escrow with one or more qualified charities provided that such funds shall be released when the beneficiary company is permitted to commence fidfin transactions, custodial services or trust business.

Sec. 26. Notwithstanding the provisions of K.S.A. 59-3401, and amendments thereto, no interest held in a fidfin trust shall be void or invalid by reason of any common law rule, including, but not limited to, the rule against perpetuities or rule limiting the duration of trusts.

Sec. 27. Notwithstanding the provisions of K.S.A. 17-2035, and amendments thereto, for purposes of any tax imposed by the state or any instrumentality, agency or political subdivision of this state, a business trust that is used in connection with fidfin transactions or custodial services, as defined in section 1, and amendments thereto, and for which a trust bank, as defined in section 1, and amendments thereto, serves as trustee shall be classified as a corporation, an association, a partnership, a trust or otherwise, as shall be determined under the federal internal revenue code.

Sec. 28. (a) For taxable years commencing after December 31, 2020, there shall be allowed as a credit against the tax liability of a trust bank

1 imposed pursuant to the Kansas income tax act or the privilege tax
 2 imposed upon a trust bank pursuant to article 11 of chapter 79 of the
 3 Kansas Statutes Annotated, and amendments thereto, in an amount equal
 4 to the qualified charitable distributions made in connection with the trust
 5 bank's fidfin activities during such taxable year if the trust bank
 6 maintained such trust bank's principal office in an economic growth zone
 7 during such taxable year in accordance with the provisions of section 9,
 8 and amendments thereto.

9 (b) For purposes of this section:

10 (1) "Economic growth zone" and "fidfin" mean the same as defined in
 11 section 1, and amendments thereto;
 12 (2) "qualified charitable distributions" means distributions of cash,
 13 beneficial interests or other assets to one or more qualified charities having
 14 an aggregate value equal to at least 2.5% of the trust bank's transactions
 15 originated during the taxable year. Such transactions shall exclude any
 16 renewals, extensions of credit or accruals associated with transactions
 17 made in a prior taxable year;

18 (3) "qualified charities" means one or more charities, in which
 19 contributions are allowable as a deduction pursuant to section 170 of the
 20 federal internal revenue code if such charities have committed in writing to
 21 utilize the entire amount of the qualified charitable distributions, excluding
 22 reasonable administrative expenses, exclusively for the benefit of:

23 (A) ~~Charitable causes located in one or more economic growth zones,~~
 24 ~~or~~
 25 (B) ~~postsecondary educational institutions as defined in K.S.A. 74-~~
 26 ~~3201b, and amendments thereto.~~

27 (c) No credit shall be allowed under this section if the trust bank's tax
 28 return on which the credit is claimed is not timely filed, including any
 29 extension.

30 (d) A distribution or remittance to the department of commerce
 31 pursuant to section 11, and amendments thereto, shall be deemed a
 32 qualified charitable distribution for purposes of this section.

33 (e) A trust bank shall not be required to ensure that qualified
 34 charitable distributions are made solely for the benefit of the economic
 35 growth zones where such trust bank has:

36 (1) Established such trust bank's principal office pursuant to section
 37 9, and amendments thereto; or

38 (2) made qualified investments as defined in section 1, and
 39 amendments thereto. Qualified charitable distributions may be made for
 40 the benefit of any one or more economic growth zones.

41 (f) If a trust bank is a pass-through entity for Kansas tax purposes and
 42 the credit allowed by this section for a taxable year is greater than the trust
 43 bank's tax liability against which the tax credit may be applied, a member

provided that such charities have: (A) Been organized pursuant to a
 charter promulgated by the department of commerce for purposes of
 making distributions for the benefit of economic growth zones; (B)
 committed in writing to utilize the entire amount of the qualified
 charitable distributions, excluding reasonable administrative expenses,
 exclusively for the benefit of charitable causes located in one or more
 economic growth zones or postsecondary educational institutions as
 defined in K.S.A. 74-3201b, and amendments thereto; and (C) agreed to
 provide an annual report to the department of commerce detailing
 qualified distributions received during such year, distributions made
 pursuant to subparagraph (B) and the remaining balance of qualified
 distributions as of the end of the reporting year. The requirements of
 subparagraph (A) shall not apply to a charity, contributions to which are
 allowable as a deduction pursuant to section 170 of the federal internal
 revenue code, that has committed in writing to utilize the entire amount
 of the qualified charitable distributions, excluding reasonable
 administrative expenses, exclusively for the benefit of the economic
 growth zone identified in section 25(a)(2), and amendments thereto

1 of the entity or any other party who is required to report such income on a
2 Kansas income tax return is entitled to a tax credit equal to the tax credit
3 determined for the trust bank for the taxable year in excess of the trust
4 bank's tax liability under the Kansas income tax act or privilege tax under
5 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments
6 thereto, for the taxable year multiplied by the percentage of the trust bank's
7 distributive income to which the member is entitled.

8 (g) If the amount of a tax credit allowed a member or other party
9 under this section exceeds the taxpayer's income tax liability for the
10 taxable year in which the tax credit is allowed, the amount thereof that
11 exceeds such tax liability may be carried over for deduction from the
12 taxpayer's income or privilege tax liability in the next succeeding taxable
13 year or years until the total amount of the tax credit has been deducted
14 from tax liability, except that no such tax credit shall be carried over for
15 deduction after the ~~14th~~^{5th} taxable year succeeding the taxable year in which
16 the tax credit is first allowed.

17 (h) This section shall be a part of and supplemental to the Kansas
18 income tax act.

19 Sec. 29. This act shall take effect and be in force from and after its
20 publication in the statute book.