

Banking Code Recodification SB 240 – Repeals and Additions

Introduction:

56 statutes total recommended for repeal.

- 36 being recodified into new or existing statutes.
- 6 are being repealed because they are duplicative thus nothing taken away.
- 14 sought for repeal as deemed unnecessary.

18 Special Orders being added to existing or new statutes.

The 36 being recodified are as follows:

K.S.A. 9-514-518 – Emergency closings/notice/effect

- These statutes direct when a bank or the Commissioner may close or otherwise authorize banks to close for periods of time pursuant to an emergency situation such as a tornado, flood, power outages, etc.
- Powers of the banks to close are being proposed to be moved into Article 11 on bank powers. The Commissioner's power to do the same is being moved to Article 17.

K.S.A. 9-523 – Requires a board of directors to have a majority of state residents.

- Recodified to K.S.A. 9-1114.

K.S.A. 9-702 – Banking defined.

- Recodified to K.S.A. 9-701.

K.S.A. 2014 Supp. 9-805 – Requires a list of stockholders to be filed with the Commissioner.

- Recodified to K.S.A. 9-1114 on election of officers/directors.

K.S.A. 9-807 – Validation of acts under lapsed articles.

- Correction: testimony was previously given to the effect that this section was repealed with no recodification.
- Because there may actually be existing articles that may lapse the section is being recodified to K.S.A. 9-803.

K.S.A. 9-810 – Prohibition on private banks.

- Recodified to K.S.A. 9-801.

K.S.A. 9-1103 – Banks may become members of the federal reserve.

- Recodified to K.S.A. 9-1101.

K.S.A. 9-1106 – Banks may invest in mortgages insured by FHA.

- Recodified to K.S.A. 9-1101.

K.S.A. 9-1108-1110 – Voluntary liquidation/borrowing/sale of assets.

- Banks are allowed to go through a voluntary liquidation which may include garnering approval to do so, borrow money during and sell assets.
- Recodified to Article 19.

K.S.A. 9-1113 – Banks are prohibited from giving preference to any depositor with exceptions.
- Recodified to K.S.A. 9-1112.

K.S.A. 2014 Supp. 9-1118 – Directors are required to take and subscribe to an oath.
- Recodified to K.S.A. 9-1114.

K.S.A. 2014 Supp. 9-1135 – Banks may establish trust branches.
- Recodified to K.S.A. 9-1111 for all branch banking.

K.S.A. 2014 Supp. 9-1139 – Banks are prohibited from establishing branches on the premises of affiliates who conduct commercial activities.
- Recodified to K.S.A. 9-1140.

K.S.A. 2014 Supp. 9-1216 – Banks are released of liability for payments after properly paid.
- Recodified to K.S.A. 9-1215.

K.S.A. 2014 Supp. 9-1303 – Concerning with whom and when examination reports shall be shared.
- Recodified to K.S.A. 9-1712.

K.S.A. 9-1507 – Concerning a lessee's failure to surrender possession of safety deposit boxes.
- Recodified to K.S.A. 9-1506.

K.S.A. 9-1608 – Banks and Trust Companies are required to keep records of trustee/investments.
- Recodified to K.S.A. 9-1607.

K.S.A. 9-1718 – Notification of change in CEO or president.
- Recodified to K.S.A. 9-1114.

K.S.A. 9-1705, 2014 Supp. 1706, 1707 – Concerning special reports/annual reports/request for information as ordered by the Commissioner
- Relevant portions recodified to 1704. General authority already in K.S.A. 9-1704.

K.S.A. 9-1723 – Outlining the change of control application criteria.
- Recodified to K.S.A. 9-1721.

K.S.A. 9-1802-1803, K.S.A. 2014 Supp. 9-1801, 9-1804 – Charter application/ investigation/ expenses/relocation.
- These statutes concern the process and criteria necessary for chartering a bank or trust company and the investigation and expenses concerning such applications. Chartering requirement provisions appear in Article 8, thus these statutes are proposed for recodification into or adjacent to the relevant statutes in Article 8.

K.S.A. 9-1808 – Authority and definition of bankers' bank.
- Recodified to K.S.A. 9-701.

K.S.A. 9-2015 – Failure to comply with specific statutes constitute criminal behavior.
- Recodified to K.S.A. 9-2014 in part. Other parts already in statute.

K.S.A. 9-2105 – Fiduciary representation of stock/voting.

- Recodified to K.S.A. 9-2104.

K.S.A. 2014 Supp. 9-2106 – Concerning names of Trust Companies and changes thereto.

- Recodified to K.S.A. 9-812.

The 6 that are being repealed because they are duplicative are as follows:

K.S.A. 9-539 – Authority for Commissioner to adopt rules and regs.

- This authority is vested in K.S.A. 9-1713.

K.S.A. 9-1105 – Authority for banks to make insured mortgage loans.

- This authority is vested in K.S.A. 9-1101.

K.S.A. 9-1605-1606 – Merger/transfer of property/trust authority.

- These items are generally covered by the merger agreement which is reviewed pursuant to merger applications and applications for contracting trustee vested in K.S.A. 9-1720 *et seq.* and 9-2107. .

K.S.A. 9-1711 – Commissioner required to notify county or district attorney of felonies and misdemeanors.

- This requirement is vested in K.S.A. 9-2014.

K.S.A. 9-2009 – Criminal statute for failure to make a report upon the request of the Commissioner.

- The authority and administrative remedy in Article 17 address this adequately.

14 sought for repeal:

K.S.A. 9-538 – Community Reinvestment Act (CRA) filing requirement.

- These reports are either already forwarded to us or we can request them pursuant to information sharing agreements with the federal entities who conduct CRA exams.

K.S.A. 9-703 – Prohibition on unauthorized banking.

- This prohibition is inherent in other statutes i.e K.S.A. 9-801 and 9-2011.

K.S.A. 9-813 – Prohibition on interstate branching.

- Federal law has made it so that it is against the interest of state banks to continue an outright prohibition. This has also been changed through special orders.

K.S.A. 9-1101b – State banks become ineligible as state depository if taxes on owned property are not paid.

- Pooled money investment board and Treasurer have opined that such a prohibition is not necessary.

K.S.A. 9-1111d – Concerning unauthorized transactions on consumer accounts and limiting liability therefore.

- KBA proposed elimination. There are federal guidelines banks must follow that do not sync with our law.

K.S.A. 9-1301a – application/authority to have private insurance.

- No longer a valid statute as all insurance is pursuant to FDIC and if necessary surety bond.

K.S.A. 9-1610 – Banks are only required to make an accounting upon court order.

- Unnecessary to be stated in statute.

K.S.A. 9-1710 – Commissioner has the authority to make rewards for the capture of bank robbers.

- This is probably accomplished through other law enforcement means and provisions.

K.S.A. 9-1904 – Bank authority to re-organize after failure.

- In order to afford the utmost protection to depositors in today's world closing and the processes that effectuate them must happen quickly. This situation is unfeasible and unlikely.

K.S.A. 9-1912, 1914, 1914a – Commissioner to examine or require reports while a bank is in receivership.

- Receiverships are effectuated by the FDIC and when not by the FDIC it is the OSBC's wish to have that process effectuate by the courts.

K.S.A. 9-2003 – Annual requirement that banks file a statement of resources and liabilities.

- We're going to get this information pursuant to the examination process.

K.S.A. 9-2017 – Banks prohibited from providing legal representation.

- There are criminal prohibition on this making it unnecessary in the banking code.

18 Special Orders being added to existing or new statutes:

SO 1975-2 – Power to operate postal substations.

- Being codified into K.S.A. 9-1101.

SO 1976-1 – Power to invest in foreign bonds up to 1% of capital.

- Being codified into K.S.A. 9-1101.

SO 1984-1 – Power to purchase or contract for trust services.

- Being codified into K.S.A. 9-2107.

SO 1987-1 – Power to purchase investment company shares (mutual funds).

- Being codified into K.S.A. 9-1101.

SO 1988-3 – Power to form a wholly owned subsidiary for managing property acquired through debt previously contracted.

- Being codified into K.S.A. 9-1102.

SO 1988-4 – Power to sell insurance with an extension of credit.

- Being codified into K.S.A. 9-1101.

SO 1990-2 – Power to act as an insurance agent in cities with a population less than 5,000.

- Being codified into K.S.A. 9-1101.

SO 1990-3 – Power to become a member of the Federal Home Loan Bank.

- Being codified into K.S.A. 9-1101.

SO 1992-1 – Power to acquire stock of another institution if incidental to a lawful re-organization.

- Being codified into K.S.A. 9-1101.

SO 1993-1 – Power to purchase surety bond coverage for the purpose of insuring deposits in excess of FDIC insurance.

- Being codified into K.S.A. 9-1301.

SO 1995-2 – Power to loan money on the security of the stock of the parent company.

- Being codified into K.S.A. 9-1101.

SO 1995-6 – Power to own subsidiary for managing investment portfolio.

- Being codified into K.S.A. 9-1101.

SO 1996-1 – Power to establish a subsidiary for acquiring stock of another institution pursuant to lawful re-organization.

- Being codified into K.S.A. 9-1101.

SO 1997-3 – Power to pledge assets as collateral security for public deposits in a host state at a branch in another state in accordance with the laws to that state.

- Being codified into a new statute.

SO 1999-1 – Power to secure deposited funds from federally recognized Indian tribes.

- Being codified into a new statute.

SO 2000-1 – Power to establish a subsidiary to engage in activity that is financial in nature.

- Being codified into K.S.A. 9-1101.

SO 2000-2 – Power to invest in the Federal Home Loan Bank.

- Being codified into K.S.A. 9-1101.

SO 2010-1 – Power to exchange participation interest in property acquired by debt previously contracted for an interest in a corporation to manage said property.

- Being codified into K.S.A. 9-1102.