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REVISOR of STATUTES

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MEMORANDUM

To: Chairman DeGraaf and Members of the House Committee on Financial Institutions
From: Matt Sterling, Assistant Revisor of Statutes
Date: 03/12/2015
Subject: Senate Bill 240

SB 240 amends the state banking code which consists of 209 statutes. SB 240 would amend 135 statutes in the banking code and repeal 56 others. The first 13 sections of the bill are listed as "new" sections, but a number of the sections are just recodifications of existing law. Below is a brief summary of some of the changes the bill makes and the structure of the state banking code.

New Section 1 of the bill would allow Kansas banks to pledge assets to secure public funds at branches in other states.

New Section 2 of the bill is a recodification of K.S.A. 9-515 that allows the commissioner to issue a proclamation allowing banks to temporarily close during an emergency.

New Section 3 of the bill would allow the commissioner to enter into informal, confidential memoranda with banks and trust companies to put those entities on notice that the commissioner has determined that the entity needs to address public safety or soundness issues, but that the issues have not yet reached the point of requiring a cease and desist order. The commissioner currently enters into these agreements, but this would give the commissioner clear statutory authority to do so.

New Section 4 of the bill would allow the commissioner to enter into consent orders to resolve any adjudicative matters.

New Section 5 of the bill is a recodification of K.S.A. 9-1108 concerning the authority, approval, and the process for a bank to enter into voluntary liquidation.

New Section 6 of the bill is a recodification of K.S.A. 9-1109 concerning the authority and approval for bank to borrow money to effectuate a voluntary liquidation.

New Section 7 of the bill is a recodification of K.S.A. 9-1110 concerning a bank selling its assets in exchange for cash or shares of stock in the purchasing bank.

New Section 8 of the bill would make it a crime for a bank or trust company to destroy records with intent to obstruct the commissioner in any investigatory matter or proceeding.

New Section 9 of the bill is a recodification of K.S.A. 9-1804 concerning a bank changing their place of business by approval of the commissioner.

New Section 10 of the bill is a recodification of K.S.A. 9-1803 concerning the authority of the commissioner to charge fees for applications.

New Section 11 of the bill is a recodification of K.S.A. 9-1808 concerning the commissioner's authority and approval for the establishment of a bankers' bank.

New Section 12 of the bill would establish the commissioner's authority to charge a fee and the fee structure in statute.

New Section 13 of the bill would grant banks the authority to pledge security for the safekeeping of funds deposited by any federally recognized Indian tribe.

The remaining sections of the bill amend the articles of the banking code. The articles are numbered 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21.

Article 5 concerns the process, procedure, application, and examination processes and procedures concerning bank holding companies that own banks in Kansas and encompasses sections 14 through 21 of the bill. The primary changes in Article 5 are contained in Section 16 of the bill, which adds the authority and when a company can become a holding company, and section 20 of the bill that clarifies when acquired banks need to submit a change of control application.

Article 7 concerns the definitions used in the banking code and is contained in section 22 of the bill.

Article 8 concerns the organization and approval of banks and trust companies and is contained in sections 23 through 31 of the bill.

Article 9 concerns the requirements and structure for capital stock and is contained in sections 32 through 43 of the bill.

Article 11 concerns the powers and limitations on banks and is contained in sections 44 through 67 of the bill.

Article 12 concerns account transactions at banks and the paying out of those accounts under certain circumstances and is contained in sections 68 through 74 of the bill.

Article 13 concerns deposit insurance and is contained in sections 75 and 76 of the bill.

Article 14 concerns the deposit of public funds and the securing of those funds and is contained in sections 77 through 82 of the bill.

Article 15 concerns safe deposit boxes and the relationship between a lessee of a safe deposit box and the bank and is contained in sections 83 through 88 of the bill.

Article 16 concerns the application process for banks to obtain trust authority and is contained in sections 89 through 96 of the bill.

Article 17 concerns the bank commissioner's powers to make examinations and receive reports on state banks. The article also contains the commissioner's authority to promulgate rules and regulations, special orders and other administrative orders and the process for how banks can merge or acquire other banks. Article 17 is contained in sections 97 through 113 of the bill.

Article 18 concerns administrative remedies for circumstances under which the state banking board would issue orders or conduct hearings and is contained in sections 114 and 115 of the bill.

Article 19 concerns the process for dissolution of banks and trust companies, either through the actions of the company or the commissioner, and is contained in sections 116 through 127 of the bill.

Article 20 concerns crimes specific to the banking industry and is contained in sections 128 through 141 of the bill.

Article 21 concerns the application, authority, powers and offices of trust companies and is contained in sections 142 through 148 of the bill.

Sections 149 and 150 of the bill are amendments to non-banking statutes that make reference to statutes that are being repealed and thus the remaining reference is just being removed.