

SENATE BILL No. 509

AN ACT concerning debt management services; enacting the Kansas credit services organization act; amending K.S.A. 21-4402 and K.S.A. 2003 Supp. 75-1308 and repealing the existing sections; also repealing K.S.A. 50-1101, 50-1102, 50-1103, 50-1104, 50-1105, 50-1106, 50-1107, 50-1108, 50-1109, 50-1110, 50-1111, 50-1112, 50-1113, 50-1114 and 50-1115.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 through 20, and amendments thereto, shall be known and may be cited as the Kansas credit services organization act.

(b) Any person licensed to practice law in this state acting within the course and scope of such person's practice as an attorney shall be exempt from the provisions of this act.

New Sec. 2. Definitions as used in this act: (a) "Commissioner" means the state bank commissioner.

(b) "Consumer" means an individual who is a resident of this state.

(c) "Credit services organization" means a person who engages in, or holds out to the public as willing to engage in, the business of debt management services for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(d) "Debt management service" means:

(1) Receiving or offering to receive funds from a consumer for the purpose of distributing the funds among such consumer's creditors in full or partial payment of such consumer's debts;

(2) improving or offering to improve a consumer's credit record, history or rating; or

(3) negotiating or offering to negotiate to defer or reduce a consumer's obligations with respect to credit extended by others.

(e) "Insolvent" means a person whose debts exceed their assets.

(f) "Person" means any individual, corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity.

(g) "Related interest" means a person:

(1) With respect to an individual who is:

(A) The spouse of the individual;

(B) a brother, brother-in-law, sister, sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; and

(D) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse who shares the same residence with the individual.

(2) With respect to a corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity, which is:

(A) Directly or indirectly controlling, controlled by or under common control by a person; or

(B) an officer or director of a person or a person performing similar functions.

(h) "Registrant" means a person who is registered by the commissioner as a credit services organization.

(i) "Trust account" means an account established by the applicant or registrant in a federally insured financial institution used to hold funds paid by consumers to a credit services organization for disbursement to creditors of consumers that is designated as a trust account or other appropriate designation indicating the funds in the account are:

(1) Not funds of the applicant or registrant or its owners, officers or employees; and

(2) unavailable to creditors of the applicant or registrant.

New Sec. 3. (a) No person shall engage in, or hold such person out as willing to engage in any credit services organization business with a resident of this state without first obtaining registration from the commissioner. Any person required to be registered as a credit services organization shall submit to the commissioner an application for registration on forms prescribed and provided by the commissioner. The application for registration shall include:

(1) The applicant's name, business address, telephone number and website address, if any;

(2) the name and address of each owner, officer, director, member or partner of the applicant;

(3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service to the applicant or any consumer relating to the applicant's credit services organization business;

(4) a description of the applicant's consumer education program; and

(5) any other information the commissioner may deem necessary to evaluate the financial responsibility and condition, character, qualifications and fitness of the applicant.

(b) Each application for registration shall be accompanied by a non-refundable fee of \$100. The amount of the registration fee may be increased by rules and regulations adopted by the commissioner.

(c) The application shall be approved and a nontransferable and non-assignable registration shall be issued to the applicant provided:

(1) The commissioner has received the complete application and fee required by this section; and

(2) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) Each credit services organization registration issued under this section shall expire on June 30 of each year. A registration shall be renewed by filing with the commissioner, at least 30 days prior to the expiration of the registration, a complete renewal application, containing information the commissioner requires to determine the existence and effect of any material changes from the information contained in the applicant's original application, annual reports or prior renewal applications. Each renewal shall be accompanied by a nonrefundable renewal fee which shall be established by rules and regulations of the commissioner.

(e) If the commissioner fails to issue a registration within 60 days after a filed application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

New Sec. 4. Each applicant or registrant shall file with the commissioner a surety bond in a form acceptable to the commissioner. The surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or registrant's faithful performance of all duties and obligations of a registrant. The surety bond shall:

(a) Be payable to the office of the state bank commissioner;

(b) provide that the bond may not be terminated without 30 days prior written notice to the commissioner;

(c) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or registrant's registration, whichever shall first occur;

(d) be available for:

(1) The recovery of expenses, fines and fees levied by the commissioner under this act; and

(2) payment of losses or damages which are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or registrant's failure to comply with the requirements of this act; and

(e) the amount of the bond shall be \$25,000. The amount of the bond may be increased up to \$1,000,000, as further defined by rules and regulations adopted by the commissioner.

New Sec. 5. No credit services organization shall engage in debt management services unless:

(a) The registrant provides the consumer with a credit education program designed to improve the financial literacy of the consumer.

(b) The registrant has:

(1) (A) Taken reasonable steps to identify all creditors of a consumer; and

(B) prepared and provided to the consumer a written financial analysis of and initial budget plan for all of the consumer's debt obligations

which indicates the consumer can reasonably meet the requirements set forth in the budget plan; and

(2) provided to the consumer a list of each creditor the registrant reasonably expects:

(A) To participate in the plan; and

(B) not to participate in the plan.

(c) The registrant and the consumer have entered into a written debt management services agreement and a copy of the signed agreement has been provided to the consumer by the registrant. Such agreement shall be in at least 12 point type, signed and dated by the consumer and registrant and include:

(1) The name, address, and phone number of the consumer and the registrant;

(2) a description of the debt management services to be provided to the consumer and an itemization of any fees to be charged to the consumer;

(3) a notice of the consumer's right to rescind the debt management services agreement at any time by giving written notice of rescission to the registrant;

(4) a schedule of payments, including the amount and due date of each payment, that the consumer must make to the registrant for disbursement to such consumer's creditors;

(5) a list of each participating creditor of the consumer to which payments will be made by the registrant under the debt management services agreement. The listing shall include the:

(A) Amount owed to each creditor;

(B) amount of each payment;

(C) date on which each payment will be made; and

(D) anticipated payoff date for each creditor;

(6) the name of each creditor that the registrant reasonably expects not to participate in the debt management plan;

(7) a disclosure that the registrant also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(8) a disclosure that the registrant may not, as a condition of entering into a debt management services agreement, require a consumer to purchase any other product or service, nor solicit or offer to sell any other product or service to the consumer during the term of the debt management services agreement;

(9) a disclosure that the registrant may not require a voluntary contribution from a consumer for any service provided by the registrant to the consumer;

(10) a disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the registrant has established a trust account for the deposit of the consumer's funds to disclose to the commissioner any financial records relating to the trust account during the course of any investigation or examination by the commissioner; and

(11) the following notice: "The Kansas Office of the State Bank Commissioner will accept questions and complaints from consumers regarding (name and registration number of registrant) at 700 SW Jackson, Suite 300, Topeka, Kansas, 66603, or by calling toll-free 1-877-387-8523".

New Sec. 6. No person required to be registered under this act shall:
(a) Delay payment of a consumer's debt for the purpose of increasing interest, costs, fees or charges payable by the consumer.

(b) Make any misrepresentation of any material fact or false promise intended to:

(1) Influence, persuade or induce a consumer to enter into a debt management services agreement; or

(2) cause or contribute to any misrepresentation by any other person acting on such person's behalf.

(c) Make or use any false or misleading representation in the offer or sale of the services of a debt management services agreement or credit services organization business, including, but not limited to, guaranteeing to "erase bad credit" or words to that effect unless the representation clearly discloses that guaranteed action can be done only if the consumer's credit history is inaccurate or obsolete.

(d) Engage, directly or indirectly, in any fraudulent or deceptive act, practice or course of business in connection with the offer or sale of the services of a credit services organization.

(e) Make, or advise a consumer to make, any statement with respect to a consumer's credit worthiness, credit standing or credit capacity that is false or misleading, or that should be known by the exercise of reasonable care to be false or misleading, to a consumer reporting agency or to a person who has extended credit to a consumer or to whom a consumer is applying for an extension of credit.

(f) Advertise or cause to be advertised, in any manner whatsoever, the services of a credit services organization to Kansas consumers without first obtaining proper registration from the commissioner.

(g) Receive compensation for rendering debt management services where the person has otherwise acted as a creditor for the consumer.

(h) Transfer, assign or attempt to transfer or assign, a registration to any other person.

(i) Conduct credit services organization activities using any name other than the name or names approved by the commissioner.

(j) Operate as a collection agency.

(k) Receive or charge any fee in the form of a promissory note or other promise to pay.

(l) Accept or receive any reward, bonus, premium, commission or any other consideration for referring a consumer to any person or related interest.

(m) Give a reward, bonus, premium, commission or any other consideration for the referral of a consumer to the registrant's credit services organization business.

(n) Lend money or provide credit to a consumer.

(o) Obtain a mortgage or other security interest in real or personal property owned by a consumer.

(p) Structure a debt management services agreement in any manner that would result in a negative amortization of any of the consumer's debts.

(q) Charge for or provide credit insurance.

(r) Purchase any debt or obligation of a consumer.

(s) Use any communication which simulates in any manner a legal or judicial process, or which gives the false appearance of being authorized, issued or approved by a government, governmental agency or attorney-at-law.

(t) While operating as a registrant, or a director, manager or officer of such registrant or any related interest of such registrant, be a director, manager, officer, owner or related interest of any creditor or a subsidiary of any such creditor, that is receiving or will receive payments from the registrant on behalf of a consumer with whom the registrant has entered into a debt management services agreement.

(u) Attempt to cause a consumer to waive or agree to forego rights or benefits under this act.

New Sec. 7. (a) Within four calendar days after receipt of any funds paid to the registrant by or on behalf of a consumer for disbursement to such consumer's creditors, a registrant shall deposit such funds in a trust account established for the benefit of consumers.

(b) A registrant shall:

(1) Maintain separate records of account for each consumer to whom the registrant provides debt management services;

(2) disburse any funds paid by or on behalf of a consumer to such consumer's creditors within 10 calendar days after receipt of such funds;

(3) correct any misdirected payments resulting from an error by the registrant;

(4) reimburse the consumer for any actual fees or other charges imposed by a creditor as a result of the misdirection; and

(5) disburse a consumer's funds from the trust account only to such consumer's creditors or back to the consumer.

(c) If a consumer rescinds the debt management services agreement, all funds held in the trust account on behalf of such consumer shall be refunded to the consumer within 10 calendar days from receipt of rescission by the registrant.

(d) A registrant shall not commingle any trust account established for

the benefit of consumers with any operating accounts of the registrant or its related interests.

New Sec. 8. A registrant shall provide a report at least once every three months to each consumer who has entered into a debt management services agreement with the registrant. The report shall include the:

- (a) Total amount received from the consumer to date;
- (b) total amount paid to each creditor to date;
- (c) total amount any creditor has agreed to accept as payment in full on any debt owed by the consumer;
- (d) any fees paid to the registrant by the consumer; and
- (e) any amount held in the trust account on behalf of the consumer.

New Sec. 9. (a) On or before March 1, of each year, each registrant shall file with the commissioner an annual report relating to credit services organization business conducted by the registrant during the preceding calendar year. The annual report shall be on a form prescribed by the commissioner.

(b) Within 15 calendar days after the occurrence of any of the following events, a registrant shall file a written report with the commissioner describing the event and its expected impact on the registrant's business:

- (1) The filing for bankruptcy or reorganization by the registrant;
- (2) the institution of a revocation, suspension or other proceeding against the registrant by a governmental authority that is related to the registrant's credit services organization business in any state; and
- (3) a felony conviction of the registrant or any of its owners, officers, principals, directors, partners, members or debt management counselors.

(c) If a registrant fails to make any report required by this section to the commissioner, the commissioner may require the registrant to pay a late penalty of \$100 for each day the report is overdue.

New Sec. 10. (a) Each registrant shall maintain and preserve complete and adequate business records including a general ledger containing all assets, liabilities, capital, income and expense accounts for a period of five years.

(b) Each registrant shall maintain and preserve complete and adequate records of each debt management services agreement during the term of the agreement and for a period of five years from the date of cancellation or completion of the agreement with each consumer. Such records shall contain all consumer information including, but not limited to, the debt management services agreement and any extensions thereto, payments, disbursements, charges and correspondence.

(c) If the registrant's records are located outside this state, the registrant shall provide the records to the commissioner within three calendar days or, at the commissioner's discretion, pay reasonable and necessary expenses for the commissioner or commissioner's designee to examine them at the place where they are maintained.

New Sec. 11. (a) No registrant shall impose any fees or other charges on a consumer, or receive any funds or other payments from a consumer or another person on behalf of a consumer:

(1) Except as provided in paragraph (5) of subsection (b), until after the registrant and consumer have executed a debt management services agreement; and

(2) except as allowed under this section, or as permitted by rule and regulation adopted by the commissioner.

(b) A registrant may:

(1) Charge a one-time consultation fee not exceeding \$50. The cost of a credit report on a consumer shall be paid from the consultation fee paid by the consumer;

(2) charge and collect monthly the lesser of a total maintenance fee of \$20 per month, or \$5 per month for each creditor of a consumer that is listed in the debt management services agreement between the registrant and the consumer;

(3) collect from or on behalf of a consumer the funds for disbursement to creditors that the consumer has agreed to pay to the registrant under the debt management services agreement;

(4) accept a voluntary contribution from a consumer for a debt management service provided by the registrant to the consumer if the aggregate amount of the voluntary contribution and any other fees received by the registrant from the consumer does not exceed the total amount the

registrant is authorized to charge the consumer under paragraphs (1) and (2) of this subsection;

(5) charge the consumer, if provided to the consumer, a fee, not to exceed \$50, for a counseling session, an educational program, or materials and supplies if the consumer does not enter into a debt management services agreement with the registrant; and

(6) accept fee payments from a consumer's creditors for debt management services rendered to a consumer, provided the consumer's creditor does not assess the fee to the consumer.

(c) No registrant shall:

(1) Charge a fee to a consumer, if the consumer enters into a debt management services agreement with the registrant, to:

(A) Prepare a financial analysis or an initial budget plan for the consumer;

(B) counsel a consumer about debt management;

(C) provide a consumer with the consumer education program described in the registrant's application to engage in business as a credit services organization; or

(D) rescind a debt management services agreement.

(2) Require a voluntary contribution from a consumer for any service provided by the registrant to the consumer.

(3) As a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program or materials and supplies.

(d) If a registrant imposes any fee or other charge or receives any funds or other payments not authorized under this section, except as a result of an accidental and bona fide error:

(1) The debt management services agreement shall be void; and

(2) the registrant shall return the amount of the unauthorized fees, charges, funds or payments to the consumer.

New Sec. 12. The commissioner may deny, suspend, revoke or refuse to renew a registration issued pursuant to this act, and amendments thereto, if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that:

(a) The applicant or registrant has repeatedly or willfully violated any provision of this act, any rule and regulation promulgated thereunder or any order lawfully issued by the commissioner pursuant to this act;

(b) the applicant or registrant has failed to file and maintain the surety bond required under this act;

(c) the applicant or registrant is insolvent;

(d) the applicant or registrant has filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact;

(e) the applicant, registrant or any officer, director, member, owner, partner, principal or debt management counselor thereof has been convicted of any crime;

(f) the applicant or registrant fails to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the commissioner the applicant's or registrant's compliance with the provision of this act;

(g) the applicant, registrant or an employee of the applicant or registrant has been the subject of any disciplinary action by the commissioner or any other state or federal regulatory agency;

(h) a final judgment has been entered against the applicant or registrant in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be registered;

(i) the applicant or registrant has engaged in any deceptive business practice;

(j) facts or conditions exist which would have justified the denial of the registration or renewal had such facts or conditions existed or been known to exist at the time the application for registration or renewal was made; or

(k) the applicant or registrant has refused to furnish information required by the commissioner within a reasonable period of time as established by the commissioner.

New Sec. 13. This act shall be administered by the commissioner. In addition to other powers granted by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(a) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act.

(b) Make any investigation and examination of the registrant's operations, books and records as the commissioner deems necessary:

(1) For the protection of the public;

(2) to determine whether any registration should be granted, denied or revoked;

(3) to determine whether any person has violated or is about to violate any provision of this act, any rule and regulation promulgated thereunder or any order issued thereunder; or

(4) to aid in the enforcement of this act.

(c) For examination purposes the commissioner, or the commissioner's designee, shall have free and reasonable access to the offices, places of business and all records of the registrant and the registrant's related interests that relate to the debt management or credit services organization business. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf.

(d) Charge reasonable costs, including a per diem and actual travel and lodging expenses, of investigation, administration or examination to be paid by the applicant or registrant under investigation, examination or requiring administrative action, and maintain an action in any court to recover such costs.

(e) To order any registrant or person to cease any activity or practice which the commissioner deems to be deceptive, dishonest, or a violation of this act, or of other state or federal law, or unduly harmful to the interests of the public.

(f) Exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the applicant or registrant or administers statutes, rules and regulations or programs related to debt management or credit services organization laws. The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees.

(g) Disclose to any person or entity that an applicant's or registrant's application or registration has been denied, suspended, revoked or refused renewal.

(h) Require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, any rule and regulation promulgated hereunder, or any order issued pursuant to this act.

(i) Receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner.

(j) Delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending in the office of the state bank commissioner.

(k) Require fingerprinting of any registrant, agent acting on behalf of a registrant or other person as deemed appropriate by the commissioner, or the commissioner's designee. The commissioner, or commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions.

(l) Charge, establish and collect from registrants such fees as are necessary and in such amounts as the commissioner may determine to be sufficient to meet the expense requirements of the commissioner in administering this act.

(m) Seize and distribute a registrant's trust account funds to protect consumers and the public interest.

(n) For the purpose of any examination, investigation or proceeding under this act, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

New Sec. 14. (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation promulgated or order issued thereunder, the commissioner by order may require any or all of the following:

(1) That the person cease and desist from the unlawful act or practice;

(2) that the person pay a fine not to exceed \$10,000 per incident for the unlawful act or practice;

(3) that the person take such affirmative action as in the judgment of the commissioner will carry out the purposes of this act; or

(4) that the person be barred from subsequently applying for registration under this act.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(1) Such emergency order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(2) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that it has been entered, of the reasons, and that a hearing will be held upon written request by the person.

(3) If the person requests a hearing, or in the absence of any request, if the commissioner determines that a hearing should be held, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall, by written findings of fact and conclusions of law vacate, modify or make permanent the emergency order.

(4) If no hearing is requested and none is ordered by the commissioner, the emergency order shall remain in effect until such order is modified or vacated by the commissioner.

New Sec. 15. (a) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(b) No person shall be excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or the commissioner's designee, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

New Sec. 16. Any person violating the provisions of this act or any rule and regulation promulgated thereunder upon conviction shall be guilty of a class B nonperson misdemeanor.

New Sec. 17. Any violation of this act or any rule and regulation promulgated thereunder is a deceptive act or practice under the Kansas consumer protection act. Any remedy provided by this act shall be construed to be in addition to other remedy provided by the Kansas consumer protection act.

New Sec. 18. (a) Any consumer injured by a violation of this act or any rule and regulation promulgated thereunder may bring an action for recovery of damages. The damages awarded may not be less than the amount paid by the consumer to the credit services organization plus reasonable attorney fees and court costs.

(b) The consumer may also be awarded punitive damages.

New Sec. 19. The commissioner, attorney general, county or district attorney or a consumer may bring an action in a district court to enjoin any violation of this act or any rule and regulation promulgated thereunder.

New Sec. 20. All fees collected by the commissioner pursuant to this act shall be subject to the provisions of K.S.A. 75-1308 and amendments thereto.

Sec. 21. K.S.A. 21-4402 is hereby amended to read as follows: 21-4402. (a) Debt adjusting is engaging in the business of making contracts, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaging in the debt adjusting business who shall for a consideration distribute the same among certain specified creditors.

(b) The provisions of this act shall not apply to those situations involving debt adjusting, as defined here, which is incidental to the lawful practice of law in this state *or to any person registered as a credit services organization under the Kansas credit services organization act.*

(c) Debt adjusting is a class B nonperson misdemeanor.

Sec. 22. K.S.A. 2003 Supp. 75-1308 is hereby amended to read as follows: 75-1308. The commissioner shall keep a record of all fees collected by the commissioner, together with a record of all expenses incurred in the administration of programs ~~for the regulation of banks and trust companies regulated by the division of banking~~ and in the administration of programs ~~for the regulation of~~ *regulated by the division of* consumer and mortgage lending. The bank commissioner shall remit all moneys received by or for the commissioner from such fees 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. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the bank commissioner fee fund. All expenditures from the bank commissioner fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the bank commissioner or by a person or persons designated by the commissioner.

Sec. 23. K.S.A. 21-4402, 50-1101, 50-1102, 50-1103, 50-1104, 50-1105, 50-1106, 50-1107, 50-1108, 50-1109, 50-1110, 50-1111, 50-1112, 50-1113, 50-1114 and 50-1115 and K.S.A. 2003 Supp. 75-1308 are hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.