

*approved by Chairman 3-21-84
Date
Circulated to
each member*

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

The meeting was called to order by REPRESENTATIVE HAROLD P. DYCK at _____
Chairperson

3:30 ^{XX} a.m./p.m. on March 20, 1984 in room 527-S of the Capitol.

All members were present except:

Committee staff present:

- Bill Wolff, Legislative Research
- Bruce Kinzie, REvisor of Statutes Office
- Mitchell Lousch, Intern
- Virginia Conard, Committee Secretary

Conferees appearing before the committee: Miss Julie Young, Attorney for the Banking Commission

Chairman Dyck called the meeting to order and stated that the Committee would be considering four Senate Bills today. Miss Young was the only conferee. She explained each bill, SB524, SB526, SB527 and SB528. (See Attachment I) Questions and answers followed the testimony for each bill.

Chairman Dyck pointed out that since the bills had been heard already in the Senate he would entertain motions regarding them if the committee so desires.

Rep. Ken King made a conceptual motion that HB2733 and HB2734, each as amended by the committee, be amended into SB524. Rep. Larry Wilbert seconded the motion. Motion carried.

Rep. Bob Ott moved that SB524 as amended be reported out favorably. Rep. Dorothy Nichols seconded the motion. Motion carried.

Rep. Ivan Sand moved that SB526 be passed out of committee favorably. Rep. Homer Jarchow seconded the motion. Motion carried.

Rep. Ken King Moved that SB527 be passed out favorably. Rep. Ed Rogers seconded the motion. Motion carried.

Rep. Ken King made a conceptual motion that HB2735 as amended by the committee be amended into SB528. Rep. Ivan Sand seconded the motion. Motion carried.

Rep. Ken King moved that SB 528 as amended by passed out favorably. Rep. Ed Rogers seconded the motion. Motion carried.

Rep. David Miller moved that the minutes of the March 1 and the March 13 meetings be approved. Rep. Larry Wilbert seconded the motion. Motion carried.

Rep. Dyck announced that this was the last meeting of the session and he wished to express his appreciation to each committee member.

Meeting adjourned at 4:30 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Testimony Of: Julia L. Young, General Counsel, Kansas
Banking Department

Attachment

Presented To: The House Committee on Commercial & Financial Institutions

March 20, 1984

Mr. Chairman, Members of the Committee:

SB 524

Section I, referring to KSA 9-1701, is being amended to require each bank to be examined every 18 months rather than once each year. The Commissioner requests this amendment in order to give the Department flexibility in scheduling state examinations.

The current economy has required our examiners to spend more time in some banks and this has resulted in a slowdown in the number of banks they are able to complete in one calendar year. Last year our state examiners were unable to examine 67 banks because of this slowdown. Our Department believes that an amendment to require examinations every 18 months would pick up these extra banks and would not adversely affect the regulation of Kansas banks.

This Department will still endeavor to complete the examination of the greatest number of state banks as is possible as we are a fee agency and our fee is not generated unless the bank is examined.

Section II refers to KSA 9-1704. We are requesting that the call report no longer be verified under oath and that the ten day reporting date of the call report be deleted.

Currently, each bank submits 3 call reports a year to our Department and 4 to the FDIC. The FDIC report is not

(See page #2)

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notarized and if we are able to delete this requirement, each bank can submit a copy of the FDIC report and eliminate the necessity of filling out two reports. The due date for these reports would be handled in a letter from the Commissioner and such due date would be thirty (30) days after the end of the reporting period.

Section III refers to KSA 9-1713. The amendment in this section is a "clean-up" provision to bring KSA 9-1713 in conformity with KSA 1983 Supp. 77-421, allowing notice of the public hearing regarding rules and regulations to be published in the Kansas Register. A copy of KSA 1983 Supp. 77-421 is attached for your convenience. The amendment also deletes provisions governing the effective dates of rules and regulations and brings the statute into conformity with KSA 1983 Supp. 77-422 and 77-426.

SB 526

This amendment is requested by the Banking Board because the Board felt the statute should address the issue of relocation of a bank and the effect a proposed relocation will have on the city from which the bank is relocating.

SB 527

The Banking Board currently approves the issuance of capital notes or debentures. The change contemplated by this bill would require approval by the Commissioner prior to a prepayment of these outstanding notes or debentures.

SB 528

The Banking Board has no authority to approve or disapprove a bank merger or a merger by a bank with another corporation. Last year the Attorney General issued Opinion No. 83-29 in which he found no provisions in the banking

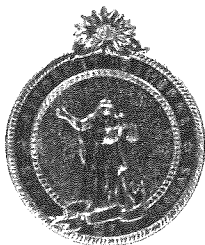
(See page #3)

code governing mergers of a bank with a general business corporation; however, such mergers can be accomplished under the general corporation code. A copy of the Attorney General's synopsis of Opinion No. 83-29 is attached for your convenience. Currently, mergers are being accomplished under Federal law, the Bank Merger Act (12 U.S.C. 1828(c)) and such mergers require FDIC approval.

This Department, charged with supervision of banks, should have authority to regulate and monitor such activity.

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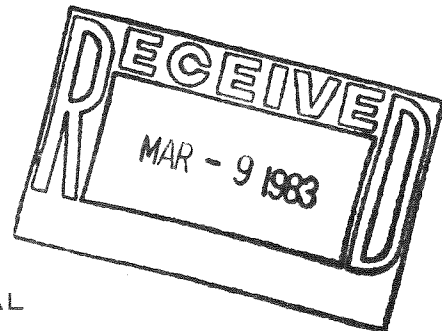
Attchs:



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612



ROBERT T. STEPHAN
ATTORNEY GENERAL

March 8, 1983

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION 296-3751

ATTORNEY GENERAL OPINION NO. 83- 29

The Honorable Roy M. Ehrlich
State Senator, Thirty-Fifth District
Room 138-N, Statehouse
Topeka, Kansas 66612

John A. O'Leary, Jr.
State Bank Commissioner
818 Kansas Avenue
Topeka, Kansas 66612

Re: Banks and Banking -- State Banking Code -- Merger
of Bank with General Business Corporation

Corporations -- Formation of Corporations -- Appli-
cation of General Corporation Code to Banking Cor-
porations

Synopsis: The merger of a general business corporation,
organized under the laws of Kansas, into a state-
chartered bank in Kansas is not subject to special
statutory regulation under the State Banking Code
or other banking statutes. Hence, pursuant to
K.S.A. 17-6001(c), such merger may be accomplished
in accordance with the Kansas General Corporation
Code, as long as the surviving bank does not ac-
quire any assets or succeed to any business acti-
vities which are impermissible for state banks.
Cited herein: K.S.A. 9-903, 9-1101, 9-1110,
9-1604, 17-6001, 17-6003, 17-6701.

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adopted by reference to the rule and regulation. Every rule and regulation approved by the attorney general under this subsection (b) shall be stamped as approved and the date of such approval shall be indicated therein.

(c) No rule and regulation shall be filed with the revisor of statutes unless:

(1) The organization, style, orthography and grammar have been approved by the secretary of administration;

(2) the rule and regulation has been approved in writing by the attorney general as to legality;

(3) the attorney general finds that the making of such rule and regulation is within the authority conferred by law on the state agency submitting the same;

(4) the rule and regulation has been formally adopted by the state agency after it has been approved by the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421 and any amendments thereto when adoption is by a board, commission, authority, or other similar body; and

(5) the rule and regulation to be filed is accompanied by a copy of the fiscal or financial impact statement as provided by K.S.A. 77-416 and amendments thereto.

History: L. 1965, ch. 506, § 6; L. 1972, ch. 354, § 1; L. 1977, ch. 321, § 6; L. 1979, ch. 304, § 3; L. 1980, ch. 304, § 3; L. 1982, ch. 386, § 3; L. 1983, ch. 307, § 3; April 21.

Law Review and Bar Journal References:

"Judicial Review of Administrative Action—Kansas Perspectives," David L. Ryan, 19 W.L.J. 423, 433 (1980).

CASE ANNOTATIONS

1. Rules and regulations relating to adult care homes adopted in accordance herewith; not unlawful delegation of legislative authority. *Boswell, Inc. d/b/a Broadcasters v. Harkins*, 230 K. 738, 741, 640 P.2d 1208 (1982).

77-421. Notice of hearing; publication of notice; contents of notice; fiscal or financial impact statement; statement of reasons for adoption of rules and regulations; notice of hearing for inmates in custody of secretary of corrections; deadline for holding hearing; rules and regulations to be adopted at open public meeting; majority of total membership of boards and similar bodies

required for adoption. (a) Prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 15 days' notice of its intended action in the Kansas register and to the revisor of statutes. The notice shall be mailed to the revisor of statutes and published in the Kansas register and shall contain a summary of the substance of the proposed rules and regulations and the address where a complete copy of the proposed rules and regulations may be obtained. Such notice shall state the time and place of the public hearing to be held thereon and the manner in which interested parties may present their views thereon. The notice shall be accompanied by a copy of the fiscal or financial impact statement provided by K.S.A. 77-416 and amendments thereto which is applicable to all proposed rules and regulations which will be considered at such public hearing, and the notice shall state that a copy of the fiscal or financial impact statement may be obtained from the state agency and shall provide the address of the state agency from which such fiscal or financial impact statement may be obtained. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations. Nothing in this section shall be construed to require publication in the Kansas register of the fiscal or financial impact statement.

(b) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. When requested to do so, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto. Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency may, in lieu of following the requirements or statutory procedure set out in such other law, give notice and hold hearings in

rules and regulations in the manner prescribed by this act. Notwithstanding the other provisions of this section, the Kansas adult authority and the secretary of corrections may, but shall not be required to, give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation.

(c) No public hearing required by this section shall be scheduled or held by a state agency after December 1 of any calendar year.

(d) No rule and regulation shall be adopted except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

History: L. 1965, ch. 506, § 7; L. 1967, ch. 485, § 1; L. 1972, ch. 354, § 2; L. 1976, ch. 415, § 2; L. 1977, ch. 321, § 7; L. 1978, ch. 120, § 25; L. 1980, ch. 304, § 4; L. 1981, ch. 324, § 33; L. 1982, ch. 386, § 4; L. 1983, ch. 307, § 4; April 21.

CASE ANNOTATIONS

2. Rules and regulations relating to adult care homes adopted in accordance herewith; not unlawful delegation of legislative authority. *Boswell, Inc. d/b/a Broadcasters v. Harkins*, 230 K. 738, 741, 640 P.2d 1208 (1982).

77-421a. Procedure for adoption of rules and regulations not subject to 77-415 et seq.; exception. Whenever any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and the legislative branches, is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state, and such rules and regulations are exempt from the requirements of K.S.A. 77-415 et seq., and amendments thereto, by virtue of the definition of "rule or regulation" in subsection (4) of K.S.A. 1982 Supp. 77-415 and amendments thereto, such rules and regulations shall be adopted in the manner prescribed by K.S.A. 1982 Supp. 77-421 and amendments thereto after notice has been given and a hearing held in the manner prescribed by K.S.A. 1982 Supp. 77-421 and