

Approved January 24, 1984  
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m. ~~on~~ January 19, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Harder and Hess, Excused

Committee staff present:

Bill Wolff, Legislative Research  
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Eugene Hegarty, Bank Commissioner

The minutes of January 18 were approved.

The Chairman introduced the new Bank Commissioner, Eugene Hegarty, to the committee.

The Commissioner began a review of bills he was requesting to be introduced.

The first proposed bill deals with examinations of banks by the Commissioner's office. (See Attachment I.)

The second proposed bill deals with allowing the Commissioner's office to have some say in the mergers of banks. (See Attachment II.)

The third proposed bill would require the approval of the Commissioner of the prepayment of capital notes or debentures. (See Attachment III.)

The fourth proposed bill relates to trust companies and the board of directors meetings. (See Attachment IV.)

The final bill was requested by the State Banking Board and would allow the Board to inquire into the effects upon a community when a bank decides to relocate. (See Attachment V.)

Sen. Werts made a motion that the five bills be introduced and referred back to committee. Sen. Reilly seconded the motion. The motion carried.

The meeting was adjourned.

NATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
1-19-84	Marvin Chmoltz	Topeka	KCUL
1-19-84	Harold Stones	Topeka	KBS2
1-19-84	John Spurgeon	Lawrence	Budget
1-19-84	Tom Wilder	Topeka	KLS1
1-19-84	Eugene C. Negarty	↓ ✓	State Bank Dept
1-19-84	Jim May	"	KBA
"	Janet Wright	"	KCUL

BILL NO. \_\_\_\_\_

AN ACT relating to banks and banking; concerning examinations; relating to rules and regulations; amending K.S.A. 9-1701, 9-1704 and 9-1713 and repealing the existing sections.

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

Section 1. K.S.A. 9-1701 is hereby amended to read as follows: 9-1701. The commissioner or the commissioner's assistant or examiners shall visit each bank and trust company at least once ~~in each year~~ every 18 months, and may visit any bank or trust company if the commissioner deems it necessary, for the purpose of making a full and careful examination and inquiry into the condition of the affairs of such bank or trust company. For such purpose the commissioner, the commissioner's assistant and examiners are authorized to administer oaths and to examine under oath the directors, officers, employees and agents of any bank or trust company. Such examination shall be reduced to writing by the person making it and such person's reports shall contain a full, true and careful statement of the condition of such bank or trust company. The commissioner in lieu of making a direct examination and inquiry may accept the examination and report of an authorized federal agency. Neither the commissioner, the commissioner's assistant nor any examiner shall examine any bank or trust company in which the person making such examination is a stockholder or is otherwise financially interested or to which bank or trust company or any officer thereof the person making the examination is indebted.

Sec. 2. K.S.A. 9-1704 is hereby amended to read as follows: 9-1704. Each bank and trust company shall make at least three reports to the commissioner during each year, the same to be done upon determination of the commissioner, who also shall have

Attachment I

authority to require additional reports from each bank and trust company, when such commissioner deems it advisable. The form of all such reports shall be prescribed by the commissioner. Such The reports shall be verified ~~under-oath~~ by the president, chief executive officer or cashier and attested by at least three (3) directors of the bank or trust company none of whom shall have verified the report. Such The report shall show in detail the resources and liabilities of the bank or trust company at the close of business upon the date determined by the commissioner, and such report shall be forwarded to the commissioner ~~within-ten~~ (10) ~~days--from--such--commissioner's-requirement,-or-within-ten~~ (10) ~~days--after--a--copy--of--a--call--therefor--made--by--the~~ commissioner ~~is--mailed--to--the--bank--or--trust--company.~~ A copy of such the report, or so as much thereof as the commissioner may require, shall be published in a newspaper, published in or having a general circulation in the place where the bank or trust company is located, within ~~ten-(10)~~ 10 days after the same report is forwarded to the commissioner, and the expense of such publication shall be paid by the bank or trust company.

Sec. 3. K.S.A. 9-1713 is hereby amended to read as follows:  
9-1713. The state bank commissioner shall adopt ~~and--promulgate~~ such rules and regulations as shall be necessary to carry out the intent and purposes of K.S.A. 9-701 et seq., commonly known as the state banking code. All rules and regulations of general application, ~~including--the--amendment--or--repeal--thereof,-to~~ ~~implement--or--make--specific--this--act,~~ shall first be submitted by the commissioner to the state banking board for its approval and upon approval shall be filed ~~in--the--office--of--the--reviser--of~~ statutes as provided by article 4 of chapter 77 of the Kansas Statutes Annotated, ~~as--amended--in--the--1965--session.-~~ Provided, ~~That--every--such--rule--or--regulation--which--applies--to--or--affects--a~~ ~~bank--or--trust--company--shall--be--mailed--on--the--day--said--rule--or~~ ~~regulation--is--so--filed--to--each--and--every--bank--and--trust--company,~~ and such rule or regulation shall not take effect and be in force until ~~at--least--five--days--after--the--filing--of--the--same--in--the~~

office--of--the-reviser-of-statutes,-The-failure-to-mail-any-such rule-or-regulation-to-any-bank-or-trust-company,-or--the--failure of--any--bank--or--trust--company--to--receive--any--such-rule-or regulation-so-mailed,-shall--not--invalidate--any--such--rule--or regulation.

Sec. 4. K.S.A. 9-1701, 9-1704 and 9-1713 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. \_\_\_\_\_

AN ACT relating to banks and banking; concerning merger or consolidation of banks.

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

Section 1. Before any banks can merge or consolidate under the provisions of chapter 67 of article 17 of the Kansas Statutes Annotated, each bank concerned in such merger or consolidation shall file, or cause to be filed, with the state banking commissioner, certified copies of all proceedings had by its directors and stockholders. The stockholders' proceedings shall show that a majority of the stockholders voted in favor of the merger or consolidation. The stockholders' proceedings shall also contain a complete copy of the agreement made and entered into between the banks, with reference to such merger or consolidation.

Upon the filing of the stockholders and directors' proceedings, the commissioner shall make an investigation of each bank to determine whether:

- (a) The interests of the depositors, creditors and stockholders of each bank are protected;
  - (b) the merger or consolidation is in the public interest;
- and
- (c) the merger or consolidation is made for legitimate purposes.

The commissioner's consent to or rejection of such merger or consolidation shall be based upon such investigation. No merger or consolidation or transfer shall be made without the consent of the commissioner. The expense of the investigation shall be paid by the banks.

Notice of the merger or consolidation shall be published at

Attachment II

least once each week for four consecutive weeks before or after the merger or consolidation or transfer is to become effective, at the discretion of the commissioner, in a newspaper of general circulation published in a city or county in which each of the banks are located and a certified copy of the notice shall be filed with the commissioner.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. \_\_\_\_\_

AN ACT relating to banks and banking; concerning capital notes or debentures; amending K.S.A. 9-1101a and repealing the existing section.

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

Section 1. K.S.A. 9-1101a is hereby amended to read as follows: 9-1101a. (a) In accordance with normal business considerations and upon approval of stockholders owning ~~two-thirds~~ 2/3 of the voting stock of the bank, the bank may issue convertible or nonconvertible capital notes or debentures in such amounts and under such terms and conditions as shall be approved by the state banking board ~~---Provided,---That.~~ The principal amount of capital notes or debentures outstanding at any time shall not exceed an amount equal to ~~one-hundred-percent~~ ~~(100%)~~ 100% of the bank's paid-in capital stock plus ~~fifty percent--(50%)~~ 50% of the amount of its unimpaired surplus fund. Capital notes or debentures which are by their terms expressly subordinated to the prior payment in full of all deposit liabilities of the bank shall be considered as part of the unimpaired capital funds of the bank for purpose of the computation of the bank's loan limit.

(b) The prepayment of capital notes or debentures must have the prior approval of the commissioner affirming that, in the commissioner's opinion, such prepayment is in the best interest of the bank.

Sec. 2. K.S.A. 9-1101a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.



BILL NO. \_\_\_\_\_

AN ACT relating to trust companies; concerning certain duties of the directors; amending K.S.A. 17-2009 and repealing the existing section.

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

Section 1. K.S.A. 17-2009 is hereby amended to read as follows: 17-2009. Each director shall, before entering upon the discharge of ~~his~~ such director's duties, take and subscribe the usual official oath. The board of directors shall elect from among their number a president and one or more vice-presidents, and from among the stockholders of the company a secretary, a treasurer, and may elect from among the stockholders one or more assistant secretaries, one or more assistant treasurers, who shall hold their positions for the term of one year, ~~the board of directors shall hold not less than twelve regular meetings each year, such meetings shall be held between the first and tenth days of each calendar month in each year, at the meetings which shall be held between the first and tenth days of January, April, July and October of each year they shall make a thorough and complete examination of the affairs and property of the company, examining its books and accounts and its securities, and shall cause to be kept a complete record of their proceedings, they shall require the treasurer and each and every other officer or employee of the company having the handling or care of funds or securities to give bond in such sum as they may deem necessary, which bond shall be held by a custodian designated by them.~~ The board of directors shall hold not less than four regular meetings each year, at least one of which shall be held during each calendar quarter. The board of directors or an auditor selected by the board shall make a thorough examination of the books,

records, funds and securities held by the trust company at each of the quarterly meetings and the result of such examination shall be reported directly to the board. In lieu of the required four quarterly examinations, the board of directors may accept one annual audit by a certified public accountant or an independent auditor approved by the commissioner. The board of directors shall require all officers and employees having the care of handling of the funds of the trust company to give a good and sufficient bond to be executed by an approved corporate surety authorized to do business in this state. The amount and form of such bond shall be approved by the board of directors and the commissioner, and it shall be held by the commissioner. The cost of such bonds shall be paid by the trust company.

Sec. 2. K.S.A. 17-2009 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. \_\_\_\_\_

AN ACT relating to banks and banking; concerning change of locations; amending K.S.A. 9-1804 and repealing the existing section.

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

Section 1. K.S.A. 9-1804 is hereby amended to read as follows: 9-1804. No bank incorporated under the laws of this state shall change its place of business, from one city or town to another or from one location to another within the same city or town, without the prior approval of the state banking board. Any such bank desiring to change its place of business shall file written application with the board in such form and containing such information as the board shall require. The board shall:

(a) Examine and investigate the application, ~~and shall~~;

(b) inquire into the public necessity for such bank in the community wherein it is proposed to locate ~~the same~~, and when the relocation of the bank is from one city or town to another, the board shall inquire into the effects upon the city or town from which the bank is relocating; and

(c) thereafter ~~shall~~ approve or disapprove the application. The expenses of such examination and investigation shall be paid by the bank which shall deposit with the commissioner ~~therefor~~ the sum of ~~five-hundred-dollars-(\$500)~~ \$500 and such further sums as are required by the commissioner. Any members of the board who make such an examination or investigation shall be paid the sum of ~~thirty-five-dollars-(\$35)~~ \$35 per diem for the time they actually are engaged in performing their duties as members of such board, and in addition thereto shall be paid all their actual and necessary expenses incurred in the performance of such duties from such funds. The commissioner shall remit all amounts

Attachment II

received under this section to the state treasurer who shall deposit the same to a separate special account in the state treasury for each application. The moneys in each such account shall be used only to pay the expenses of the examination and investigation to which it relates, and any unused portion of such deposit shall be refunded to the bank.

Sec. 2. K.S.A. 9-1804 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.