

MINUTES OF THE House COMMITTEE ON Commercial & Financial Institutions

The meeting was called to order by Representative Harold P Dyck at
Chairperson

3:30 ~~xxx~~/p.m. on February 12, 1985 in room 527-S of the Capitol.

All members were present except: Representatives Herman Dillon, Mary Jane Johnson,
David Louis, and Ivan Sand, each excused.

Committee staff present: Bill Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Myrta Anderson, Legislative Research Department
Virginia Conard, Secretary.

Conferees appearing before the committee:

Julie Young, General Counsel for the Bank Commissioner
Jim Maag, Director of Research, Kansas Bankers Association

Chairman Dyck called the meeting to order and stated that the committee has a request from the Bank Commissioner to have another bill introduced.

Miss Young, General Counsel for the Bank Commissioner, presented the requested bill, which would amend K.S.A. 9-1703. (See Attachment I for details.)

Rep. David Miller moved that the requested amendment to K.S.A. 9-1703 be introduced as a committee bill. Rep. Dorothy Nichols seconded the motion. Motion carried.

Chairman Dyck then called on the first conferee, Jim Maag, Director of Research, Kansas Bankers Association, who testified for HB2138. (See Attachment II). He urged the committee to take favorable action on this bill.

Miss Young stated that HB2138 would give coverage for those depositors with, for example, a \$100,000 certificate of deposit whose interest on that CD had brought the deposit above the FDIC insured level.

Charles Henson, general counsel for KBA, in response to questions from committee members stated that the FDIC follows state law in priority of distribution of assets of insolvent banks. He stated that "other applicable law" applies only to payments within a category. He said that if assets are insufficient to pay everyone in a particular category, they would be paid pro rata unless there was an applicable law to the contrary.

There being no further conferees for HB2138, the chairman called on Miss Young who testified for HB2139. This bill contains amendments to four sections of banking statutes K.S.A. 9-801, 9-1112, 9-1303 and K.S.A. 1984 Supp. 9-1101. (See Attachment III.)

Miss Young stated that she would like to propose an amendment to Section 7 of the HB2139. Said amendment would delete the phrase "and surplus" on lines 0125 and 0131 and insert in place of "and surplus" the following: "paid in and unimpaired and the unimpaired surplus fund of such bank".

Rep. Miller moved that the proposed amendment be added to HB2139. Rep. Judy Runnels seconded. Motion carried.

Rep. Runnels moved that the committee recommend HB2139 favorably as amended. Rep. Susan Roenbaugh seconded. Motion carried.

Rep. Dorothy Nichols moved that the committee recommend HB2138 favorably. Rep. J.C. Long seconded. Motion carried.

Rep. Long moved that the minutes of the January 29, 1985 meeting be approved. Rep. seconded. Motion carried.

Chairman Dyck announced that there would be no meeting on Feb. 14. Meeting adjourned at 4:20 pm.

703. Examination-fees, banks-and-trust-companies, trust-departments, fees-for-partial-examinations, disposition-of-moneys received, bank-commissioner-fee-fund.--Each-bank-or-trust-company-so-examined-by-the-commissioner, the-commissioner's assistant-or-examiners-shall-pay-therefor-to-the-commissioner-a-fee-for-each-examination-as-shall-be-set-by-schedule-established-by-the-commissioner, with-the-approval-of-the-board, which-for-no-such-examination-shall-exceed-.025% of the-resources-of-such-bank-or-trust-company, but-in-no-event-in-an-amount-less-than-\$400.--Whenever-the-commissioner-accepts-a-report-of-any-examination, made-by-the-federal-reserve-bank-or-the-federal-deposit-insurance-corporation-or-its-successor, in-lieu-of-making-such-a-direct-examination, then-the-commissioner-shall-collect-from-the-bank-or-trust-company-only-50% of-the-fee-prescribed-by-law-for-such-direct-examination-as-made-by-the-commissioner.--In-addition-to-the-above-fee, each-bank-having-a-trust-department-shall-pay-for-each-examination-a-fee-as-set-by-a-schedule-established-by-the-commissioner, with-the-approval-of-the-board.--The-trust-department-examination-shall-be-made-at-least-every-18-months.--The-commissioner, with-the-approval-of-the-board, may-establish-a-schedule-of-fees-to-be-paid-by-a-bank-or-trust-company-for-partial-examinations-by-the-commissioner, the-commissioner's-assistant-or-examiners, not-requiring-full-examination-and-inquiry-into-its-condition.

The expense of every regular examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, shall be paid by the banks and trust companies of the state, and for this purpose the commissioner shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the department during such fiscal year. From this total amount the commissioner shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank or trust company assessments. The commissioner shall allocate and assess the remainder to the several banks and trust companies in the state on the basis of their total assets, as reflected in the last preceding report called for by the commissioner under the provisions of section 9-1704; however, the

Annual assessment will not be less than \$1,000.00 for any bank or trust company.

A statement of such assessment shall be sent by the commissioner to each bank and trust company on or before July first. One-half the amount so assessed to each bank or trust company shall be paid by it to the bank commissioner on or before July fifteenth and the remainder shall be paid on or before January fifteenth of the next year. Any expenses incurred or services performed on account of any bank, trust company or other corporation subject to the provisions of this chapter, outside of the normal expense of any annual examination, shall be charged to and paid by the corporation for whom they were incurred or performed. The commissioner may impose a penalty upon any bank or trust company which fails to pay its annual assessment. Such penalty shall be assessed in the amount of fifty dollars (\$50) for each day the assessment is not paid. The counting period for such penalty will begin February 1 or August 1.

The bank commissioner shall remit all moneys received by or for such commissioner from such fees to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the treasury. Twenty percent of each 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.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 12, 1985

TO: House Committee on Commercial and Financial Institutions

FROM: James S. Maag
Kansas Bankers Association

RE: HB 2138

Mr. Chairman and members of the Committee:

Thank you for this opportunity to appear on HB 2138. This bill was recommended by the State Affairs Committee of the Kansas Bankers Association and amends the State Banking Code to clarify how the assets of an insolvent bank or trust company would be distributed. Current Kansas law does not designate that the individual depositor would have any prior position over any other creditors or depositors of an insolvent bank or trust company. This bill simply sets forth by category which creditors and depositors shall have priority in the distribution of the assets. First priority would go the costs and expenses of the receivership while second priority would be claims which are secured by assets of the banks such as local and state public funds or claims which have been given priority by other statutes such as certain provisions of the wage and hour laws. The claims of all unsecured depositors would then be placed above all remaining claims as well as claims on capital notes and debentures.

The bill further provides that if there are insufficient assets for the claims within a given category to be paid, such claims shall be paid in the order provided by other existing law or shall be paid pro rata.

The legislature and the banking industry cannot ignore the fact that the present condition of the agricultural economy in our state has placed pressures on all lending institutions including banks. We believe that it is incumbent on the legislature and the banking industry to assure depositors in Kansas banks that the deposits are secure, but that in the event that a failing bank would be declared insolvent and subsequently closed, this bill would assume that the assets of the bank would be distributed in an orderly fashion which would give the average depositor priority over most other claims on the assets of the bank. Passage of this legislation would bring Kansas banking statutes into line with those which surrounding states have passed concerning this key aspect of banking law.

We appreciate very much the opportunity to appear on this very important issue and we strongly urge the committee to take favorable action on HB 2138.

2/12/85

TESTIMONY OF: JULIA L. YOUNG, GENERAL COUNSEL
KANSAS BANKING DEPARTMENT

PRESENTED TO: THE HOUSE COMMITTEE ON
COMMERCIAL AND FINANCIAL INSTITUTIONS

DATE: FEBRUARY 12, 1985

HB 2139 contains amendments to four sections of the banking statutes.

K.S.A. 9-801 contains the requirements for organizing a bank. Currently the law requires the signatures of five stockholders of the proposed bank on the Articles of Incorporation. The amendment will allow the Articles to be signed by five stockholders of the bank or the parent company of the bank. The change is needed primarily in de novo bank situations where, following a declaration of insolvency, a new bank is chartered on an emergency basis. Where a holding company will own the newly chartered bank, the holding company is generally already formed as a corporation, whereas the stockholders of the bank have generally not yet been determined.

K.S.A. 9-1112

Currently this statute prohibits a bank from making a loan on the security of the bank's own shares of stock. The amendment will add that the bank may also not make a loan on the security of the stock of the holding company or a subsidiary of that holding company.

K.S.A. 9-1303

Currently our department can exchange confidential reports of examination of a state bank or trust company with the Federal Deposit Insurance Corporation. In addition, we can provide confidential reports of examination to the Fed-

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eral Reserve as to those state banks which are members of the Federal Reserve. The amendment will allow the department to provide the Federal Reserve with reports of examination of those banks which are not members of the Federal Reserve System. Inasmuch as the Federal Reserve regulates and examines holding companies of both member and non-member banks, they occasionally request information regarding the examination of a non-member bank, while they are regulating that bank's holding company. The amendment will allow us to provide them with information from examination reports that would otherwise remain confidential.

K.S.A. 1984 Supp. 9-1101

This statute contains the general powers of state banks with regard to investment activity. The amendment deals with two sections of the statute, section 3 and section 7, and changes the bank's investment limits to conform to a bank's allowed lending limits, found in K.S.A. 1984 Supp. 9-1104.

Currently, a bank may invest in bonds, securities or other evidences of indebtedness under certain conditions and in other investment securities authorized by section 7. The limits of those investments are currently set at a percentage of capital and surplus. The amendment will set the limits in conformity with a bank's lending limit of a percentage of capital stock paid in and unimpaired and the unimpaired surplus fund of the bank.