

Approved March 4, 1986
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

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

3:30 ~~am~~/p.m. on February 27, 1986 in room 527-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Chairman Dyck opened the meeting and directed the committee's attention to proposed amendments to SB432 as ballooned in Attachment I.

Rep. Louis moved to delete subsection (b), lines 0048, 0049 and 0050. Rep. Nichols seconded the motion. Motion carried.

Rep. Miller moved that the existing sub-section (c) under New Sec. 2 (which becomes sub-section (b) as a result of the above motion) read as originally printed through the first two words of line 0057 and then put in language that says that if a bidding bank has not been found then go 100 miles from the county line of the home county of the insolvent bank. Rep. Francisco seconded.

Rep. Francisco made a substitute conceptual motion to Rep. Miller's motion to delete the 10 banks requirement in line 0055 and to amend the now (b) sub-section under the New Sec. 2 in line 0057 to read that "if an acceptable qualified bidder is not found in the home county, or in contiguous counties, or in contiguous to the contiguous counties, an acceptable qualified bidder then may be sought in a county within a 100-mile radius of the boundaries of the home county of the insolvent bank. Rep. Miller seconded the motion. Motion carried.

Rep. Nichols moved that the New Sec. 5 be amended to insert between the words "If" and "prior" the words "after January 1, 1983, and". Rep. Long seconded. Motion carried.

Rep. Louis moved for a technical amendment to line 0086 of SB432, changing the words "through (c)" to "and (b)". Rep. Nichols seconded. Motion carried.

Rep. Louis offered a conceptual motion to Section 5 to make it clear that any bank which meets the geographical qualifications contained in new Section 2(b) may establish a detached facility in a city which meets the qualifications established in new Section 2(a) and further that the bank establishing the detached facility would be bound by the provisions of new Section 3. Rep. Nichols seconded. Motion carried.

Rep. Miller offered a conceptual amendment that, in the appropriate places, the following two proposals be incorporated:

"Failing situation" means that a bank has been classified as a five-rated bank by either the federal deposit insurance corporation or the state bank commissioner and the federal deposit insurance corporation during an asset review at a visitation or through a regulatory examination.

"A bank which is determined to be in a failing situation may be acquired by purchase or merger by another bank and operated as a detached auxiliary banking facility as provided in K.S.A. 9-1111, and amendments thereto. The acquiring bank must comply with the requirements

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prescribed in subsections (a) to (c) of Section 2 and Section 3. Rep. Runnels seconded. Motion carried.

Rep. Miller moved to delete the current requirement that one of the "detached facilities" must be within 2600 feet of the home bank. Rep. Runnels seconded. Motion carried.

Rep. Miller offered a conceptual motion to amend SB432 and throughout K.S.A. 9-1111, and amendments thereto, by changing "detached auxiliary banking services facility" term to "branch bank". Rep. Francisco seconded. Motion carried.

Rep. Miller moved that SB432 as amended by the committee be reported favorably. Rep. Runnels seconded. Motion carried.

Rep. Nichols moved that the minutes of the February 25, 1986, meeting be approved. Rep. Johnson seconded. Motion carried.

SENATE BILL No. 432

By Senator Arasmith

1-13

0019 AN ACT relating to banks and banking; enacting the community
0020 resources security act; amending K.S.A. 1985 Supp. 9-1111
0021 and repealing the existing section.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 New Section 1. As used in this act:

0024 (a) "Bank" means any bank the deposits of which are insured
0025 by the federal deposit insurance corporation or its successor.

0026 (b) "Bidding bank" means a bank submitting bids to the
0027 receiver for the assets and liabilities of a failed bank. A bidding
0028 bank must be a bank domiciled in the state of Kansas and shall
0029 ~~not include a bank which is directly or indirectly owned or~~
0030 ~~controlled by a bank holding company, as defined in K.S.A. 1985~~
0031 ~~Supp. 9-519, and amendments thereto, which owns or controls~~
0032 ~~three or more banks domiciled in the state of Kansas.~~

0033 (c) "Home county" means the county in which the failed
0034 bank has its principal place of business located.

0035 (d) "Failed bank" means a bank declared insolvent and
0036 closed by the state bank commissioner, in the case of a bank
0037 organized under the laws of this state, or the comptroller of the
0038 currency, in the case of a national banking association.

0039 New Sec. 2. When a bank is declared failed *insolvent* but
0040 attempts by the receiver to find a purchaser for the assets and
0041 liabilities of the failed bank to be rechartered *as a new bank* are
0042 not successful, such assets and liabilities may be purchased *by a*
0043 *bidding bank* and operated as a detached auxiliary banking
0044 services facility as provided for in K.S.A. 9-1111, and amend-

0045 ments thereto, subject to the following requirements:

0046 (a) The failed bank is ~~the only bank~~ located in a town city or
0047 township;

which has only one other bank

0048 ~~(b) the failed bank is located in a town, which is either~~
0049 ~~incorporated or unincorporated, city having a population of less~~
0050 ~~than 750,000 persons based on the most recent federal census;~~
0051 and

(b)

0052 ~~(c) the bidding bank must come from the home county or an~~
0053 ~~immediate contiguous county to the home county of the failed~~
0054 ~~bank, except that if the home county and contiguous counties~~
0055 ~~together, do not have more than 10 banks, the bidding bank may~~
0056 ~~come from the counties contiguous to counties touching the~~
0057 ~~home county. If the boundary line of the home county of the~~
0058 ~~failed bank is located on the boundary line of the state of~~
0059 ~~Kansas, the bidding bank may come from the counties contigu-~~
0060 ~~ous to counties touching counties which are touching counties~~
0061 ~~touching the home county.~~

be located within a city in which any part of such city is within 100 miles or less of the failed bank

0062 New Sec. 3. The successful bidding bank shall operate the
0063 failed bank acquired under the provisions of section 2, as a
0064 detached auxiliary banking services facility for a period of at
0065 least five two years, before the bidding bank can sell or other-
0066 wise dispose of such detached auxiliary banking services facility,
0067 except that if the bidding bank sells or disposes a bidding bank
0068 may sell or dispose of the detached auxiliary banking services
0069 facility for the purpose of establishing a new bank charter at such
0070 location in such city or township.

0071 New Sec. 4. A failed bank acquired under the provisions of
0072 section 2 or a detached auxiliary banking services facility es-
0073 tablished under the provisions of section 5 shall not count against
0074 the bidding a bank's aggregate number of detached auxiliary
0075 banking services facilities under the provisions of K.S.A. 9-1111,
0076 and amendments thereto, but no bidding bank shall acquire and
0077 operate more than two detached auxiliary banking services fa-
0078 cilities, if such facilities are acquired under the provisions of this
0079 act.

after January 1, 1984, and

0080 New Sec. 5. If prior to the effective date of this act, a bank
has been declared insolvent and attempts to find a purchaser for

0082 *the assets and liabilities of such failed bank were not successful,*
0083 *a detached auxiliary banking services facility as provided in*
0084 *K.S.A. 9-1111, and amendments thereto, may be established in*
0085 *the city of the failed bank, if the requirements of subsections (a)*
0086 ~~*through (e)*~~ *of section 2 are satisfied. A bank establishing a*
0087 *detached auxiliary banking services facility under the provisions*
0088 *of this section shall comply with the provisions of section 3,*
0089 *New Sec. 5 6. The provisions of sections 1 through 4 5, shall*
0090 *expire on July 1, 1991.*

0091 *Sec. 6 7. K.S.A. 1985 Supp. 9-1111 is hereby amended to*
0092 *read as follows: 9-1111. The general business of every bank shall*
0093 *be transacted at the place of business specified in its certificate*
0094 *of authority, and it shall be unlawful for any bank to establish and*
0095 *operate any branch bank, branch office or agency or place of*
0096 *business except as hereinafter provided:*

0097 (a) *Any bank domiciled in this state may have an attached*
0098 *auxiliary teller facility located on the premises specified in its*
0099 *certificate of authority;*

0100 (b) *in addition to an attached auxiliary teller facility, any*
0101 *bank domiciled in this state may, subject to the requirements and*
0102 *limitations hereinafter prescribed, establish and maintain not*
0103 *more than three detached auxiliary banking services facilities,*
0104 *except that a bank may have up to two additional detached*
0105 *auxiliary banking services facilities established under the pro-*
0106 *visions of sections 1 through 5 6;*

0107 (c) *any bank electing to establish and maintain the maximum*
0108 *number of detached auxiliary banking services facilities permit-*
0109 *ted under the provisions of subsection (b) of this section, shall*
0110 *establish and maintain or continue to maintain at least one of*
0111 *such detached auxiliary services facilities at a location within*
0112 *2,600 feet of the premises specified as its principal place of*
0113 *business in its certificate of authority;*

0114 (d) *each bank establishing and maintaining detached auxil-*
0115 *iary banking services facilities may provide the following ser-*
0116 *vices at such facilities:*

0117 (1) *Such bank may provide auxiliary teller services, limited*
0118 *to rental of safe deposit boxes, receiving deposits of every kind*

and (b)

0119 and nature, cashing checks or orders to pay, issuing exchange,
0120 issuing and redeeming obligations of the treasury of the United
0121 States of America in denominations of \$1,000 or less, making all
0122 types of loans authorized to be made at the principal place of
0123 business of the bank subject to the same conditions and limita-
0124 tions and receiving payments payable at the bank, at any such
0125 detached facility located within 2,600 feet of the premises spec-
0126 ified as its principal place of business in its certificate of author-
0127 ity;

0128 (2) a state bank incorporated under the laws of this state may,
0129 with the approval of the state banking board, and a national
0130 banking association may, with the approval of the appropriate
0131 federal supervisory agency, granted upon the basis of findings by
0132 the state banking board or such federal agency that such service
0133 will serve the public convenience or need, provide auxiliary
0134 teller services, limited to rental of safe deposit boxes, receiving
0135 deposits of every kind and nature, cashing checks or orders to
0136 pay, issuing exchange, issuing and redeeming obligations of the
0137 treasury of the United States of America in denominations of
0138 \$1,000 or less, making all types of loans authorized to be made at
0139 the principal place of business of the bank subject to the same
0140 conditions and limitations and receiving payments payable at the
0141 bank, at detached services facilities located more than 2,600 feet
0142 from the premises specified as its principal place of business in
0143 its certificate of authority;

0144 (e) detached auxiliary banking services facilities established
0145 and maintained under the provisions of this *act section* shall be
0146 located:

0147 (1) Only within the corporate limits of the same city within
0148 which the premises specified by the bank as its place of business
0149 in its certificate of authority is located, if the same is located
0150 within an incorporated city;

0151 (2) only within the boundaries of the township in which the
0152 premises specified by the bank as its place of business in its
0153 certificate of authority is located, if such premises are located
0154 outside of the corporate limits of an incorporated city;

(3) more than 50 feet from any other nonparticipating bank or

0156 auxiliary banking services facility thereof;

0157 (4) more than 2,600 feet from the premises maintained as the
0158 principal place of business of any bank, the articles of incor-
0159 poration or charter of which was approved by the state board or
0160 federal agency less than five years prior to location of any such
0161 detached services facility, unless the state board in the case of a
0162 state bank or the appropriate federal supervisory agency in the
0163 case of a national banking association, shall specifically find and
0164 determine after careful examination and investigation that the
0165 location of such detached services facility within such restricted
0166 area will not have a materially adverse effect upon the capital
0167 structure, deposits and general financial position of such existing
0168 bank;

0169 (f) any state bank or national banking association having its
0170 principal office and main banking house in this state may pro-
0171 vide and engage in banking transactions by means of remote
0172 service units wherever located, which remote service units shall
0173 not be considered to be branch banks, branch offices or agencies
0174 or places of business or detached auxiliary services facilities
0175 authorized herein. Any banking transaction effected by use of a
0176 remote service unit shall be deemed to be transacted at a bank
0177 and not at a remote service unit;

0178 (g) as a condition to the operation and use of any remote
0179 service unit in this state, a state bank or national banking associ-
0180 ation, each hereinafter referred to as a bank, which desires to
0181 operate or enable its customers to utilize a remote service unit
0182 must agree that such remote service unit will be available for use
0183 by customers of any other bank or banks upon the request of such
0184 bank or banks to share its use and the agreement of such bank or
0185 banks to share all costs, including a reasonable return on capital
0186 expenditures incurred in connection with its development, in-
0187 stallation and operation. The owner of the remote service unit,
0188 whether a bank or any other person, shall make the remote
0189 service unit available for use by other banks and their customers
0190 on a nondiscriminatory basis, conditioned upon payment of a
0191 reasonable proportion of all costs, including a reasonable return
0192 on capital expenditures incurred in connection with the devel-

0193 opment, installation and operation of the remote service unit.
0194 Notwithstanding the foregoing provisions of this subsection, a
0195 remote service unit located on the property owned or leased by
0196 the bank where the principal place of business of a bank, or an
0197 attached auxiliary teller facility or detached auxiliary banking
0198 services facility of a bank, is located need not be made available
0199 for use by any other bank or banks or customers of any other bank
0200 or banks;

0201 (h) for purposes of this section, "remote service unit" means
0202 an electronic information processing device, including asso-
0203 ciated equipment, structures and systems, through or by means
0204 of which information relating to financial services rendered to
0205 the public is stored and transmitted, whether instantaneously or
0206 otherwise, to a bank and which, for activation and account
0207 access, is dependent upon the use of a machine-readable in-
0208 strument in the possession and control of the holder of an
0209 account with a bank. The term shall include "online" computer
0210 terminals and "offline" automated cash dispensing machines
0211 and automated teller machines, but shall not include computer
0212 terminals or automated teller machines or automated cash dis-
0213 pensing machines using systems in which account numbers are
0214 not machine read and verified. Withdrawals by means of "of-
0215 fline" systems shall not exceed \$300 per transaction and shall be
0216 restricted to individual not corporate or commercial accounts.

0217 Sec. 7 8. K.S.A. 1985 Supp. 9-1111 is hereby repealed.

0218 Sec. 8 9. This act shall take effect and be in force from and
0219 after its publication in the Kansas register.