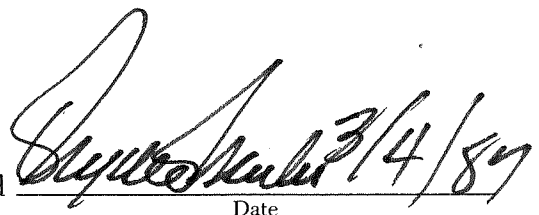


Approved


Date 3/4/87

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS.

The meeting was called to order by Clyde D. Graeber at
Chairperson

3:30 ~~am~~/p.m. on March 2, 1987 in room 527-S of the Capitol.

All members were present except: Bob Ott, Absent

Committee staff present: Bill Wolff, Research Department
Bruce Kinzie, Revisor of Statutes
June Evans, committee secretary

Conferees appearing before the committee: Rita M. D'Agostino, General Counsel,
Kansas Banking Department

Chairman Clyde Graeber opened the meeting.

Hearing on H. B. 2408. Rita M. D'Agostino, General Counsel, Kansas Banking Department, testified for H. B. 2408 and the amendment testifying this is a clean-up bill. Some of the sections are amended to better enable the Kansas Banking Department to carry out their regulatory functions. (Atch I)

It was moved by Representative Russell and seconded by Representative Wilbert to accept the amendments to H. B. 2408.

Representative Roenbaugh moved and Representative Francisco seconded that line 169 be changed from stockholder to stockholders.

Representative Shallenburger disagreed with director on page 13, line 0468 as it is difficult to attract and attain directors.

Rita M. D'Agostino testified this was only a good check and balance and thought it was needed.

Representative Shallenburger moved and Representative Francisco seconded that Section 7 be removed from the amendment. The motion to strike Section 7 carried unanimously.

After much discussion by the committee, Representative Gatlin moved to table action on H. B. 2408 until Bruce Kinzie and Rita D'Agostino could go over it and see if it needs to be more specific as to Section 1 - Time Deposits. Representative Wilbert seconded the motion. The motion carried.

House Bill 2408 was tabled until March 3, 1987 for further action.

The meeting was adjourned at 4:50 P.M.

The next meeting will be March 3, 1987.

HOUSE BILL NO. 2408

Testimony of: Rita M. D'Agostino, General Counsel
Kansas Banking Department

Presented to: The House Committee on Commercial and Financial Institutions

Date: March 2, 1987

House Bill No. 2408 amends several sections of the Kansas banking statutes. It is not the intention of this department to change any substantive or structural issues by the proposed bill. As a whole, we believe that this bill is merely "clean-up" to enable the department, examiners, bankers and the public, to better comprehend the law. In addition, there are some sections which are amended to better enable this department to carry out its regulatory function.

Section 1. K.S.A. 9-701

Section 1 amends K.S.A. 9-701 which provides the definitional section to the banking laws.

Currently, the definition of time deposit is outdated and inaccurate as a result of this year's change in the federal definitions. State banks, as well as all national banks, are required to adopt the Federal Reserve Board definitions of time and demand deposits. As such, the state definition of "time deposit" is inapplicable under the banking laws.

The federal law no longer makes a distinction between "time certificate deposit" and "time deposit, open account". Hence, there is no need for such definitions in the Kansas law. Again, such definitions are meaningless due to the federal change in these definitions and deregulation.

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This department requests K.S.A. 9-701 be amended so that the definition of time deposits can parallel the federal laws and regulations.

Section 2. K.S.A. 9-901a

Section 2 amends K.S.A. 9-901a which sets forth capital requirements for newly chartered banks in Kansas.

This department has had several questions regarding whether the requirements of subsection (c) apply to banks which are converting from a national to a state charter. In researching this issue, we are of the opinion that the word "organized" means organized as a corporation. As a result, a national bank already incorporated under the laws of the state of Kansas would not be required to maintain the greater minimum under subsection (c), but rather, more appropriately, a bank converting would be required to maintain the minimum capital pursuant to subsection (b).

For clarity sake, the department requests K.S.A. 9-901a(c) be amended by adding the words "as a corporation."

Section 3. K.S.A. 9-906

Section 3 amends K.S.A. 9-906 which sets forth the requirements imposed on a bank when its capital stock is impaired.

The phrase and word added are for clarity. The rewording of the statutes does not in any way change the meaning of the statute but allows it to be more readable.

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Section 4. K.S.A. 9-907

Section 4 amends K.S.A. 9-907 and accompanies K.S.A. 9-906. K.S.A. 9-907 sets forth the procedure with which a bank must comply if the stockholders do not meet the assessment pursuant to K.S.A. 9-906.

Again, the two phrases added are merely to clarify the time frames of the statute. The "120 day" addition refers back to the impairment notice of K.S.A. 9-906. The statute as it stands does not set out a time frame for when the directors must have a sale of the bank's stock if the stockholders do not meet the required assessment of K.S.A. 9-906. The "120 days" sets a maximum time frame by which a bank must act to sell its stock when the assessment is not met.

Secondly, the phrase "from the date of the public or private sale" is an amendment which would clarify what is already implied in the statute: the "6 months" requirement is 6 months from the date of the sale of the stock.

Section 5 and Section 6. K.S.A. 9-1101(6); K.S.A. 9-1102

Sections 5 and 6 would repeal K.S.A. 9-1101(6) and most of K.S.A. 9-1102 and replace with new language. Both of these sections contain restrictions on a bank's ownership of real estate and certain personal property. In addition, the amendment would strike "KBA Mortgage Corporation" from new subsection 14 of K.S.A. 9-1102.

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Presently, K.S.A. 9-1101(6) and 9-1102 deal with the same general topics. The problem is that portions of the two sections conflict. In addition, it would be beneficial to combine the sections so as to place the same topic under one statute instead of two. Again, the amendment does not change any substantive portions of either statute. The two statutes are merely combined and reworded so as to be more readable.

Under the proposed amendment, subsection (a) of Section 6, a state bank may own buildings, furniture, fixtures, stock in a non-depository trust company, stock in a safety deposit company and stock in a bank service corporation which owns the bank property. Such ownership is subject to certain limitations including the limitation that such ownership or investments may not exceed 1/2 of the bank's capital stock, surplus and capital notes and debentures.

Subsection (b) of Section 6 remains unchanged.

Section 7. K.S.A. 9-1112

Section 7 amends K.S.A. 9-1112 which prohibits a bank from engaging in non-banking business. In addition, this statute prohibits a bank from purchasing or selling any bank asset to an employee or officer of the bank without commissioner approval. The amendment proposes to add sale of property to "directors" as a prohibited transaction needing commissioner approval.

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The purpose of this statute is to maintain a check on any insider abuse of those involved in the bank. As to the proposed amendment, this department believes that sale to or purchase of property from bank directors should also logically be included in this statute. Transactions involving directors should be checked in the same manner as employees since the directors can be intimately involved with the bank operations as well. Furthermore, an argument could be made that sale of assets to directors should be even more closely scrutinized, perhaps, since it is the directorate which makes approval of such sales, subject to commissioner's final approval.

Section 8. K.S.A. 9-1303

Section 8 amends K.S.A. 9-1303 which generally governs the exchange of examination reports between the state and other regulatory agencies.

The portion of the statute to be stricken again is merely for clean-up. Two years ago the department's fee structure for bank examinations was revised. Since the department no longer operates on a percentage fee basis this portion of K.S.A. 9-1303 is no longer necessary or applicable.

The other proposed, amended portion of this statute allows for the commissioner to share reports with additional agencies. Presently, the commissioner may share reports with the FDIC and the Federal Reserve Board. This amendment would also allow the commissioner to share reports with the comptroller's office, the federal home loan banks, the Kansas savings and loan department, and other state banking and savings and loan departments.

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The department requests this change due to the increasing need for exchange of information with other regulators. As the financial industry becomes more complex and expansive, the need for shared information regarding bankers and shareholders becomes more vital and necessary.

For example, this department must often look to other regulators for background information on individuals making application to become a majority shareholder or chief executive officer of a Kansas bank. A good source for determining the character, background and/or the financial stability of an applicant is his or her history with other financial institutions in other states. The sharing of such information between regulators greatly aids in evaluating such applicant's general qualifications.

Section 9. K.S.A. 9-1712

Section 9 amends K.S.A. 9-1712 which governs the confidentiality of bank records.

The amendment would provide that any original bank record generated by this department not be removed from the office. This would prevent the department from being required to move original documents pursuant to a subpoena. It would allow, not prevent, access to bank records at the office of the department only.

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Section 10. K.S.A. 9-1719

Section 10 amends K.S.A. 9-1719 which governs change of control application requirements for state banks.

At this time, trust companies which wish to change ownership are not required to submit any application to the commissioner, and as such, no commissioner approval is required. The proposed amendment would require that trust companies which wish to change ownership submit an application just as state banks are required to do so pursuant to K.S.A. 9-1719 et seq.

Section 11. K.S.A. 9-1724

Section 11 amends K.S.A. 9-1724 which requires state banks to submit an application prior to a merger or consolidation or transfer of assets.

The added subsection (b) would require a trust company proposing to merge or consolidate or transfer assets to another corporation or trust company to submit an application to the commissioner for his approval just as banks presently must do so under K.S.A. 9-1724.

Section 12. K.S.A. 9-2014

Section 12 amends K.S.A. 9-2014 which requires the commissioner to inform the county attorney ^{or district attorney} of the violation of certain banking laws.

The amendment adds the requirement that commissioner notify the county or district attorney of the violation. This amendment merely clarifies the fact that there may be either a county or district attorney wherein that bank is located.

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In addition, the amendment adds "directors" to the list of violators which must be reported to the county or district attorney. The department believes that "directors" was inadvertently left out of the statute since the statutes mandating what is or is not a crime includes directors as well as officers and employees.

Section 15. K.S.A. 17-2008

Section 15 amends K.S.A. 17-2008 which governs the minimum shareholder requirements of a director of a trust company.

Presently, to qualify as a board member of a trust company an individual must own at least \$1,000 worth of trust company stock.

This amendment changes the stock requirement of a trust company director to that required of a bank director: \$500 worth of bank stock or parent company stock. Thus, as a result of this amendment an individual who owns \$500 worth of stock in the parent company of a bank would qualify as a board member of both the bank's board and the affiliate trust company's board. In addition, this amendment also would require identical stock ownership amount requirements so that the amount of qualifying shares for a bank director is the same as that for a trust company director.

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Section 18. K.S.A. 75-3135

Section 18 amends K.S.A. 75-3135 which allows the commissioner to appoint special assistants or other employees, as necessary.

The proposed amendment permits commissioner to actually contract out and pay for the services provided by special assistants or other employees appointed. Although the right to "contract out" for such services is implied in the statute the actual wording added provides the department with the clear authority to contract out and expend monies for such services.

Sections 13, 14, 16, 17, 19, 20, 21, 22, 23, 24
25, 26, 27, 28, 29, 30, and 31

Sections 13, 14, 16, 17, and 19 through 31 all are amended as a result of the change in the definition of "time certificates of deposits" and "time demand, open accounts" in section 1, K.S.A. 9-701.

The proposed amendments to this House Bill No. 2408 will eliminate the need to amend any of these sections.