

Approved  February 2, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

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

3:30 ~~xxx~~ p.m. on January 28, 1988 in room 527-S of the Capitol.

All members were present except: Lawrence Wilbert, Excused; Norman Justice, Excused; J. C. Long, Excused; L. V. Roper, Excused; and Herman Dillon, Excused. Mary Jane Johnson, Absent.

Committee staff present: Bill Wolff, Research Department
Myrta Anderson, Research Department
Bruce Kinzie, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Jerel Wright, Kansas Credit Union League
James S. Maag, Kansas Bankers Association
W. Newton Male, Kansas Banking Commissioner
Michael D. Heitman, Deputy Banking Commissioner

Chairman Clyde D. Graeber brought the meeting to order and introduced Jerel Wright, Kansas Credit Union League.

Jerel Wright, Kansas Credit Union League, was the first to testify, asking for consideration of introduction of a bill which amends K.S.A. 17-2214 (Attachment #1). This is an Act relating to credit unions; concerning powers of central credit unions.

The legislation is to amend Section 1 (a) of 17-2214 by deleting "located in the state of Kansas and under supervision of the administrator, in which all credit unions in Kansas are eligible for membership."

They are also requesting that section (b) be added which reads: "A central credit union may, subject to written policies adopted by its board of directors and approved by the Administrator, make loans, to: receive payments on shares, share certificates, or investments in any other account of the central credit union from; or invest its funds in the shares, stock or obligations of; organizations established to provide operational and financial services associated with the routine operations of credit unions. Provided, however, that any investments in the capital stock of or loans to such organizations shall not exceed, in the aggregate, two percent (2%) of such credit union's shares and unimpaired capital". Section 2 is repealed and Section 3 shall read, "This act shall take effect and be in force from and after its publication in the Kansas Register."

After discussion it was moved by Representative Sand and seconded by Representative Shallenberger that the requested bill amending K.S.A. 17-2214 be introduced as a committee bill. The motion carried.

W. Newton Male, Kansas Banking Commissioner, introduced Michael D. Heitman, Deputy Banking Commissioner, who stated that some of the banking laws in regard Trust Departments and Trust Institutions are quite antiquated and it is felt an interim study should be considered to see what changes should be made in the banking laws (See Attachment #2).

K.S.A. 17-2004 needs to be revised since trust institutions are on the increase.

The State Banking Board unanimously agreed to ask for help in K.S.A. 17-2021 changing the amounts of common capital stock of any new trust company hereinafter organized. The Banking Commission is asking review of these laws.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS
room 527-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on January 28, 1988

After discussion Representative Ott moved and Representative Sand seconded that the requested bill amending K.S.A. 17-2021 be introduced as a committee bill. The motion carried.

James S. Maag, Kansas Bankers Association, was the next conferee, testifying that H.B. 2142 granted a broad spectrum to banks the services they could offer. It is felt the committee needs to look at a narrower bill than HB 2142. This is a modification; as it is easier to start over rather than amend (See Attachment 3).

Subject to such rules and regulations as are adopted by the state bank commissioner pursuant to K.S.A. 1987 Supp. 9-1713, the amendments thereto, to promote safe and sound banking practices, a bank may purchase, hold encumber and convey interest in unimproved or improved real estate, and may construct, alter and manage improvements of any description on real estate in which it holds a substantial equity interest. The amount of a bank's total investment or ownership at all times in any one tract of real estate shall not exceed 15% of the bank's unimpaired capital stock, surplus and undivided profits. The powers granted in this section do not include, and a bank may not (a) manage any real estate in which the bank does not own a substantial interest, (b) engage in activities of selling, leasing or otherwise dealing in real estate as an agent or broker, or (c) acquire any interest in agricultural land as defined in K.S.A. 1987 Supp. 17-5903, and amendments thereto, except in satisfaction of debts due it and as provided in subsection (b).

Section 2. K.S.A. 1987 Supp. 9-1101 is amended as follows:

(22) Subject to the prior approval of the state bank commissioner and the state banking board and subject to such rules and regulations as are adopted by the state bank commissioner pursuant to K.S.A. 1987 Supp. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish or acquire a subsidiary which engages in securities activities and any aspect of the securities business, including, but without limitation because of enumeration, (a) issuing, underwriting, selling or distributing stocks, bonds, debentures, notes, interests in any type of mutual funds, and other securities, (b) organizing, sponsoring and operating mutual funds, (c) acting as a securities broker-dealer, and (d) acting as an investment advisor to any investment company.

The two items this covers is the ability to invest in real estate and a broad range of securities services. There are no brokerage powers.

Representative Shallenberger moved and Representative Sand seconded the requested bill amending K.S.A. 1987 9-2201, Supp. 9-1713, Supp. 9-1101 and 9-1112 be introduced as a committee bill. The motion carried.

Representative Hamm moved and Representative Shallenberger seconded that the minutes of the January 19 meeting be approved. The motion carried.

The meeting adjourned at 4:15 P.M.

BILL NO. _____

AN ACT relating to credit unions; concerning powers of central credit unions; amending K.S.A. 17-2214 and repealing the existing section.

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

Section 1: K.S.A. 17-2214 is hereby amended to read as follows: 17-2214. (a) A central credit union ~~located in the state of Kansas and under supervision of the administrator, in which all credit unions in Kansas are eligible for membership,~~ may lend to each member no more than twenty-five percent (25%) of its assets: Provided, Other credit unions, operating under the provisions of this act, may lend to each other only with the approval of the administrator, up to twenty-five percent (25%) of the shares, undivided earnings and reserves of the lending credit union.

(b) A central credit union may, subject to written policies adopted by its board of directors and approved by the Administrator, make loans to; receive payments on shares, share certificates, or investments in any other account of the central credit union from; or invest its funds in the shares, stock or obligations of; organizations established to provide operational and financial services associated with the routine operations of credit unions. Provided however, that any investments in the capital stock of or loans to such organizations shall not exceed, in the aggregate, two percent (2%) of such credit union's shares and unimpaired capital.

Section 2. K.S.A. 17-2214 is hereby repealed.

Section 3. This act shall take effect and be in force from and after its publication in the Kansas Register.

Atch 1

9-903
-904
-905

17-2004. Capital stock; transfer; increase or decrease. The capital stock of any such trust company shall not be less than one hundred thousand dollars nor more than one million dollars, and shall be divided into shares of one hundred dollars each. Twenty percent of the capital shall be paid in before such company shall commence business, and the remainder may be paid in such amounts and at such times as the board of directors may direct: *Provided*, That the entire authorized capital shall be fully paid within six months from the date such corporation shall commence business. The shares of stock of trust companies shall be deemed personal property, and shall be transferred on the books of the company in such manner as the bylaws may provide; but no transfer of stock shall be valid against the company so long as the registered holder thereof is indebted to the company in any manner, either as principal or surety, and no stock shall be transferred upon the books of the company while the registered holder is indebted to it, except by order of the board of directors.

The capital stock may be increased at any time to any amount not exceeding one million dollars, or may be reduced at any time to any amount not less than one hundred thousand dollars, by a resolution adopted by the stockholders at any regular meeting or at a special meeting called for that purpose in the manner provided in the bylaws of the company: *Provided*, That stockholders representing two-thirds of the entire capital of the company shall vote for such resolution. Such increase or reduction of capital shall be certified to the secretary of state and to the bank commissioner; and where the capital is increased, the names and addresses of the persons subscribing for such increase, together with the amount subscribed by each, shall be included in such certificate. Such increased capital may be paid in the same manner as the original capital. (R.S. 1923.)

9-901a

17-2021. Organization of new companies; common capital stock, surplus and undivided profits; transfer of place of business. The common capital stock of any new trust company hereinafter organized shall be:

- (1) One hundred thousand dollars (\$100,000) in unincorporated towns and cities having a population of three thousand (3,000) persons or less;
- (2) one hundred twenty-five thousand dollars (\$125,000) in cities having a population of more than three thousand (3,000) and not more than ten thousand (10,000) persons;
- (3) one hundred seventy-five thousand dollars (\$175,000) in cities having a

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population of more than ten thousand (10,000) and not more than fifty thousand (50,000) persons;

- (4) two hundred fifty thousand dollars (\$250,000) in cities having more than fifty thousand (50,000) persons; all as ascertained by the latest state or federal census.

In addition to the aforesaid common capital stock each new trust company shall have a paid-in surplus of twenty percent (20%) of its common capital stock, and also a paid-in undivided profit of five percent (5%) of its common capital stock. No trust company hereafter shall reduce voluntarily its common capital stock, surplus and undivided profits below the amount required by this section. Any trust company which transfers its place of business from one city to another shall comply with the provisions of this section. (L. 1957, ch. 151.)

Attach 2

Article 9.—CODE; CAPITAL STOCK AND STRUCTURE

9-901. Repealed.

17-2021 9-901a. Amount of capital. (a) For purposes of this section, the capital of a bank shall be the total of the aggregate par value of its outstanding shares of capital stock, its surplus and its undivided profits.

(b) The minimum capital of a bank in existence on July 1, 1975, shall be \$250,000 or such lesser amount as such bank had on July 1, 1975. With respect to a bank in existence on July 1, 1975, which thereafter transfers its place of business from one city to another, the minimum capital shall be the amount required by subsection (c) of this section.

(c) The minimum capital of a bank organized after July 1, 1975, or which thereafter transfers its place of business from one city to another, shall be at least \$250,000 or at least an amount equal to 8% of its estimated deposits five years after its organization or transfer of place of business, whichever is greater, of which 60% shall be the aggregate par value of its outstanding shares of capital stock, 30% its surplus and 10% its undivided profits. The state Banking Board may require that the bank have capital in excess of the amounts specified in this subsection if the board determines that the amount and character of the anticipated business of the bank and the safety of its depositors so require.

(d) The minimum capital of a bank organized pursuant to subsection (b) of K.S.A. 9-1801, and amendments thereto, shall be determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or its successor.

(e) Except as may be provided elsewhere in this act, no bank shall reduce voluntarily its capital stock or surplus below the amounts required by this section. (L. 1986, ch. 55.)

9-902. Par value of stock. The common and preferred stock of any bank hereafter created shall be divided into shares of five dollars (\$5) each, or a multiple thereof, and all subscriptions thereto shall be paid in cash and any bank heretofore organized may change the par value of its shares to conform herewith. When any bank shall reduce its common capital stock and issue preferred stock in lieu of such reduction, it may reduce the par value of the common stock in the proportion that the total amount of capital stock is reduced, but when the preferred stock is retired the par value of the common shares shall be restored. (L. 1969, ch. 60.)

17-2004 9-903. Transfer of stock; report to commissioner. The shares of stock of any bank shall be deemed personal property, and shall be transferred on the books of the bank in such manner as the bylaws thereof may direct; but no transfer of stock shall be valid against the issuing bank so long as the registered owner thereof shall be liable as principal debtor, surety or otherwise to the bank for any debt, nor shall any dividend, interest or profit be paid on such stock so long as the registered owner

thereof is indebted to the bank on a matured obligation, but all such dividends or profits shall be retained by the bank and applied to the discharge of such matured obligations; and no stock shall be transferred on the books of any bank when the bank is in a failing condition, or when its capital stock is impaired, except upon approval of the commissioner. Whenever a transfer of shares of stock of any bank occurs which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of ten percent (10%) or more of the outstanding stock of the bank, and whenever additional shares of stock of the bank are transferred to such stockholder or affiliated group of stockholders, the president or other chief executive officer of the bank shall report such transfer to the commissioner within ten (10) days after transfer of the shares of stock on the books of the bank. (L. 1975, ch. 44.)

17-2004 9-904. **Reduction of capital stock.** The capital stock of any bank may be reduced to the minimum provided by law for a new bank by resolution adopted by the stockholders representing two-thirds of the voting stock of such bank: *Provided*, That no such reduction shall become effective until the board approves the same. After the board has approved such reduction a certificate signed by the president and cashier of the bank setting forth the result of such reduction of its capital stock, and the names of its stockholders and amount of stock held by each, shall be filed with the secretary of state, and a duplicate thereof shall be filed with the commissioner. Whenever the capital stock of any bank shall be reduced as herein provided, every stockholder, owner or holder of any stock certificate shall surrender the same for cancellation, and shall be entitled to receive a new certificate for his or her proportion of the new stock, and no dividends shall be paid to any such stockholder until he or she first surrenders the old certificate. (L. 1947, ch. 102.)

17-2004 9-905. **Increase of capital stock.** The capital stock of any bank may be increased. The president and cashier shall forward a verified statement to the commissioner showing the amount of the increase, the names and addresses of the subscribers, the amount subscribed by each and that the same has been paid in full to the bank. The date and amount of such increase also shall be certified to the secretary of state. (L. 1947, ch. 102.)

9-906. **Restoration of impaired capital.** Whenever it shall appear that the capital stock of any bank or trust company is impaired, the commissioner shall notify such bank or trust company to restore the capital stock within ninety days. Within fifteen days after the receipt of such notice, it shall be the duty of the board of directors of such bank or trust company to levy an assessment on the common stock sufficient to restore the capital: *Provided*, That such bank or trust company with the approval of the Board may reduce its capital stock to the extent of the impairment, if such reduction will not reduce the capital stock below the amount required by this act. (L. 1947, ch. 102.)

Section 1. K.S.A. 1987 Supp. 9-1102 is hereby amended to read as follows: 9-1102. (a) Any bank may own, purchase, improve, manage, lease, hold, encumber or convey real property and certain personal property subject to the following:

(1) Own suitable building, furniture and fixtures, ...

(2) Subject to such rules and regulations as are adopted by the state bank commissioner pursuant to K.S.A. 1987 Supp. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may purchase, hold, encumber and convey real estate or lease as lessor or lessee any building or buildings. Any real estate not necessary for the bank's accommodation in the transaction of its business shall be disposed of by the bank not later than seven years after its acquisition unless the state bank commissioner authorizes the bank to retain such real estate for a period not to exceed an additional two years interest in unimproved or improved real estate, and may construct, alter and manage improvements of any description on real estate in which it holds a substantial equity interest. The amount of a bank's total investment or ownership at all times in any one tract of real estate shall not exceed 15% of the bank's unimpaired capital stock, surplus and undivided profits. The powers granted in this section do not include, and a bank may not (a) manage any real estate in which the bank does not own a substantial interest, (b) engage in activities of selling, leasing or otherwise dealing in real estate as an agent or broker, or (c) acquire any interest in agricultural land as defined in K.S.A. 1987 Supp. 17-5903, and amendments thereto, except in satisfaction of debts due it and as provided in subsection (b).

(3) a bank's total investment or ownership at all times in any one or more of the following shall not exceed 1/2 of its unimpaired capital stock, surplus, undivided profits and capital notes and debentures, and any such excess shall be removed from the bank's books unless approval is granted by the state bank commissioner:

(A) The book value of real estate plus all encumbrances thereon;

(B) the book value of furniture and fixtures;

(C) the book value of stock in a safe deposit company;

(D) the book value of stock in a trust company; or

(E) the book value of stock in a corporation organized under the laws of this state owning real estate occupied by the bank and advances to such corporation acquired or made after July 1, 1973. ~~Except that any real estate not necessary for the accommodation of the bank's business shall be disposed of according to paragraph (2).~~

(b) Any bank may acquire real estate in satisfaction of any debts due it and may purchase real estate in satisfaction of any debts due it, and may purchase real estate at judicial sales, but no bank shall bid at any judicial sale a larger amount than is necessary to protect its debts and costs. No real estate, except for agricultural land, as defined in K.S.A. 1987 Supp. 17-5903, and amendments thereto, acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank for more than five years. At the termination of the five years such real estate shall be charged off. No agricultural land, as defined in K.S.A. 1987 Supp. 17-5903, and amendments thereto, acquired in satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank for more than 10 years. At the termination of the 10 years such agricultural land shall be charged off. The commissioner may grant an extension for an additional four years, or any portion thereof, if in the commissioner's judgment it will be to the advantage of the bank to carry the real estate or agricultural land as an asset for such extended period.

Sec. 2. K.S.A. 1987 Supp. 9-1101 is hereby amended to read as follows: 9-1101. Any bank hereby is authorized ...

(22) Subject to the prior approval of the state bank commissioner and the state banking board and subject to such rules and regulations as are adopted by the state bank commissioner pursuant to K.S.A. 1987 Supp. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish or acquire a subsidiary which engages in securities activities and any aspect of the securities business, including, but without limitation because of enumeration, (a) issuing, underwriting, selling or distributing stocks, bonds, debentures, notes, interests in any type of mutual funds, and other securities, (b) organizing, sponsoring and operating mutual funds, (c) acting as a securities broker-dealer, and (d) acting as an investment advisor to any investment company.

Sec. 3. K.S.A. 1987 Supp. 9-1112 is hereby amended to read as follows: 9-1112. Except as specifically authorized, no bank shall use its moneys, directly or indirectly by buying and selling tangible property as a business. No bank shall invest any of its funds in the stock of any other bank or corporation, except as provided in this act. ...

Sec. 4. K.S.A. 1987 Supp. 9-1101, 9-1102, and 9-1112 are hereby repealed.

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