

Approved

Clyde D. Graeber, 17-90
Date

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions.

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

3:30 ~~am~~/p.m. on January 11, 1990 in room 527-S of the Capitol.

All members were present except: Mary Jane Johnson and George Teagarden, Excused.

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

Conferees appearing before the committee:

James S. Maag, Kansas Bankers Association
James Turner, President, Kansas League of
Savings Institutions

The meeting was called to order by the Chairman, and he welcomed the Committee back. Representative Robert Watson, who replaced Representative Norman Justice, was introduced and welcomed to the Committee.

The Chairman further stated this meeting was called to consider the introduction of two pieces of legislation which were requested to be introduced as Committee Bills.

The first conferee, Jim Maag, representing the Kansas Bankers Association, requested that a statewide bank branching bill be introduced which would amend Section 1., K.S.A. 1989 Supp 9-111 to read as follows: The general business of every bank shall be transacted at the place of business specified in its certificate of authority, and at one or more branch banks established and operated as provided in this section.

Federal regulations and court opinions supporting rulings of the Comptroller of the Currency have granted branching powers to national banks and this bill would grant statewide branching to state chartered banks. Currently, state chartered banks are restricted to branching within the communities where they are chartered. (See Attachment #1).

After discussion by the Committee, Representative Shallenburger moved and Representative Schauf seconded that an amendment be added to the bill which states the name selected for the proposed branch bank shall not be the name of any bank or branch bank doing business in the same city or town nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed bank does not contain the name of the applicant bank, the branch bank shall provide in the lobby of such branch bank, a public notice that it is a branch bank of the applicant bank. (See Attachment #2).

The Chairman stated, this is a very important bill and would not want anything added that would hamper its passage.

Mr. Maag stated, since this is already being allowed, he saw no reason it would harm the passage of the bill.

After discussion the Committee approved the amendment by Representative Shallenburger and the motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Commercial and Financial Institutions,
room 527-S, Statehouse, at 3:30 ~~am~~/p.m. on January 11, 19

Representative Shallenburger moved and Representative Long seconded to introduce this legislation, including the amendment as a Committee Bill and the motion carried.

The next conferee was Jim Turner, President, Kansas-Nebraska League of Savings Institutions, requesting a bill be introduced as a Committee Bill. He stated this would be a conformity bill. The 1989 Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) passed by Congress in August, 1989, authorized commercial demand deposits accounts for federally-chartered savings and loan associations. This bill would equalize powers between federal and state-chartered savings and loan associations to offer non-interest bearing commercial demand deposit accounts.

This proposal concerns savings and loan associations; capital, deposit accounts, shares, obligations; negotiable order of withdrawal accounts; demand accounts; amending K.S.A. 17-5401 and repealing the existing section as shown. (See Attachment No. 3).

After discussion, Representative Wilbert moved and Representative Cates seconded the introduction of this legislation as a Committee Bill. The motion carried.

The Chairman stated the next meeting would be Tuesday, January 16. The meeting adjourned at 4:00 P.M.

Section 1. K.S.A. 1989 Supp. 9-1111 is hereby amended to read as follows: 9-1111. The general business of every bank shall be transacted at the place of business specified in its certificate of authority, and at one or more branch banks established and operated as provided in this section. ~~and it~~ It shall be unlawful for any bank to establish and operate any branch bank except as hereinafter provided+.

(a) For the purposes of this section, the term "branch bank" shall mean any office, agency, or other place of business located within this state, other than the place of business specified in the bank's certificate of authority, at which deposits are received, or checks paid, or money lent.

(b) After first applying for and obtaining the approval of the state banking board, one or more branch banks may be established and operated anywhere within this state by a bank incorporated under the laws of this state.

(c) An application to establish and operate a branch bank shall be in such form and contain such information as the rules and regulations of

1/26/89 #1

the state bank commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, shall provide.

(d) The application shall include estimates of the annual income and expenses of the proposed branch bank, the annual volume of business to be transacted by it, the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by it, and the personnel and office facilities to be provided at the proposed branch bank.

(e) Upon receipt of an application meeting the above requirements, within 60 days after receipt of the application the state banking board shall hold a hearing in the county in which the applicant bank seeks to establish and operate a branch bank. Notice of the time, date and place of such hearing shall be published in a newspaper of general circulation in such county by the bank seeking to establish and operate the branch bank not less than 10 or more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. Not less than 10 days or more than 30 days prior to the date of the hearing, the

commissioner shall give notice of the time, date and place of
such hearing by registered or certified mail to all banks and national
banking associations having their principal places of business or branch
banks in the county wherein the applicant bank seeks to locate a branch
bank. At the hearing, all interested persons shall be allowed to present
written and oral evidence to the board in support of or in opposition to
the application. Upon completion of a transcript of the testimony given at
the hearing, the transcript shall be filed in the office of the
commissioner and copies thereof shall be furnished to the members of
the state banking board not less than 14 days prior to the meeting of the
board at which the application will be considered.

(f) After consideration of the application and the evidence received
at the hearing, the state banking board shall approve or disapprove the
application. If the board finds, on the basis of the application and the
evidence received at the hearing, that:

(1) there is or will be at the time the branch bank is

opened the need for the same in the community

to be served by it;

(2) there is a reasonable probability of usefulness

and success of the proposed branch bank; and

(3) the proposed branch bank can be established without undue

injury to properly conducted existing banks and federal

banking associations,

the application shall be granted, otherwise, the application shall be
denied.

(g) Any final action of the board approving or disapproving an
application shall be subject to review in accordance with the act for
judicial review and civil enforcement of agency actions upon the petition
of any adversely affected or aggrieved person who appeared and offered
evidence at the hearing upon the application.

(h) Any branch bank lawfully established and operating on the
effective date of this act may continue to be operated by the bank then
operating the branch bank and by any successor bank.

(i) Branch banks which have been established and are being maintained by a bank at the time of its merger into or consolidation with another bank or at the time its assets are purchased and its liabilities are assumed by another bank from a receiver in liquidation of the bank may continue to be operated by the surviving, resulting or purchasing and assuming bank. The surviving, resulting or purchasing and assuming bank, with approval of the state bank commissioner, may establish and operate a branch bank or banks at the site or sites of the merged, constituent or liquidated bank or banks.

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

~~(b) in addition to an attached auxiliary teller facility, any bank domiciled in this state may, subject to the requirements and limitations prescribed in subsections (c) and (d), establish and maintain not more than three branch banks, except that any branch bank which was established by a bank within 2,600 feet of the premises specified as such~~

bank's principal place of business in its certificate of authority, prior to July 17, 1986, shall not be included in the maximum number of branch banks allowed under this subsection;

(c) a branch bank may be established and operated by a state bank incorporated under the laws of this state, with the approval of the state banking board, and by a national banking association, with the approval of the appropriate federal supervisory agency, granted upon the basis of findings by the state banking board or such federal agency that such service will serve the public convenience or need;

(d) branch banks authorized under subsection (b) shall be located:

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

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

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

(4) more than 2,600 feet from the premises maintained as the principal place of business of any bank, the articles of incorporation or charter of which was approved by the state board or federal agency less than five years prior to location of any such branch bank, unless the state board in the case of a state bank or the appropriate federal supervisory agency in the case of a national banking association, shall specifically find and determine after careful examination and investigation that the location of such branch bank within such restricted area will not have a materially adverse effect upon the capital structure, deposits and general financial position of such existing bank;

(5) within the corporate limits of a city located in Johnson county which has no bank and which is contiguous to a city located in Johnson county where the premises specified by the bank as its place of business in its certificate of authority is located;

(e) in addition to establishment and maintenance of branch banks as authorized by subsection (b), one or more branch banks may be established

and maintained in this state by any bank domiciled in this state subject to the following requirements and limitations:

(1) A branch bank may be located at the site of a bank domiciled in Kansas which has been merged into or consolidated with the branching bank, except that if such bank was chartered after January 1, 1987, it shall have been in existence and actively engaged in business for five or more years;

(2) a branch bank may be located at the site of a bank domiciled in Kansas the assets of which have been purchased and the liabilities of which have been assumed by the branching bank from a receiver in liquidation of the bank;

(3) branch banks which have been established and maintained pursuant to subsection (b) by a bank merged into or consolidated with the branching bank, or the assets of which have been purchased and the liabilities of which have been assumed by the branching bank, may continue to be maintained by the branching bank, and nothing in this act shall be

deemed to require any service to be provided at any such existing branch bank which was not being provided at the time of such merger, consolidation or purchase and assumption;

(4) the establishment and maintenance of a branch established pursuant to this subsection by a state bank incorporated under the laws of this state or by a national banking association shall be subject to approval by the state banking board or by the appropriate federal supervisory agency, respectively, upon the basis of findings that such service will serve the public convenience and need, except that such approval may be given by the state bank commissioner in emergency situations under rules and regulations adopted pursuant to K.S.A. 9-1713, and amendments thereto;

(5) a branching bank establishing and maintaining a branch bank pursuant to any provision of this subsection (e) shall operate the branch bank for a period of at least two years before selling or otherwise disposing of such branch bank, except that such branching bank may sell or

dispose of the branch bank for the purpose of establishing a new bank charter in the city or township in which such branch bank is located;

(6) any branching bank establishing and maintaining a branch bank pursuant to any provisions of this subsection (e), shall provide for an advisory board of directors made up of not less than five members from the city or county where the branch bank is located;

(7) any branching bank establishing and maintaining a branch bank pursuant to any provisions of this subsection (e), shall provide checking, savings and loan services at such branch bank;

(8) any branching bank establishing and maintaining a branch bank pursuant to any provisions of this subsection (e), shall have such branch bank open for business not less than 20 hours per week legal holidays excluded;

(f) any branch bank established and operated by a bank prior to January 1, 1987, may continue to be operated by the bank which established the branch;

~~(g)~~(j) any state bank or national banking association having its principal office and main banking house in this state may provide and engage in banking transactions by means of remote service units wherever located, which remote service units shall not be considered to be branch banks authorized herein. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit;

~~(h)~~(k) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share its use and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with its development, installation and operation. The owner of the remote service unit, whether

a bank or any other person, shall make the remote service unit available for use by other banks and their customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the remote service unit.

Notwithstanding the foregoing provisions of this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or an attached auxiliary teller facility or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(i)(1) for purposes of this section, "remote service unit" means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted, whether instantaneously or otherwise, to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an

account with a bank. The term shall include "online" computer terminals and "offline" automated cash dispensing machines and automated teller machines, but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine read and verified. Withdrawals by means of "offline" systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts.

(j) any bank located in this state may establish and maintain one or more branch banks in any city located in the same county in which the branching bank is located which city does not have a main bank, specified in the certificate of authority, located within the corporate limits of such city, or if there is no application pending for approval of a branch bank in any such city filed by a bank located in the same county as such city is located, in any such city located in any county adjoining the county in which such bank is located.

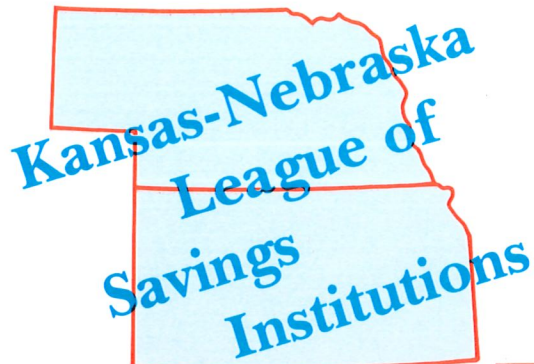
Upon receiving an application for approval of a branch bank to be established in a city located in a county adjoining the county in which the branching bank is located as authorized under this subsection (j), the chairperson of the banking board shall cause a hearing to be conducted in the city in which the branch bank is proposed to be located within 60 days following receipt of such application. Notice of such hearing shall be published by the branching bank in the official newspaper in such city, or if there be no such official newspaper, in an official newspaper in the county in which such city is located. Such notice shall be published not less than 10 or more than 30 days prior to the date of such hearing, and proof of publication shall be given to the bank commissioner. In addition the bank commissioner shall give notice of such hearing to the chief executive officer of any state or national bank whose main bank is located within the county in which such city is located. Any hearing scheduled or commenced under the provisions of this subsection (j) shall be stayed pending consideration of a new application for approval of a branch bank in such city by a bank located in the same county in which such city is located.

Upon completion of the transcript of any hearing hereunder, a copy thereof shall be filed in the office of the state bank commissioner, and one copy shall be furnished to each member of the state banking board not less than 14 days prior to the meeting at which such application is considered. At the next regular meeting of the banking board held after each member thereof has been furnished a transcript of the hearing for a period of not less than 14 days, or at any meeting thereafter as designated by the chairperson of the board, such application shall be considered by the board, and the board shall approve or disapprove such application. In either event, no action by the board shall be final until a statement of findings of fact in support of such action shall have been prepared by such person designated to do so by the chairperson thereof, circulated to and signed by those members voting thereon, and filed in the office of the state bank commissioner.

Sec. 2. K.S.A. 1989 Supp. 9-1111, 9-1111a, and 9-1111c are hereby repealed.

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

the application shall include the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business in the same city or town nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank.



James R. Turner, President

Suite 512
700 Kansas Avenue
Topeka, Kansas 66603

January 11, 1990

TO: HOUSE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS
FROM: JIM TURNER, KNLSI
RE: REQUEST FOR BILL INTRODUCTION

The Kansas-Nebraska League of Savings Institutions would like to request that the House Commercial and Financial Institutions Committee introduce as a committee bill the attached proposal which would grant authority to state-chartered savings and loan associations to offer non-interest bearing demand deposit accounts.

This is a conformity bill. The 1989 Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) passed by Congress in August, 1989, authorized demand deposit accounts for federally-chartered savings and loans. This bill would equalize powers between federal and state chartered institutions.

James R. Turner, President
Kansas-Nebraska League of Savings Institutions

JRT:bw

Encl.

Atch #3

AN ACT concerning savings and loan associations; capital; deposit accounts, shares; obligations; negotiable order of withdrawal accounts; demand accounts; amending K.S.A. 17-5401 and repealing the existing section.

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

Section 1. K.S.A. 17-5401 is hereby amended to read as follows: 17-5401

(a) Except as otherwise provided in K.S.A. 17-5413 and 17-5501, and amendments thereto, the capital accumulated may be divided into units of equal value which shall be called shares. Shares may be issued in installments, full paid, prepaid, optional, reserve stock shares or other plans as may be prescribed in the bylaws.

(b)(1) An association may raise capital in the form of such savings deposits, shares or other accounts, for fixed, minimum or indefinite periods of time, all of which are referred to in this section as savings accounts. ~~or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial or agricultural loan relationship with the association and which are authorized by its bylaws or by regulations of the commissioner.~~ An association may issue such passbooks, time certificates of deposit or other evidence of savings accounts as are so authorized.

(2) An association may also accept demand accounts. ~~from a commercial, corporate, business or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority on liquidation.~~ Holders of savings and demand accounts and obligors of an association shall, to such extent as may be provided by its bylaws or by regulations of the commissioner, be members of the association, and shall have voting rights and such other rights as are provided.

~~(3) Except as authorized by the association's bylaws or regulation of the commissioner in the case of savings accounts for fixed or minimum terms of not less than 14 days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than 14 days, as shall be provided for by the bylaws of the association or the regulations of the commissioner. The payment of withdrawals from savings accounts in the event an association does not pay all withdrawals in full, subject to the right of the association to require,~~

~~notice, shall be subject to such rules and procedures as may be prescribed by the association's bylaws or by regulation of the commissioner.~~

(3) ~~(4)~~ Accounts may be subject to check or to withdrawal of transfer on negotiable or transferable or other order or authorization to the association, as the commissioner may provide by regulation.

(4) ~~(5)~~ To such extent as the commissioner may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the commissioner and may issue such notes, bonds, debentures or other obligations, or other securities, including capital stock, as the commissioner may so authorize.

(5) (A) ~~(6) (A)~~ An association whose accounts are insured in accordance with the provisions of K.S.A. 17-5824, and amendments thereto, may permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

~~(B) Subparagraph (A) of paragraph (6) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals, by an organization which is operated primarily for religious, philanthropic, charitable, educational or other similar purposes and which is not operated for profit and with respect to deposits of public funds by an officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof, subject to such rules and procedures as may be prescribed by the association's bylaws or by regulation of the commissioner.~~

(B) ~~(C)~~ Such accounts shall be called negotiable order of withdrawal accounts.

(C) ~~(D)~~ Such accounts shall be subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe.

(6) (A) Subject to the terms of its certificate of incorporation, bylaws and regulations of the commissioner, an association may -

(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts hereafter in this section referred to as account; and

(ii) issue passbooks, certificates, or other evidence of accounts.

(B) An association may not -

(i) pay interest on a demand account; or

(ii) permit any overdraft, including an intraday overdraft, on behalf of an affiliate, or incur any such overdraft in such association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of an association shall, to such extent as may be provided by its certificate of incorporation, by-laws or by regulations of the commissioner, be members of the association, and shall have such voting rights and such other rights as are thereby provided.

(C) An association may require not less than 14 days notice prior to payment of savings accounts if the certificate of incorporation or by-laws of the association or the regulations of the commissioner so provide.

(D) If an association does not pay all withdrawals in full, subject to the right of the association, where applicable, to require notice, the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the association's certificate of incorporation or by-laws or by regulation of the commissioner. Except as authorized in writing by the commissioner, any association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the commissioner may by regulation provide.

Section 2. K.S.A. 17-5401 is hereby repealed.

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