

Approved _____

3/26/90
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at _____
Chairperson

9:00 a.m./p.m. on WEDNESDAY, MARCH 21, 1990 in room 529-S of the Capitol.

All members ~~were present except~~

Senators Karr, Kerr, McClure, Parrish, Reilly, Salisbury, Strick and Yost.

Committee staff present:

Bill Edds, Revisors Office
Bill Wolff, Research Department
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Grant Brooks, Kansas Banking Department
Chuck Stones, Kansas Bankers Association
Robert Berkley, Salina Attorney

Chairman Bond called the meeting to order at 9:15.

HB 2988 - Banks: holding real estate.

Grant Brooks, Kansas Banking Department, appeared before the committee in support of this measure. Mr. Brooks informed the committee that this proposal would (1) delete the geographical limitation on a bank owning stock in a trust company and (2) expands the authority by which a bank can own stock in the corporation which owns real estate occupied by the bank. The new language is less restrictive and clarifies that the bank need not occupy all the property it owns. (Attachment 1)

Chuck Stones, Kansas Bankers Association, rose in support of this measure and introduced Robert Berkley, Salina, who presented an amendment to the bill which would allow banks to retain real estate and still meet the statutory requirements. A bank would still have to charge it off their books after nine years and not consider it an asset but they could still own it. (Attachment 2)

Senator Reilly made a motion to allow the amendment to HB 2988 as proposed by Mr. Berkley. Senator Salisbury seconded the motion. The motion carried.

Senator Strick made a motion to pass the bill out favorably as amended. Senator Yost seconded the motion. The motion carried.

HB 2989 - Grant Brooks addressed the committee on this proposed legislation. He informed the committee that this amendment to the statute would allow banks to declare dividends in accordance with Generally Accepted Accounting Principles. Under the present statute, 90% of banks would be in violation of this statute because of the volatility of the bond market, according to Mr. Brooks. (Attachment 3)

Senator Salisbury moved that HB 2989 be passed out favorably. Senator Strick seconded the motion. The motion carried.

HB 2990 - Banks and banking: unlawful transactions.

Grant Brooks spoke before the committee in support of this proposal. Mr. Brooks explained that this bill was basically language clarification and cleanup. He did explain one change in the bill--the condition of a commercially reasonable sale was added to the requirement that a bank must dispose of property acquired in the collection of debts. (Attachment 4)

Senator Parrish made a motion to report HB 2990 favorably. Senator Yost seconded the motion and the motion carried. Senator Kerr desired to be recorded as voting No on HB 2990.

The minutes of Monday, March 19, were approved on a motion by Senator Reilly with Senator Karr seconding the motion. The motion carried.

The meeting adjourned at 9:50 a.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

To: Senator Richard L. Bond, Chairman
Senate Committee on Financial Institutions
and Insurance

From: Grant L.C. Brooks, General Counsel
Kansas Banking Department

Date: March 22, 1990

Re: Synopsis of Bills

House Bill 2988:

This amends K.S.A. 9-1102 concerning bank ownership of real estate and certain corporate stock.

The bill removes the restriction that a bank can only hold stock in a trust company located in the same city as the bank. The bill permits bank ownership of stock in a trust company located anywhere in the state. The bill also expands a bank's power by allowing the bank to own stock in a corporation organized to hold real estate the bank will occupy in the future. Presently, a bank can only own stock in a real estate corporation that owns the land the bank already occupies.

Finally, the bill as amended by the committee will allow a bank to hold real estate indefinitely, but requires the bank to no longer count it as an asset after seven years ^{has} elapsed. The current law requires a bank to dispose of real estate within seven years. This creates a hardship on many banks and necessitates the changes made by HB 2988.

Attachment 1
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Berkley amendment

Session of 1990

HOUSE BILL No. 2988

By Committee on Commercial and Financial Institutions

2-13

9 AN ACT relating to banks and banking; concerning the holding of
10 real estate; amending K.S.A. 1989 Supp. 9-1102 and repealing
11 the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 1989 Supp. 9-1102 is hereby amended to read
15 as follows: 9-1102. (a) Any bank or trust company may own, purchase,
16 lease, hold, encumber or convey real property and certain personal
17 property subject to the following:

18 (1) Own suitable building, furniture and fixtures, stock in a single
19 trust company organized under the laws of the state of Kansas, and
20 stock in a safe deposit company organized under the laws of the
21 state of Kansas, and stock in a corporation organized under the laws
22 of this state owning real estate occupied by the bank or trust
23 company. The trust company and the safe deposit company in
24 which a bank or trust company owns stock shall be located at
25 all times in the same city or township where the bank or trust
26 company owning such stock is located, otherwise the bank or
27 trust company shall dispose of such stock immediately all or a
28 part of which is occupied or to be occupied by the bank or trust
29 company;

30 (2) purchase, hold, encumber and convey real estate or lease, as
31 lessor or lessee, any building or buildings. Any real estate not nec-
32 essary for the bank's or trust company's accommodation in the trans-
33 action of its business shall be disposed of by the bank or trust
34 company not later than seven years after its acquisition unless the
35 state bank commissioner authorizes the bank or trust company to
36 retain such real estate for a period not to exceed an additional two
37 years;

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

or charged off its books

on its books

Attachment 2
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2-2

- 1 (A) The book value of real estate plus all encumbrances thereon;
- 2 (B) the book value of furniture and fixtures;
- 3 (C) the book value of stock in a safe deposit company;
- 4 (D) the book value of stock in a trust company; or
- 5 (E) the book value of stock in a corporation organized under the
- 6 laws of this state owning real estate occupied by the bank or trust
- 7 company and advances to such corporation acquired or made after
- 8 July 1, 1973. Except that any real estate not necessary for the ac-
- 9 commodation of the bank's or trust company's business shall be
- 10 disposed of according to paragraph (2).

or charged off its books

11 (b) Any bank or trust company may acquire real estate in satis-
 12 sfaction of any debts due it and may purchase real estate in satis-
 13 sfaction of any debts due it, and may purchase real estate at judicial
 14 sales, but no bank or trust company shall bid at any judicial sale a
 15 larger amount than is necessary to protect its debts and costs. No
 16 real estate, except for agricultural land, as defined in K.S.A. 17-
 17 5903, and amendments thereto, acquired in the satisfaction of debts
 18 or upon judicial sales shall be carried as a book asset of the bank
 19 or trust company for more than five years. At the termination of the
 20 five years such real estate shall be charged off. No agricultural land,
 21 as defined in K.S.A. 17-5903, and amendments thereto, acquired in
 22 satisfaction of debts or upon judicial sales shall be carried as a book
 23 asset of the bank or trust company for more than 10 years. At the
 24 termination of the 10 years such agricultural land shall be charged
 25 off. The commissioner may grant an extension for an additional four
 26 years, or any portion thereof, if in the commissioner's judgment it
 27 will be to the advantage of the bank or trust company to carry the
 28 real estate or agricultural land as an asset for such extended period.

29 Sec. 2. K.S.A. 1989 Supp. 9-1102 is hereby repealed.
 30 Sec. 3. This act shall take effect and be in force from and after
 31 its publication in the statute book.

House Bill 2989

This amends K.S.A. 9-910 which concerns when a bank may declare dividends. The current law requires a bank to recognize all depreciation for the sole purpose of declaring dividends. This language never anticipated bond depreciation in a bank's investment portfolio which could prohibit a bank from declaring dividends because the recognized depreciation could consume all of the undivided profits. This bill deletes that language and requires the bank to declare dividends in accordance with the same generally accepted accounting principles that cover every other facet of bank operations.

Attachment 3

House Bill 2990

This bill amends K.S.A. 9-1112 which concerns unlawful transactions. The amendments are basically language clarification and cleanup. The same authority and restrictions exist. The language is modernized to allow for a simpler reading.

The bill requires the condition of a commercially reasonable sale be able to occur before a bank must dispose of property which was acquired in the collection of debts.

If such a sale is not possible, then the Commissioner, as presently empowered, can authorize the bank to carry such property as a book asset for a longer period.

Attachment 3

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Attachment 4

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3/21/90