

Approved: March 20, 1997
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on March 18, 1997 in Room 527-S of the Capitol.

All members were present except: Representative Tom Bradley

Committee staff present: Bill Wolff, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee: Kathy Sachs, Secretary of State's Office
Chuck Stones, Kansas Bankers Association
Linda DeCoursey, Kansas Insurance Department

Others attending: See attached list

The chairman presented the minutes of the March 12 meeting for approval. Representative Grant moved to approve the minutes as presented, seconded by Representative Humerickhouse. The motion carried.

The chairman opened the hearing on:

Sub for SB 185 - Uniform commercial Code 9, part on Filing, add rules and regulation authority

Proponents appearing in favor of **Sub for SB 185**:

Kathy Sachs, Secretary of State's Office asked for the committee's support of **Sub for SB 185**. The opinion of the Kansas Secretary of State's Office is that the interpretation and implementation of the filing office's duties and responsibilities should be expressed in a written set of administrative rules. (Attachment 1)

Chuck Stones, Kansas Bankers Association, Director of Research, urged the committee's adoption of **Sub for SB 185**. Banks are heavy users of the U.C.C. It's important, in changing banking times and with upcoming changes in Article 9 of the U.C.C., for rule and reg authority be given to the Secretary of State. Maintaining continuity and flexibility is of utmost importance. (Attachment 2)

There were no opponents to **Sub for SB 185**.

The chairman closed the hearing on **Sub for SB 185** and opened the hearing on:

SB 281 - Deposit of security with banks and savings and loan for insurance commissioner

Proponents appearing in favor of **SB 281**:

Linda Decoursey, Kansas Insurance Department, appeared in support of **SB 281** which is a companion

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS, Room 527-S
Statehouse, at 3:30 p.m. on March 18, 1997.

bill to Sub for SB 86 which was approved by the Senate. It clarifies the types of financial institutions that insurance companies can use when putting up solvency deposits with the Insurance Department. The current statute allows deposits to be placed at a "Kansas domiciled bank." The department is concerned that this language may prohibit the use of certain financial institutions. (Attachment 3)

There were no opponents to SB 281.

The chairman closed the hearing on SB 281.

The chairman began **discussion** and **final action** on:

SB 27 - Deregulation of finance charges on consumer credit sales

Representative Correll moved to pass out the bill favorably, seconded by Representative Welshimer. The motion carried.

The chairman began **discussion** and **final action** on:

SB 32 - When financing statement must be filed to protect security interest under UCC

Representative Geringer moved that the amendment to **SB 32** be adopted, seconded by Representative Burroughs. The motion carried. Representative Grant moved to pass out **SB 32** as amended, seconded by Representative Dillon. The motion carried.

The chairman began **discussion** and **final action** on:

SB 132 - Limitation on loan to limited partner by bank

Representative Grant submitted an amendment to the bill to allow a bank to enter a written agreement with a board of an accredited school to establish a school savings deposit program. (Attachment 4)

Representative Cox asked if the KBA had any input on the program. Jim Maag said they have no objections, they think it's a good idea.

Representative Campbell moved to adopt the amendment to **SB132**, seconded by Representative Grant. The motion carried. Representative Wilson moved that they pass out SB 132 as amended, seconded by Representative Troy. The motion carried.

The chairman began **discussion** and **final action** on:

Sub for SB 185 - Uniform commercial Code 9, part on Filing, add rules and regulation authority

Representative Geringer moved to pass **Sub for SB 185** and place on consent calendar, seconded by Representative Welshimer. The motion carried.

The meeting adjourned at 3:58 p.m.

The next meeting is scheduled for March 19, 1997.

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-4564

STATE OF KANSAS
TESTIMONY TO THE
HOUSE FINANCIAL INSTITUTIONS
BY THE OFFICE OF THE SECRETARY OF STATE
ON SB 185, RULE AND REGULATION AUTHORITY
FOR UNIFORM COMMERCIAL CODE FILINGS

March 18, 1997

Good morning, Mister Chairman. I appreciate the opportunity to appear in favor of Senate Bill 185, concerning rule and regulation authority for Uniform Commercial Code (UCC) filings in Kansas. The administration of the Uniform Commercial Code has an important impact on the economy and upon the rights of the public, in this state and in the United States. The volume of international, interstate and multi state transactions pursuant to the UCC requires that the administration of the UCC be conducted in a manner that promotes both local and multi-jurisdictional commerce by striving for uniformity in policies and procedures among the various states. The Uniform Law Commissioners require rule and regulation authority in the most recent draft of the model act due to be released in 1998.

The opinion of the Kansas secretary of state's office is that the interpretation and implementation of the filing office's duties and responsibilities should be expressed in a written set of administrative rules. The regulations will clarify such issues as file time, grounds for refusal to file and name indexing issues. Such rules will have the following purposes:

Corporations (913) 296-4564
FAX (913) 296-4570

Elections (913) 296-4561
Administration (913) 296-0498
FAX (913) 291-3051

UCC (913) 296-3650
FAX (913) 296-3659

House Financial Institutions
3-18-97
Attachment 1

- * To prepare for the revision of article 9 by the uniform law commission anticipated by January of 1998.
- * To simplify and improve the administration of the UCC by promoting uniform UCC filing procedures in this state and in the nation;
- * To simplify the public's ability to discover and understand the UCC filing procedures of the various states by establishing a uniform framework for describing the procedures;
- * To increase public access to information;
- * To increase public participation in the formulation of administrative policy and procedures;
- * To increase public accountability of the filing officer; and

Although Governor Graves does not support burdening the public with unnecessary regulations, he understands and supports the adoption of these administrative regulations. We ask for your approval of SB 185.

Thank you. I will stand for questions.

Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

913-232-3444 Fax - 913-232-3484 e-mail - kbacs@ink.org

3-18-97

TO: House Financial Institutions Committee
FROM: Chuck Stones, Director of Research

RE: Sub for SB 185

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today as a proponent of Sub for SB 185. The U.C.C. is very important to the banking industry. Filings of U.C.C. documents determine the priority of lenders to collateral used in the lending process. It is very important in changing banking times and upcoming changes in Article 9 of the U.C.C. that rule and reg authority be given to the Secretary of State. Maintaining continuity and flexibility in the U.C.C is of the utmost importance.

The KBA has always worked with the Secretary of State to help insure the most efficient use of the U.C.C.. We have helped Kansas become the first state in the country to implement on-line filing of U.C.C. documents.

Thank you for your time and consideration of this issue, we urge your favorable action.

House Financial Institutions
3-18-97
Attachment 2



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: House Committee on Financial Institutions

From: Linda J. De Coursey
Assistant Director, Government & Public Affairs Division

Re: Senate Bill 281 (Insurance Department Deposits)

Date: March 18, 1997

Mr. Chairman and members of the Committee:

Thank you for allowing me this opportunity to appear on behalf of the Kansas Insurance Department on SB 281. I am appearing today in support of S.B. 281 which clarifies the types of financial institutions that insurance companies can use when putting up solvency deposits with the Insurance Department. This bill is companion legislation to Substitute for S.B. 86 that was approved by the Senate.

The Kansas Insurance Code requires insurers to place deposits in the form of cash, securities, real estate deeds, mortgages or other assets with the Commissioner to evidence the solvency of the company. These deposits are put in a joint custody arrangement with the Department whereby the financial institution can not release any of the assets without the approval of both the insurance company and the Insurance Commissioner.

The current statute allows deposits to be placed at a "Kansas domiciled bank." The Department is concerned that this language may prohibit the use of certain financial institutions. The language in the bill is similar to that adopted in Substitute for S.B. 86.

I would respectfully ask that the committee approve S.B. 281 favorably. I would be happy to stand for questions.

House Financial Institutions
3-18-97
Attachment 3

SENATE BILL No. 132

By Committee on Financial Institutions and Insurance

1-28

and banking

9 AN ACT concerning ~~limitations on loans by~~ banks, amending K.S.A. 1996
10 Supp. ~~9-1104~~ and repealing the existing ~~section~~

9-1101, 9-1104 and 9-1111

sections

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

13 ~~[Section 1]~~ K.S.A. 1996 Supp. 9-1104 is hereby amended to read as
14 follows: 9-1104. (a) *Definitions.* As used in this section:

New Section 1. and Sec. 2. (SEE ATTACHED)

Sec. 3

15 (1) "Borrower" means an individual, sole proprietorship, partnership,
16 joint venture, association, trust, estate, business trust, corporation, limited
17 liability company, not for profit corporation, government unit or agency,
18 instrumentality, or political subdivision thereof, or any similar entity or
19 organization.

20 (2) "Capital" means the total of capital stock, surplus, undivided prof-
21 its, 100% of the allowance for loan and lease loss, capital notes and de-
22 bentures, and reserve for contingencies. Intangibles, such as goodwill,
23 shall not be included in the definition of capital when determining lending
24 limits.

25 (3) "Loan" means:

26 (A) A bank's direct or indirect advance of funds to or on behalf of a
27 borrower based on an obligation of the borrower to repay the funds;

28 (B) a contractual commitment to advance funds;

29 (C) an overdraft;

30 (D) loans that have been charged off the bank's books in whole or in
31 part, unless the loan is unenforceable by reason of:

32 (i) Discharge in bankruptcy;

33 (ii) expiration of the statute of limitations;

34 (iii) judicial decision; or

35 (iv) the bank's forgiveness of the debt.

36 (b) *General Lending Limit Rule.* Subject to the provisions in (d), (e)
37 and (f), loans to one borrower, including any bank officer or employee,
38 shall not exceed 25% of a bank's capital.

39 (c) *Calculation of the Lending Limit.* (1) The bank's lending limit
40 shall be calculated on the date the loan or written commitment is made.
41 The renewal or refinancing of a loan shall not constitute a new lending
42 limit calculation date unless new funds are advanced.

43 (2) If the bank's lending limit increases subsequent to the origination

House Financial Institutions
3-18-97
Attachment 4

4-2

1 (C) When a loan is made to a partner to purchase an interest in a
2 partnership, both the direct benefit and common enterprise tests are
3 deemed to be met, and the loan is attributed to the partnership.

4 (6) Notwithstanding the provisions of this subsection, the commis-
5 sioner may determine, based upon an evaluation of the facts and circum-
6 stances of a particular transaction, that a loan to one borrower may be
7 attributed to another borrower.

8 (g) The commissioner may order a bank to correct any loan not in
9 compliance with this section. A violation of this section shall be deemed
10 corrected if that portion of the borrower's liability which created the
11 violation could be legally advanced under current lending limits. Failure
12 to comply with the commissioner's order within 60 days shall be grounds
13 for the proposed removal of a bank officer or director pursuant to K.S.A.
14 9-1805 and amendments thereto.

15 ~~Sec. [2]~~ K.S.A. 1996 ~~Supp. 9-1104~~ is hereby repealed. — Sec. 4 (SEE ATTACHED)

5. 16 ~~Sec. [3]~~ This act shall take effect and be in force from and after its — 9-1101, 9-1104 and 9-1111 are
6. 17 publication in the statute book.

PROPOSAL

New Section 1. (a) As used in this section:

(1) "Accredited school" means any school operated by a public school district organized under the laws of this state and any nonpublic school accredited by the state board of education.

(2) "Board" means the board of education of a school district and the governing authority of an accredited nonpublic school.

(b) In order to encourage savings among school children, a bank may enter into a written agreement with a board of an accredited school to establish a school savings deposit program. Such program shall be limited to the opening of accounts and the periodic collection, by bank employees or school personnel, of deposits from school children for deposit in such bank accounts. No such program shall be implemented until the executed agreement and any information deemed necessary has been submitted to the Kansas state bank commissioner. If the commissioner determines the agreement and proposed program primarily promote educational objectives and the purpose of this section, the commissioner shall provide the bank with written approval to implement the program. Any bank participating in such school savings deposit program shall have its main or branch office located in the same county as the participating school, or if no bank in the county wants to participate in such program, then banks in any contiguous county may participate. The school savings deposit program may be conducted in any elementary or secondary school.

Sec. 2. K.S.A. 1996 Supp. 9-1101 is hereby amended to read as follows: 9-1101. Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers, including incidental powers, as shall be necessary to carry on the business of banking, and:

(1) To receive deposits and to pay interest thereon at rates which need not be uniform. The state bank commissioner, with approval of the state banking board, may by regulations of general application fix maximum rates of interest to be paid on

deposit accounts other than accounts for public moneys;

(2) to buy and sell exchange, gold, silver, foreign coin, bullion, commercial paper, bills of exchange, notes and bonds;

(3) to buy and sell bonds, securities, or other evidences of indebtedness of the United States of America or those fully guaranteed, directly or indirectly, by it, and general obligation bonds of the state of Kansas or any municipality or quasi-municipality thereof, and of other states, and of municipalities or quasi-municipalities in other states of the United States of America. No bank shall invest an amount in excess of 15% of its capital stock paid in and unimpaired and the unimpaired surplus fund of such bank in bonds, securities or other evidences of indebtedness of any municipality or quasi-municipality of any other state or states of the United States of America: (a) If and when the direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; (b) or if any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

(4) to make all types of loans, including loans on real estate, subject to the loan limitations contained in this act. Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. The mortgage may secure future advances. The lien of such mortgage shall attach upon its execution and have priority from time of recording as to all advances made thereunder until such mortgage is released of record. The lien of such mortgage shall not exceed at any one time the maximum amount stated in the mortgage;

(5) to discount and negotiate bills of exchange, negotiable notes and notes not negotiable;

(6) to buy and sell investment securities which are evidences of indebtedness. The buying and selling of investment securities shall be limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association, corporation, or state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both, commonly known as investment securities, under such further definition of the term "investment securities" as prescribed by the board, but the total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 15% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank except that this limit shall not apply to obligations of the United States government or any agency thereof. If the obligor is a state agency including any agency issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board, the total amount of such investment securities shall at no time exceed 25% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank;

(7) to subscribe to, buy and own such stock of the federal national mortgage association as required by title 3, section 303 of the federal act known as the national housing act as amended by section 201 of public law No. 560, of the United States (68 Stat. 613-615), known as the housing act of 1954, or amendments thereto;

(8) to subscribe to, buy and own stock in one or more small business investment companies in Kansas as otherwise authorized by federal law, except that in no event shall any bank acquire shares in any small business investment company if, upon the making of that acquisition the aggregate amount of shares in small business investment companies then held by the bank would exceed 5% of its capital and surplus. Nothing in this act

contained shall prohibit any bank from holding and disposing of such real estate and other property as it may acquire in the collection of its assets;

(9) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

(10) to subscribe to, buy and own stock in minbanc capital corporation, a company formed for the purpose of providing capital to minority-owned banks. No bank's investment in such stock shall exceed 2% of its capital and surplus;

(11) to buy, hold, and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

(12) to act as escrow agent;

(13) to subscribe to, acquire, hold and dispose of stock of a corporation having as its purpose the acquisition, holding and disposition of loans secured by real estate mortgages, and to acquire, hold and dispose of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

(14) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(15) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation having as its purpose the acquisition, holding and disposition of agricultural loans

originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits. Such investment shall be carried on the books of the bank as directed by the commissioner;

(16) to buy, hold and sell mortgages, stock, obligations and other securities which are issued or guaranteed by the federal home loan mortgage corporation under sections 305 and 306 of the federal act known as the federal home loan mortgage corporation act (P.L. 91-351);

(17) to buy, hold and sell obligations or other instruments or securities, including stock, issued or guaranteed by the student loan marketing association created by (P.L. 92-318) of the United States;

(18) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the state bank commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

(19) to subscribe to, buy and own stock in a state or federally chartered bankers' bank or a one bank holding company which owns or controls such a bankers' bank, except no bank's investment in such stock shall exceed 10% of its capital stock, surplus and undivided profits;

(20) subject to such rules and regulations as the state bank commissioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, upon recorded prior approval by the board of directors of the initial investment in a specific company and pursuant to an investment policy approved by the board of directors which specifically provides for such investments to buy, hold and sell shares of an open-end investment company registered with the federal securities and exchange commission under the federal investment company act of 1940 and the federal securities act of 1933 and of a privately offered company sponsored by an affiliated commercial bank, the shares of which are purchased and sold at par and the

assets of which consist solely of securities which may be purchased by the bank for its own account. Such shares may be purchased without limit if the assets of the company consist solely of and are limited to obligations that are eligible for purchase by the bank without limit. If the assets of the company include securities which may be purchased by the bank subject to limitation, such shares may be purchased subject to the limitation applicable to purchase by the bank of such securities;

(21) 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. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish a subsidiary which engages in the following securities activities: (a) selling or distributing stocks, bonds, debentures, notes, mutual funds and other securities, (b) issuing and underwriting municipal bonds, (c) organizing, sponsoring and operating mutual funds, (d) acting as a securities broker-dealer;

(22) to subscribe to, acquire, hold and dispose of stock of any class of the federal agricultural mortgage corporation, a corporation having as its purpose the acquisition, holding and disposition of loans secured by agricultural real estate mortgages. No bank's investment in such corporation shall exceed 5% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

(23) to subscribe to, buy and own stock in an insurance company incorporated prior to 1910, under the laws of Kansas, with corporate headquarters in this state, which only provides insurance to financial institutions. The investment in such stock shall not exceed 2% of the bank's capital stock, surplus and undivided profits;

(24) to purchase and hold an interest in life insurance policies on the life of its executive officers and directors, and to purchase life insurance policies for the sole purpose of

providing employee deferred compensation and benefit plans subject to the limitations listed herein. If the bank has the authority to direct the investments of the cash surrender value of the policy, those investments shall be limited solely to assets which may be directly purchased by the bank for its own account. The limitations set forth in paragraphs (a) and (b) of this subsection do not apply to any such life insurance policies in place before July 1, 1993. Funding for the payment of employee compensation and benefit plans as well as the benefits derived may be made or split in a joint manner between the bank, employee or bank holding company as in "split dollar" or other insurance plans:

(a) Life insurance purchased and held on the life of executive officers and directors are subject to the following limitations:

(i) The cash surrender value of any life insurance policy on an executive officer or director underwritten by any one life insurance company cannot at any time exceed 15% of the bank's capital stock, surplus, undivided profits, loan loss reserve, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner;

(ii) the cash surrender value of life insurance policies on executive officers or directors, in the aggregate from all companies, cannot at any time exceed 25% of the bank's capital stock, surplus, undivided profits, loan loss reserve, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner;

(iii) the authority to hold life insurance on any executive officer ceases if the executive officer is no longer employed by the bank or no longer meets the definition of an executive officer;

(iv) the authority to hold life insurance on a director ceases when that director is no longer a member of the board of directors;

(v) the bank's board of directors must approve and document the purchase of any life insurance, including the reasonableness of such purchase; and

(vi) except as part of a reasonable compensation or benefit plan, a bank is not authorized to purchase life insurance as an estate management device for the benefit of officers, directors or employees who are also controlling shareholders of the bank.

(b) Life insurance purchased for the sole purpose of providing deferred compensation and benefit plans are subject to the following limitations:

(i) The bank may purchase individual or group policies for the sole purpose of providing deferred compensation agreements entered into with its officers and employees;

(ii) the bank may purchase policies on directors to fund a deferred directors fees program;

(iii) the board of directors must approve and document such deferred plans including the reasonableness of the plans;

(iv) the bank is not authorized to hold the policies unless specifically approved by the state banking board if no liability exists under the deferred compensation plans;

(v) the cash surrender value of any life insurance policy purchased for the sole purpose of providing deferred compensation and benefit plans, underwritten by any one life insurance company, cannot exceed at any time, 15% of the bank's capital stock, surplus, undivided profits, loan loss reserve, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner; and

(vi) the cash surrender value of life insurance policies purchased for the sole purpose of providing deferred compensation and benefit plans, in the aggregate from all companies, cannot at any time exceed 25% of the bank's capital stock, surplus, undivided profits, loan loss reserve, capital notes and debentures and reserve for contingency, unless the bank has obtained the prior approval of the state bank commissioner;

(25) subject to such rules and regulations as the state bank commissioner may adopt pursuant to K.S.A. 9-1713 and amendments thereto to promote safe and sound banking practices, to act as an agent and receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations for any company which is a subsidiary, as defined in subsection (d) of K.S.A. 9-519 and amendments thereto of the bank holding company which owns the bank. Nothing in this subsection shall authorize a bank to conduct activities as an agent which the bank or the subsidiary would be prohibited from conducting as a principal under any applicable federal or state law. Any bank which enters or terminates any agreement pursuant to this subsection shall within 30 days of the effective date of the agreement or termination provide written notification to the commissioner which details all parties involved and services to be performed or terminated;

(26) to make loans to the bank's stockholders or the stockholders of the bank's controlling bank holding company on the security of the shares of the bank or shares of the bank's controlling bank holding company, with the limitation that this may occur only if the bank would have extended credit to such stockholder on exactly the same terms without the shares pledged as collateral, and provided the shares pledged are not a director's qualifying shares per K.S.A. 9-1117, and amendments thereto; and

(27) to make investments in and loans to community development corporations (CDCs) and community development projects (CD projects) as defined in K.S.A. 9-701 and amendments thereto, subject to the limitations prescribed by the comptroller of the currency as interpreted by rules and regulations which shall be adopted by the state bank commissioner as provided by K.S.A. 9-1713 and amendments thereto; and

(28) to participate in a school savings deposit program authorized under section 1.

Sec. 4. K.S.A. 1996 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. Except for the establishment or operation of a trust branch bank or the relocation of an existing trust branch bank pursuant to K.S.A. 1996 Supp. 9-1135 and amendments thereto, it shall be unlawful for any bank to establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701 and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to subsection ~~(28)~~ (25) of K.S.A. 9-1101 and amendments thereto or other applicable state or federal law, or is authorized to open accounts or receive deposits under subsection (28) of K.S.A. 9-1101, and amendments thereto, shall not be deemed to be a branch bank:

(a) For the purposes of this section, the term "branch bank" means 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, checks paid, money lent or trust authority exercised, if approval has been granted by the state bank commissioner, under K.S.A. 9-1602, and amendments thereto;

(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 or to relocate an existing branch bank shall be in such form and contain such information as the rules and regulations of 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) 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;

(f) the application shall include an affidavit of publication of notice that applicant bank intends to file an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the state banking board and at a minimum shall contain, the name and address of the applicant bank, the location of the proposed branch, a solicitation for written comments concerning the proposed branch be submitted to the state banking board, and provide for a comment period of not less than 10 days prior to the board's final consideration of the application;

(g) upon receipt of an application meeting the above requirements, if there is any written objection to the application filed with the board, 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. If there is no written objection filed with the board within the time period specified under subsection

(f), the board may hold a hearing on the application in such county. Notice of the time, date and place of such hearing if one is to be held 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 an affidavit of publication thereof shall be filed with the commissioner. Not less than 10 days or more than 30 days prior to any such 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 any such 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 any such hearing, the transcript shall be filed in the office of the commissioner and copies 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;

(h) the state banking board shall approve or disapprove the application, within 90 days after consideration of the application and the evidence gathered during the board's investigation. If the board finds 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;

(3) the applicant bank's financial history and condition is sound; and

(4) the proposed branch bank can be established without undue injury to properly conducted existing banks and national banking associations, the application shall be granted, otherwise, the application shall be denied;

(i) 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;

(j) 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;

(k) 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 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;

(l) 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;

(m) 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;

(n) 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.