

Approved: March 3, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE .

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on February 23, 1999 in Room 529 S of the Capitol.

All members were present except: Senator Rich Becker, Excused

Committee staff present: Dr. Bill Wolff, Research
Ken Wilke, Office of Revisor
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Bill Sneed, Reinsurance Associations of America
Pat Morris, Kansas Association of Insurance Agents
Judi Stork, Office of State Bank Commissioner
George Barbee, KAFS
David Brant, Securities Commissioner and Acting Consumer
Credit Commissioner
Chuck Stones, Kansas Bankers Association
Allan Steppat, Community Bankers Association
Linda DeCoursey, Kansas Insurance Department

Others attending: See Attached

Chairman Steffes announced the request from Commissioner David Brant to have **SB 301** "blessed" due to the number of amendments which must be reviewed prior to final action by the Committee. Also, **SB 160** will be included in the request for "blessing."

Action on SB 48 - Reinsurance

Amendments addressing the issues of modernization of language, handling of claims, and cancellation clauses were submitted by Bill Sneed representing the Reinsurance Associations of America (Attachment 1).

Senator Biggs moved that the amendments be adopted as presented. Seconded by Senator Praeger. Motion carried. Senator Biggs then moved that the bill be reported favorably as amended. Motion was seconded by Senator Praeger. Motion carried.

Action on SB 121 - File and use

Pat Morris, representing the Kansas Association of Insurance Agents, presented amendments which met the approval of the Kansas Insurance Department (Attachment 2). The Department agreed to conduct a study and report to the Kansas Legislature on the laws of other states governing rate filings and policy or contract forms for personal and commercial risks, including large commercial risks, prior to the 2000 session. Also included were definitions of "personal lines" and "large risks."

Senator Feleciano moved for the adoption of the amendments as presented. Motion was seconded by Senator Praeger. Motion carried. Senator Feleciano then moved that the bill be reported favorably as amended. Senator Brownlee seconded the motion. Motion carried.

Action on SB 240 - Bank commissioner, duties and qualifications

Senator Clark presented amendments which would disallow the bank commissioner to serve as an officer, director, employee or consultant of any state or national bank or bank holding company or any other entity regulated by the commissioner (Attachment 3). Owning bank stock or being a shareholder of a Kansas bank would not be considered as a conflict of interest

Senator Brownlee moved for adoption of the amendments and requested that "voting director" be added to the list of positions a bank commissioner could not hold simultaneously with that of the regulator. Motion was seconded by Senator Biggs. Motion carried.

The Committee discussed the suggestions from Kansas Bankers Association that the position be limited to Kansas bankers and regulators not be considered unless they had actual management level banking experience

CONTINUATION SHEET

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

in Kansas.

Senator Feleciano moved that the bill be reported favorably as amended. Motion was seconded by Senator Praeger. Motion carried.

Action on SB 260 - State banking board, transfer of certain powers to the state bank commissioner
Amendments were presented by Revisor Wilke which were technical and made language agreements between the three banking bills (Attachment 4). The banking board would retain the powers of granting charters, and approving branches and new locations. The legislation would become effective upon publication in the Kansas Register.

Senator Feleciano moved that the amendments be adopted as presented. Motion was seconded by Senator Praeger and motion carried. Senator Feleciano then moved that the bill be reported favorably as amended. Motion was seconded by Senator Brownlee. Motion carried.

Action on SB 271 - State consumer credit commissioners; transfer of powers and duties to state bank commissioner

The proposed duties of the deputy consumer credit commissioner were discussed at length regarding the administration of the UCCC. Subjects discussed by the Committee were:

- The perception and/or propriety of the bank commissioner being the administrator and signing the licenses of mortgage brokers (competitors).
- Should the Governor appoint the deputy commissioners as well as the bank commissioner?
- Are there any state agencies for which the Governor appoints the deputy other than the Property Valuation Department?
- Should the duties of the deputy commissioner of consumer credit be delineated statutorily?

Regarding the deputy commissioner of consumer credit being assigned as the administrator of the UCCC, both KBA and CBA took no position; Judi Stork of the OSBC said functionally it would work best to have the administration of the UCCC be assigned to the deputy commissioner; George Barbee of the Kansas Association of Financial Services, and Commissioner Brant were in favor of the responsibility for administration of the UCCC rest with the deputy commissioner of consumer credit.

Senator Biggs moved that the bill be conceptually amended to reflect the designation of administrator of the UCCC be the deputy commissioner of consumer credit and to adopt the balloon amendment prepared by the Revisor (Attachment 5). Motion was seconded by Senator Clark. Motion carried.

Senator Praeger moved for the adoption of the balloon amendment regarding the reduction to one fee fund with technical changes, and have the legislation become effective upon publishing in the Kansas Register (Attachment 6), and report the bill favorably as amended. Motion was seconded by Senator Clark. Motion carried.

Senator Clark moved that substitute bills be prepared for SB 260 and SB 271. Motion was seconded by Senator Brownlee. Motion carried.

The meeting was adjourned at 10:00 a.m. and the next meeting will be held in Room 519 South at 12:30 p.m. on February 24, 1999.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE GUEST LIST

DATE: Feb. 23, 1999

NAME	REPRESENTING
Bill Sneed	RAA
Greg Taylor	HFG, Ltd.
Tom Goehs	McGill, CACHES & ASSOCIATES
Bill Wempe	KS Ins Dept
Dick Cook	" " "
Ryan Robertson	University of Kansas
Roger Traxler	KGC
Harrie Ann Brown	KATP
JAKE FISHER	WAINNEY DAMRON
George Barber	Barber & assoc's
Marc Hamann	Div. of the Budget
Sonye Allen	OSBC
Kevin Glendening	OSBC
Judi Stork	OSBC
DAVID BRANT	SECURITIES COMM.
Chuck Stokes	KBA
Paul Davis	Kansas Insurance Dept.
David Hanson	Kansas Insur Assns
Alan Steppat	C.B.A.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE GUEST LIST

DATE: 2-23-99

NAME	REPRESENTING
Kathy Olsen	KBA
Ann Schmeyer	KCUA
John Frederico	KCUA

1 that the trust shall not expire prior to the next following December 31.
2 (C) The credit authorized under subsection (b)(3) shall not be al-
3 lowed unless the assuming group or insurer agrees in the reinsurance
4 agreements:

5 (i) That in the event of the failure of the assuming group or insurer
6 to perform its obligations under the terms of the reinsurance agreement,
7 the assuming group or insurer, at the request of the ceding insurer, shall
8 submit to the jurisdiction of any court of competent jurisdiction in any
9 state of the United States, will comply with all requirements necessary to
10 give such court jurisdiction, and will abide by the final decision of such
11 court or of any appellate court in the event of an appeal; and

12 (ii) to designate the commissioner or a designated attorney as its true
13 and lawful attorney upon whom may be served any lawful process in any
14 action, suit or proceeding instituted by or on behalf of the ceding
15 company.

16 (iii) This provision is not intended to conflict with or override the
17 obligation of the parties to a reinsurance agreement to arbitrate their
18 disputes, if such an obligation to do so is created in the agreement.

19 (D) A "qualified United States financial institution" means, for pur-
20 poses of those provisions of this law specifying those institutions that are
21 eligible to act as a fiduciary of a trust, an institution that:

22 (i) Is organized, or (in the case of a U.S. branch or agency office of
23 a foreign banking organization) licensed, under the laws of the United
24 States or any state thereof and has been granted authority to operate with
25 fiduciary powers; and

26 (ii) is regulated, supervised and examined by federal or state author-
27 ities having regulatory authority over banks and trust companies.

28 The foregoing provisions of paragraphs (1), (2) and (3) of subsection
29 (b) shall not apply to a domestic title insurance company subject to the
30 provisions of K.S.A. 40-1107a and amendments thereto.

31 (c) ~~Any reinsurance ceded by a company No credit shall be allowed,~~
32 ~~as an admitted asset or deduction from liability, to any ceding insurer~~
33 ~~organized under the laws of this state or ceded by any company not or-~~
34 ~~ganized under the laws of this state and transacting business in this state~~
35 ~~must, pursuant to express provisions contained in the reinsurance agree-~~
36 ~~ment, be payable by the assuming insurer on the basis of the liability of~~
37 ~~the ceding company under the contract or contracts reinsured for rein-~~
38 ~~insurance, unless the reinsurance contract provides, in substance, that in~~
39 ~~the event of the insolvency of the ceding insurer, the reinsurance shall be~~
40 ~~payable under a contract reinsured by the assuming insurer on the basis~~
41 ~~of reported claims allowed in the liquidation proceedings, [subject to court~~
42 ~~approval] without diminution because of the insolvency of the ceding~~
43 ~~company [and any such reinsurance agreement which may be canceled on~~

[approved by the liquidation court.

↑ be

1 less than 90 days' notice must provide in the reinsurance agreement for
 2 a run-off of the reinsurance in force at the date of cancellation. Such
 3 payments shall be made directly to the ceding insurer or to its domiciliary
 4 liquidator except: (1) Where the contract or other written agreement specifically
 5 provides another payee of such reinsurance in the event of the
 6 insolvency of the ceding insurer; or (2) where the assuming insurer, with
 7 the consent of the direct insured, has assumed such policy obligations of
 8 the ceding insurer as direct obligations of the assuming insurer to the
 9 payees under such policies and in substitution for the obligations of the
 10 ceding insurer to such payees.

11 (d) [The] domiciliary liquidator of an insolvent ceding insurer shall give
 12 written notice to the assuming insurer of the pendency of a claim against
 13 such ceding insurer on the contract reinsured within a reasonable time
 14 after such claim is filed in the liquidation proceeding. During the pen-
 15 dency of such claim, any assuming insurer may investigate such claim
 16 and interpose, at its own expense, in the proceeding where such claim is
 17 to be adjudicated any defenses which it deems available to the ceding
 18 insurer, or its liquidator. Such expense may be filed as a claim against the
 19 insolvent ceding insurer to the extent of a proportionate share of the ben-
 20 efit which may accrue to the ceding insurer solely as a result of the defense
 21 undertaken by the assuming insurer. Where two or more assuming in-
 22 surers are involved in the same claim and a majority in interest elect to
 23 interpose a defense to such claim, the expense shall be apportioned in
 24 accordance with the terms of the reinsurance agreement as though such
 25 expense had been incurred by the ceding insurer.

26 Sec. 2. K.S.A. 40-3634 is hereby amended to read as follows: 40-
 27 3634. Except as provided in K.S.A. 40-3602 and amendments thereto,
 28 the amount recoverable by the liquidator from reinsurers shall not be
 29 reduced as a result of the delinquency proceedings, regardless of any
 30 provision in the reinsurance contract or other agreement. Payment made
 31 directly to an insured or other creditor shall not diminish the reinsurer's
 32 obligation to the insurer's estate except when the reinsurance contract
 33 provided for direct coverage of a named insured and the payment was
 34 made in discharge of such obligation. in the event of the insolvency of the
 35 ceding insurer, the reinsurance shall be payable under a contract rein-
 36 sured by the assuming insurer on the basis of reported claims allowed in
 37 the liquidation proceedings, subject to court approval, without diminution
 38 because of the insolvency of the ceding insurer. Such payments shall be
 39 made directly to the ceding insurer or to its domiciliary liquidator except:

40 (a) Where the contract or other written agreement specifically provides
 another payee of such reinsurance in the event of the insolvency of the
 41 ceding insurer; or (b) where the assuming insurer, with the consent of the
 42 direct insured, has assumed such policy obligations of the ceding insurer

Any reinsurance agreement entered into with a domestic insurer which may be canceled on less than 90 days' notice, and which cancellation would constitute a material cancellation as defined by K.S.A. 40-2,152 and amendments thereto, must provide in the reinsurance agreement, in substance, for a run-off of the reinsurance in force at the date of cancellation, unless the agreement is canceled for non-payment of premium or fraud in the inducement.

Reinsurance

reinsurance contract or policy reinsured

The reinsurance agreement may provide that the

reinsurance contract or policy reinsured

SENATE BILL No. 121

By Committee on Financial Institutions and Insurance

1-25

9 AN ACT relating to insurance; concerning rate filings; amending K.S.A.
10 40-216 and K.S.A. 1998 Supp. 40-955 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*
14 Section 1. K.S.A. 40-216 is hereby amended to read as follows: 40-
15 216. (a) No insurance company shall hereafter transact business in this
16 state until certified copies of its charter and amendments thereto shall
17 have been filed with and approved by the commissioner of insurance. A
18 copy of the bylaws and amendments thereto of insurance companies or-
19 ganized under the laws of this state shall also be filed with and approved
20 by the commissioner of insurance. The commissioner may also require
21 the filing of such other documents and papers as are necessary to deter-
22 mine compliance with the laws of this state. No contract of insurance or
23 indemnity shall be issued or delivered in this state until the form of the
24 same has been filed with the commissioner of insurance, nor if the com-
25 missioner of insurance gives written notice within ~~thirty (30)~~ 30 days of
26 such filing, to the company proposing to issue such contract, showing
27 wherein the form of such contract does not comply with the requirements
28 of the laws of this state; but the failure of any insurance company to
29 comply with this section shall not constitute a defense to any action
30 brought on its contracts. An insurer may satisfy its obligation to file its
31 contracts of insurance or indemnity either individually or by authorizing
32 the commissioner to accept on its behalf the filings made by a licensed
33 rating organization or another insurer.

34 Under such rules and regulations as he or she the commissioner of
35 insurance shall adopt, the commissioner may, by written order, suspend
36 or modify the requirement of filing forms of contracts of insurance or
37 indemnity, which cannot practicably be filed before they are used. Such
38 orders, rules and regulations shall be made known to insurers and rating
39 organizations affected thereby. The commissioner may make an exami-
40 nation to ascertain whether any forms affected by such order meet the
41 standards of this code.

42 ~~(b) This section shall not apply to any policy or contract form for~~
43 ~~an organization for the purpose of rate filings, including the following: (1) An~~

Note: Delete subsections (b) and (c). Insert new subsection (b) as follows:

(b) Prior to the 2000 legislative session, the Kansas Insurance Department shall conduct a study and report to the Kansas Legislature on the laws of other states governing rate filings and policy or contract forms for personal and commercial, including large commercial, risks. The study shall also identify recent trends in regulation and the potential impact on consumers, carriers and agents.

Senate Financial Institutions & Insurance

Date 2/23/99

Attachment # 2

2-2

1 insured that has total insured property values of \$5,000,000 or more, (2)
 2 an insured that has total annual gross revenues of \$10,000,000 or more,
 3 or (3) an insured that has in the preceding calendar year a total paid
 4 premium of \$25,000 or more for property insurance, \$25,000 or more for
 5 general liability insurance, or \$50,000 or more for multiple lines policies.
 6 (c) The exemption for any large risk policy contract form contained
 7 in subsection (b) shall not apply to workers compensation and employer's
 8 liability insurance, insurance purchasing groups, and the basic coverage
 9 required by K.S.A. 40-3401 et seq. and amendments thereto.

10 Sec. 2. K.S.A. 1998 Supp. 40-955 is hereby amended to read as fol-
 11 lows: 40-955. (a) Every insurer shall file with the commissioner, except
 12 as to inland marine risks where general custom of the industry is not to
 13 use manual rates or rating plans, every manual of classifications, rules and
 14 rates, every rating plan, policy form and every modification of any of the
 15 foregoing which it proposes to use. Every such filing shall indicate the
 16 proposed effective date and the character and extent of the coverage
 17 contemplated and shall be accompanied by the information upon which
 18 the insurer supports the filings. A filing and any supporting information
 19 shall be open to public inspection after it is filed with the commissioner.
 20 An insurer may satisfy its obligations to make such filings by authorizing
 21 the commissioner to accept on its behalf the filings made by a licensed
 22 rating organization or another insurer. Nothing contained in this act shall
 23 be construed to require any insurer to become a member or subscriber
 24 of any rating organization.

25 (b) Any rate filing for personal lines, small business owners insurance,
 26 the basic coverage required by K.S.A. 40-3401 et seq. and amendments
 27 thereto and, loss costs filings for workers compensation, and rates for
 28 assigned risk plans established by article 21 of chapter 40 of the Kansas
 29 Statutes Annotated or rules and regulations established by the commis-
 30 sioner shall require approval by the commissioner before its use by the
 31 insurer in this state. Policy forms shall require approval by the commis-
 32 sioner before use by insurers in this state, consistent with the require-
 33 ments of K.S.A. 40-216 and amendments thereto. As soon as reasonably
 34 possible after such filing has been made, the commissioner shall in writing
 35 approve or disapprove the same, except that any filing shall be deemed
 36 approved unless disapproved within 30 days of receipt of the filing.

37 ~~the term "personal lines and small business owners insurance" shall mean~~
 38 ~~insurance for noncommercial automobiles, homeowners, dwelling fire,~~
 39 ~~and renters, farmowners and business owners' policies, insurance poli-~~
 40 ~~cies determined by the commissioner by rules and regulations.~~

41 (c) Any other rate filing, except personal lines filings, shall be on file
 42 for a waiting period of 30 days before it becomes effective, except for
 43 inland marine rates which shall be become effective on filing or any pro-

← Note: The definition of personal lines contained in lines 36-40 is deleted in subsection (b) and reinserted in subsection (c) on page 3.

1 *spective date selected by the insurer, subject to the commissioner disap-*
 2 *proving the same if the rates are determined to be inadequate, excessive,*
 3 *unfairly discriminatory or otherwise fails to meet the requirements of this*
 4 *act. Upon written application by the insurer or rating organization, the*
 5 *commissioner may authorize a filing to become effective before the ex-*
 6 *piration of the waiting period. Personal lines rate filings shall be on file*
 7 *for a waiting period of 30 days before becoming effective, subject to the*
 8 *commissioner disapproving the same if the rates are determined to be*
 9 *inadequate, excessive, unfairly discriminatory or otherwise fail to meet*
 10 *requirements of this act.* A filing complies with this act unless it is dis-
 11 approved by the commissioner within the waiting period or pursuant to
 12 subsection (e).

13 (d) Any filing with respect to fidelity, surety or guarantee bond shall
 14 be deemed approved from the date of filing.

15 (e) In reviewing any rate filing the commissioner may require the in-
 16 surer or rating organization to provide, at the insurer's or rating organi-
 17 zation's expense, all information necessary to evaluate the reasonableness
 18 of the filing, to include payment of the cost of an actuary selected by the
 19 commissioner to review any rate filing, if the department of insurance
 20 does not have a staff actuary in its employ.

21 (f) (e) If a filing is not accompanied by the information required by
 22 this act, the commissioner shall promptly inform the company or organi-
 23 zation making the filing. The filing shall be deemed to be complete when
 24 the required information is received by the commissioner or the company
 25 or organization certifies to the commissioner the information requested
 26 is not maintained by the company or organization and cannot be obtained.
 27 If within the waiting period provided in subsection (e), the commissioner
 28 finds a filing does not meet the requirements of this act, the commissioner
 29 shall send to the insurer or rating organization that made the filing, writ-
 30 ten notice of disapproval of the filing, specifying in what respects the
 31 filing fails to comply and stating the filing shall not become effective. If
 32 at any time after the expiration of any waiting period after a filing becomes
 33 effective, the commissioner finds a filing does not comply with this act,
 34 the commissioner shall after a hearing held on not less than ten 10 days'
 35 written notice to every insurer and rating organization that made the filing
 36 issue an order specifying in what respects the filing failed to comply with
 37 the act, and stating when, within a reasonable period thereafter, the filing
 38 shall be no longer effective. Copies of the order shall be sent to such
 39 insurer or rating organization. The order shall not affect any contract or
 40 policy made or issued prior to the expiration of the period set forth in
 41 the order.

42 In the event an insurer or organization has no legally effective rate
 43 because of an order disapproving rates, the commissioner shall specify an

2-3

The term "personal lines" shall mean insurance for noncommercial automobile, homeowners, dwelling fire- and renters- insurance policies, as defined by the commissioner by rules and regulations.

2-4

1 interim rate at the time the order is issued. The interim rate may be
 2 modified by the commissioner on ~~his or her~~ *the commissioner's own mo-*
 3 *tion or upon motion of an insurer or organization.* The interim rate or
 4 any modification thereof shall take effect prospectively in contracts of
 5 insurance written or renewed ~~fifteen~~ *15* days after the commissioner's
 6 decision setting interim rates. When the rates are finally determined, the
 7 commissioner shall order any overcharge in the interim rates to be dis-
 8 tributed appropriately, except refunds to policyholders the commissioner
 9 determines are de minimis may not be required.

10 Any person or organization aggrieved with respect to any filing that is
 11 in effect may make written application to the commissioner for a hearing
 12 thereon, provided the insurer or rating organization that made the filing
 13 may not proceed under this subsection. The application shall specify the
 14 grounds to be relied on by the applicant. If the commissioner finds the
 15 application is made in good faith, that the applicant would be so aggrieved
 16 if the applicant's grounds are established, and that such grounds otherwise
 17 justify holding such a hearing, the commissioner shall, within 30 days after
 18 receipt of the application, hold a hearing on not less than 10 days' written
 19 notice to the applicant and every insurer and rating organization that
 20 made such filing.

21 Every rating organization receiving a notice of hearing or copy of an
 22 order under this section, shall promptly notify all its members or sub-
 23 scribers affected by the hearing or order. Notice to a rating organization
 24 of a hearing or order shall be deemed notice to its members or
 25 subscribers.

26 ~~(e)~~ *(f)* No insurer shall make or issue a contract or policy except in
 27 accordance with filings which have been filed or approved for such insurer
 28 as provided in this act.

29 ~~(b)~~ *(g)* The commissioner may adopt rules and regulations to allow
 30 suspension or modification of the requirement of filing and approval of
 31 rates as to any kind of insurance, subdivision or combination thereof, or
 32 as to classes of risks, the rates for which cannot practicably be filed before
 33 they are used.

34 *(h) Except for workers compensation and employer's liability line, the*
 35 *following categories of commercial lines risks are considered special risks*
 36 *which are exempt from the filing requirements in this section: (1) Risks*
 37 *that are written on an excess or umbrella basis; (2) commercial risks, or*
 38 *portions thereof, that are not rated according to manuals, rating plans,*
 39 *or schedules including "a" rates; (3) large risks as defined in K.S.A. 40-*
 40 *216 and amendments thereto; and (4) special risks designated by the com-*
 41 *missioner, including but not limited to risks insured under highly pro-*
 42 *TECTED risks rating plans, commercial aviation, credit insurance, boiler and*
 43 *machinery, inland marine, fidelity, surety and guarantee bond insurance*

(3) Large risks as defined in K.S.A. 40-216 and amendments thereto; and

Note: Insert new sections (i) and (j) containing the definition for "large risk" previously contained in Section 1. Reletter remaining sections accordingly.

2-5

1 ← risks
2 → (i) Underwriting files, premium, loss and expense statistics, financial
3 and other records pertaining to special risks written by any insurer shall
4 be maintained by the insurer and shall be subject to examination by the
5 commissioner.

6 Sec. 3. K.S.A. 40-216 and K.S.A. 1998 Supp. 40-955 are hereby
7 repealed.

8 Sec. 4. This act shall take effect and be in force from and after its
9 publication in the statute book.

(i) For purposes of this subsection, "large risk" means: (1) An insured that has total insured property values of \$5,000,000 or more; (2) an insured that has total annual gross revenues of \$10,000,000 or more; or (3) an insured that has in the preceding calendar year a total paid premium of \$50,000 or more for property insurance, \$50,000 or more for general liability insurance, or \$100,000 or more for multiple lines policies.

(j) The exemption for any large risk contained in subsection (h) shall not apply to workers compensation and employer's liability insurance, insurance purchasing groups, and the basic coverage required by K.S.A. 40-3401 et seq. and amendments thereto.

(i) (k)

SENATE BILL No. 240

By Committee on Financial Institutions and Insurance

2-5

9 AN ACT concerning the bank commissioner; relating to duties and qual-
10 ifications; amending K.S.A. 75-1304 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 75-1304 is hereby amended to read as follows: 75-
14 1304. (a) The governor shall appoint, subject to confirmation by the sen-
15 ate as provided in K.S.A. 75-4315b, a state bank commissioner whose
16 term of office shall be four years and who shall serve until a successor is
17 appointed and qualified. ~~No person shall be eligible for appointment as~~
18 ~~commissioner unless the person has had five years actual banking expe-~~
19 ~~rience as an executive officer in a state bank in this state.~~ If a vacancy
20 occurs in the office of the commissioner prior to the expiration of a term,
21 the vacancy shall be filled for the unexpired term by appointment by the
22 governor.

23 (b) *No person shall be eligible for appointment as commissioner un-*
24 *less such person has:*

25 (1) *At least five years actual experience as an executive officer in a*
26 *state or national bank; or*

27 (2) *at least five years actual experience in a management position in*
28 *a federal or state agency which regulates banks.*

29 (c) *The commissioner shall devote the commissioner's time and atten-*
30 *tion to the business and duties of the office on a full-time basis.*

31 (d) *While serving as bank commissioner, the commissioner shall not*
32 *be an officer, director, employee or consultant of any bank, bank holding*
33 *company, affiliate or any other entity regulated by the commissioner.*

34 Sec. 2. K.S.A. 75-1304 is hereby repealed.

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

:
(1) any state or national bank or
bank holding company;

(2) any affiliate of a state ~~or~~ ^{or} national
bank or bank holding company; or

(3) any other entity regulated by
the commissioner

SB 260

Date 9/23

Attachment # 4

1 Sec. 2. K.S.A. 1998 Supp. 9-539 is hereby amended to read as fol-
2 lows: 9-539. The commissioner shall adopt such rules and regulations as
3 shall be necessary to carry out the intent and purposes of K.S.A. 9-519
4 through 9-524, and amendments thereto, and K.S.A. 9-532 through 9-
5 539, and amendments thereto, which shall be known as the bank holding
6 company act. All rules and regulations of general application shall first be
7 submitted by the commissioner to the state banking board for its approval
8 and upon approval shall be filed as provided by article 4 of chapter 77 of
9 the Kansas Statutes Annotated.

10 Sec. 3. K.S.A. 9-802 is hereby amended to read as follows: 9-802.
11 The existence of any bank or trust company as a corporation shall date
12 from the filing of its articles of incorporation from which time it shall
13 have and may exercise the incidental powers conferred by law upon cor-
14 porations, except that no bank or trust company shall transact any business
15 except the election of officers, the taking and approving of their official
16 bonds, the receipts of payment upon stock subscriptions and other busi-
17 ness incidental to its organization, until it has secured the approval of the
18 board and the authorization of the ~~commissioners~~ commissioner to com-
19 mence business.

20 Sec. 4. K.S.A. 9-804 is hereby amended to read as follows: 9-804.
21 When the capital of any bank or trust company shall have been paid in,
22 the president or cashier shall transmit to the commissioner a verified
23 statement showing the names and addresses of all stockholders, the
24 amount of stock each subscribed, and the amount paid in by each. The
25 commissioner shall examine such bank or trust company and shall charge
26 the statutory examination fee and shall examine especially as to the
27 amount of money paid in for capital, surplus and undivided profits, by
28 whom paid, and the amount of capital stock owned in good faith by each
29 stockholder, and generally whether such bank or trust company has com-
30 plied with the provisions of law. If the commissioner finds from such
31 examination that the bank or trust company has been organized as pro-
32 vided by law, has complied with the provisions of law and has secured
33 the preliminary approval of the commissioner as authorized by subsection
34 (b) of K.S.A. 9-1801, and amendments thereto, ~~or the approval of the~~
35 ~~board~~, the commissioner shall issue a certificate showing that such bank
36 or trust company has been organized and its capital paid in as required
37 by law, and that it is authorized to transact a general banking or trust
38 business as provided by law.

39 Sec. 5. K.S.A. 9-812 is hereby amended to read as follows: 9-812. A
40 bank corporation shall not change its name until such name change has
41 been submitted to and approved by the state banking board bank
42 commissioner.

43 Sec. 6. K.S.A. 1998 Supp. 9-904 is hereby amended to read as fol-

of the board or the approval

4-2

1 shall be retired unless the common stock shall be increased in an amount
2 equal to the amount of the preferred stock retired. All preferred stock
3 shall be retired consistent with safety to the depositors.

4 Sec. 8. K.S.A. 9-912 is hereby amended to read as follows: 9-912.
5 Any losses sustained by a bank or trust company in excess of its undivided
6 profits may be charged to its surplus fund. Any bank or trust company,
7 after receiving approval from the commissioner, may declare a stock div-
8 idend from its surplus fund, but no such dividend shall reduce the surplus
9 fund to an amount less than 30% of the resulting total capital and any
10 bank or trust company may reduce its surplus with permission of the state
11 banking board bank commissioner.

12 Sec. 9. K.S.A. 9-1001 is hereby amended to read as follows: 9-1001.
13 Each bank shall maintain reserves against its deposits in such ratios as
14 shall be determined from time to time by the commissioner with approval
15 of the board. Such determinations by the commissioner and the board
16 shall not be subject to the provisions of article 4 of chapter 77 of the
17 Kansas Statutes Annotated, and amendments thereto.

18 The reserves shall be kept in cash in its vaults or in net balances with
19 correspondent federal reserve banks or a correspondent bank maintaining
20 a balance in a pass through account with a federal reserve bank. A bank
21 shall be given credit against the reserve requirements determined by the
22 commissioner with approval of the board for any reserves held as required
23 by the laws or regulations of the federal government or agencies thereof.

24 Sec. 10. K.S.A. 1998 Supp. 9-1101 is hereby amended to read as
25 follows: 9-1101. Any bank hereby is authorized to exercise by its board of
26 directors or duly authorized officers or agents, subject to law, all such
27 powers, including incidental powers, as shall be necessary to carry on the
28 business of banking, and:

29 (1) To receive deposits and to pay interest thereon at rates which
30 need not be uniform. The state bank commissioner, with approval of the
31 state banking board, may by regulations of general application fix maxi-
32 mum rates of interest to be paid on deposit accounts other than accounts
33 for public moneys;

34 (2) to buy and sell exchange, gold, silver, foreign coin, bullion, com-
35 mercial paper, bills of exchange, notes and bonds;

36 (3) to buy and sell bonds, securities, or other evidences of indebt-
37 edness of the United States of America or those fully guaranteed, directly
38 or indirectly, by it, and general obligation bonds of the state of Kansas or
39 any municipality or quasi-municipality thereof, and of other states, and
40 of municipalities or quasi-municipalities in other states of the United
41 States of America. No bank shall invest an amount in excess of 15% of its
42 capital stock paid in and unimpaired and the unimpaired surplus fund of
43 such bank in bonds, securities or other evidences of indebtedness of any

[. Any

4-3

chase; and

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

6 (b) Life insurance purchased for the sole purpose of providing de-
7 ferred compensation and benefit plans are subject to the following
8 limitations:

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

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

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

16 (iv) the bank is not authorized to hold the policies unless specifically
17 approved by the state [banking board] if no liability exists under the de-
18 ferred compensation plans;

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

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

32 (25) subject to such rules and regulations as the state bank commis-
33 sioner may adopt pursuant to K.S.A. 9-1713 and amendments thereto to
34 promote safe and sound banking practices, to act as an agent and receive
35 deposits, renew time deposits, close loans, service loans, and receive pay-
36 ments on loans and other obligations for any company which is a subsidi-
37 ary, as defined in subsection (d) of K.S.A. 9-519 and amendments thereto
38 of the bank holding company which owns the bank. Nothing in this sub-
39 section shall authorize a bank to conduct activities as an agent which the
40 bank or the subsidiary would be prohibited from conducting as a principal
41 under any applicable federal or state law. Any bank which enters or ter-
minates any agreement pursuant to this subsection shall within 30 days
of the effective date of the agreement or termination provide written

[] bank commissioner

4-4

1 of such audit shall be filed with the state bank commissioner. Upon re-
 2 ceipt of the report, the bank commissioner shall examine the report and
 3 ~~shall transmit the report, with any recommendations as to action thereon,~~
 4 ~~to the state banking board and the state banking board~~ the commissioner
 5 shall, without delay, take such necessary action as may be indicated by
 6 the audit report and the recommendations of the commissioner.

7 Whenever a bank shall fail to comply with the provisions of this section,
 8 the commissioner shall notify the bank that a continuation of such failure
 9 will result in the revocation of its authority to do business. If after receipt
 10 of such notice the bank fails or refuses to comply, the commissioner shall
 11 after a hearing or an opportunity for a hearing has been given to such
 12 bank, revoke its authority to transact business in this state. Hearings shall
 13 be conducted in accordance with the provisions of the Kansas adminis-
 14 trative procedure act. The bank commissioner may grant a reasonable
 15 extension of time for compliance with this section under such rules and
 16 regulations as the state [banking board] may adopt. During the period of
 17 any such extension of time, the bank receiving the same shall give notice
 18 to persons making deposits, and include in all advertisements made for
 19 the purpose of securing deposits, a statement that the deposits of such
 20 bank are uninsured. The commissioner shall give written notice of such
 21 revocation to the president, cashier, or other managing officer of such
 22 bank, and by publishing a copy of the order of revocation in the Kansas
 23 register. The attorney general shall, at the request of the commissioner,
 24 then begin action for the appointment of a receiver for such bank and to
 25 dissolve same; and the receiver appointed shall take charge of such bank
 26 and liquidate the affairs and business in the same manner as provided in
 27 article 19 of chapter 9 of the Kansas Statutes Annotated, and any amend-
 28 ments thereto.

[bank commissioner

29 Sec. 19. K.S.A. 1998 Supp. 9-1402 is hereby amended to read as
 30 follows: 9-1402. (a) Before any deposit of public moneys or funds shall
 31 be made by any municipal corporation or quasi-municipal corporation of
 32 the state of Kansas with any bank, savings and loan association or savings
 33 bank, such municipal or quasi-municipal corporation shall obtain security
 34 for such deposit in one of the following manners prescribed by this
 35 section.

36 (b) Such bank, savings and loan association or savings bank may give
 37 to the municipal corporation or quasi-municipal corporation a personal
 38 bond in double the amount which may be on deposit at any given time.

39 (c) Such bank, savings and loan association or savings bank may give
 40 a corporate surety bond of some surety corporation authorized to do busi-
 41 ness in this state, which bond shall be in an amount equal to the public
 42 moneys or funds on deposit at any given time less the amount of such
 43 public moneys or funds which is insured by the federal deposit insurance

corporation or its successor and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal corporation or quasi-municipal corporation making such deposits.

(d) Such bank, savings and loan association or savings bank may deposit, maintain, pledge, assign, and grant a security interest in, or cause its agent, trustee, wholly-owned subsidiary or affiliate having identical ownership to deposit, maintain, pledge, assign, and grant a security interest in, for the benefit of the governing body of the municipal corporation or quasi-municipal corporation in the manner provided in this act, securities, security entitlements, financial assets and securities accounts owned by the depository institution directly or indirectly through its agent or trustee holding securities on its behalf, or owned by the depository institutions wholly-owned subsidiary or by such affiliate, the market value of which is equal to 100% of the total deposits at any given time, and such securities, security entitlements, financial assets and securities accounts, may be accepted or rejected by the governing body of the municipal corporation or quasi-municipal corporation and shall consist of the following and security entitlements thereto:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations, including but not limited to letters of credit, and securities of United States sponsored corporations which under federal law may be accepted as security for public funds;

(2) bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America;

(3) bonds of the state of Kansas;

(4) general obligation bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas;

(5) revenue bonds of any municipal corporation or quasi-municipal corporation of the state of Kansas if approved by the state bank commissioner ~~in the case of banks and by the savings and loan commissioner in the case of savings and loan associations or federally chartered savings banks;~~

deletion (have so p+l comm)

(6) temporary notes of any municipal corporation or quasi-municipal corporation of the state of Kansas which are general obligations of the municipal or quasi-municipal corporation issuing the same;

(7) warrants of any municipal corporation or quasi-municipal corporation of the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a

4-6

(D) A status report on all such loans shall be provided to the investing governmental entity by the financial institution on a quarterly basis.

(e) No such bank, savings and loan association or savings bank may deposit and maintain for the benefit of the governing body of a municipal or quasi-municipal corporation of the state of Kansas, any securities which consist of:

(1) Bonds secured by revenues of a utility which has been in operation for less than three years; or

(2) bonds issued under K.S.A. 12-1740 *et seq.*, and amendments thereto, unless such bonds have been refunded in advance of their maturity as provided in subsection (d) or such bonds are rated at least Aa by Moody's Investors Service or AA by Standard & Poor's Corp.

(f) Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

Sec. 20. K.S.A. 9-1601 is hereby amended to read as follows: 9-1601. Any bank, upon the affirmative vote of at least ~~two-thirds~~ ^(3/4) $\frac{2}{3}$ of the voting stock, may apply to the commissioner and upon approval granted by the commissioner and a special permit issued thereon shall be authorized and empowered, subject to such conditions as the commissioner may require, to act as agent, trustee, executor, administrator, registrar of stocks and bonds, conservator, assignee, receiver, custodian, transfer agent, corporate trustee, corporate agent or in any other fiduciary capacity in the same manner in which trust companies incorporated under the laws of this state are permitted to act, including but not limited to the right of succession to individuals, corporations, associations, national bank associations or others, with or without reappointment, in any such office or capacities. The commissioner may approve and issue a special permit to the bank to act in one or more of such fiduciary capacities. However, if the governing instrument limits investment of funds to deposit in time or savings deposits in the bank, any bank may act as trustee or custodian of individual retirement accounts established pursuant to section 408 of the federal internal revenue code of ~~1954~~ 1986, and amendments thereto, or trusts established pursuant to section 401 of the federal internal revenue code of ~~1954~~ 1986, and amendments thereto, without being issued a special permit to act in such capacity. Any state bank having been granted trust authority by the bank commissioner of the state of Kansas may add "and trust company" to its corporate name as previously approved by the state banking board ~~bank commissioner~~.



banking board or

Sec. 21. K.S.A. 9-1609 is hereby amended to read as follows: 9-1609. Any state or national bank or trust company qualified to act as fiduciary in this state may establish common trust funds for the purpose of furnishing investments to itself as fiduciary, or to itself and others, as co-fiduciaries or to another state or national bank or trust company, as fidu-

6-7
4-7

1 application until it first investigates and examines such application and the
2 applicants.

3 (b) If upon the dissolution, insolvency or appointment of a receiver
4 of any bank, trust company, national bank association, savings and loan
5 association, savings bank or credit union, it is the opinion of the commis-
6 sioner that by reason of the loss of services in the community, an emer-
7 gency exists which may result in serious inconvenience or losses to the
8 depositors or the public interest in the community, the commissioner may
9 accept and approve an application for incorporation and application for
10 authority to do business from applicants for the organization and estab-
11 lishment of a successor bank or trust company, ~~subject to confirmation~~
12 ~~and subsequent approval by the board. Upon approval of an application~~
13 ~~for the organization and establishment of any such successor bank or trust~~
14 ~~company, the commissioner shall no later than the next regular meeting~~
15 ~~of the board submit such application to the board for its confirmation and~~
16 ~~approval.~~

17 Sec. 29. K.S.A. 9-1805 is hereby amended to read as follows: 9-1805.

18 (a) If the ~~board commissioner~~ finds in accordance with this section that
19 any officer or director of any bank or trust company has been dishonest,
20 reckless or incompetent in performing duties as such officer or director
21 or willfully or continuously fails to observe any ~~legally made~~ order of the
22 commissioner or ~~board~~, the ~~board commissioner~~ may remove such officer
23 or director.

or board

24 (b) Prior to removing such officer or director, the ~~board commis-~~
25 ~~sioner~~ shall conduct a hearing in accordance with the provisions of the
26 Kansas administrative procedure act.

27 (c) The ~~board commissioner~~ may recess or continue any hearing from
28 time to time. If upon the conclusion of such hearing the ~~board commis-~~
29 ~~sioner~~ determines that the officer or director has been dishonest, reckless
30 or incompetent in performing duties as such an officer or director, or has
31 willfully or continuously failed to comply with any ~~legally made~~ order of
32 the commissioner or ~~board~~, the ~~board commissioner~~ may order the offi-
33 cer's or director's office forfeited and vacated. The ~~board commissioner~~
34 shall mail a copy of its order to the bank or trust company which such
35 officer or director was serving. During the time from and after any ~~le-~~
36 ~~gally made~~ order by the commissioner and ~~upheld by the board~~, or order
37 ~~made by the board~~, and not complied with by any officer or director the
38 ~~board commissioner~~ may place a special deputy in the bank up to and
39 until the final disposition of the order by compliance or final disposition
40 by order of the district court.

or board

41 (d) Any action of the ~~board commissioner~~ pursuant to this section is
subject to review in accordance with the act for judicial review and civil
enforcement of agency actions. If on review the court upholds an order

4-8

1 newspaper of general circulation in the county where the proposed trust
 2 service office is to be located, not less than 10 or more than 30 days prior
 3 to the date of the hearing, and an affidavit of publication shall be filed
 4 with the commissioner. At any such hearing, all interested persons shall
 5 be allowed to present written and oral evidence to the commissioner in
 6 support of or in opposition to the application. Upon completion of a tran-
 7 script of the testimony given at any such hearing, the transcript shall be
 8 filed in the office of the commissioner. Within 14 days after the public
 9 hearing, the commissioner shall approve or disapprove the application
 10 after consideration of the application and evidence gathered during the
 11 commissioner's investigation.

12 (h) The commissioner may extend the period for approval or disap-
 13 proval if the commissioner determines that any information required by
 14 this section has not been furnished, any material information submitted
 15 is inaccurate or additional investigation is required. The commissioner,
 16 prior to ~~Prior to~~ expiration of the application period as provided in this
 17 section, ~~the commissioner~~ shall give written notice to the applicant of the
 18 commissioner's intent to extend the period and such notice shall include
 19 a specific date for expiration of the extension period. If any information
 20 remains incomplete or inaccurate upon the expiration of the extension
 21 period the application shall be disapproved.

22 (i) Within 15 days of the date after the commissioner's approval
 23 or disapproval of the application, the applicant or any individual or cor-
 24 poration who filed a request for and presented evidence at the public
 25 hearing shall have the right to appeal in writing to the state banking board
 26 the commissioner's determination, request a hearing by filing a notice of
 27 appeal written request with the commissioner. The state banking board
 28 shall fix a date for a hearing, which hearing shall be held within 45 days
 29 from the date such notice of appeal is filed. The board commissioner shall
 30 conduct the hearing in accordance with the provisions of the Kansas ad-
 31 ministrative procedure act and render its decision affirming or rescinding
 32 the determination of the commissioner within 45 days after such request
 33 is filed. Action of the board commissioner pursuant to this section is sub-
 34 ject to review in accordance with the act for judicial review and civil
 35 enforcement of agency actions. Any party which files an appeal to the
 36 state banking board of the commissioner's determination applicant who
 37 requests a hearing shall pay to the commissioner a fee in an amount
 38 established by rules and regulations of the commissioner, adopted pur-
 39 suant to K.S.A. 9-1713 and amendments thereto, to defray the board's
 40 commissioner's expenses associated with the conduct of the [appeal].

41 (j) (i) When the commissioner determines that a trust company dom-
 42 ciled in this state has established or is operating a trust service office in
 43 violation of the laws governing the operation of such trust company, the

hearing

6-9

1 commissioner shall give written notice to the trust company of such de-
 2 termination. Within 15 days after receipt of such notification, the trust
 3 company may appeal in writing to the state banking board the commis-
 4 sioner's determination file a written request for a hearing. The board
 5 commissioner shall fix a date for hearing, which hearing shall be held
 6 within 45 days from the date of such appeal and shall be conducted con-
 7 duct the hearing in accordance with the provisions of the Kansas admin-
 8 istrative procedure act within 45 days after such request is filed. At such
 9 hearing the board shall hear all matters relevant to the commissioner's
 10 determination and shall approve or disapprove the commissioner's deter-
 11 mination, and the decision of the board shall be final and conclusive. If
 12 the trust company does not appeal to the state banking board from the
 13 commissioner's determination or if an appeal is made and the commis-
 14 sioner's determination is upheld by the board request a hearing, the com-
 15 missioner may proceed as provided in K.S.A. 9-1714 and amendments
 16 thereto, until such time as the commissioner determines the trust com-
 17 pany is in full compliance with the laws governing the operation of a trust
 18 service office.

19 Sec. 36. K.S.A. 1998 Supp. 74-3004 is hereby amended to read as
 20 follows: 74-3004. (a) There is hereby created a state banking board which
 21 shall be composed of nine members. Six members of the board shall be
 22 bankers with not less than five years' actual banking experience in a state
 23 bank in this state or persons with not less than five years' actual experience
 24 in a state chartered savings and loan association in this state, or any
 25 combination thereof and three shall represent the public interest in the
 26 regulation, operation and control of state banks and trust companies. [All
 27 members shall be selected from the state at large.] No nonbanker member
 28 representing the public interest shall concurrently serve as an officer, *or*
 29 director in any state or national bank or trust company wherever located.
 30 One of the nine members shall be elected annually. The commissioner
 31 shall serve as chairperson of the board. The commissioner shall not be a
 32 voting member of the board. The board shall be appointed by the gov-
 33 ernor. Persons appointed to the board shall be subject to confirmation by
 34 the senate as provided in K.S.A. 75-4315b, and amendments thereto.
 35 Except as provided by K.S.A. 1998 Supp. 46-2601, no person appointed
 36 to the board shall exercise any power, duty or function as a member of
 37 the board until confirmed by the senate. No more than five members of
 38 the board shall be from the same political party. Subject to the provisions
 39 of K.S.A. 75-4315c, and amendments thereto, of the six banker or savings
 40 and loan association members, the governor shall appoint one from each
 41 Kansas congressional district as presently constituted and the remainder
 42 from the state at large. Appointment of nonbanker members representing
 43 the public interest shall be made with due consideration for achieving

from the state at large

4-10

representation of the various geographic sectors of the state.

(b) Except as provided by subsection (c), terms of members of the board shall be for three years. Each member shall serve until a successor is appointed and confirmed. No person shall serve more than two terms as a member of the board. In the event of a vacancy on the board, the governor shall appoint a new member of the same qualification to fill the unexpired term.

(c) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of three years and until their successors are appointed and confirmed.

Sec. 37. K.S.A. 74-3005 is hereby amended to read as follows: 74-3005. Members of the state banking board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commissioner shall act as secretary for said board and shall keep a permanent record of all meetings and proceedings of said board in his the commissioner's office.

Sec. 38. K.S.A. 1998 Supp. 74-3006 is hereby amended to read as follows: 74-3006. (a) The board shall meet once each month [quarter] on dates it agrees upon, and shall meet at other times as the board deems necessary unless no applications which require the board's consideration are pending or when called by the chairperson or any three members of the board state bank commissioner. Six members of the board shall constitute a quorum, and a majority vote of the board shall be necessary to carry any question. No action of the board shall be taken except in a formal meeting and after a favorable vote of a majority of the entire board. The members of the board during business hours shall have free access to all of the records in the office of the commissioner. The board shall act in an advisory capacity in all matters pertaining to the conduct and welfare of the banking department and the administration of the banking laws of this state except as otherwise specifically provided by law.

(b) The board, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to discuss information deemed confidential by virtue of K.S.A. 9-1712 and amendments thereto.

Sec. 39. K.S.A. 1998 Supp. 74-3007 is hereby amended to read as follows: 74-3007. The savings and loan board created by K.S.A. 74-3113 and amendments thereto is hereby abolished. All of the powers, duties and functions of the existing savings and loan board are hereby transferred

month

1 to and imposed upon the state ~~banking board~~ *bank commissioner* estab-
2 lished by K.S.A. 74-3004 and amendments thereto.

3 Sec. 40. K.S.A. 1998 Supp. 74-3008 is hereby amended to read as
4 follows: 74-3008. (a) The state ~~banking board~~ *bank commissioner* shall be
5 the successor in every way to the powers, duties and functions of the
6 savings and loan board in which the same were vested prior to the effec-
7 tive date of this act. Every act performed in the exercise of such powers,
8 duties and functions by or under the authority of the state ~~banking board~~
9 *bank commissioner* shall be deemed to have the same force and effect as
10 if performed by the savings and loan board in which such powers, duties
11 and functions were vested prior to the effective date of this act.

12 (b) Whenever the savings and loan board, or words of like effect, is
13 referred to or designated by a statute, contract or other document, such
14 reference or designation shall be deemed to apply to the state ~~banking~~
15 ~~board~~ *bank commissioner*.

16 (c) All orders and directives of the savings and loan board in existence
17 on the effective date of this act shall continue to be effective and shall be
18 deemed to be orders and directives of the state ~~banking board~~ *bank com-*
19 *missioner* until revised, amended or nullified pursuant to law.

20 (d) On and after the effective date of this act, whenever any statute,
21 contract or other document concerns the power or authority of the savings
22 and loan board, the state ~~banking board~~ *bank commissioner* shall succeed
23 to such power or authority.

24 Sec. 41. K.S.A. 9-802, 9-804, 9-812, 9-901b, 9-908, 9-912, 9-1001, 9-
25 1101a, 9-1107, 9-1127b, 9-1127c, 9-1127d, 9-1301, 9-1601, 9-1609, 9-
26 1702, 9-1713, 9-1714, 9-1716, 9-1719, 9-1721, 9-1805, 9-1806, 9-1807, 9-
27 2106 and 74-3005 and K.S.A. 1998 Supp. 9-535, 9-539, 9-904, 9-1101,
28 9-1111, 9-1135, 9-1402, 9-1801, 9-1904, 9-2107, 9-2108, 74-3004, 74-
29 3006, 74-3007 and 74-3008 are hereby repealed.

30 Sec. 42. This act shall take effect and be in force from and after its
31 publication in the [statute book].

[Kansas register

SENATE BILL No. 271

By Committee on Financial Institutions and Insurance

2-9

9 AN ACT transferring the duties of the consumer credit commissioner to
 10 the state bank commissioner; creating a program of consumer credit
 11 affairs within the office of the state bank commissioner; abolishing the
 12 office of the consumer credit commissioner; amending K.S.A. 74-3005
 13 and 75-1308 and K.S.A. 1998 Supp. 74-3004 and 74-3006 and repeal-
 14 ing the existing sections; also repealing K.S.A. 16-403 and 16-609.

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

16 New Section 1. The office of the consumer credit commissioner cre-
 17 ated by K.S.A. 16-403 and amendments thereto is hereby abolished. Ex-
 18 cept as otherwise provided in this act, all of the powers, duties and func-
 19 tions of the existing consumer credit commissioner are hereby transferred
 20 to and conferred and imposed upon the state bank commissioner estab-
 21 lished by K.S.A. 75-1304 and amendments thereto.

22 New Sec. 2. (a) The state bank commissioner shall be the successor
 23 in every way to the powers, duties and functions of the consumer credit
 24 commissioner in which the same were vested prior to the effective date
 25 of this act. Every act performed in the exercise of such powers, duties
 26 and functions by or under the authority of the state bank commissioner
 27 shall be deemed to have the same force and effect as if performed by the
 28 consumer credit commissioner in which such powers, duties and func-
 29 tions were vested prior to the effective date of this act.

30 (b) Whenever the consumer credit commissioner, or words of like
 31 effect, are referred to or designated by a statute, contract or other doc-
 32 ument, such reference or designation shall be deemed to apply to the
 33 state bank commissioner.

34 (c) All orders and directives of the consumer credit commissioner in
 35 existence on the effective date of this act shall continue to be effective
 36 and shall be deemed to be orders and directives of the state bank com-
 37 missioner until revised, amended or nullified pursuant to law.

38 (d) All rules and regulations of the consumer credit commissioner, in
 39 existence on the effective date of this act shall continue to be effective
 40 and shall be deemed to be duly adopted rules and regulations of the state
 41 bank commissioner until revised, amended, revoked or nullified pursuant
 42 law.
 43

Senate Financial Institutions & Insurance

Date 2/23/99

Attachment # 5

28

5-2

(e) The state bank commissioner shall succeed to whatever right, title or interest the consumer credit commissioner has acquired in any real property in this state, and the state bank commissioner shall hold the same for and in the name of the state of Kansas.

(f) On and after the effective date of this act, whenever any statute, contract or other document concerns the power or authority of the consumer credit commissioner, the state bank commissioner shall succeed to such power or authority.

New Sec. 3. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas state bank commissioner shall succeed to all property, property rights and records which were used for or pertain to the performance of the powers, duties and functions transferred to the bank commissioner. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer, attachment or all or part of the powers, duties and functions of the consumer credit commissioner, shall be determined by the governor, whose decision shall be final.

New Sec. 4. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

New Sec. 5. On the effective date of this act, the balances of all funds appropriated or reappropriated for the consumer credit commissioner, are hereby transferred to the state bank commissioner. The director of accounts and reports shall transfer all moneys in the consumer credit fee fund to the bank commissioner fee fund. On the effective date of this act, all liabilities of the consumer credit fee fund existing prior to the effective date of this act are imposed on the bank commissioner fee fund. The consumer credit fee fund is hereby abolished.

[(a)

(b) On the effective date of this act, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or officer transferred by this act, or which becomes a part of the office of the state bank commissioner or the powers, duties and functions of which are transferred to the bank commissioner, shall be assumed and paid by the state bank commissioner.

New Sec. 6. On the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions involved in the administration of any law administered by the consumer credit commissioner, and who, in the opin-

5-3

on of the state bank commissioner, are necessary to perform the powers,
 2 duties and functions involved in the administration of any law adminis-
 3 tered by the consumer credit commissioner, shall be transferred to, and
 4 shall become officers and employees of the bank commissioner. Any such
 5 officer or employee shall retain all retirement benefits and all rights of
 6 civil service which had accrued to or vested in such officer or employee
 7 prior to the effective date of this act. The service of each such officer and
 8 employee so transferred shall be deemed to have been continuous.

9 New Sec. 7. (a) On the effective date of this act, the balance of all
 10 funds appropriated and reappropriated to the consumer credit commis-
 11 sioner is hereby transferred to the state bank commissioner and shall be
 12 used only for the purpose for which the appropriation was originally
 13 made.

14 (b) On the effective date of this act, the liability for all accrued com-
 15 pensation or salaries of officers and employees who, immediately prior to
 16 such date, were engaged in the performance of powers, duties or func-
 17 tions of any state agency or officer transferred by this act, or which be-
 18 comes a part of the office of the state bank commissioner or the powers,
 19 duties and functions of which are transferred to the bank commissioner,
 20 shall be assumed and paid by the state bank commissioner.

21 ~~New Sec. 8. (a) There is hereby established in the office of the bank~~
 22 ~~commissioner a program of banking and trust company regulation to en-~~
 23 ~~force the provisions of chapter 9 of the Kansas Statutes Annotated and~~
 24 ~~amendments thereto or rules and regulations adopted thereunder. The~~
 25 ~~program shall be under the supervision of the state bank commissioner,~~
 26 ~~and the commissioner shall employ a deputy commissioner to administer~~
 27 ~~the program and appoint such personnel as may be necessary for the~~
 28 ~~proper administration of the program. The deputy commissioner shall be~~
 29 ~~in the unclassified service of the Kansas civil service act.~~

30 (b) The deputy commissioner administering the banking regulation
 31 program shall perform all duties and functions delegated by the commis-
 32 sioner regarding:

33 (1) The administration and enforcement of chapter 9 of Kansas Stat-
 34 utes Annotated and amendments thereto; and

35 ~~(2) such other duties as may be assigned by the commissioner.~~

36 ~~New Sec. 9. (a) There is hereby established in the office of the bank~~
 37 ~~commissioner a program of consumer credit regulation. The program~~
 38 ~~shall be under the supervision of the state bank commissioner, and the~~
 39 ~~commissioner shall employ a deputy commissioner to administer the pro-~~
 40 ~~gram and appoint such personnel as may be necessary for the proper~~
 41 ~~administration of the program. The deputy commissioner shall have at~~
 42 ~~least five years' experience in an executive position in a consumer credit~~
 43 ~~business regulated by the commissioner or at least five years' experience.~~

5-4

~~a state or federal regulator of a consumer credit business regulated by the commissioner. The deputy commissioner shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the bank commissioner.~~

~~(b) The deputy commissioner administering the consumer credit program shall perform all duties and functions delegated by the commissioner regarding:~~

~~(1) The regulation of investment certificates of investment companies as set forth in article 6 of chapter 16 of the Kansas Statutes Annotated as amended and supplemented;~~

~~(2) the administration of the uniform consumer credit code as set forth in chapter 16a of the Kansas Statutes Annotated as amended and supplemented;~~

~~(3) the administration of the fair credit reporting act as set forth in article 7 of chapter 50 of the Kansas Statutes Annotated as amended and supplemented;~~

~~(4) the regulation of credit service organizations as set forth in article 11 of chapter 50 of the Kansas Statutes Annotated as amended and supplemented;~~

~~(5) the regulation of mortgage business as set forth in article 22 of chapter 9 of the Kansas Statutes Annotated as amended and supplemented; and~~

~~(6) such other duties as may be assigned by the commissioner.~~

~~Sec. 10. K.S.A. 1998 Supp. 74-3004 is hereby amended to read as follows: 74-3004. (a) There is hereby created a state banking board which shall be composed of nine members. Six members of the board shall be bankers with not less than five years' actual banking experience in a state bank in this state or persons with not less than five years' actual experience in a state chartered savings and loan association in this state, or any combination thereof and three shall represent the public interest in the regulation, operation and control of state banks and trust companies. [All members shall be selected from the state at large.] No nonbanker member representing the public interest shall concurrently serve as an officer or director in any state or national bank or trust company wherever located. One of the nine members shall be elected annually. The commissioner shall serve as chairperson of the board. The commissioner shall not be a voting member of the board. The board shall be appointed by the governor. Persons appointed to the board shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 1998 Supp. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. No more than five members of the board shall be from the same political party. Subject to the provisions~~

K.S.A. 75-3135 is hereby amended to read as follows:

75-3135. ~~Salary of bank commissioner; appointment of deputy commissioner; assistants and employees.~~ The bank commissioner shall receive an annual salary to be fixed by the governor with the approval of the state finance council. The bank commissioner is hereby authorized to appoint a two deputy commissioner commissioners who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the bank commissioner. The deputy commissioner of the banking division shall supervise all banks and trust companies as directed by the commissioner and shall perform such other duties as may be required by the commissioner. The deputy commissioner of the consumer and mortgage lending division shall supervise all consumer and mortgage lending functions as directed by the commissioner and shall perform such other duties as may be required by the commissioner. If the office of the commissioner is vacant or if the commissioner is absent or unable to act, the deputy commissioner of the banking division shall be the acting commissioner. The deputy commissioner of the banking division shall have at least five years' experience as a state bank officer or five years' experience as a state or federal ^{regulator} deposit insurance corporation bank examiner bank regulator. The deputy commissioner of consumer and mortgage lending shall have at least five years experience in consumer or mortgage lending, regulatory, legal or related experience. The bank commissioner is also authorized to appoint or contract for, in accordance with the civil service law, such special assistants and other employees as are necessary to properly discharge the duties of the office.

~~History: L. 1905, ch. 488, § 17; L. 1913, ch. 1, § 8; L. 1915, ch. 3, § 7; L. 1919, ch. 284, § 10; L. 1921, ch. 1, § 22; L. 1923, ch. 1, § 6; R.S. 1923, 75-3135; L. 1925, ch. 7, § 7; L. 1927, ch. 304, § 1; L. 1931, ch. 18, § 2; L. 1933, ch. 271, § 17; L. 1937, ch. 329, § 30; L. 1939, ch. 302, § 1; L. 1943, ch. 277, § 20; L. 1947, ch. 416, § 15; L. 1949, ch. 440, § 1; L. 1953, ch. 388, § 1; L. 1961, ch. 409, § 9; L. 1965, ch. 458, § 22; L. 1967, ch. 443, § 16; L. 1974, ch. 361, § 75; L. 1983, ch. 285, § 1; L. 1987, ch. 54, § 14; May 7~~

5-5

1 of K.S.A. 75-4315c, and amendments thereto, of the six banker or savings
 2 and loan association members, the governor shall appoint one from each
 3 Kansas congressional district as presently constituted and the remainder
 4 from the state at large. Appointment of nonbanker members representing
 5 the public interest shall be made with due consideration for achieving
 6 representation of the various geographic sectors of the state.

[from the state at large

7 (b) Except as provided by subsection (c), terms of members of the
 8 board shall be for three years. Each member shall serve until a successor
 9 is appointed and confirmed. No person shall serve more than two terms
 10 as a member of the board. In the event of a vacancy on the board, the
 11 governor shall appoint a new member of the same qualification to fill the
 12 unexpired term.

13 (c) The terms of members who are serving on the board on the ef-
 14 fective date of this act shall expire on March 15, of the year in which such
 15 member's term would have expired under the provisions of this section
 16 prior to amendment by this act. Thereafter, members shall be appointed
 17 for terms of three years and until their successors are appointed and
 18 confirmed.

19 New Sec. [1]. (a) There is hereby created a state consumer [credit]
 20 advisory board which shall be composed of nine members. Six members
 21 of the board shall be persons with [not less than five years' actual experi-
 22 ence in the operation of a consumer loan or related company or regulation
 23 of the consumer loan industry in this state] and three shall represent the
 24 public interest in the regulation, operation and control of consumer [loan]
 25 and related companies. [All members shall be selected from the state at
 26 large.] No member representing the public interest shall concurrently
 27 serve as an officer or director in any consumer [loan] or related company
 28 wherever located. The commissioner shall serve as chairperson of the
 29 board. The chairperson shall be a nonvoting member of the board. [The
 30 board shall be appointed by the governor. Persons appointed to the board
 31 shall be subject to confirmation by the senate as provided in K.S.A. 75-
 32 4315b, and amendments thereto. Except as provided by K.S.A. 1998
 33 Supp. 46-2601, no person appointed to the board shall exercise any
 34 power, duty or function as a member of the board until confirmed by the
 35 senate. No more than five members of the board shall be from the same
 36 political party. Subject to the provisions of K.S.A. 75-4315c, and amend-
 37 ments thereto, of the six persons representing the consumer credit in-
 38 dustry, the governor shall appoint one from each Kansas congressional
 39 district as presently constituted and the remainder from the state at large.]
 40 Appointment of members representing the [public interest] shall be made
 41 with due consideration for achieving representation of the various [por-
 42 tions] of the consumer [credit] industry regulated by the commissioner.

[and mortgage lending

[at least five years' experience
inconsumer or mortgage lending,
legal or other related experience

[or mortgage lending

[industry

[entities

[Terms

43 (b) [Except as provided by subsection (c), terms] of members of the

5-6

1 d shall be for three years. Each member shall serve until a successor
2 appointed and confirmed. No person shall serve more than two terms
3 as a member of the board. In the event of a vacancy on the board, the
4 governor shall appoint a new member of the same qualification to fill the
5 unexpired term.

6 (c) (1) The governor shall appoint one member representing the
7 public and two members representing the consumer credit industry for
8 a term which expires on March 15 of the calendar year which starts after
9 the effective date of this act.

10 (2) The governor shall appoint one member representing the public
11 and two members representing the consumer credit industry for a term
12 which expires on March 15 of the second calendar year which starts after
13 the effective date of this act.

14 (3) The governor shall appoint one member representing the public
15 and two members representing the consumer credit industry for a term
16 which expires on March 15 of the third calendar year which starts after
17 the effective date of this act.

18 (4) Thereafter, members shall be appointed for terms of three years
19 and until their successors are appointed and confirmed.

20 Sec. ~~12~~ K.S.A. 74-3005 is hereby amended to read as follows: 74-
21 3005. Members of the state banking board attending meetings of such
22 board, or attending a subcommittee meeting thereof authorized by such
23 board, shall be paid compensation, subsistence allowances, mileage and
24 other expenses as provided in K.S.A. 75-3223 and amendments thereto.
25 The commissioner shall act as secretary for said board and shall keep a
26 permanent record of all meetings and proceedings of said such board in
27 his the commissioner's office.

28 New Sec. ~~13~~ Members of the consumer credit advisory board at-
29 tending meetings of such board, or attending a subcommittee meeting
30 thereof authorized by such board, shall be paid compensation, subsistence
31 allowances, mileage and other expenses as provided in K.S.A. 75-3223
32 and amendments thereto. The commissioner shall keep a permanent rec-
33 ord of all meetings and proceedings of such board in the commissioner's
34 office.

35 Sec. ~~14~~ K.S.A. 1998 Supp. 74-3006 is hereby amended to read as
36 follows: 74-3006. (a) The state banking board shall meet once each month
37 ~~quarter~~, on dates it agrees upon, and shall meet at other times as the
38 board deems necessary or when called by the chairperson or any three
39 members of the board state bank commissioner. Six members of the board
40 shall constitute a quorum, and a majority vote of the board shall be nec-
41 essary to carry any question. No action of the board shall be taken except
42 formal meeting and after a favorable vote of a majority of the entire
43 1. The members of the board during business hours shall have free

The consumer and mortgage lending advisory board shall meet at least annually and may meet quarterly or when called by the commissioner.

month

unless no applications which require the board's consideration are pending

5-7

access to all of the records in the office of the commissioner. The board shall act in an advisory capacity in all matters pertaining to the conduct and welfare of the banking department and the administration of the banking laws of this state except as otherwise specifically provided by law.

(b) The board, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to discuss information deemed confidential by virtue of K.S.A. 9-1712 and amendment thereto.

~~[New Sec. 15. (a) The consumer credit advisory board shall meet once each quarter on dates it agrees upon or when called by the state bank commissioner. Six members of the board shall constitute a quorum, and a majority vote of the board shall be necessary to carry any question. No action of the board shall be taken except in a formal meeting and after a favorable vote of a majority of the entire board. The board shall act in an advisory capacity in all matters pertaining to the administration of the laws of this state pertaining to consumer credit.~~

~~(b) The board, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to discuss information deemed confidential.]~~

~~Sec. 16. K.S.A. 75-1308 is hereby amended to read as follows: 75-1308. The commissioner shall keep a record of all fees collected by him or her the commissioner, together with a record of all expenses incurred in making the examinations of all banks and trust companies. The bank commissioner shall remit all moneys received by or for him or her the commissioner from such fees to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and the balance shall be credited to the bank commissioner fee fund. All expenditures from the bank commissioner fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the bank commissioner or by a person or persons designated by him or her the commissioner.~~

~~Sec. 17. K.S.A. 16-403, 16-609, 74-3005 and 75-1308 and K.S.A. 1998 Supp. 74-3004 and 74-3006 are hereby repealed.~~

~~Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.~~

the administration of programs for the regulation of banks and trust companies and in the administration of programs for the regulation of consumer and mortgage lending. The

15

K.S.A. 16a-2-302 is hereby amended to read as follows:

16a-2-302. ~~(UCCC) License to make supervised loans; fees.~~ (1) (a) The administrator shall receive and act on all applications for licenses to make supervised loans under this act. Applications shall be filed in the manner prescribed by the administrator and shall contain the information the administrator may require by rule to make an evaluation of the financial responsibility, character and fitness of the applicant. Each place of business operated under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory thereof, shall have and properly display therein, a nontransferable and nonassignable license. Application for a license shall be on a form prescribed and furnished by the commissioner.

(b) Submitted with each application shall be an investigation fee and a license fee. Investigation and license fees shall be in such amounts as are established pursuant to subsection (6) of K.S.A. 16a-6-104. The license fee shall be returned to the applicant if the application is denied. The license year shall be the calendar year and the license fee for any period less than six months shall be an amount as established pursuant to subsection (6) of K.S.A. 16a-6-104. Each license shall remain in force until surrendered, suspended or revoked.

(c) The administrator shall remit all moneys received under K.S.A. 16a-1-101 to 16a-6-414, inclusive, and acts amendatory thereof to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Of each deposit 20% shall be credited to the state general fund and the balance shall be credited to the consumer credit fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator.

bank commissioner

6-2

The 20% credit to the state general fund required by this subsection (c) is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, which are performed on behalf of the administrator by other state agencies which receive appropriations from the state general fund to provide such services. Nothing in this subsection (c) shall be deemed to authorize remittances to be made less frequently than is authorized under K.S.A. 75-4215.

(d) Every licensee shall, on or before the first day of January, pay to the administrator the license fee prescribed under this subsection (1) for each license held for the succeeding license year. Failure to pay the license fee within the time prescribed shall automatically revoke the license.

(2) No license shall be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof if the applicant is a copartnership or association and of the officers and directors thereof, if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act. An applicant meets the minimum standard of financial responsibility for engaging in the business of making supervised loans, under subsection (1) of K.S.A. 16a-2-301, if the applicant has available for operation of that business assets of at least \$25,000 for each license issued by this or any other state.

(3) Upon written request the applicant is entitled to a hearing on the question of license qualifications if (a) the administrator has notified the applicant in writing that the application has been denied, or (b) the administrator has not issued a license within 60 days after the application for the license was filed. A request for a hearing may not be made more than 15 days after the administrator has mailed a writing to the applicant notifying the applicant that the application has been denied and stating in substance the administrator's findings supporting denial of the application.

(4) The administrator shall issue additional licenses to the same licensee upon compliance with all the provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory thereof, governing issuance of a single license. A separate license shall be required for each place of business. Each license shall remain in full force and effect until surrendered, suspended or revoked.

(5) No licensee shall change the location of any place of business without giving the administrator at least 15 days prior written notice.

(6) A licensee may conduct the business of making supervised loans only at or from any place of business for which the licensee holds a license and not under any other name than that in the license. Loans made pursuant to a lender credit card do not violate this subsection.

History: L. 1973, ch. 85, § 19; L. 1976, ch. 98, § 1; L. 1981, ch. 95, § 1; July 1.