

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on January 29, 2001 in Room 527-S of the Capitol.

All members were present except:

Rep. Bonnie Sharp - Excused
Rep. Dixie Toelkes - Excused

Committee staff present:

Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Revisor's Office
Maggie Breen, Committee Secretary

Conferees appearing before the committee:

Karen France, Director of Governmental Relations -
Kansas Association of Realtors
Judi Stork, Office of the State Bank Commissioner
Chuck Stones, Kansas Bankers Association

Others attending: See attached list

Chairman Cox opened the floor for bill introductions.

Karen France, Kansas Association of Realtors, requested the committee introduce a bill that would allow consumers to access their credit scores from credit bureaus. Presently, consumers have the right to review narrative credit reports but no right to review their credit score. (**Attachment 1**)

Representative Cox said without objection the bill was introduced.

Chairman Cox opened the hearing on:

HB 2146 - Providing products and services a national bank may provide

Proponents:

Judi Stork, OSBC, asked the committee's favorable consideration of **HB 2146**. It would add a new subsection to K.S.A. 9-1101 to authorize state banks to form "financial subsidiaries," and engage in the broad array of activities that are authorized for financial subsidiaries by the Gramm-Leach Biley Act (GLBA), Pub. L. 106-102. The GLBA only authorized formation of financial subsidiaries for national banks. This requires the individual states to provide authority for their state-chartered banks. Numerous states, including our four border states, have already done so. The bill includes all of the provisions of the Bank Commissioners' Special Order 2000-1 and a few additional powers that were not included in the Order, but allowed for by the GLBA. The bill would allow full parity between state-chartered banks and national banks in Kansas. The OSBC supervises and regulates the bank and the subsidiaries are subject to functional licensing, supervision and regulation. The OSBC feels that it is essential that state-chartered banks are on an equal playing field with national banks. (**Attachment 2**)

Chuck Stones, Kansas Bankers Association, spoke in favor of **HB 2146**. Parity is very important to state-chartered banks. Banks in towns of 5,000 have always been able to engage in insurance activities. (**Attachment 3**)

Rick Fleming, Office of the Securities Commissioner - Written testimony only (**Attachment 4**)

Chairman Cox closed the hearing on **HB 2146** and opened the hearing on:

HB 2149 - Bank commissioner, sharing certain information

Judi Stork, OSBC, requested favorable passage of **HB 2149**. The bill amends K.S.A. 9-1303, which is the statute that provides for the sharing of confidential information between the bank commissioner's office and

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTIONS, Room 527-S Statehouse, at 3:30 p.m. on January 29, 2001.

the insurance commissioners' and the securities commissioners' offices. This is necessary due to functional regulation when dealing with subsidiaries. (Attachment 5)

Chuck Stones, Kansas Bankers Association, said it was important to share information. His organization understands that and agrees with the bill. (Attachment 6)

Chairman Cox closed the hearing on **HB 2149** and opened the hearing on:

HB 2147 - Unlawful transactions; holding property

Proponent:

Chuck Stones, Kansas Bankers Association, said that currently the law provides that a bank must sell personal property, that it repossesses, within six months. The bank commissioner routinely extends the time another six months. The bill changes the time allotted to twelve months. The initial concern was specifically for manufactured homes, which are classified as personal property, but the bill covers all personal property. He said the OSBC has told his organization that "safe and soundness" is not a concern with the extension to twelve months. (Attachment 7)

Chairman Cox closed the hearing on **HB 2147** and opened the hearing on:

HB 2148 - Certification of trusts

Proponent:

Chuck Stones, Kansas Bankers Association said he'd like to introduce a new concept in Kansas which is mirrored off of a Nebraska law. It would allow for voluntary certificate that would show a third party, dealing with a trustee, that the trustee does indeed have the authority to do what it says its doing. The bill would provide an alternative to trustees who do not wish to copy the full trust and it's use would provide protection to third parties dealing with a trustee. Chuck stressed that the certificate was voluntary. He said that there was a technical amendment needed on page 2. (Attachment 8)

Bruce Kinzie said the amendment should read "signature is that of the corporate trustee or the signature or signatures of one or more of."

Chairman Cox closed the hearing on **HB 2148** and said the committee would work the bills.

HB 2146

Representative Tomlinson moved that the committee pass HB 2146 marked favorable for passage and, because it is of a non-controversial nature, be placed on the consent calendar. Representative Dreher seconded the motion. The bill could not be put on the consent calendar due to one nay vote. Representative Tomlinson restated his motion and moved the committee pass the bill marked favorably. Representative Dreher seconded the motion. The motion carried.

HB 2149

Representative Grant moved that the committee pass HB 2149 favorably for passage and since it is of a non-controversial nature, be placed on the consent calendar. Representative McCreary seconded the motion. The motion carried.

HB 2147

Representative Dreher moved that the committee pass HB 2147 favorably for passage and since it is of a non-controversial nature, be placed on the consent calendar. Representative Tomlinson seconded the motion. The bill could not be placed on the consent calendar due to one nay vote. The motion to pass favorably carried.

HB 2148

Representative Merrick made a motion to adopt the amendment to the bill as stated by Bruce Kinzie.

CONTINUATION SHEET

MINUTES OF THE FINANCIAL INSTITUTIONS, Room 527-S Statehouse, at 3:30 p.m. on January 29, 2001.

Representative Grant seconded the motion. The motion carried.

Representative Grant made a motion to pass the bill as amended favorably for passage. Representative Gatewood seconded the motion. The motion carried.

Chairman Cox presented the committee minutes for January 24 for approval.

Representative Grant made a motion to approve the minutes as written. Representative Vickrey seconded the motion. The motion carried.

The meeting was adjourned at 4:10 p.m.

The next meeting is scheduled for Monday, February 12, 2001.



Kansas Association of REALTORS®

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TO: HOUSE FINANCIAL INSTITUTIONS COMMITTEE

FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: JANUARY 29, 2001

RE: BILL REQUEST RE: Consumer Credit Score

On behalf of the Kansas Association of REALTORS®, I am requesting the committee introduction of a bill that would allow consumers to access their credit scores from credit bureaus.

Increasingly, credit scoring is a critical factor in the mortgage lending decision. Lenders utilize credit scores to rank borrowers in terms of their relative risk of defaulting on consumer debt, based on the borrower's credit histories available from one or more of the three national credit-reporting agencies. They are used to replace the narrative credit reports traditionally used for making lending decisions.

However, unlike the right to review credit reports, consumers have no right to review their credit scores. California has just enacted a law that would require credit bureaus to disclose to consumers all the information in their files, including their mortgage credit scores. This would allow consumers to see their credit score, verify that the information is correct and could even use it to comparison shop for the best rates on mortgages.

We are requesting legislation similar to that of the California statute. The key disclosures are:

1. The consumer's current credit score.
2. The range of possible credit scores under the model used.
3. No less than four key factors that adversely affected the credit score in the model used, including any reason code generated with respect to the credit score;
4. The date the credit score was created;
5. The name of the person or entity that provided the credit score or credit file upon which the credit score was based.

We believe this legislation will be of great assistance to consumers and lenders alike. We appreciate your consideration.

STATE OF KANSAS
BILL GRAVES
GOVERNOR

Franklin W. Nelson
Bank Commissioner

Judi M. Stork
Deputy Bank Commissioner



Sonya L. Allen
General Counsel

Kevin C. Glendening
*Deputy Commissioner
Consumer and Mortgage Lending*

OFFICE OF THE
STATE BANK COMMISSIONER

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

January 29, 2001

Mr. Chairman and Members of the Committee:

My name is Judi Stork. I am the Deputy Bank Commissioner with the Office of the State Bank Commissioner. I am here today to request your favorable consideration of HB 2146. The bill would add a new subsection to K.S.A. 9-1101 to authorize state banks to form "financial subsidiaries," and engage in the broad array of activities that are authorized for financial subsidiaries by the Gramm-Leach Bliley Act, Pub. L. 106-102 (GLBA). The GLBA only authorized formation of financial subsidiaries for national banks, and therefore required the individual states to provide such authority for their state-chartered banks. Numerous states have already provided their state banks this authority, either through their wildcard statutes, or through legislative actions. Our border states (Missouri, Oklahoma, Colorado, and Nebraska) have all taken some action to provide parity with respect to financial subsidiary formation.

Last legislative session, we discussed with the Senate Financial Institutions Committee the introduction of legislation to address the financial subsidiary issue. At the time, GLBA was still very new, and administrative regulations on the federal level, regarding implementation of the financial subsidiary provisions, were in interim rule form. For these reasons, our department received direction from the Senate committee to issue a Special Order, if we deemed it necessary to address the inequality. The Commissioner did issue that order in April of last year.

House Financial Institutions
1-29-01
Attachment 2

. the Commissioner's Special Order 2000-1, we chose to include those powers that we believed were most important for Kansas state-chartered banks to exercise at the time, and left the other powers for further study. HB 2146 includes all of the provisions of our Special Order 2000-1 and a few additional powers that were not included in our Order, but are allowed for national banks by the GLBA .

At the end of my testimony you will find the full list of activities that a financial subsidiary will be able to perform by the passage of HB 2146. Those powers noted with an asterisk are activities already authorized by our Special Order. Those powers noted by a plus sign are additional powers. For your benefit, I have also attached the federal law definition of "financial subsidiary." HB 2146 will provide full parity for state banks to engage in financial subsidiary activities to the same extent as national banks. It is important to note that prior approval from the Commissioner is required before any state bank can form or hold an interest in a financial subsidiary. This ensures that the Commissioner will be able to review each request to determine whether the proposed activity is appropriate, in light of the particular bank's condition.

One of the new powers that was not included in the Special Order and is probably of most significance, is the power to form a financial subsidiary to underwrite, deal in, and make a market in securities. We have had discussions with David Brant, the Securities Commissioner, concerning their oversight of financial subsidiaries engaging in such activities. An important concept from GLBA to remember regarding financial subsidiary activities is the concept of "functional regulation." This means that the regulator with the expertise to supervise and regulate the activity of a financial subsidiary will be the primary regulator of that subsidiary. In other words, if a state bank holds an interest in a financial subsidiary engaging in securities activities, that subsidiary would need to be licensed with the Securities and Exchange Commission and/or the State Securities Commissioner to the same extent as any other company doing that same activity. That same sort of functional licensing and supervision applies to financial subsidiaries engaging in insurance activities: i.e., they will need to be properly licensed with the Kansas Insurance Department. So, while the bank is supervised and regulated by our agency, financial subsidiaries of the bank engaged in securities activities would be regulated by Commissioner David Brant's office, and insurance subsidiaries would be regulated by Commissioner Kathleen Sebelius.

Clearly, there are still numerous areas of GLBA that will continue to be interpreted and refined over time. We believe that HB 2146 is essential for state chartered banks to be able to compete in the new financial services environment created by GLBA, and that the proposed language provides our office with the authority to ensure that these new activities are conducted in a safe and sound manner.

Thank you. I would be happy to answer any questions.

*Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

*Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any State.

*Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

*Issuing or selling instruments representing interest in pools of assets permissible for a bank to hold directly.

+Underwriting, dealing in, or making a market in securities.

*Engaging in any activity that the Federal Reserve Board has determined, by order or regulation that is in effect on the date of the enactment of the GLBA, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board)

+Engaging, in the United States, in any activity that

-a bank holding company may engage in outside of the United States; and

-the Board has determined, under regulations prescribed or interpretations issued pursuant to subsection (c) (13) (as in effect on the day before the date of the enactment of the GLBA) to be usual in connection with the transaction of banking or other financial operations abroad.

+Activities the Secretary of the Treasury determines are financial in nature, or incidental to a financial activity.

“(1) AFFILIATE, COMPANY, CONTROL, AND SUBSIDIARY.—The terms ‘affiliate’, ‘company’, ‘control’, and ‘subsidiary’ have the meanings given those terms in section 2 of the Bank Holding Company Act of 1956.

“(2) APPROPRIATE FEDERAL BANKING AGENCY, DEPOSITORY INSTITUTION, INSURED BANK, AND INSURED DEPOSITORY INSTITUTION.—The terms ‘appropriate Federal banking agency’, ‘depository institution’, ‘insured bank’, and ‘insured depository institution’ have the meanings given those terms in section 3 of the Federal Deposit Insurance Act.

“(3) FINANCIAL SUBSIDIARY.—The term ‘financial subsidiary’ means any company that is controlled by 1 or more insured depository institutions other than a subsidiary that—

“(A) engages solely in activities that national banks are permitted to engage in directly and are conducted subject to the same terms and conditions that govern the conduct of such activities by national banks; or

“(B) a national bank is specifically authorized by the express terms of a Federal statute (other than this section), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act or the Bank Service Company Act.

“(4) ELIGIBLE DEBT.—The term ‘eligible debt’ means unsecured long-term debt that—

“(A) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

“(B) is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

“(5) WELL CAPITALIZED.—The term ‘well capitalized’ has the meaning given the term in section 38 of the Federal Deposit Insurance Act.

“(6) WELL MANAGED.—The term ‘well managed’ means—

“(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

“(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

“(ii) at least a rating of 2 for management, if such rating is given; or

“(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.”

(b) SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT.—

(1) LIMITING THE EXPOSURE OF A BANK TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF PERMISSIBLE EXPOSURE TO AN AFFILIATE.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(A) by redesignating subsection (e) as subsection (f); and



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 29, 2001

TO: House Committee on Financial Institutions

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

Re: **HB 2146: GLBA Amendment**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of **HB 2146**. As you know, this bill would amend KSA 9-1101, to insert language that will codify the State Bank Commissioner's Special Order 2000-1, relating to the Gramm-Leach-Bliley Act.

Under provisions of GLBA, national banks were given the authority to form "financial subsidiaries" within which to offer products and services. The Bank Commissioner, in order to maintain parity among state chartered and national chartered bank, granted state chartered banks the same right to form financial subsidiaries in Special Order 2000-1.

We ask you to act favorably on **HB 2146** which would place in the banking code, the fact that state chartered banks have this same authority as national chartered banks.



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

TESTIMONY IN SUPPORT OF HOUSE BILL No. 2146
Committee on Financial Institutions

Rick A. Fleming, General Counsel
Office of the Securities Commissioner
January 29, 2001

Mr. Chairman and members of the committee, Bank Commissioner Franklin Nelson and his staff met with the Office of the Securities Commissioner before the legislative session to discuss the amendments contained in House Bill No. 2146. Securities Commissioner David Brant supports the bill.

House Bill No. 2146 promotes the goal of the federal Gramm-Leach-Bliley Act by creating opportunities for banks to engage in a broader range of financial services, including securities services. However, the bill requires banks to perform brokerage activities through financial subsidiaries, and those subsidiaries will be subject to regulation by the Securities Commissioner. In this way, the bill preserves functional regulation by ensuring that traditional bank activities are regulated by the Bank Commissioner and that traditional securities activities are regulated by the Securities Commissioner.

STATE OF KANSAS
BILL GRAVES
GOVERNOR

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Consumer and Mortgage Lending*

OFFICE OF THE
STATE BANK COMMISSIONER

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

January 29, 2001

Mr. Chairman and Members of the Committee:

My name is Judi Stork. I am the Deputy Bank Commissioner for the Office of the State Bank Commissioner. I am here today to request favorable consideration of HB 2149. The bill amends K.S.A. 9-1303, which is the statute that provides for the sharing of confidential information between our agency and other entities.

I just spent time talking with you about the provisions of the Gramm-Leach-Bliley Act and the idea of functional regulation. As you will remember, when a bank has a financial subsidiary that is engaged in an activity, the agency who supervises and licenses the activity within the subsidiary is their primary regulator, not the banking department. For example, if the financial subsidiary is for insurance purposes, then the insurance commissioner is the primary regulator of that subsidiary. Because the bank and the subsidiary are so interrelated, their financial conditions are very much interrelated as well. For this reason, the bank commissioner's office needs to have the ability to share information, when appropriate, with other functional regulators and to likewise receive information. By adopting this amendment, we will have that ability. For the most part, this sharing of information will be with the insurance and securities commissioners. The information that is shared will primarily concern the financial condition of either the subsidiary or the bank, and the strength that each entity lends to the other.

Thank you for this opportunity. I would be happy to answer any questions.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 29, 2001

TO: House Committee on Financial Institutions

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: HB 2149: Functional Regulation

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee today in support of **HB 2149**, the bill which would allow the State Bank Commissioner to share and exchange information with other functional regulatory agencies that have overlapping regulatory jurisdiction over an affiliated group that includes a financial institution.

As the doors to mingling all types of financial services swing open, it is important to know that the lines of communication among various regulatory agencies are open, assuring us all that the activities of these institutions are being adequately supervised, without unnecessary duplication of examinations.

We are supportive of the Commissioner's efforts to begin this process through passage of **HB 2149** and hope that you will act favorably on the bill.



January 29, 2001

TO: House Committee on Financial Institutions

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

Re: HB 2147: Holding Period for Personal Property

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in favor of **HB 2147**. This bill would amend KSA 9-1112, to lengthen the period of time in which a bank has to sell repossessed personal property.

Currently, the law provides that a bank must sell personal property coming into its possession in the collection of a debt within six months. We have discovered that there are instances where because of the nature of the property, it is very difficult and unwise to attempt such a turn around of the property.

For example, manufactured homes are considered to be personal property. Manufactured homes are also bought and sold as personal residences. It is virtually impossible for a person to prepare a home for sale, put it on the market and have the sale closed in six months. In addition, with those time constraints, chances are the seller will not have obtained the best price for the home. Bankers are required by the Uniform Commercial Code to conduct a commercially reasonable foreclosure sale. In determining whether a sale was "commercially reasonable", the actual price received at the sale is a factor and courts will frown at a sale which yields an unusually low price.

Under current law, bankers who have a hard time getting property sold within six months do have the ability to seek additional time from the State Bank Commissioner under subsection (e). It is our understanding that such extensions were routinely granted, which helped lead us to believe there would be no objection to lengthening the period of time by six months, thereby saving banks and the Commissioner the cost and effort of having to apply for the extension.

We hope you will agree that there is a need to change the law and that you will look upon **HB 2147** favorably.



January 29, 2001

TO: House Committee on Financial Institutions

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: HB 2148: Certification of Trust

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of **HB 2148**. Upon preparing testimony for today, I noticed a technical error in the bill and I am also proposing an amendment to be discussed at the end of my testimony.

This bill would allow a trust voluntarily, or upon the request of the person with whom he or she is dealing, to sign a "Certification of Trust" in lieu of a copy of the trust instrument, to establish the existence and verify the terms of a trust.

Financial institutions and other businesses are often faced with a dilemma when dealing with trustees of a trust: what is the proper way to verify that a person is in fact, the trustee of a trust and that he or she has authority to act on behalf of the trust. Many trustees are reluctant to copy the full trust instrument as it may contain sensitive information. Some trustees are willing to copy the front and back page of the trust, which may or may not evidence the status of the trustee.

This bill would accomplish two very important things: 1) it would provide an alternative to trustees who do not wish to copy the full trust; and 2) its use would provide protection to third parties dealing with a trustee.

Any trustee may voluntarily use the "Certification" in lieu of a copy of the trust when dealing with a third party. The Certification is an affidavit that must be signed and acknowledged by an acting trustee. In it, the trustee certifies that there is a valid trust for which he or she is an acting trustee, and that he or she is authorized to exercise the powers necessary to complete the requested transaction with the third party.

Once a Certification of Trust is given to a third party, that third party may rely on its contents without fear of liability should the trustee's representations in the Certification be incorrect. A third party may assume without having to inquire, that the representations contained in the Certification of Trust are correct.

Because there is **no requirement** that a Certification be used, a third party's failure to demand a Certification or his or her refusal to accept and rely solely on a Certification is not improper and does not by itself, indicate whether a third party did or did not act in good faith.

We believe that having this legal option for those trustees not wishing to copy the full trust instrument will make it easier for a trustee to do business with third parties, while at the same time, it will lessen the risk taken by those doing business with trustees.

HB 2148: Certification of Trust

January 22, 2001

Page Two

The amendment that I am requesting appears on Page Two, Section 2, Subsection (b), lines 5 and 6. As stated in Section 1, Subsection (b), the Certification may be signed by a corporate trustee if there is one, or one or more acting trustees of the trust. The language on Page Two, lines 5 and 6 would lead one to believe that all acting trustees must sign the Certification. We are requesting language that would make this section consistent with that found in Section 1.

Thank you and we hope that the Committee will see the need for the amendment and act on this bill favorably.

HOUSE BILL No. 2148

By Committee on Financial Institutions

1-24

9 AN ACT relating to trusts; providing for certification of trusts.

10

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

12 Section 1. (a) A trustee may present a certification of trust to any
13 person in lieu of a copy of any trust instrument to establish the existence
14 or terms of the trust. The trustee may present the certification of trust
15 voluntarily or at the request of the person with whom the trustee is deal-
16 ing. Notwithstanding any provision of the Kansas uniform trustees' pow-
17 ers act to the contrary, no person is required to accept and rely solely on
18 a certification of trust in lieu of a copy of, or excerpts from, the trust
19 instrument itself.

20 (b) A certification of trust shall be in the form of an affidavit and
21 signed and acknowledged by a corporate trustee, or one or more acting
22 trustees of the trust.

23 Sec. 2. (a) A certification of trust may confirm the following facts or
24 contain the following information:

25 (1) The existence of a trust and, for an inter vivos trust, the date of
26 execution or, for a testamentary trust, the date of death of the decedent;

27 (2) the identity of the grantor, settlor or testator and each currently
28 acting trustee;

29 (3) the powers of the trustee and any restrictions imposed upon the
30 trustee in dealing with the assets of the trust;

31 (4) the name or method of choosing successor trustees;

32 (5) the revocability or irrevocability of the trust and the identity of
33 any person holding a power to revoke it;

34 (6) if there is more than one trustee, whether all of the currently
35 acting trustees must, or if less than all, may, act to exercise identified
36 powers of the trustee;

37 (7) the identifying number of the trust and whether it is a social se-
38 curity number or an employer identification number;

39 (8) the name of each beneficiary and the relationship to the grantor,
40 settlor or testator;

41 (9) the state or other jurisdiction under which the trust was
42 established;

43 (10) the form in which title to the assets of the trust was established;

8-3

1 and

2 (11) the form in which title to the assets of the trust is to be taken.

3 (b) The certification of trust shall contain a statement that the trust
4 has not been revoked or amended to make any representations contained
5 in the certification of trust incorrect and that the ~~signatures are those of~~
6 ~~all~~ the acting trustees.

signature(s) is that of the corporate trustee or one or more of

7 Sec. 3. A certification of trust need not contain the dispositive pro-
8 visions of the trust, but the person to whom the certification of trust is
9 presented may require copies of or excerpts from, any trust instrument
10 which designates the trustee or confers upon the trustee power to act in
11 the pending transaction.

12 Sec. 4. A person who acts in reliance upon a certification of trust
13 without any knowledge that the representations contained in the certifi-
14 cation of trust are incorrect is not liable to any person for such actions.
15 A person who does not know that the representations contained in the
16 certification of trust are incorrect may assume without inquiry the exis-
17 tence of the representations contained in the certification of trust. Knowl-
18 edge may not be inferred solely from the fact that a copy of all or part of
19 a trust instrument is held by the person relying upon the certification of
20 trust.

21 Sec. 5. A person's failure to demand a certification of trust, or a per-
22 son's refusal to accept and rely solely on a certification of trust, shall not
23 be considered an improper act, and no inference as to whether such
24 person has acted in good faith shall be drawn from the failure to demand
25 or the refusal to accept and rely upon, a certification of trust. This section
26 creates no implication that a person is liable for acting in reliance upon
27 a certification of trust under circumstances in which the requirements of
28 sections 1 through 6, and amendments thereto, are not satisfied.

29 Sec. 6. Sections 1 through 5, and amendments thereto, apply to all
30 trusts whether established pursuant to Kansas law or established pursuant
31 to the law of another state or jurisdiction.

32 Sec. 7. This act shall take effect and be in force from and after its
33 publication in the statute book.

CERTIFICATION OF TRUST

STATE OF NEBRASKA)
)SS:
COUNTY OF _____)

The undersigned, constituting all of the trustees of the (Insert name of trust)

("Trust,") being first duly sworn, depose and say:

1. **EXISTENCE OF TRUST.** The trust is in existence and consists of:
 (choose one)
 An intervivos trust¹ which was executed on (Insert date of intervivos trust)
 or
 A testamentary trust², with the date of death of the decedent being
 (insert date of death of decedent.)

2. **IDENTITY OF GRANTOR, SETTLOR OR TESTATOR.** The:
 (choose one)
 Grantor³
 Settlor³
 Testator⁴
 of the trust is (Insert name of person who created trust)

3. **CURRENTLY ACTING TRUSTEE(S).** (Insert name of trustee(s)) is/are
 the currently acting trustee(s) of the trust.

4. **POWERS OF TRUSTEE.** Following or attached to this CERTIFICATION OF
 TRUST is a list of the powers of the trustee of the trust:

¹ An intervivos trust is a trust created by an individual during his or her lifetime pursuant to a trust agreement.

² A testamentary trust is a trust established pursuant to the terms of an individuals Last Will and Testament.

³ A grantor/settlor is the individual who creates an intervivos trust.

⁴ A testator is a person who has executed a Last Will and Testament.

5. **RESTRICTIONS IMPOSED UPON TRUSTEE.** Following or attached to this CERTIFICATION OF TRUST is a list of the restrictions imposed upon the trustee of the trust in dealing with the assets of the trust:

6. A. **NAME OF SUCCESSOR TRUSTEE(S).** (Insert name of trustee(s))
is/are the successor trustee(s) of the trust.

B. **METHOD OF CHOOSING SUCCESSOR TRUSTEE(S).** Successor trustee(s) of trust are chosen as follows:

(Have the trustee(s) choose either option (a) or (b) in completing this portion of the CERTIFICATION OF TRUST)

7. **REVOCABILITY/IRREVOCABILITY OF TRUST.** The trust is:
(choose one)

Revocable

Irrevocable

and (Insert name(s) of any person with the power to revoke the trust)
holds the power to revoke said trust.

8. **EXERCISE OF POWERS BY TRUSTEE(S).**

(choose one)

All of the currently acting trustees must

Less than all of the currently acting trustees may
act to exercise identified powers of the trustee.

9. **IDENTIFYING NUMBER.** The tax identification number of the trust is:
(choose one)

Social Security Number: _____

Employer Identification Number: _____

13. ACKNOWLEDGMENT. The trust has not been revoked or amended to make any representations in this CERTIFICATION OF TRUST incorrect and the trustee(s) signing this document is/are the corporate trustee or one or more of the acting trustees.

_____, Trustee

_____, Trustee

SUBSCRIBED AND SWORN to before me on _____.

(SEAL)

Notary Public
My commission expires on _____