

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 28, 2001 in Room 527-S of the Capitol.

All members were present except: Representative Doug Gatewood - Excused
Representative Bob Tomlinson - Excused

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

Conferees appearing before the committee: Matthew Goddard - Heartland Community Bankers Assn.
Franklin W. Nelson - Bank Commissioner
Chuck Stones - Kansas Bankers Association

Others attending: See attached list

Chairman Cox opened the hearing on **SB 70 - Mortgages; entry of satisfaction thereof.**

Proponents:

Matthew Goddard - Heartland Community Bankers Association, expressed support of **SB 70**. He said it just basically adds lenders and designated closing agents to the list of parties who are able, under current law, to make a demand for a mortgage release. Currently, a lender or designated closing agent may enter a mortgage release under 58-2309a, but cannot make demands for release themselves. Despite past legislation efforts, some out-of-state mortgage servicers continue to be slow in releasing mortgages. Unfortunately, it's not unusual for some out-of-state mortgagees to take an entire year to file the release. Unfortunately, in transactions involving the sale of real estate, the mortgagor may no longer be involved in the process. This gives the lender or closing agent questionable legal standing, when sending the demand letter on what is essentially their own behalf or the behalf of the buyer. The bill authorizes the lender or closing agent to make a written demand to the original loan's mortgagee for satisfaction of the mortgage. It also eliminates any ambiguity in the law that results from a lack of involvement by the mortgagor. (**Attachment 1**)

Roy Worthington, Kansas Land Title Association - Written testimony only (**Attachment 2**)

Kathy Olsen, Kansas Bankers Association - Written testimony only (**Attachment 3**)

Chairman Cox closed the hearing on **SB 70** and opened the hearing on **SB 130 - Creation of limited purpose trust company.**

Proponent:

Franklin W. Nelson - Bank Commissioner, requested the favorable consideration of **SB 130**. It's purpose is to allow for the formation of a trust company that has limited powers. In Kansas we have stand alone trust companies which are separate from banks. They are chartered and regulated by the Bank Commissioner's office. They also regulate bank trust departments that provide trust services. In the bill they are asking for the ability to issue a charter for a stand alone trust company in which the scope of the services provided is limited. During the past year his office was approached about issuing a charter for a limited narrow purpose. The party wanted to form a trust company for the purpose of safekeeping aircraft. He asked for the flexibility to grant such requests in the future. (**Attachment 4**)

Chairman Cox closed the hearing on **SB 130** and opened the hearing on **SB 142 - Authorization of special orders by bank commissioner.**

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS at on February 28, 2001 in Room 527-S of the Capitol.

Proponents:

Franklin W. Nelson, Bank Commissioner, spoke in favor of **SB 142**. It would allow the Bank Commissioner to grant parity for state banks with other depository institutions, not just national banks. In the past, national banks were the primary competitor of state banks and wildcard statute provided his office the authority necessary to ensure that state banks operated on a level playing field. With financial modernization, state and national banks are just two of the players in the financial services market. There are 25 states that have statutes that grant competitive equality with thrifts, and 11 states go beyond that and have authorized the agency head to grant parity with any "financial services provider," which could include insurance companies and securities firms in addition to depository institutions. The bill is not that broad. They took a conservative, studied approach, believing it to be a good solid middle ground approach for now. He said that it's important to maintain a competitive state charter for the good for the citizens of Kansas. (**Attachment 5**)

Representative Burroughs asked if there was a reason why credit unions wouldn't be included in the bill. Commissioner Nelson said that he is a regulator and not taking the position of making policy but, under current law, credit unions are exempt from income taxation and are in niche of their own. He did say that it would create an uneven playing field, with the credit unions having the advantage, if they were included.

Chairman Cox asked John Federico who represents credit unions, to give the credit unions' view of the bill. He gave a history of the bill on the senate side, which included them being included in the bill. He concluded by saying that when credit unions were included in the bill, it pleased them because the expanded power may be useful in the future. Right now, they are not in the bill and are not fighting to get in it.

Chuck Stones - Kansas Bankers Association, asked the committee to support **SB 142**. Competitiveness is very important to maintain a strong financial system. With the passage of the Gramm-Leach-Bliley Act (GLBA) at the Federal level, things are happening at a very rapid pace. The federal regulators can act at any time and it is imperative to give the Bank Commissioner this authority to assure the competitiveness of the banking system in Kansas. (**Attachment 6**)

Chairman Cox closed the hearing on SB 142.

Chairman Cox presented the committee minutes.

Representative Grant moved to approve the committee minutes for February 12 and February 14 as written. Representative Vickrey seconded the motion. Without objection, the motion carried.

The meeting adjourned at 4:07 p.m.

The next meeting is scheduled for March 5, 2001.

To: House Financial Institutions Committee

From: Matthew Goddard
Heartland Community Bankers Association

Date: February 28, 2001

Re: Senate Bill 70

The Heartland Community Bankers Association appreciates the opportunity to appear before the House Committee on Financial Institutions to express our support for Senate Bill 70.

Senate Bill 70 amends KSA 2000 Supp. 58-2309a to add a lender or designated closing agent in a transaction to those parties authorized to make demand upon a mortgagee or its assignee for the entering of satisfaction of a mortgage. Under current law, a lender or designated closing agent may file a mortgage release under 58-2309a, but cannot make demand for the release themselves.

Despite past legislative efforts, some out-of-state mortgage servicers continue to be slow and unresponsive in releasing mortgages even after the mortgagor has satisfied the obligation. Unfortunately, it is not uncommon for some out-of-state mortgagees to take an entire year to file the release.

Current Law

In 1995, Governor Graves signed into law House Bill 2126. That legislation first created a mechanism that allowed Kansas lenders and closing agents to effectuate the release of a mortgage when a mortgagee or its assignees failed to enter satisfaction. Prior to 1995, Kansans were forced to file a civil action in order to obtain a mortgage release when the mortgagee failed to do so.

House Bill 2126 amended KSA 58-2309a to provide that if a mortgagee or the mortgagee's assignees fail to enter, or cause, satisfaction of the mortgage to be filed within 20 days after a written demand, then the lender or designated closing agent in the real estate transaction may cause satisfaction of the mortgage to be entered. To safeguard against fraud, the lender or closing agent must have been involved in the sale, financing or refinancing of the real estate subject to the mortgage and they were also required to rely upon written payoff information provided by the mortgagee. If the mortgagee or its assignees were not actually paid in accordance with the payoff information, the party who filed the release would be liable for damages to the mortgagee or its assignees for the entire indebtedness along with interest, attorney's fees and any additional damages. The law already made mortgagees who failed to release a mortgage within 20 days after demand liable to the person for whom the

demand was made for \$500 and reasonable attorney's fees.

Considering the liability a lender or closing agent faces if a mortgage release is wrongly filed, such an action is considered an absolute last resort. Kansas savings associations have found the demand letter to be an effective tool in generating responses from otherwise unresponsive mortgagees. In the almost six years since House Bill 2126 became law, HCBA is aware of only two instances where it became necessary for a mortgage release to be filed under the provisions of KSA 58-2309a.

Senate Bill 70

As the law is currently written, a mortgagor, a mortgagor's heirs or assigns or anyone acting for those parties may make the written demand upon a mortgagee or its assigns for the entering of the mortgage satisfaction. While a lender can send the demand letter to the mortgagee, it must be done on behalf of the mortgagor. Unfortunately, in transactions involving the sale of real estate, the mortgagor may no longer be involved in the process. This gives the lender or closing agent questionable legal standing when sending the demand letter on what is essentially their own behalf or the behalf of the new buyer.

For example, in a sale of real estate, the buyer's lending institution mails a check directly to the mortgagee in the amount of the loan payoff. If necessary, a second check is provided to the mortgagor for any profit in excess of the payoff amount. The seller/mortgagor then moves on while the buyer waits for the release to be filed. It is the buyer and their lending institution that are left to deal with obtaining a clean title to the property, not the original mortgagor. In addition, the mortgagee is only liable for reasonable attorney's fees and \$500 to the person for whom the demand is made. That means that while the lender or closing agent is able to make the demand on behalf of the mortgagor, neither is able to collect the \$500 or reasonable attorney's fees for preparing and prosecuting the action.

Senate Bill 70 addresses this problem by simply adding "a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage" to KSA 58-2309a (c) and making the appropriate organizational changes in the statute. This language would authorize the lender or closing agent to make a written demand to the original loan's mortgagee for satisfaction of the mortgage. It also eliminates any ambiguity in the law that results from a lack of involvement by the mortgagor.

We do not anticipate an increase in demand letters with approval of Senate Bill 70. The same liability concerns that exist with current law will help make sure that the filing of mortgage releases under KSA 58-2309a remains a course of last resort. However, the bill will clarify existing law so that lenders and closing agents have clear legal standing in dealing with mortgagees who fail to release mortgages in a timely manner. It is Kansas consumers who are disadvantaged by delayed mortgage releases and therefore it is Kansas consumers who stand to benefit most from Senate Bill 70.

The Heartland Community Bankers Association respectfully requests that the House Financial Institutions Committee recommend SB 70 favorable for passage.

Thank you.

KANSAS LAND TITLE ASSOCIATION
8621 E. 21ST NORTH
SUITE 150
WICHITA, KS 67206

Date: February 28, 2001

To: House Committee on Financial Institutions

From: Kansas Land Title Association

Re: Senate Bill 70

The Kansas Land Title Association supports the changes proposed by Senate Bill 70.

It is often very difficult to obtain the release of a mortgage that has been paid in full due to the numerous times the mortgage has been assigned. The proposed change will permit a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of real estate to make demand for the satisfaction of a mortgage which has been paid in full. The proposed change merely clarifies and supplements existing law.

Thank you for your support of Senate Bill 70.

Sincerely,

Kansas Land Title Association



Roy H. Worthington
Chairman, Legislative Committee



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 28, 2001

TO: House Committee on Financial Institutions

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: SB 70: Release of Mortgage

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to submit written testimony in favor of **SB 70**. As you know, this bill amends KSA 58-2309a so that a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of real estate may make demand for release of a mortgage which has been paid in full.

This is an important amendment as it will help move real estate transactions along, despite some out-of-state mortgage servicers' lack of interest in releasing mortgages that have been satisfied.

Thank you for your time and we respectfully ask that you act favorably on **SB 70**.

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

February 28, 2001

Mr. Chairman and Members of the Committee:

I am Franklin W. Nelson, Bank Commissioner for the State of Kansas. I am here today to request your favorable consideration of SB 130. This bill amends K.S.A. 9-2103 to allow for the formation of a trust company that has limited powers.

First, as background, in Kansas we have stand-alone trust companies, which are separate from banks, and are chartered and regulated by our office. We also regulate bank trust departments that provide trust services. In this bill we are asking for the ability to issue a charter to a stand-alone trust company, in which the scope of services provided is limited. Currently, if we charter a trust company, they have authority to perform all of the powers enumerated in the statute. During the past year we were approached about issuing a trust company charter for a limited, narrow purpose. In this case they wanted to form a trust company for the purpose of safekeeping aircraft. The employees they intended to staff the company with were knowledgeable in only one, limited area. They were not versed in or knowledgeable about the typical powers utilized by a trust company. Since they did not possess skills in all of the areas, if they applied for a trust company charter, chances are they would have been denied. We do not believe we currently have the ability to limit the trust charter to only certain powers, which would have worked well in this situation. We are asking for this flexibility by adding the provision in subsection (b) to issue a trust charter, and limit the powers they can exercise. As a side note, we do have the ability to grant limited trust powers to trust departments of banks. This works very well in that a bank can pick and choose the type of trust accounts they actively pursue, and they can focus their staff's trust knowledge to one particular area, if they choose.

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

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

February 28, 2001

Mr. Chairman and Members of the Committee:

My name is Franklin W. Nelson. I am the Bank Commissioner for the State of Kansas. I am here today to discuss Senate Bill 142.

The bill amends K.S.A. 9-1715, and would allow the commissioner to grant parity for state banks with *other* depository institutions, not just national banks. In the past, the national banks were the primary competitor for state banks, and the wildcard statute, in its current form, provided our office with the authority necessary to ensure that state banks operated on a level playing field with their competitors. In this age of financial modernization and numerous changes in the delivery of financial services, state and national banks are just two of the players in the financial services market. Thrifts and branches of depository institutions from other states also are direct competitors of Kansas state-chartered banks. Let me give you a couple of examples. In Larned, Kansas there are three financial institutions. There is the First State Bank and Trust Company, the First National Bank & Trust Company, and a branch of Commercial Federal Savings, a thrift with its home office in Omaha, Nebraska. Our Kansas state-chartered bank in this community must compete with both of the other financial institutions; a national bank, and a federal thrift from Nebraska. If a situation arose where the First State Bank in Larned could not offer a particular service, and Commercial Federal could, our office would not currently be able to provide authority through the wildcard to allow First State Bank to compete for that business, yet the state bank would clearly be at a competitive disadvantage.

...other similar example would be if a state bank from Missouri has a branch in Kansas that competes directly with a Kansas state-chartered institution. If the branch of the Missouri bank has powers beyond that of the Kansas state-chartered bank, a competitive disadvantage may exist but parity currently could not be granted with a special order.

According to the 2000 CSBS Profile of State Chartered Banking and our further research, 25 states have statutes that grant competitive equality with thrifts, and 11 states go beyond that and authorize the agency head to grant parity with any "financial services provider", which could include insurance companies and securities firms in addition to depository institutions.

While such a broad provision allowing parity with securities firms and insurance companies may in fact be the wave of the future, we believe our proposal is a good and solid middle ground that will help us in addressing the real environment in which our state-chartered banks are operating today. The state banks in Kansas are no longer just competing with their national bank counterparts. In order to keep the state bank charter a viable option, competitive equality with other types of depository institutions must be ensured. It is important to maintain a competitive state charter for the good of the citizens of our state. Without state-chartered banks, this legislature would have minimal control over the activities of banks in Kansas, which would not be good for our citizens. Also, keeping state-chartered banks viable ensures increased competition for national banks and thrifts, which holds costs down and also stimulates innovation, both of which are good for the people of Kansas. Your favorable consideration of this bill is requested.

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



Wildcard Authority & Parity Statutes – Part I

	Grants State-Chartered Banks Competitive Equality with National Banks	Statute or Regulatory Citation	Automatic Trigger by OCC or Court, or Supervisor's Authorization Required	Grants State-Chartered Banks Competitive Equality with Federal Thrifts	Statute or Regulatory Citation	Automatic Trigger by OTS or Courts, or Supervisor's Authorization Required
Alabama	Yes	5-5A-18.1	Supervisor's authorization required	Yes	5-5A-18.1	Supervisor's authorization required
Alaska	Yes	AS 06.01.020	Supervisor's authorization required	Yes	AS 06.01.020	Supervisor's authorization required
Arizona	Yes	ARS 6-184(A)(2)	Automatic	Yes	ARS 6-184(A)(6)	Automatic
Arkansas	Yes	ACA §23-47-101(c)	Supervisor's authorization required	No	N/A	N/A
California	Yes	Cal. Fin. C. Sec. 753	Supervisor's authorization required	No	N/A	N/A
Colorado	Yes	11-2-103(5)	Supervisor's authorization required	No	N/A	N/A
Connecticut	Yes ¹	Section 36a-250(a)(41), CT General Statutes	Automatic	Yes ¹	Section 36a-250(a)(41), CT General Statutes	Automatic
Delaware	Yes	Reg 5.761.0017 1.A.	Supervisor's authorization required	No	N/A	N/A
DC	No	N/A	N/A	No	N/A	N/A
Florida	Yes	§ 655.061, F.S.	Supervisor's authorization required	No	N/A	N/A
Georgia	Yes	7-1-61	Supervisor's authorization required and a regulation must be issued, unless it concerns specific investment limitations, which only require an order	Yes	7-1-61	Supervisor's authorization required and a regulation must be issued, unless it concerns specific investment limitations, which only require an order
Guam						
Hawaii	Yes	HRS §412:5-201	Supervisor's authorization required	No	N/A	N/A
Idaho	Yes	26-1101 (3)	Supervisor's authorization required	Yes	26-1101 (3)(a)	Supervisor's authorization required
Illinois	Yes	205 ILCS 5/5(11)	Automatic	Yes	205 ILCS 5/5(25)	Automatic
Indiana	Yes	IC 28-1-11-3.2	Supervisor's authorization required	No	N/A	N/A
Iowa	No	N/A	N/A	No	N/A	N/A
Kansas	Yes	K.S.A. 9-1715	Supervisor's authorization required	No	N/A	N/A
Kentucky	Yes	287.020	Supervisor's authorization required	No	N/A	N/A
Louisiana	Yes	LSA-R.S. 6:242(C)	Supervisor's authorization required	No	N/A	N/A



Wildcard Authority & Parity Statutes – Part I

	Grants State-Chartered Banks Competitive Equality with National Banks	Statute or Regulatory Citation	Automatic Trigger by OCC or Court, or Supervisor's Authorization Required	Grants State-Chartered Banks Competitive Equality with Federal Thrifts	Statute or Regulatory Citation	Automatic Trigger by OTS or Courts, or Supervisor's Authorization Required
Maine	Yes	Title 9-B MRSA § 416	Automatic	Yes	Title 9-B Section 416	Automatic
Maryland	Yes	FI 5-504	Supervisor's authorization required	No	FI 5-504	N/A
Massachusetts	Yes	NR	Supervisor's authorization required	No	Legislation pending	N/A
Michigan	Yes	MCL 487.14101(2)(b)	Supervisor's authorization required	Yes	MCL 487.14101(2)(b)	Supervisor's authorization required
Minnesota	Yes	NR	Supervisor's authorization required	Yes	NR	Supervisor's authorization required
Mississippi	Yes	81-5-1	Supervisor's authorization required	No	N/A	N/A
Missouri	Yes	362.105	Supervisor's authorization required	Yes	362.105	Supervisor's authorization required
Montana	Yes	32-1-362	Supervisor's authorization required	No	N/A	N/A
Nebraska	Yes	§ 8-1,140	Automatic	No	N/A	N/A
Nevada	Yes	NRS 662.015	Supervisor's authorization required	Yes	NRS 677.795	Supervisor's authorization required
New Hampshire	Yes	RSA 394-A	Supervisor's authorization required	Yes	RSA 394-A	Supervisor's authorization required
New Jersey	Yes	NJSA 17:9A-24a	Automatic	No	N/A	N/A
New Mexico	Yes	58-1-54 NMSA 1978	Supervisor's authorization required	Yes	58-1-54 NMSA 1978	Supervisor's authorization required
New York	Yes	BL 14-g & 14-h	Supervisor's authorization required	No	N/A	N/A
North Carolina	No	N/A	N/A	No	N/A	N/A
North Dakota	Yes	NDCC 6-03-38	Supervisor's authorization required	No	N/A	N/A
Ohio	Yes	1121.05(A)(1)	Supervisor's authorization required	Yes	1121.05(A)(2)	Supervisor's authorization required
Oklahoma	Yes	6 O.S. § 402(10)	Automatic	No	N/A	N/A
Oregon	Yes	ORS 706.795 and ORS 708A.010	Supervisor's authorization required	Yes	ORS 706.795	Supervisor's authorization required
Pennsylvania	Yes	N/A	N/A	No ²	N/A	N/A
Puerto Rico	No	N/A	N/A	No	N/A	N/A



Wildcard Authority & Parity Statutes – Part I

	Grants State-Chartered Banks Competitive Equality with National Banks		Statute or Regulatory Citation	Automatic Trigger by OCC or Court, or Supervisor's Authorization Required	Grants State-Chartered Banks Competitive Equality with Federal Thrifts		Statute or Regulatory Citation	Automatic Trigger by OTS or Courts, or Supervisor's Authorization Required
Rhode Island	Yes		R.I.G.L. §19-1-3(7)	Automatic	Yes		R.I.G.L. §19-1-3(7)	Automatic
South Dakota	Yes		NR	Supervisor's authorization required	Yes		NR	Supervisor's authorization required
Tennessee	Yes		TCA § 45-2-601	Automatic	Yes		TCA § 45-14-105(b)	Supervisor's authorization required
Texas	Yes		TFC 32.009	Supervisor's authorization required	Yes		TFC 32.010	Supervisor's authorization required
Utah	Yes		UCA 7-1-301 and 7-3-10	Supervisor's authorization required	No		N/A	N/A
Vermont	Yes		8 V.S.A. § 606	Supervisor's authorization required	No		N/A	N/A
Virginia	Yes		§ 6.1-5.1	Supervisor's authorization required	No		N/A	N/A
Washington	Yes		RCW 30.04.215(3)	Supervisor's authorization required	Yes		RCW 32.08.140(16) & RCW 32.08.146	Supervisor's authorization required
West Virginia	Yes		§ 31A-8C-2(a) and § 31A-3-2(a)(5)(B)	Supervisor's authorization required	Yes		§31A-8C-2(a)	Supervisor's authorization required
Wisconsin	Yes		221.0322/DFI Bkg 3	Supervisor's authorization required	Yes		221.0322	Supervisor's authorization required
Wyoming	Yes		W.S. 13-2-101(a)(xiii)	Supervisor's authorization required	Yes		W.S. 13-2-101(a)(xiii)	Supervisor's authorization required
	Yes	No			Yes	No		
	47	4			24	27		

NR: Not Reported.
N/A: Not Applicable.

¹ Requires 30 days' prior notice to the Banking Commissioner who has authority to disapprove the activity.

² Pennsylvania thrifts have parity with Federal thrifts. 7 P.S. § 6020-11(a)(22)

Christopher Shays (CT)
John B. Shadegg (AZ)
Vito Fossella (NY)
Gary G. Miller (CA)
Eric Cantor (VA)
Feliz J. Grucci, Jr. (NY)
Melissa A. Hart (PA)
Shelley Moore Capito (WV)
Mike Ferguson (NJ)
Mike Rogers (MI)
Patrick J. Tiberi (OH)

1-12-01

SUPER-PARITY FOR PENNSYLVANIA BANKS

Pennsylvania state-chartered banks got an early Christmas present last year when Governor Tom Ridge signed the state's Bank Parity Bill into law, just before Thanksgiving. The new law authorizes state-chartered banks to conduct any activity available to national banks, federal savings and loans, or any other state-chartered banks.

The new law gives Pennsylvania state-chartered banks broader authority in many areas of banking, not just expanded non-banking services. New powers include expanded real estate lending authority and the authority to pick up and deliver customers' cash and valuables.

A highlight of the law is its trust provisions, which streamline previous requirements and establish reciprocal interstate trust branching. Out-of-state institutions will be able to offer trust services in Pennsylvania with or without a physical location, as long as Pennsylvania institutions have similar authority in those institutions' home states.

To take advantage of these new powers, state banks need only file a notice with the Pennsylvania Secretary of Banking. "This modernization of the Banking Code ensures a level playing field on which Pennsylvania State Charters can continue to successfully compete in the banking market," Acting Secretary of Banking James B. Kauffman, Jr. wrote in a letter to state banks. A summary of the new law and a sample notice form are in the "Online Resources/Secretary's Letters" section of the Department of Banking's web site, at <http://www.banking.state.pa.us>.

FDIC SIMPLIFIES EXAM REPORT FOR SMALL, HEALTHY BANKS

Starting this month, the FDIC is using a new, streamlined examination report for well-managed state nonmember banks with assets under \$250 million.

The FDIC estimates that it will use the new form for approximately 2,000 of its 5,700 state nonmember banks. To qualify, a bank must have a composite CAMELS rating of 1, and individual component ratings of 1 or 2; must have been operating as an insured institution for at least three years; and must not be a niche or specialty bank.

The new examination report will not reduce the scope of on-site examinations, but will allow examiners to condense their findings, which should reduce turnaround time for examination reports. A January 10 Financial Institutions Letter describes the new report; it's available online at www.fdic.gov.



Wildcard Authority & Parity Statutes – Part II

	Grants State-Chartered Banks Competitive Equality with Any Financial Services Provider	Statute/Citation	Automatic Trigger by OCC or Court, or Supervisor's Determination Required	Restrictions on State's Wildcard Authority
Alabama	No	NA	NA	None
Alaska	Yes	AS 06.01.020	Supervisor's authorization required	Must serve the public convenience and advantage and equalize and maintain the quality of competition between state financial institutions and federally chartered financial institutions in Alaska with deposits insured by an agency of the federal government.
Arizona	Yes	ARS 6-184(A)(6)	Automatic	None
Arkansas	No	N/A	N/A	Limited to activities allowed for national banks
California	No	N/A	N/A	The supervisor's authorization must be in the form of a regulation. Unless the supervisor gives public notice and opportunity for comment beforehand and otherwise complies with the California Administrative Act in adopting the regulation, the regulation expires on December 31 st of the year following the calendar year in which it becomes effective.
Colorado	No	N/A	N/A	None
Connecticut	No	N/A	N/A	Requires 30 days prior written notice to the Banking Commissioner who has authority to disapprove the activity.
Delaware	No	N/A	N/A	In the interest of bank safety and soundness, the Commissioner may require that any permissible activity be conducted through a subsidiary of the bank
DC	No	N/A	N/A	None
Florida	No	N/A	N/A	Subject to prior approval of the Department pursuant to Administrative Rule or Order of General Application
Georgia	Yes	7-1-61	Supervisor's authorization required	Department would decide to issue a regulation, or if the power concerned certain investment limitations, the Commissioner could issue an order to one or more institutions.
Guam				
Hawaii	No	N/A	N/A	Wildcard approvals are subject to such terms and conditions, as the Commissioner deems appropriate.
Idaho	Yes	26-1101 (3)	Supervisor's authorization required	Wildcard activities of other state's banks must be approved by the F.D.I.C.
Illinois	Yes	205 ILCS 5/5(25)	NR	Thrift wildcard authority [205 ILCS 5/5(25)] does not extend to the granting of any real estate brokerage authority
Indiana	No	N/A	N/A	None
Iowa	No	N/A	N/A	Although Iowa doesn't have a formal wildcard statute, Iowa Code Section 524.102 states intent of competitive equality on activities which can be implemented by the Superintendent.
Kansas	No	N/A	N/A	None
Kentucky	No	N/A	N/A	None
Louisiana	No	N/A	N/A	Bank must notify the Commissioner in writing of its intent to exercise such rights. The Commissioner may raise an objection within 45 days of receipt of the written notice.



Wildcard Authority & Parity Statutes – Part II

	Grants State-Chartered Banks Competitive Equality with Any Financial Services Provider	Statute/Citation	Automatic Trigger by OCC or Court, or Supervisor's Determination Required	Restrictions on State's Wildcard Authority
Maine	No	N/A	N/A	None
Maryland	No	FI 5-504	N/A	Activity must be reasonably required to protect the welfare of the general economy of the State and the bank, or not be detrimental to the public interest or the bank; and approval must be subject to the same limitations and conditions imposed by federal law on national banks.
Massachusetts	No	N/A	N/A	None
Michigan	Yes	MCL 487.14101(2)(b)	Supervisor's authorization required	None
Minnesota	No	N/A	N/A	State law prevails
Mississippi	No	N/A	N/A	Must submit proof that federal counterpart can exercise such right and request parity.
Missouri	No	N/A	N/A	Activated by regulation only; must be consistent w/state law
Montana	No	N/A	N/A	Activities applied for under the "wildcard" must not be expressly prohibited or limited by Montana Law.
Nebraska	No	N/A	N/A	Due to State Constitution, wildcard must be re-enacted annually. New powers are about a year behind; although automatically granted when re-enacted.
Nevada	No	N/A	N/A	None
New Hampshire	No	N/A	N/A	Three similarly chartered institutions must petition the Commissioner to adopt regulations that grant the federal power, right, and benefit.
New Jersey	No	N/A	N/A	Permitted unless contrary to law
New Mexico	Yes	58-1-54 NMSA 1978	Supervisor's authorization required	None
New York	No	N/A	N/A	None
North Carolina	No	N/A	N/A	None
North Dakota	No	N/A	N/A	State Banking Board must approve activity.
Ohio	Yes	1121.05(A)(4), (5), and (6)	Supervisor's authorization required	Superintendent's discretion whether to grant authority; parity rules lapse
Oklahoma	No	N/A	N/A	May be limited by the Commissioner or the Banking Board
Oregon	No	N/A	N/A	None
Pennsylvania	No	N/A	N/A	None
Puerto Rico	No	N/A	N/A	None



Wildcard Authority & Parity Statutes – Part II

	Grants State-Chartered Banks Competitive Equality with Any Financial Services Provider		Statute/Citation	Automatic Trigger by OCC or Court, or Supervisor's Determination Required	Restrictions on State's Wildcard Authority
Rhode Island	No		N/A	N/A	Wildcard authority applies only with respect to powers authorized for "insured-deposit-taking institutions duly organized under the laws of the United States which are members of the Federal Deposit Insurance Corporation."
South Dakota	No		N/A	N/A	NR
Tennessee	Yes		TCA § 45-2-607(d)	Supervisor's authorization required	None
Texas	No		N/A	N/A	32.010(a)
Utah	No		N/A	N/A	None
Vermont	No		N/A	N/A	Commissioner's regulatory authority
Virginia	No		N/A	N/A	None
Washington	No		N/A	N/A	Activities must be approved by the Director of the Department of Financial Institutions
West Virginia	Yes		§ 31A-8C-2(e)	Supervisor's authorization required	Cannot approve activities involving the sale of non-credit insurance products or certain real estate brokerage activities. A financial institution cannot invest more than 10% of its consolidated capital and surplus in the conduct of financially-related services.
Wisconsin	Yes		221.0322	Supervisor's authorization required	Cannot approve activity explicitly prohibited by the statutes
Wyoming	No		N/A	N/A	The commissioner must approve an activity through rules and regulations.
	Yes	No			
	11	40			

NR: Not Reported.
N/A: Not Applicable.

Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 kbacs@ink.org

2-28-01

TO: House Financial Institutions Committee
FROM: Chuck Stones, Senior Vice President

RE: SB 142

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you regarding SB 142, which deals with the "Wild Card" Authority of the Bank Commissioner. Competitiveness is very important to maintaining a strong financial system. With the passage of GLBA at the Federal level things are happening at a very rapid pace. The federal regulators can act at any time and it is imperative to give the Bank Commissioner this authority to assure the competitiveness of the state banking system in Kansas.

The State of Kansas should want its charter to have maximum value and be a desirable charter in the banking marketplace. SB 142 would go a long way in doing that.

We urge your support.