

**SENATE BILL No. 139**

By Committee on Financial Institutions and Insurance

1-31

1 AN ACT concerning banks and trust companies; relating to the state  
2 banking code; updating certain definitions, terms and conditions  
3 therein; specifying that certain hearings be held in accordance with the  
4 Kansas administrative procedure act; updating certain internal  
5 references; requiring immediate notification of changes in board  
6 members; specifying that the charter of certain banks be deemed void  
7 on the effective date of a merger; establishing conditions under which it  
8 would be lawful to engage in banking without first obtaining authority  
9 from the commissioner; amending K.S.A. 9-519, 9-1111, 9-1114, 9-  
10 1724, 9-1807, 9-2011, 9-2108 and 9-2111 and K.S.A. 2024 Supp. 9-  
11 2107 and repealing the existing sections; also repealing K.S.A. 9-2101  
12 and 16-842.

13

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

15

Section 1. K.S.A. 9-519 is hereby amended to read as follows: 9-519.  
16 For the purposes of K.S.A. 9-520 through 9-524, ~~and amendments thereto,~~  
17 and K.S.A. 9-532 through 9-541, and amendments thereto, unless  
18 otherwise required by the context:

19

(a) "Bank" means an insured bank as defined in 12 U.S.C. § 1813(h)  
20 ~~except the term shall.~~ "Bank" does not include a national bank that:

21

(1) Engages only in credit card operations;

22

(2) does not accept demand deposits or deposits that the depositor  
23 may withdraw by check or similar means for payment to third parties or  
24 others;

25

(3) does not accept any savings or time deposits of less than  
26 \$100,000;

27

(4) maintains only one office that accepts deposits; and

28

(5) does not engage in the business of making commercial loans.

29

(b) (1) "Bank holding company" means any company that:

30

(A) Directly or indirectly owns, controls, or has power to vote 25% or  
31 more of any class of the voting shares of a bank or 25% or more of any  
32 class of the voting shares of a company that is or becomes a bank holding  
33 company by virtue of this act;

34

(B) controls in any manner the election of a majority of the directors  
35 of a bank or of a company that is or becomes a bank holding company by  
36 virtue of this act;

1 (C) the commissioner determines, after notice and opportunity for a  
2 hearing *to be conducted in accordance with the Kansas administrative*  
3 *procedure act*, directly or indirectly exercises a controlling influence over  
4 the management or policies of the bank or company.

5 (2) Notwithstanding paragraph (1), no company:

6 (A) Shall be deemed to be a bank holding company by virtue of the  
7 company's ownership or control of shares acquired by the company in  
8 connection with such company's underwriting of securities if such shares  
9 are held only for such period of time as will permit the sale thereof on a  
10 reasonable basis;

11 (B) formed for the sole purpose of participating in a proxy solicitation  
12 shall be deemed to be a bank holding company by virtue of the company's  
13 control of voting rights of shares acquired in the course of such  
14 solicitation;

15 (C) shall be deemed to be a bank holding company by virtue of the  
16 company's ownership or control of shares acquired in securing or  
17 collecting a debt previously contracted in good faith, provided such shares  
18 are disposed of within a period of two years from the date on which such  
19 shares could have been disposed of by such company; or

20 (D) owning or controlling voting shares of a bank shall be deemed to  
21 be a bank holding company by virtue of the company's ownership or  
22 control of shares held in a fiduciary capacity except where such shares are  
23 held for the benefit of such company or the company's shareholders.

24 (c) "Company" means any corporation, limited liability company,  
25 trust, partnership, association or similar organization, including a bank, but  
26 ~~shall~~ *does* not include any corporation, the majority of the shares of which  
27 are owned by the United States or by any state, or ~~include~~ any individual,  
28 partnership or qualified family partnership upon the determination by the  
29 commissioner that a general or limited partnership qualifies under the  
30 definition in 12 U.S.C. § 1841(o)(10).

31 (d) "Foreign bank" means any company organized under the laws of a  
32 foreign country, a territory of the United States, Puerto Rico, Guam,  
33 American Samoa or the Virgin Islands or any subsidiary or affiliate  
34 organized under such laws, ~~which~~ *that* engages in the business of banking.

35 (e) "Kansas bank" means any bank, as defined by subsection (a), that,  
36 in the case of a state chartered bank, is a bank chartered under the  
37 authority of the state of Kansas; and, in the case of a national banking  
38 association, a bank with its charter location in Kansas.

39 (f) "Kansas bank holding company" means a bank holding company,  
40 as defined by subsection (b), with total subsidiary bank deposits in Kansas  
41 that exceed the bank holding company's subsidiary bank deposits in any  
42 other state.

43 (g) "Out-of-state bank holding company" means any holding

1 company that is not a Kansas bank holding company as defined in  
2 subsection (f).

3 (h) "Subsidiary" means, with respect to a specified bank holding  
4 company:

5 (1) Any company with more than 5% of the voting shares, excluding  
6 shares owned by the United States or by any company wholly owned by  
7 the United States, that are directly or indirectly owned or controlled by, or  
8 held with power to vote, such bank holding company; or

9 (2) any company, the election of a majority of the directors of which,  
10 is controlled in any manner by such bank holding company.

11 Sec. 2. K.S.A. 9-1111 is hereby amended to read as follows: 9-1111.

12 (a)(1) The general business of every bank shall be transacted at the place  
13 of business specified in the bank's certificate of authority and at one or  
14 more branch banks established and operated as provided in this section. It  
15 shall be unlawful for any bank to establish and operate any branch bank or  
16 relocate an existing branch bank except as hereinafter provided.  
17 Notwithstanding the provisions of this section, any location ~~at which~~  
18 *where* a depository institution, as defined by K.S.A. 9-701, and  
19 amendments thereto, receives deposits, renews time deposits, closes loans,  
20 services loans or receives payments on loans or other obligations, as agent,  
21 for a bank pursuant to K.S.A. 9-1101(a)(25), and amendments thereto, or  
22 other applicable state or federal law, or is authorized to open accounts or  
23 receive deposits under K.S.A. 9-1101(a)(28), and amendments thereto,  
24 shall not be deemed to be a branch bank.

25 (a)(2) For the purposes of this section, the term "branch bank" means  
26 any office, agency or other place of business located within this state, other  
27 than the place of business specified in the bank's certificate of authority, ~~at~~  
28 ~~which~~ *where* deposits are received, checks paid, money lent or trust  
29 authority exercised, if approval has been granted by the commissioner  
30 pursuant to K.S.A. ~~9-1602~~ 9-1601, and amendments thereto.

31 (b) ~~establishment of~~ *To establish* a new branch bank or ~~relocation of~~  
32 *relocate* an existing branch bank:

33 (1) ~~After first applying for and obtaining the approval of the~~  
34 ~~commissioner,~~ A bank incorporated under the laws of this state may  
35 establish and operate one or more branch banks or relocate an existing  
36 branch bank, anywhere within this state *after first applying for and*  
37 *obtaining the commissioner's approval*;

38 (2) the application shall include the nature of the banking business to  
39 be conducted at the proposed branch bank, the primary geographical area  
40 to be served by the proposed branch bank, the personnel and office  
41 facilities to be provided at the proposed branch bank and other information  
42 the commissioner may require;

43 (3) the application shall include the name selected for the proposed

1 branch bank. The name selected for the proposed branch bank shall not be  
2 the name of any other bank or branch bank:

3 (A) Doing business in the same city or town; or

4 (B) within a 15-mile radius of the proposed location, nor shall the  
5 name selected be required to contain the name of the applicant bank. If the  
6 name selected for the proposed branch bank does not contain the name of  
7 the applicant bank, the branch bank shall provide in the public lobby of  
8 such branch bank, a public notice that it is a branch bank of the applicant  
9 bank. Any bank may request exemption from the commissioner from the  
10 provisions of this paragraph;

11 (4) the application shall include proof of publication of notice that the  
12 applicant bank intends to file or has filed an application to establish a  
13 branch bank or relocate an existing branch bank. The notice shall be  
14 published in a newspaper of general circulation in the county where the  
15 applicant bank proposes to locate the branch bank. The notice shall be in  
16 the form prescribed by the commissioner and, at a minimum, shall contain  
17 the name and address of the applicant bank, the location of the proposed  
18 branch and a solicitation for written comments. The notice shall be  
19 published on the same day for two consecutive weeks and provide for a  
20 comment period of not less than 10 days after the date of the second  
21 publication;

22 (5) upon receipt of the application, and following expiration of the  
23 comment period, the commissioner may hold a hearing in the county ~~in~~  
24 ~~which~~ *where* the applicant bank seeks to operate the branch bank. The  
25 applicant shall publish notice of the time, date and place of such hearing in  
26 a newspaper of general circulation in the county where the applicant bank  
27 proposes to locate the branch bank; *within* not less than 10; nor more than  
28 30; days prior to the date of the hearing, and proof of publication shall be  
29 filed with the commissioner. At any such hearing, all interested persons  
30 shall be allowed to present written and oral evidence to the commissioner,  
31 or the commissioner's designee, in support of or in opposition to the  
32 branch bank. Upon completion of a transcript of the testimony given at any  
33 such hearing, the transcript shall be filed in the office of the commissioner;

34 (6) if the commissioner determines a public hearing is not warranted,  
35 the commissioner shall approve or disapprove the application within 15  
36 days after receipt of a complete application; but not prior to the end of the  
37 comment period. If a public hearing is held, the commissioner shall  
38 approve or disapprove the application within 60 days after consideration of  
39 the complete application and the evidence gathered during the  
40 commissioner's investigation. The period for consideration of the  
41 application may be extended if the commissioner determines *that* the  
42 application presents a significant supervisory concern. The new branch or  
43 relocation shall only be granted if the commissioner finds that:

1 (A) There is a reasonable probability of usefulness and success of the  
2 proposed branch bank; and

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

4 (7) within 15 days after any final action of the commissioner  
5 approving or disapproving an application, the applicant, or any adversely  
6 affected or aggrieved person that provided written comments during the  
7 specified comment period, may request a hearing with the state banking  
8 board. Upon receipt of a timely request, the state banking board shall  
9 conduct a hearing in accordance with the provisions of the Kansas  
10 administrative procedure act. Any decision of the state banking board is  
11 subject to review in accordance with the Kansas judicial review act.

12 (c) Upon the request of any bank proposing to relocate an existing  
13 branch less than one mile from the existing location, the commissioner  
14 may exempt such bank from the requirements of this section.

15 (d) Any branch bank lawfully established and operating on the  
16 effective date of this act may continue to be operated by the bank then  
17 operating the branch bank and by any successor bank.

18 (e) Any bank location ~~which~~ *that* has been established and is being  
19 maintained by a bank at the time of the bank's merger into or consolidation  
20 with another bank or at the time the bank's assets are purchased and the  
21 bank's liabilities are assumed by another bank may continue to be operated  
22 by the surviving, resulting or purchasing and assuming bank.

23 (f) Any state bank or national banking association may provide and  
24 engage in banking transactions by means of remote service units wherever  
25 located, ~~which~~. Remote service units shall not be considered to be branch  
26 banks. Any banking transaction ~~effected~~ *affected* by use of a remote  
27 service unit shall be deemed to be transacted at a bank and not at a remote  
28 service unit.

29 (g) As a condition to the operation and use of any remote service unit  
30 in this state, a state bank or national banking association, each hereinafter  
31 referred to as a bank, ~~which~~ *that* desires to operate or enable its customers  
32 to utilize a remote service unit ~~must~~ *shall* agree that such remote service  
33 unit will be available for use by customers of any other bank or banks  
34 upon the request of such bank or banks to share the use of the remote  
35 service unit and the agreement of such bank or banks to share all costs,  
36 including a reasonable return on capital expenditures incurred in  
37 connection with the remote service unit's development, installation and  
38 operation. The owner of the remote service unit, whether a bank or any  
39 other person, shall make the remote service unit available for use by other  
40 banks and their customers on a nondiscriminatory basis, conditioned upon  
41 payment of a reasonable proportion of all costs, including a reasonable  
42 return on capital expenditures incurred in connection with the  
43 development, installation and operation of the remote service unit.

1 Notwithstanding the foregoing provisions of this subsection, a remote  
2 service unit located on the property owned or leased by the bank where the  
3 principal place of business of a bank, or branch bank of a bank, is located  
4 need not be made available for use by any other bank or banks or  
5 customers of any other bank or banks;

6 (h) For purposes of this section, "remote service unit" means an  
7 electronic information processing device, including associated equipment,  
8 structures and systems, through or by means of which information relating  
9 to financial services rendered to the public is stored and transmitted to a  
10 bank and ~~which that~~, for activation and account access, is dependent upon  
11 the use of a machine-readable instrument in the possession and control of  
12 the holder of an account with a bank or ~~is~~ activated by a person upon  
13 verifiable personal identification. ~~The term shall include "Remote service~~  
14 ~~unit" includes "online" computer terminals~~ ~~which that~~ may be equipped  
15 with a telephone or televideo device that allows contact with bank  
16 personnel and "offline" automated cash dispensing machines and  
17 automated teller machines. Withdrawals by means of "offline" systems  
18 shall not exceed \$300 per transaction and shall be restricted to individual,  
19 not corporate or commercial, accounts;

20 (i) Upon providing notice to the commissioner, any state bank may  
21 conduct loan production activity at locations other than the place of  
22 business specified in the bank's certificate of authority or approved branch  
23 banks.

24 (1) Loan production activity shall consist of the following:

25 (A) Soliciting, assembling or processing of credit information and  
26 loan applications;

27 (B) approval of loan applications; or

28 (C) loan closing activities, such as the execution of promissory notes  
29 and deeds of trust.

30 (2) No customer shall be allowed to take actual receipt of the loan  
31 funds;

32 (j) Upon providing notice to the commissioner, any state bank may  
33 conduct deposit production activity at locations other than the place of  
34 business specified in the bank's certificate of authority or approved branch  
35 banks provided there is no acceptance of actual deposits in person or by  
36 drop box;

37 (k) Upon providing notice to the commissioner, any state bank may  
38 provide any of the following at a location other than the place of business  
39 specified in the bank's certificate of authority without becoming a branch  
40 bank:

41 (1) Operate safe deposit boxes;

42 (2) sell travelers checks and saving bonds; and

43 (3) operate ~~check cashing~~ *check-cashing* services ~~so long as if~~ no

1 actual account withdrawal occurs;

2 (l) any bank or trust company closing a branch bank, loan production  
3 office, deposit production office or other location shall provide notice to  
4 the commissioner.

5 Sec. 3. K.S.A. 9-1114 is hereby amended to read as follows: 9-1114.

6 (a) The business of any bank or trust company shall be managed and  
7 controlled by such bank's or trust company's board of directors.

8 (b) The board shall consist of not ~~less~~ *fewer* than five nor more than  
9 25 members who shall be elected by the stockholders at any regular annual  
10 meeting ~~which~~ *that* shall be held on the date specified in the bank's or trust  
11 company's bylaws. A majority of the directors shall be residents of this  
12 state. Minutes shall be made of each stockholders' meeting of a bank or  
13 trust company. The minutes shall show any action taken by the  
14 stockholders, including the election of all directors.

15 (c) If, for any reason, the meeting cannot be held on the date specified  
16 in the bylaws, the meeting shall be held on a subsequent day within 60  
17 days of the day fixed, to be designated by the board of directors, or, if the  
18 directors fail to fix the day, by the shareholders representing  $\frac{2}{3}$  of the  
19 shares.

20 (d) In all cases, at least 10 days' notice of the date for the annual  
21 meeting shall ~~have been~~ *be* given by first-class mail to the shareholders.

22 (e) Any newly created directorship ~~must~~ *shall* be approved and  
23 elected by the shareholders in the manner provided in the general  
24 corporation code. A special meeting of the shareholders may be convened  
25 at any time for such purpose.

26 (f) Any vacancy in the board of directors may be filled by the board  
27 of directors in the manner provided in the general corporation code.

28 (g) Any director of any bank or trust company who ~~shall become~~  
29 *becomes* indebted to such bank or trust company on any judgment or  
30 whose indebtedness is charged off or forgiven shall forfeit such person's  
31 position as director.

32 (h) Within 15 days after the annual meeting, the president or cashier  
33 of every bank and every trust company shall submit to the commissioner a  
34 certified list of stockholders and the number of shares owned by each. This  
35 list of stockholders shall be kept and maintained in the bank's or trust  
36 company's main office and shall be subject to inspection by all  
37 stockholders during the business hours of the bank or trust company. The  
38 commissioner may require the list to be filed using an electronic means.

39 (i) Each director shall take and subscribe an oath to administer the  
40 affairs of such bank or trust company diligently and honestly and to not  
41 knowingly or willfully permit any of the laws relating to banks or trust  
42 companies to be violated. A copy of each oath shall be retained by the  
43 bank or trust company in the bank's or trust company's records ~~after the~~

1 election of any officer or director, for review by the commissioner's staff  
2 during the next examination. *Each bank and trust company shall file an*  
3 *oath with the commissioner within 15 days of the election of any officer or*  
4 *director. The commissioner may require the oath to be filed using an*  
5 *electronic means.*

6 (j) ~~Every~~*Each* bank and trust company shall notify the commissioner  
7 of any ~~change in the~~ *newly appointed* chief executive officer, president or  
8 directors *prior to the commencement of any such individual's duties,*  
9 including in such bank's or trust company's report a statement of the past  
10 and current business and professional affiliations of the new chief  
11 executive officer, president or directors. *Each bank and trust company*  
12 *shall notify the commissioner of any chief executive officer, president or*  
13 *director that is voluntarily or involuntarily relieved from the position*  
14 *duties within five business days.*

15 Sec. 4. K.S.A. 9-1724 is hereby amended to read as follows: 9-1724.

16 (a) The provisions of K.S.A. 9-1720 through 9-1724, and amendments  
17 thereto, shall not apply to the merger transaction of a bank or trust  
18 company when the surviving entity is a national banking association or  
19 other state or federally chartered financial institution or a trust company,  
20 except that the bank or trust company shall provide written notification to  
21 the commissioner of such a merger, consolidation or transfer of assets and  
22 liabilities at least 10 days prior to the consummation of any such  
23 transaction.

24 (b) *Any bank or trust company that will cease to exist following the*  
25 *consummation of any approved merger transaction shall have its charter*  
26 *deemed void on the next business day immediately following the merger*  
27 *consummation date. Not more than 15 days following any merger*  
28 *transaction, any bank or trust company that will cease to exist shall*  
29 *surrender such bank's or trust company's state certificate of authority or*  
30 *charter and shall certify in writing that the proper instruments have been*  
31 *executed and filed in accordance with K.S.A. 17-6003, and amendments*  
32 *thereto.*

33 (c) Notice of the merger transaction shall be published twice in a  
34 newspaper of general circulation in each city or county ~~in which~~ *where* the  
35 bank or trust company is located, or the newspaper nearest such city or  
36 county, and a certified copy of each notice shall be filed with the  
37 commissioner. The first publication shall be ~~no~~ *not* later than five days  
38 after an application is filed. The second publication shall be on the 14<sup>th</sup> day  
39 after the date of the first publication or, if the newspaper does not publish  
40 on the 14<sup>th</sup> day, then the date that is the closest to the 14<sup>th</sup> day. The notice  
41 shall be in the form prescribed by the commissioner and shall provide for a  
42 comment period of not less than 10 days after the date of the second  
43 publication.



1 Sec. 5. K.S.A. 9-1807 is hereby amended to read as follows: 9-1807.

2 (a) If the commissioner finds that any bank or trust company is engaging,  
3 has engaged or is about to engage in an unsafe or unsound practice or if  
4 the commissioner finds that any bank or trust company is violating, has  
5 violated or is about to violate a law, rule and regulation or order of the  
6 commissioner or state banking board, the commissioner may issue and  
7 serve upon the bank or trust company a notice of charges. The notice of  
8 charges shall contain a statement of the facts that forms the basis for a  
9 proposed cease and desist order and shall state the time and place ~~at which~~  
10 *that* a hearing will be held by the state banking board to determine whether  
11 an order to cease and desist therefrom should be issued by the state  
12 banking board against the bank or trust company. Such hearing shall be  
13 fixed for a date not earlier than 30 days nor later than 60 days after service  
14 of such notice *and shall be held in accordance with the Kansas*  
15 *administrative procedure act.*

16 (b) Unless the bank or trust company ~~shall appear~~ *appears* at the  
17 hearing, such bank or trust company shall be deemed to have consented to  
18 the issuance of the cease and desist order. In the event of such consent; or  
19 if, upon the record made at any such hearing, the state banking board ~~shall~~  
20 ~~find~~ *finds* that any unsafe or unsound practice or violation specified in the  
21 notice of charges has been established, the state banking board may issue  
22 and serve upon the bank or trust company an order to cease and desist  
23 from any such practice or violation. Such order may require the bank or  
24 trust company and such bank's or trust company's directors, officers,  
25 employees or agents to cease and desist or to take affirmative action to  
26 correct the conditions resulting from any such practice or violation. A  
27 cease and desist order shall become effective at the time specified therein  
28 and shall remain effective and enforceable as provided therein, except to  
29 such extent as it is stayed, modified or terminated by the state banking  
30 board.

31 (c) Whenever the commissioner finds that a bank's or trust company's  
32 unsafe or unsound practice or violation, or the continuation thereof, is  
33 likely to cause insolvency, substantial dissipation of assets or earnings or is  
34 likely to ~~otherwise~~ seriously prejudice the interests of the bank's depositors  
35 or trust company's clients, the commissioner may issue a temporary order  
36 requiring the bank or trust company to cease and desist from any such  
37 practice or violation. The order shall contain a notice of charges with a  
38 statement of the facts that forms the basis for a proposed temporary cease  
39 and desist order. Such order shall be effective upon service on the bank or  
40 trust company and shall remain effective and enforceable pending the  
41 completion of the proceedings pursuant to such notice and until such time  
42 as the state banking board ~~shall dismiss~~ *dismisses* the charges specified in  
43 such notice; or, if a cease and desist order is issued against the bank or

1 trust company, until the effective date of any such order.

2 Sec. 6. K.S.A. 9-2011 is hereby amended to read as follows: 9-2011.

3 (a) It shall be unlawful for any individual, firm or corporation to advertise,  
4 publish or otherwise promulgate that—~~the~~ *such* individual, firm or  
5 corporation is engaged in the banking business—~~or trust business~~ without  
6 first having obtained authority from the commissioner, *unless its deposits*  
7 *are federally insured and either chartered in Kansas, another state or the*  
8 *federal government.*

9 (b) *It shall be unlawful for any individual, firm or corporation to*  
10 *advertise, publish or otherwise communicate that such individual, firm or*  
11 *corporation is engaged in the trust business without first having obtained*  
12 *authority from the commissioner, unless the entity is a federally insured*  
13 *bank or credit union and has authorization from another state or the*  
14 *federal government to engage in trust business in Kansas.*

15 (c) Any such individual or member of any such firm or officer of any  
16 such corporation violating this section, upon conviction, shall be guilty of  
17 a class A, nonperson misdemeanor.

18 Sec. 7. K.S.A. 2024 Supp. 9-2107 is hereby amended to read as  
19 follows: 9-2107. (a) As used in this section:

20 (1) "Contracting trustee" means any trust company, as defined in  
21 K.S.A. 9-701, and amendments thereto, any bank that has been granted  
22 trust authority by the commissioner under K.S.A. ~~9-1602~~ *9-1601*, and  
23 amendments thereto, any national bank chartered to do business in Kansas  
24 that has been granted trust authority by the comptroller of the currency  
25 under 12 U.S.C. § 92a, any bank that has been granted trust authority or  
26 any trust company, regardless of where such bank or trust company is  
27 located, that is controlled, as defined in K.S.A. 9-1612, and amendments  
28 thereto, by the same bank holding company as any trust company, state  
29 bank or national bank chartered to do business in Kansas, ~~which~~ *that*  
30 accepts or succeeds to any fiduciary responsibility as provided in this  
31 section;

32 (2) "originating trustee" means any trust company, bank, national  
33 banking association, savings and loan association or savings bank that has  
34 trust powers and places or transfers any fiduciary responsibility to a  
35 contracting trustee as provided in this section; and

36 (3) "financial institution" means any bank, national banking  
37 association, savings and loan association or savings bank that has its  
38 principal place of business in this state but that does not have trust powers.

39 (b) Any contracting trustee and any originating trustee may enter into  
40 an agreement by which the contracting trustee, without any further  
41 authorization of any kind, succeeds ~~to~~ and is substituted for the originating  
42 trustee as to all fiduciary powers, rights, duties, privileges and liabilities  
43 with respect to all accounts ~~for which~~ *that* the originating trustee serves in

1 any fiduciary capacity, except as may be provided otherwise in the  
2 agreement. Notwithstanding the provisions of this section, either the  
3 contracting trustee or the originating trustee shall have its principal place  
4 of business in this state.

5 (c) Unless the agreement expressly provides otherwise, upon the  
6 effective date of the substitution:

7 (1) The contracting trustee shall be deemed to be named as the  
8 fiduciary in all writings, including, without limitation, trust agreements,  
9 wills and court orders, ~~which~~ *that* pertain to the affected fiduciary  
10 accounts; and

11 (2) the originating trustee is absolved from all fiduciary duties and  
12 obligations arising ~~under~~ *from* such writings and shall discontinue the  
13 exercise of any fiduciary duties with respect to such writings, except that  
14 the originating trustee is not absolved or discharged from any duty to  
15 account required by K.S.A. 59-1709, and amendments thereto, or any  
16 other applicable statute, rule of law, rules and regulations or court order,  
17 nor shall the originating trustee be absolved from any breach of fiduciary  
18 duty or obligation occurring prior to the effective date of the agreement.

19 (d) The agreement may authorize the contracting trustee:

20 (1) To establish a trust service desk at any office of the originating  
21 trustee at which the contracting trustee may conduct any trust business and  
22 any business incidental thereto and which the contracting trustee may  
23 otherwise conduct at its principal place of business; and

24 (2) to engage the originating trustee as the agent of the contracting  
25 trustee, on a disclosed basis to customers, for the purposes of providing  
26 administrative, advertising and safekeeping services incident to the  
27 fiduciary services provided by the contracting trustee.

28 (e) Any contracting trustee may enter into an agreement with a  
29 financial institution providing that the contracting trustee may establish a  
30 trust service desk as authorized by subsection (d) in the offices of such  
31 financial institution and ~~which provides~~ *that* such financial institution, on a  
32 disclosed basis to customers, may act as the agent of contracting trustee for  
33 purposes of providing administrative services and advertising incident to  
34 the fiduciary services to be performed by the contracting trustee.

35 (f) No activity authorized by subsections (b) through (e) shall be  
36 conducted by any contracting trustee, originating trustee or financial  
37 institution until an application for such authority has been submitted to and  
38 approved by the commissioner. The application shall be in the form and  
39 contain the information required by the commissioner, ~~which~~ *and* shall, at  
40 a minimum, include certified copies of the following documents:

41 (1) The agreement;

42 (2) ~~the written action taken by the board of directors of the~~  
43 ~~originating trustee or financial institution approving the agreement;~~

1       ~~(3)~~—all other required regulatory approvals; *and*

2       ~~(4)~~—proof of publication of notice that the applicant intends to file or  
3 has filed an application pursuant to this section. The notice shall be  
4 published in a newspaper of general circulation in the county where the  
5 principal office of the originating trustee or financial institution is located.  
6 The notice shall be in the form prescribed by the commissioner and shall  
7 contain the name of the applicant contracting trustee and the originating  
8 trustee, and a solicitation for written comments. The notice shall be  
9 published on the same day for two consecutive weeks and provide for a  
10 comment period of not less than 10 days after the date of the second  
11 publication; and

12       ~~(5)~~(3) a certification by the parties to the agreement that written  
13 notice of the proposed substitution was sent by first-class mail to each co-  
14 fiduciary, each surviving settlor of a trust, each ward of a guardianship,  
15 each person that has sole or shared power to remove the originating trustee  
16 as fiduciary and each adult beneficiary currently receiving or entitled to  
17 receive a distribution of principle or income from a fiduciary account  
18 affected by the agreement; and that such notice was sent to each such  
19 person's address as shown in the originating trustee's records. An  
20 unintentional failure to give such notice shall not impair the validity or  
21 effect of any such agreement, except *that* an intentional failure to give  
22 such notice shall render the agreement null and void as to the party not  
23 receiving the notice of substitution.

24       (g) *If the originating trustee or financial institution is transferring*  
25 *more than 50% of the financial institution's total fiduciary accounts, the*  
26 *commissioner shall require the following certified copies in addition to the*  
27 *requirements described in subsection (f):*

28       (1) *The written action taken by the board of directors of the*  
29 *originating trustee or financial institution approving the agreement; and*

30       (2) *proof of publication of notice that the applicant intends to file or*  
31 *has filed an application pursuant to this section. The notice shall be*  
32 *published in a newspaper of general circulation in the county where the*  
33 *principal office of the originating trustee or financial institution is located.*  
34 *The notice shall be in the form prescribed by the commissioner and shall*  
35 *contain the name of the applicant contracting trustee and the originating*  
36 *trustee and a solicitation for written comments. The notice shall be*  
37 *published on the same day and every day thereafter for two consecutive*  
38 *weeks and provide for a comment period of not less than 10 days after the*  
39 *date of the second publication.*

40       (h) A contracting trustee making application to the commissioner for  
41 approval of any agreement pursuant to this section shall pay to the  
42 commissioner a fee, in an amount established pursuant to K.S.A. 9-1726,  
43 and amendments thereto, to defray the expenses of the commissioner in

1 the examination and investigation of the application. The commissioner  
2 shall remit all moneys received under this section to the state treasurer in  
3 accordance with the provisions of K.S.A. 75-4215, and amendments  
4 thereto. Upon receipt of each such remittance, the state treasurer shall  
5 deposit the entire amount in the state treasury to the credit of the bank  
6 investigation fund. The moneys in the bank investigation fund shall be  
7 used to pay the expenses of the commissioner, or designee, in the  
8 examination and investigation of such applications and any unused balance  
9 shall be transferred to the bank commissioner fee fund.

10 ~~(h)~~(i) Upon the filing of a complete application with the  
11 commissioner, the commissioner shall make or cause to be made, a careful  
12 examination and investigation of the proposed agreement. If the  
13 commissioner finds any of the following matters unfavorably, the  
14 commissioner may deny the application:

15 (1) The reasonable probability of usefulness and success of the  
16 contracting trustee; and

17 (2) the financial history and condition of the contracting trustee  
18 including the character, qualifications and experience of the officers  
19 employed by the contracting trustee.

20 ~~(i)~~(j) The commissioner shall render approval or disapproval of the  
21 application within 90 days of receiving a complete application.

22 ~~(j)~~(k) Upon service of an order denying an application, the applicant  
23 shall have the right to a hearing to be conducted in accordance with the  
24 Kansas administrative procedure act before the state banking board. Any  
25 final order of the commissioner pursuant to this section is subject to  
26 review in accordance with the Kansas judicial review act.

27 ~~(k)~~(l) When the commissioner determines that any contracting trustee  
28 domiciled in this state has entered into a contracting agreement in violation  
29 of the laws governing the operation of such contracting trustee, the  
30 commissioner may take such action as available under K.S.A. 9-1714, 9-  
31 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such  
32 violation.

33 ~~(l)~~(m) Any party entitled to receive a notice under subsection (f)~~(5)~~  
34 (3) may file a petition in the court having jurisdiction over the fiduciary  
35 relationship, or if none, in the district court in the county where the  
36 originating trustee has its principal office, seeking to remove any  
37 contracting trustee substituted or about to be substituted as fiduciary  
38 pursuant to this section. Unless the contracting trustee files a written  
39 consent to its removal or a written declination to act subsequent to the  
40 filing of the petition, the court, upon notice and hearing, shall determine  
41 the best interest of the petitioner and all other parties concerned and shall  
42 fashion such relief as the court deems appropriate in the circumstances,  
43 including the awarding of reasonable attorney fees. The right to file a

1 petition under this subsection shall be in addition to any other rights to  
2 remove the fiduciary provided by any other statute or regulation or by the  
3 writing creating the fiduciary relationship. If the removal of the fiduciary  
4 is prompted solely as a result of the contracting agreement, any reasonable  
5 cost associated with such removal and transfer shall be paid by the  
6 originating trustee or financial institution entering into the agreement.

7 Sec. 8. K.S.A. 9-2108 is hereby amended to read as follows: 9-2108.  
8 It is unlawful for any trust company to establish or operate a trust service  
9 office or relocate an existing trust service office except as provided herein.

10 (a) As used in this section: "Trust service office" means any office,  
11 agency or other place of business located within this state, other than the  
12 place of business specified in the trust company's certificate of authority, at  
13 which the powers granted to trust companies under K.S.A. 9-2103, and  
14 amendments thereto, are exercised. For the purposes of this section, any  
15 activity in compliance with K.S.A. 9-2107, and amendments thereto, does  
16 not constitute a trust service office.

17 (b) After first applying for and obtaining the approval of the  
18 commissioner under this section, one or more trust service offices may be  
19 established or operated in any city within this state by a trust company  
20 incorporated under the laws of this state.

21 (c) An application to establish or operate a trust service office or to  
22 relocate an existing trust service office shall be in the form and manner  
23 prescribed by the commissioner and provide the following documents:

24 (1) A certified copy of the written action taken by the board of  
25 directors of the trust company approving the establishment or operation of  
26 the proposed trust service office or the proposed relocation of the trust  
27 service office;

28 (2) all other required regulatory approvals;

29 (3) proof of publication of notice that the applicant intends to file or  
30 has filed an application pursuant to this section. The notice shall be  
31 published in a newspaper of general circulation where the proposed trust  
32 service office is to be located. The notice shall be in the form prescribed by  
33 the commissioner and shall contain the name of the applicant, the location  
34 of the proposed trust service office and a solicitation for written comments.  
35 The notice shall be published on the same day *and every day thereafter* for  
36 two consecutive weeks and provide for a comment period of not less than  
37 10 days after the date of the second publication; and

38 (4) the application shall include the name selected for the proposed  
39 trust service office. The name selected for the proposed trust service office  
40 shall not be the same or substantially similar to the name of any other trust  
41 company or trust service office doing business in the state of Kansas, nor  
42 shall the name selected be required to contain the name of the applicant  
43 trust company. If the name selected for the proposed trust service office

1 does not contain the name of the applicant trust company, the trust service  
2 office shall provide in the public lobby of such trust service office; a public  
3 notice that it is a trust service office of the applicant trust company. Any  
4 trust company may request *an* exemption from the commissioner from the  
5 provisions of this subsection.

6 (d) A trust company making application to the commissioner for  
7 approval of a trust service office under this section shall pay to the  
8 commissioner a fee, in an amount established pursuant to K.S.A. 9-1726,  
9 and amendments thereto, to defray the expenses of the commissioner in  
10 the examination and investigation of the application. The commissioner  
11 shall remit all moneys received under this section to the state treasurer in  
12 accordance with the provisions of K.S.A. 75-4215, and amendments  
13 thereto. Upon receipt of each such remittance, the state treasurer shall  
14 deposit the entire amount in the state treasury to the credit of the bank  
15 investigation fund. The moneys in the bank investigation fund shall be  
16 used to pay the expenses of the commissioner or designee in the  
17 examination and investigation of such applications and any unused balance  
18 shall be transferred to the bank commissioner fee fund.

19 (e) Upon the request of any trust company proposing to relocate an  
20 existing trust service office *to less than ~~one mile~~ 10 miles* from the trust  
21 company's existing location, the commissioner may exempt such trust  
22 company from the requirements of this section. *If an exemption is*  
23 *provided under this subsection, each trust company shall document the*  
24 *written action taken by the board of directors of the trust company*  
25 *approving the proposed relocation of the trust service office and all other*  
26 *required regulatory approvals.*

27 (f) Upon the filing of a complete application with the commissioner,  
28 the commissioner shall make or cause to be made, a careful examination  
29 and investigation. If the commissioner finds any of the following matters  
30 unfavorably, the commissioner may deny the application:

31 (1) The reasonable probability of usefulness and success of the  
32 proposed trust service office; and

33 (2) the applicant trust company's financial history and condition  
34 including the character, qualifications and experience of the officers  
35 employed by the trust company.

36 (g) Upon service of an order denying an application, the applicant  
37 shall have the right to a hearing to be conducted in accordance with the  
38 Kansas administrative procedure act before the state banking board. Any  
39 final order of the state banking board pursuant to this section is subject to  
40 review in accordance with the Kansas judicial review act.

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

1 commissioner may take such action as available under K.S.A. 9-1714, 9-  
2 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such  
3 violation.

4 Sec. 9. K.S.A. 9-2111 is hereby amended to read as follows: 9-2111.

5 (a) Except as provided in K.S.A. 9-2107, and amendments thereto, no trust  
6 company, trust department of a bank, corporation or other business entity;  
7 ~~the with a home office of which is located outside the state of Kansas;~~  
8 shall establish or operate a trust facility within the state of Kansas, unless  
9 the laws of the state where the home office of the nonresident trust  
10 company, trust department of a bank, corporation or other business entity  
11 is located authorize a ~~Kansas-chartered~~ *Kansas-chartered* trust company,  
12 trust department of a bank, corporation or other business entity to establish  
13 or operate a trust facility within that state. *The commissioner may require*  
14 *any nonresident trust company to meet the greater of the requirements*  
15 *stated under the banking code or the laws of the nonresident trust*  
16 *company's home state required for a Kansas trust company to do business*  
17 *in the nonresident trust company's home state.*

18 (b) Before any nonresident trust company, trust department of a bank,  
19 corporation or other business entity establishes a trust facility in Kansas, a  
20 copy of the application submitted to the home state; and proof that the  
21 home state authorizes a ~~Kansas-chartered~~ *Kansas-chartered* trust company,  
22 trust department of a bank, corporation or other business entity to establish  
23 or operate a trust facility within that state, ~~must~~ *shall* be filed by the  
24 applicant with the commissioner.

25 (c) No Kansas trust company shall establish an out-of-state trust  
26 facility until an application has been filed with the commissioner and  
27 approval has been received. An application filed pursuant to this section  
28 shall be subject to the provisions in K.S.A. 9-2108, and amendments  
29 thereto.

30 (d) No Kansas bank with a trust department shall establish an out-of-  
31 state trust facility until an application has been filed with the commissioner  
32 and approval has been received. An application filed pursuant to this  
33 section shall be subject to the provisions in K.S.A. 9-1111, and  
34 amendments thereto.

35 (e) As used in this section, "trust facility" means any office, agency,  
36 desk or other place of business ~~at which trust~~ *where* business is conducted.

37 (f) Any Kansas trust company or Kansas bank making application to  
38 the commissioner pursuant to subsection (c) or (d) shall pay to the  
39 commissioner a fee to be established pursuant to K.S.A. 9-1726, and  
40 amendments thereto, to defray the expenses of the commissioner in the  
41 examination and investigation of the application. The commissioner shall  
42 remit all moneys received under this section to the state treasurer in  
43 accordance with the provisions of K.S.A. 75-4215, and amendments



1 thereto. Upon receipt of each such remittance, the state treasurer shall  
2 deposit the entire amount in the state treasury to the credit of the bank  
3 investigation fund. The moneys in the bank investigation fund shall be  
4 used to pay the expenses of the commissioner in the examination and  
5 investigation of such applications and any unused balance shall be  
6 transferred to the bank commissioner fee fund.

7 Sec. 10. K.S.A. 9-519, 9-1111, 9-1114, 9-1724, 9-1807, 9-2011, 9-  
8 2101, 9-2108, 9-2111 and 16-842 and K.S.A. 2024 Supp. 9-2107 are  
9 hereby repealed.

10 Sec. 11. This act shall take effect and be in force from and after its  
11 publication in the statute book.