

SENATE BILL No. 301

By Joint Committee on Fiduciary Financial Institutions Oversight

12-29

1 AN ACT concerning financial institutions; relating to the technology-
2 enabled fiduciary financial institutions act; authorizing the state bank
3 commissioner to revoke a fiduciary financial institution charter, subject
4 to approval by the legislative coordinating council; amending K.S.A.
5 2025 Supp. 9-2301 and repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) Subject to the provisions of subsection (b), the
9 commissioner may revoke a fiduciary financial institution charter upon a
10 finding of a failure to comply with the provisions of this act or the rules
11 and regulations promulgated thereunder.

12 (b) If the commissioner orders the revocation of the charter of a
13 fiduciary financial institution, such fiduciary financial institution shall
14 have the right to appeal such order to the legislative coordinating council.
15 No fiduciary financial institution charter shall be finally revoked by the
16 commissioner unless a majority of the members of the legislative
17 coordinating council vote in the affirmative to approve the revocation
18 order. The legislative coordinating council may consider and act on such
19 matter at any time, including when the legislature is in session.

20 (c) The provisions of this section shall be a part of and supplemental
21 to technology-enabled fiduciary financial institutions act.

22 Sec. 2. K.S.A. 2025 Supp. 9-2301 is hereby amended to read as
23 follows: 9-2301. (a) The provisions of K.S.A. 9-2301 through 9-2327, and
24 amendments thereto, *and section 1, and amendments thereto*, shall be
25 known and may be cited as the technology-enabled fiduciary financial
26 institutions act. The technology-enabled fiduciary financial institutions act
27 shall be a part of and supplemental to chapter 9 of the Kansas Statutes
28 Annotated, and amendments thereto.

29 (b) For purposes of the technology-enabled fiduciary financial
30 institutions act:

31 (1) "Act" means the technology-enabled fiduciary financial
32 institutions act;

33 (2) "alternative asset" means professionally managed investment
34 assets that are not publicly traded, including, but not limited to, private
35 equity, venture capital, leveraged buyouts, special situations, structured
36 credit, private debt, private real estate funds and natural resources,

1 including any economic or beneficial interest therein;

2 (3) "alternative asset custody account" means an account created by
3 the owner of an alternative asset that designates a fiduciary financial
4 institution as custodian or agent and into which the owner transfers,
5 electronically or otherwise, content, materials, data, information,
6 documents, reports and contracts in any form, including, without
7 limitation, evidence of ownership, subscription agreements, private
8 placement memoranda, limited partnership agreements, operating
9 agreements, financial statements, annual and quarterly reports, capital
10 account statements, tax statements, correspondence from the general
11 partner, manager or investment advisor of the alternative asset, an
12 investment contract as defined in K.S.A. 17-12a102(28)(E), and
13 amendments thereto, and any digital asset as defined in K.S.A. 58-4802,
14 and amendments thereto, whether such information is in hard copy form or
15 a representation of such information that is stored in a computer readable
16 format;

17 (4) "charitable beneficiaries" means one or more charities,
18 contributions to which are allowable as a deduction pursuant to section
19 170 of the federal internal revenue code that are designated as
20 beneficiaries of a fidfin trust;

21 (5) "custodial services" means the safekeeping and management of an
22 alternative asset custody account, including the execution of customer
23 instructions, serving as agent, fund administrative services and overall
24 decision-making and management of the account by a fiduciary financial
25 institution~~—and~~. "Custodial services" shall be deemed to involve the
26 exercise of fiduciary and trust powers;

27 (6) "director" means a person designated as a member of the board of
28 directors pursuant to K.S.A. 9-2306, and amendments thereto;

29 (7) "economic growth zone" means an incorporated community with
30 a population of not more than 5,000 people located within one of the
31 following counties: Allen, Anderson, Barber, Bourbon, Brown, Chase,
32 Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche,
33 Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray,
34 Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman,
35 Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn,
36 Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton,
37 Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt,
38 Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman,
39 Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee,
40 Wallace, Washington, Wichita, Wilson or Woodson;

41 (8) "excluded fiduciary" means a fiduciary financial institution in its
42 capacity as trustee of a fidfin trust,~~—provided~~ *except* that a fiduciary
43 financial institution shall only be deemed an "excluded fiduciary" to the

1 extent the fiduciary financial institution is excluded from exercising
2 certain powers under the instrument that may be exercised by the trust
3 advisor or other persons designated in the instrument;

4 (9) "fidfin," "fidfin services" or "fidfin transactions" means the
5 financing of a fidfin trust or the acquisition of alternative assets on behalf
6 of and through a fidfin trust, or both, as provided in K.S.A. 9-2311, and
7 amendments thereto, including loans, extensions of credit and direct
8 investments;

9 (10) "fidfin trust" means a trust created to facilitate the delivery of
10 fidfin services by a fiduciary financial institution;

11 (11) "fiduciary" means a trustee, a trust advisor or a custodian of an
12 alternative asset custody account appointed under an instrument that is
13 acting in a fiduciary capacity for any person, trust or estate;

14 (12) "instrument" means any document creating a fidfin trust or
15 alternative asset custody account;

16 (13) "officer" means a person who participates or has authority to
17 participate, other than in the capacity of a director, in major policymaking
18 functions of a bank, trust company or fiduciary financial institution,
19 whether or not the officer has an official title or if the officer is serving
20 without salary or other compensation. "Officer" includes the chairperson
21 of the board, president, vice president, cashier, secretary and treasurer of a
22 bank, trust company or fiduciary financial institution;

23 (14) "organizer" means a person who filed the fiduciary financial
24 institution formation documents;

25 (15) "out-of-state bank" means a national or state bank, savings and
26 loan association or savings bank not incorporated under the laws of
27 Kansas;

28 (16) "out-of-state financial institution" means an out-of-state bank or
29 an out-of-state trust company;

30 (17) "out-of-state trust company" means a national or state trust
31 company not incorporated under the laws of Kansas;

32 (18) (A) "qualified investment" means the purchase or development,
33 in the aggregate, of at least 10,000 square feet of commercial, industrial,
34 multiuse or multifamily real estate in the economic growth zone where the
35 fiduciary financial institution maintains its principal office pursuant to
36 K.S.A. 9-2309, and amendments thereto, provided that such community
37 has committed to develop the necessary infrastructure to support a
38 "qualified investment." A "qualified investment":

39 (i) May include, as part of satisfying the square footage requirements,
40 the suitable office space of such fiduciary financial institution, as provided
41 in K.S.A. 9-2309, and amendments thereto, if owned by the fiduciary
42 financial institution;

43 (ii) shall be exempt from the provisions and limitations of K.S.A. 9-

1 1102, and amendments thereto;

2 (iii) may be retained by a fiduciary financial institution for as long as
3 the fiduciary financial institution operates in this state; and

4 (iv) may be sold, transferred or otherwise disposed of, including a
5 sale or transfer to an affiliate of the fiduciary financial institution, if the
6 fiduciary financial institution continues to maintain its principal office in
7 an economic growth zone pursuant to K.S.A. 9-2309, and amendments
8 thereto;

9 (B) notwithstanding the foregoing provisions, if a fiduciary financial
10 institution leases any portion of a qualified investment made by another
11 fiduciary financial institution as the lessee fiduciary financial institution's
12 suitable office space:

13 (i) The lessee fiduciary financial institution shall make, or cause to be
14 made, a qualified investment in an economic growth zone other than the
15 economic growth zone where such fiduciary financial institution maintains
16 its principal office;

17 (ii) the leased square footage shall count toward the square footage
18 requirement applicable to a qualified investment under this section, if such
19 lease has an initial term of not less than five years; and

20 (iii) the square footage requirement otherwise applicable to a
21 qualified investment of the lessee fiduciary financial institution shall be
22 reduced from 10,000 square feet to 5,000 square feet;

23 (19) "technology-enabled fiduciary financial institution" or "fiduciary
24 financial institution" means any limited liability company, limited
25 partnership or corporation that:

26 (A) Is organized to perform any one or more of the activities and
27 services authorized by this act;

28 (B) has been authorized to conduct business as a fiduciary financial
29 institution under this chapter pursuant to the provisions of K.S.A. 9-2302,
30 and amendments thereto;

31 (C) has made, committed to make or caused to be made a qualified
32 investment; and

33 (D) has committed, in or as a part of the application provided in
34 K.S.A. 9-2302, and amendments thereto, to conduct any fidfin transactions
35 in accordance with K.S.A. 9-2311, and amendments thereto, including the
36 distributions required therein;

37 (20) "trust" means a trust created pursuant to the Kansas uniform trust
38 code, K.S.A. 58a-101 et seq., and amendments thereto, or created pursuant
39 to the Kansas business trust act of 1961, K.S.A. 17-2707 et seq., and
40 amendments thereto;

41 (21) "trust advisor" means a fiduciary granted authority by an
42 instrument to exercise, consent, direct, including the power to direct as
43 provided in K.S.A. 58a-808, and amendments thereto, or approve all or

1 any portion of the powers and discretion conferred upon the trustee of a
2 fidfin trust, including the power to invest the assets of a fidfin trust or
3 make or cause distributions to be made from such fidfin trust; and
4 (22) the definitions of K.S.A. 9-701, and amendments thereto, apply
5 to fiduciary financial institutions except as otherwise provided in this act.
6 Sec. 3. K.S.A. 2025 Supp. 9-2301 is hereby repealed.
7 Sec. 4. This act shall take effect and be in force from and after its
8 publication in the statute book.