

**As Amended by House Committee**

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**As Amended by Senate Committee**

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*Session of 2013*

**SENATE BILL No. 129**

By Committee on Financial Institutions and Insurance

2-5

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1 AN ACT concerning the state bank commissioner; pertaining to fees;  
2 pertaining to costs of certain hearings; amending K.S.A. 9-804 and  
3 K.S.A. 2012 Supp. 9-1111, 9-1135, 9-1402, 9-1804, 9-2107, 9-2108  
4 and 9-2111 and repealing the existing sections.  
5

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

7 Section 1. K.S.A. 9-804 is hereby amended to read as follows: 9-804.  
8 When the capital of any bank or trust company shall have been paid in, the  
9 president or cashier shall transmit to the commissioner a verified statement  
10 showing the names and addresses of all stockholders, the amount of stock  
11 each subscribed, and the amount paid in by each. The commissioner shall  
12 examine such bank or trust company and shall charge the statutory  
13 examination fee and shall examine especially as to the amount of money  
14 paid in for capital, surplus and undivided profits, by whom paid, and the  
15 amount of capital stock owned in good faith by each stockholder, and  
16 generally whether such bank or trust company has complied with the  
17 provisions of law. If the commissioner finds from such examination that  
18 the bank or trust company has been organized as provided by law, has  
19 complied with the provisions of law and has secured the preliminary  
20 approval of the commissioner as authorized by subsection (b) of K.S.A. 9-  
21 1801, and amendments thereto, or the approval of the board, the  
22 commissioner shall issue a certificate showing that such bank or trust  
23 company has been organized and its capital paid in as required by law, and  
24 that it is authorized to transact a general banking or trust business as  
25 provided by law. *The bank commissioner may charge a fee for a letter of*  
26 *good standing. The amount of such fee shall be established by rules and*  
27 *regulations adopted by the bank commissioner.*

28 Sec. 2. K.S.A. 2012 Supp. 9-1111 is hereby amended to read as  
29 follows: 9-1111. The general business of every bank shall be transacted at  
30 the place of business specified in its certificate of authority and at one or  
31 more branch banks established and operated as provided in this section.  
32 Except for the establishment or operation of a trust branch bank or the  
33 relocation of an existing trust branch bank pursuant to K.S.A. 9-1135, and  
34 amendments thereto, it shall be unlawful for any bank to establish and

1 operate any branch bank or relocate an existing branch bank except as  
2 hereinafter provided. Notwithstanding the provisions of this section, any  
3 location at which a depository institution, as defined by K.S.A. 9-701, and  
4 amendments thereto, receives deposits, renews time deposits, closes loans,  
5 services loans or receives payments on loans or other obligations, as agent,  
6 for a bank pursuant to subsection (25) of K.S.A. 9-1101, and amendments  
7 thereto, or other applicable state or federal law, or is authorized to open  
8 accounts or receive deposits under subsection (28) of K.S.A. 9-1101, and  
9 amendments thereto, shall not be deemed to be a branch bank:

10 (a) For the purposes of this section, the term "branch bank" means  
11 any office, agency or other place of business located within this state, other  
12 than the place of business specified in the bank's certificate of authority, at  
13 which deposits are received, checks paid, money lent or trust authority  
14 exercised, if approval has been granted by the state bank commissioner,  
15 under K.S.A. 9-1602, and amendments thereto;

16 (b) establishment of a new branch or relocation of an existing branch  
17 for eligible banks:

18 (1) After first applying for and obtaining the approval of the  
19 commissioner, an eligible bank incorporated under the laws of this state,  
20 may establish and operate one or more branch banks or relocate an  
21 existing branch bank, anywhere within this state;

22 (2) the application shall include the nature of the banking business to  
23 be conducted at the proposed branch bank, the primary geographical area  
24 to be served by it, the personnel and office facilities to be provided at the  
25 proposed branch bank and other information the commissioner may  
26 require;

27 (3) the application shall include the name selected for the proposed  
28 branch bank. The name selected for the proposed branch bank shall not be  
29 the name of any other bank or branch bank doing business within a 15  
30 mile radius of the same city or town, nor shall the name selected be  
31 required to contain the name of the applicant bank. If the name selected for  
32 the proposed branch bank does not contain the name of the applicant bank,  
33 the branch bank shall provide in the public lobby of such branch bank, a  
34 public notice that it is a branch bank of the applicant bank;

35 (4) the application shall include proof of publication of notice that the  
36 applicant bank intends to file or has filed an application to establish a  
37 branch bank or relocate an existing branch bank. The notice shall be  
38 published in a newspaper of general circulation in the county where the  
39 applicant bank proposes to locate the branch bank. The notice shall be in  
40 the form prescribed by the commissioner and at a minimum shall contain  
41 the name and address of the applicant bank, the location of the proposed  
42 branch and a solicitation for written comments. The notice shall be  
43 published on the same day for two consecutive weeks and provide for a

1 comment period of not less than 10 days after the date of the second  
2 publication;

3 (5) upon receipt of the application, and following expiration of the  
4 comment period, the commissioner may hold a hearing in the county in  
5 which the applicant bank seeks to operate the branch bank. *The applicant*  
6 *shall be responsible for paying the actual costs associated with the public*  
7 *hearing.* The applicant shall publish notice of the time, date and place of  
8 such hearing in a newspaper of general circulation in the county where the  
9 applicant bank proposes to locate the branch bank, not less than 10 nor  
10 more than 30 days prior to the date of the hearing, and proof of publication  
11 shall be filed with the commissioner. At any such hearing, all interested  
12 persons shall be allowed to present written and oral evidence to the  
13 commissioner, or the commissioner's designee, in support of or in  
14 opposition to the branch bank. Upon completion of a transcript of the  
15 testimony given at any such hearing, the transcript shall be filed in the  
16 office of the commissioner;

17 (6) if the commissioner determines a public hearing is not warranted,  
18 the commissioner shall approve or disapprove the application within 15  
19 days after receipt of a complete application but not prior to the end of the  
20 comment period. If a public hearing is held, the commissioner shall  
21 approve or disapprove the application within 60 days after consideration of  
22 the complete application and the evidence gathered during the  
23 commissioner's investigation. The period for consideration of the  
24 application may be extended if the commissioner determines the  
25 application presents a significant supervisory concern. If the commissioner  
26 finds that:

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

29 (B) the applicant bank's financial history and condition is sound, the  
30 new branch or relocation shall be granted, otherwise, it shall be denied;

31 (7) within 15 days after any final action of the commissioner  
32 approving or disapproving an application, the applicant, or any adversely  
33 affected or aggrieved person who provided written comments during the  
34 specified comment period, may request a hearing with the state banking  
35 board. Upon receipt of a timely request, the board shall conduct a hearing  
36 in accordance with the provisions of the Kansas administrative procedure  
37 act. Any decision of the state banking board is subject to review in  
38 accordance with the Kansas judicial review act;

39 (c) establishment of a new branch or relocation of an existing branch  
40 for banks which do not meet the definition of "eligible bank":

41 (1) After first applying for and obtaining the approval of the state  
42 banking board, a bank incorporated under the laws of this state, which  
43 does not meet the definition of "eligible bank," may establish and operate

1 one or more branch banks, or relocate an existing branch bank, anywhere  
2 within this state;

3 (2) an application under paragraph (1) of this subsection, to establish  
4 and operate a branch bank or to relocate an existing branch bank shall be  
5 in such form and contain such information as the rules and regulations of  
6 the state bank commissioner, adopted pursuant to K.S.A. 9-1713, and  
7 amendments thereto, shall provide;

8 (3) the application shall include estimates of the annual income and  
9 expenses of the proposed branch bank, the annual volume of business to be  
10 transacted by it, the nature of the banking business to be conducted at the  
11 proposed branch bank, the primary geographical area to be served by it  
12 and the personnel and office facilities to be provided at the proposed  
13 branch bank;

14 (4) the application shall include the name selected for the proposed  
15 branch bank. The name selected for the proposed branch bank shall not be  
16 the name of any other bank or branch bank doing business within a 15  
17 mile radius of the same city or town, nor shall the name selected be  
18 required to contain the name of the applicant bank. If the name selected for  
19 the proposed bank does not contain the name of the applicant bank, the  
20 branch bank shall provide in the public lobby of such branch bank, a  
21 public notice that it is a branch bank of the applicant bank;

22 (5) the application shall include proof of publication of notice that  
23 applicant bank intends to file an application to establish a branch bank or  
24 relocate an existing branch bank. The notice shall be published in a  
25 newspaper of general circulation in the county where the applicant bank  
26 proposes to locate the branch bank. The notice shall be in the form  
27 prescribed by the state banking board and at a minimum shall contain the  
28 name and address of the applicant bank, the location of the proposed  
29 branch and a solicitation for written comments. The notice shall be  
30 published on the same day for two consecutive weeks and provide for a  
31 comment period of not less than 10 days after the date of the second  
32 publication;

33 (6) upon receipt of an application meeting the above requirements,  
34 and following the expiration of the comment period, within 60 days the  
35 state banking board may hold a hearing in the county in which the  
36 applicant bank seeks to establish and operate a branch bank. ***The applicant***  
37 ***shall be responsible for paying the actual costs associated with the***  
38 ***public hearing.*** Notice of the time, date and place of such hearing if one is  
39 to be held shall be published in a newspaper of general circulation in the  
40 county where the applicant bank proposes to locate the branch bank not  
41 less than 10 or more than 30 days prior to the date of the hearing, and  
42 proof of publication shall be filed with the commissioner. At any such  
43 hearing, all interested persons shall be allowed to present written and oral

1 evidence to the board in support of or in opposition to the application.  
2 Upon completion of a transcript of the testimony given at any such  
3 hearing, the transcript shall be filed in the office of the commissioner and  
4 copies shall be furnished to the members of the state banking board not  
5 less than 10 days prior to the meeting of the board at which the application  
6 will be considered;

7 (7) the state banking board shall approve or disapprove the  
8 application within 90 days after consideration of the application and the  
9 evidence gathered during the board's investigation. If the board finds that:

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

12 (B) the applicant bank's financial history and condition is sound, the  
13 application shall be granted, otherwise, the application shall be denied;

14 (8) any final action of the board approving or disapproving an  
15 application shall be subject to review in accordance with the Kansas  
16 judicial review act upon the petition of the applicant or any adversely  
17 affected or aggrieved person who provided written comments during the  
18 specified comment period;

19 (d) any branch bank lawfully established and operating on the  
20 effective date of this act may continue to be operated by the bank then  
21 operating the branch bank and by any successor bank;

22 (e) branch banks which have been established and are being  
23 maintained by a bank at the time of its merger into or consolidation with  
24 another bank or at the time its assets are purchased and its liabilities are  
25 assumed by another bank may continue to be operated by the surviving,  
26 resulting or purchasing and assuming bank. The surviving, resulting or  
27 purchasing and assuming bank, with approval of the state bank  
28 commissioner, may establish and operate a branch bank or banks at the site  
29 or sites of the merged, constituent or liquidated bank or banks;

30 (f) any state bank or national banking association may provide and  
31 engage in banking transactions by means of remote service units wherever  
32 located, which remote service units shall not be considered to be branch  
33 banks. Any banking transaction effected by use of a remote service unit  
34 shall be deemed to be transacted at a bank and not at a remote service unit;

35 (g) as a condition to the operation and use of any remote service unit  
36 in this state, a state bank or national banking association, each hereinafter  
37 referred to as a bank, which desires to operate or enable its customers to  
38 utilize a remote service unit must agree that such remote service unit will  
39 be available for use by customers of any other bank or banks upon the  
40 request of such bank or banks to share its use and the agreement of such  
41 bank or banks to share all costs, including a reasonable return on capital  
42 expenditures incurred in connection with its development, installation and  
43 operation. The owner of the remote service unit, whether a bank or any

1 other person, shall make the remote service unit available for use by other  
2 banks and their customers on a nondiscriminatory basis, conditioned upon  
3 payment of a reasonable proportion of all costs, including a reasonable  
4 return on capital expenditures incurred in connection with the  
5 development, installation and operation of the remote service unit.  
6 Notwithstanding the foregoing provisions of this subsection, a remote  
7 service unit located on the property owned or leased by the bank where the  
8 principal place of business of a bank, or an attached auxiliary teller facility  
9 or branch bank of a bank, is located need not be made available for use by  
10 any other bank or banks or customers of any other bank or banks;

11 (h) for purposes of this section, "remote service unit" means an  
12 electronic information processing device, including associated equipment,  
13 structures and systems, through or by means of which information relating  
14 to financial services rendered to the public is stored and transmitted,  
15 whether instantaneously or otherwise, to a bank and which, for activation  
16 and account access, is dependent upon the use of a machine-readable  
17 instrument in the possession and control of the holder of an account with a  
18 bank. The term shall include "online" computer terminals and "offline"  
19 automated cash dispensing machines and automated teller machines, but  
20 shall not include computer terminals or automated teller machines or  
21 automated cash dispensing machines using systems in which account  
22 numbers are not machine read and verified. Withdrawals by means of  
23 "offline" systems shall not exceed \$300 per transaction and shall be  
24 restricted to individual not corporate or commercial accounts;

25 (i) for purposes of this section, "eligible bank" means a state bank  
26 that meets the following criteria:

27 (1) Received a composite rating of 1 or 2 under the uniform financial  
28 institutions rating system as a result of its most recent federal or state  
29 examination;

30 (2) meets the following three criteria for a well capitalized bank:

31 (A) Has a total risk based capital ratio of 10% or greater;

32 (B) has a tier one risk based capital ratio of 6% or greater; and

33 (C) has a leverage ratio of 5% or greater; and

34 (3) is not subject to a cease and desist order, consent order, prompt  
35 corrective action directive, written agreement, memorandum of  
36 understanding or other administrative agreement with its primary federal  
37 regulator or the office of the state bank commissioner.

38 Sec. 3. K.S.A. 2012 Supp. 9-1135 is hereby amended to read as  
39 follows: 9-1135. (a) Notwithstanding the requirements contained in K.S.A.  
40 9-1111, and amendments thereto, a bank incorporated under the laws of  
41 this state may establish or operate a trust branch bank anywhere in this  
42 state.

43 (b) As used in this section, the term "trust branch bank" means any

1 office, agency or other place of business located within this state, other  
2 than the place of business specified in the bank's certificate of authority,  
3 the sole purpose of which is to exercise those trust powers granted to the  
4 bank by the commissioner pursuant to K.S.A. 9-1602, and amendments  
5 thereto. No trust branch bank established or operated pursuant to this  
6 section shall be authorized to receive deposits, pay checks or lend money  
7 without first applying for and obtaining approval as provided in K.S.A. 9-  
8 1111, and amendments thereto.

9 (c) No bank shall establish or operate a trust branch bank or relocate  
10 an existing trust branch bank until the bank has applied for and obtained  
11 approval from the commissioner as provided by this section.

12 (d) An application to establish a trust branch bank as provided in this  
13 section shall be in such form and contain such information as is required  
14 by the commissioner and shall include certified copies of the following  
15 documents:

16 (1) The written action taken by the board of directors of the bank  
17 approving the proposed trust branch bank or the relocation of an existing  
18 trust branch bank;

19 (2) all other required regulatory approvals; and

20 (3) an affidavit of publication of notice of intent to file an application  
21 to establish or operate a trust branch bank or relocate an existing trust  
22 branch bank. The publication of the notice shall be on the same day for  
23 two consecutive weeks in the official newspaper of the city or county  
24 where the proposed trust branch bank is to be located. The notice shall be  
25 in the form prescribed by the commissioner and shall contain the name of  
26 the applicant, the location of the proposed trust branch bank, the proposed  
27 date of filing of the application with the commissioner, a solicitation for  
28 written comments concerning the application and a notice of the public's  
29 right to file a written request for a public hearing for the purpose of  
30 presenting oral or written evidence regarding the proposed trust branch  
31 bank. All comments and requests for public hearing shall be filed with the  
32 commissioner on or before the 30<sup>th</sup> day after the date the application is  
33 filed.

34 (e) A bank making application to the commissioner for approval of a  
35 trust branch bank pursuant to this section shall pay to the commissioner a  
36 fee, in an amount established by rules and regulations of the commissioner,  
37 adopted pursuant to K.S.A. 9-1713, and amendments thereto, to defray the  
38 expenses of the commissioner or designee in the examination and  
39 investigation of the application. The commissioner shall remit all amounts  
40 received under this section to the state treasurer in accordance with the  
41 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
42 each such remittance, the state treasurer shall deposit the entire amount in  
43 the state treasury to the credit of a separate account in the state treasury for

1 each application. The moneys in each such account shall be used to pay the  
2 expenses of the commissioner or designee in the examination and  
3 investigation of the application to which it relates and any unused balance  
4 shall be transferred to the bank commissioner fee fund.

5 (f) Upon the filing of any such application with the commissioner, the  
6 commissioner shall make or cause to be made, a careful examination and  
7 investigation concerning:

8 (1) The reasonable probability of usefulness and success of the  
9 proposed trust branch bank;

10 (2) the applicant bank's financial history and condition including the  
11 character, qualifications and experience of the officers employed by the  
12 bank; and

13 (3) whether the proposed trust branch bank can be established  
14 without undue injury to properly conducted existing banks, national  
15 banking associations and trust companies.

16 If the commissioner determines any of such matters unfavorably to the  
17 applicants, the application shall be disapproved, but if not, the application  
18 shall be approved.

19 (g) If no written request for public hearing is filed, the commissioner  
20 shall render approval or disapproval of the application within 60 days after  
21 the date upon which the application was filed.

22 (h) If a written request for public hearing is filed, the commissioner  
23 shall hold a public hearing in a location determined by the commissioner  
24 within 30 days of the close of the comment period. *The applicant shall be*  
25 *responsible for paying the actual costs associated with the public hearing.*

26 Notice of the time, date and place of such hearing shall be published, by  
27 the applicant, in a newspaper of general circulation in the county where the  
28 proposed trust branch bank is to be located, not less than 10 or more than  
29 30 days prior to the date of the hearing, and an affidavit of publication  
30 shall be filed with the commissioner. At any such hearing, all interested  
31 persons shall be allowed to present written and oral evidence to the  
32 commissioner in support of or in opposition to the application. Upon  
33 completion of a transcript of the testimony given at such hearing, the  
34 transcript shall be filed in the office of the commissioner. Within 14 days  
35 after the public hearing, the commissioner shall approve or disapprove the  
36 application after consideration of the application and evidence gathered  
37 during the commissioner's investigation.

38 (i) The commissioner may extend the period for approval or  
39 disapproval if the commissioner determines that any information required  
40 by this section has not been furnished, any material information submitted  
41 is inaccurate or additional investigation is required. The commissioner,  
42 prior to expiration of the application period provided in this section, shall  
43 give written notice to the applicant of the commissioner's intent to extend



1 the period. Such notice shall include a specific date for expiration of the  
2 extension period. If any information remains incomplete or inaccurate  
3 upon the expiration of the extension period the application shall be  
4 disapproved.

5 (j) Within 15 days after the date of the commissioner's approval or  
6 disapproval of the application, the applicant or any individual or  
7 corporation who filed a request for and presented evidence at the public  
8 hearing shall have the right to appeal in writing to the state banking board  
9 the commissioner's determination by filing a notice of appeal with the  
10 commissioner. The board shall fix a date for a hearing, which hearing shall  
11 be held within 45 days from the date the notice of appeal is filed. The  
12 board shall conduct the hearing in accordance with the provisions of the  
13 Kansas administrative procedure act and render its decision affirming or  
14 rescinding the determination of the commissioner. Any action of the board  
15 pursuant to this section is subject to review in accordance with the Kansas  
16 judicial review act. Any party which files an appeal of the commissioner's  
17 determination to the board shall pay to the commissioner a fee in an  
18 amount established by rules and regulations of the commissioner, adopted  
19 pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's  
20 expenses associated with the conduct of the appeal.

21 (k) When the commissioner determines that any bank domiciled in  
22 this state has established or is operating a trust branch bank in violation of  
23 the laws governing the operation of such bank, the commissioner shall  
24 give written notice to the bank of such determination. Within 15 days after  
25 receipt of such notification, the bank shall have the right to appeal in  
26 writing to the board the commissioner's determination. The board shall fix  
27 a date for hearing, which hearing shall be held within 45 days after the  
28 date of such appeal and shall be conducted in accordance with the  
29 provisions of the Kansas administrative procedure act. At such hearing the  
30 board shall hear all matters relevant to the commissioner's determination  
31 and shall approve or disapprove the commissioner's determination, and the  
32 decision of the board shall be final and conclusive. If the bank does not  
33 appeal to the board from the commissioner's determination or if an appeal  
34 is made and the commissioner's determination is upheld by the board, the  
35 commissioner may proceed as provided in K.S.A. 9-1714, and  
36 amendments thereto, until such time as the commissioner determines the  
37 bank is in full compliance with the laws governing the operation of a trust  
38 branch bank.

39 Sec. 4. K.S.A. 2012 Supp. 9-1402 is hereby amended to read as  
40 follows: 9-1402. (a) Before any deposit of public moneys or funds shall be  
41 made by any municipal corporation or quasi-municipal corporation of the  
42 state of Kansas with any bank, savings and loan association or savings  
43 bank, such municipal or quasi-municipal corporation shall obtain security

1 for such deposit in one of the following manners prescribed by this  
2 section.

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

6 (c) Such bank, savings and loan association or savings bank may give  
7 a corporate surety bond of some surety corporation authorized to do  
8 business in this state, which bond shall be in an amount equal to the public  
9 moneys or funds on deposit at any given time less the amount of such  
10 public moneys or funds which is insured by the federal deposit insurance  
11 corporation or its successor and such bond shall be conditioned that such  
12 deposit shall be paid promptly on the order of the municipal corporation or  
13 quasi-municipal corporation making such deposits.

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

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

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

40 (3) bonds of the state of Kansas;

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

43 (5) revenue bonds of any municipal corporation or quasi-municipal

1 corporation of the state of Kansas if approved by the state bank  
2 commissioner in the case of banks and by the savings and loan  
3 commissioner in the case of savings and loan associations or federally  
4 chartered savings banks;

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

8 (7) warrants of any municipal corporation or quasi-municipal  
9 corporation of the state of Kansas the issuance of which is authorized by  
10 the state court of tax appeals and which are payable from the proceeds of a  
11 mandatory tax levy;

12 (8) bonds of either a Kansas not-for-profit corporation or of a local  
13 housing authority that are rated at least Aa by Moody's Investors Service  
14 or AA by Standard & Poor's Corp.;

15 (9) bonds issued pursuant to K.S.A. 12-1740 et seq., and amendments  
16 thereto, that are rated at least MIG-1 or Aa by Moody's Investors Service  
17 or AA by Standard & Poor's Corp.;

18 (10) notes of a Kansas not-for-profit corporation that are issued to  
19 provide only the interim funds for a mortgage loan that is insured by the  
20 federal housing administration;

21 (11) bonds issued pursuant to K.S.A. 74-8901 through 74-8916, and  
22 amendments thereto;

23 (12) bonds issued pursuant to K.S.A. 68-2319 through 68-2330, and  
24 amendments thereto;

25 (13) commercial paper that does not exceed 270 days to maturity and  
26 which has received one of the two highest commercial paper credit ratings  
27 by a nationally recognized investment rating firm; or

28 (14) (A) negotiable promissory notes together with first lien  
29 mortgages on one to four family residential real estate located in Kansas  
30 securing payment of such notes when such notes or mortgages:

31 (i) Are underwritten by the federal national mortgage association, the  
32 federal home loan mortgage corporation, the federal housing  
33 administration or the veterans administration standards; or are valued  
34 pursuant to rules and regulations which shall be adopted by both the state  
35 bank commissioner and the savings and loan commissioner after having  
36 first being submitted to and approved by both the state banking board  
37 under K.S.A. 9-1713, and amendments thereto, and the savings and loan  
38 board. Such rules and regulations shall be published in only one place in  
39 the Kansas administrative regulations as directed by the state rules and  
40 regulations board;

41 (ii) have been in existence with the same borrower for at least two  
42 years and with no history of any installment being unpaid for 30 days or  
43 more; and

1 (iii) are valued at not to exceed 50% of the lesser of the following  
2 three values: Outstanding mortgage balance; current appraised value of the  
3 real estate; or discounted present value based upon current federal national  
4 mortgage association or government national mortgage association interest  
5 rates quoted for conventional, federal housing administration or veterans  
6 administration mortgage loans.

7 (B) Securities under (A) shall be taken at their value for not more  
8 than 50% of the security required under the provisions of this section.

9 (C) Securities under (A) shall be withdrawn immediately from the  
10 collateral pool if any installment is unpaid for 30 days or more.

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

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

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

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

23 ~~(f) Any expense incurred in connection with granting approval of~~  
24 ~~revenue bonds shall be paid by the applicant for approval~~ *Any person*  
25 *making an application for the commissioner's approval of a revenue bond*  
26 *shall pay the commissioner a fee. The amount of such fee shall be*  
27 *established by rules and regulations adopted by the commissioner.*

28 Sec. 5. K.S.A. 2012 Supp. 9-1804 is hereby amended to read as  
29 follows: 9-1804. (a) No bank or trust company incorporated under the laws  
30 of this state shall change its place of business, from one city or town to  
31 another or from one location to another within the same city or town,  
32 without prior approval. Any such bank or trust company desiring to change  
33 its place of business shall file written application with the office of the  
34 state bank commissioner in such form and containing such information as  
35 the board and the commissioner shall require. Notice of the proposed  
36 relocation shall be published in a newspaper of general circulation in the  
37 county where the main bank or trust company is currently located and in  
38 the county to which the bank or trust company proposes to relocate. The  
39 notice shall be in the form prescribed by the commissioner and at a  
40 minimum shall contain the name and address of the applicant bank or trust  
41 company, the address of the proposed new location and a solicitation for  
42 written comments. The notice shall be published on the same day for two  
43 consecutive weeks and provide for a comment period of not less than 10

1 calendar days after the date of the second publication. The applicant shall  
2 provide proof of publication to the commissioner.

3 (b) If the applicant is an eligible bank or an eligible trust company,  
4 the commissioner shall examine and investigate the application. If the  
5 commissioner determines:

6 (1) There is a reasonable probability of usefulness and success of the  
7 bank or trust company in the proposed location; and

8 (2) the applicant bank's or trust company's financial history and  
9 condition is sound, the application shall be approved, otherwise, it shall be  
10 denied.

11 (c) Within 15 days after any final action of the commissioner  
12 approving or disapproving an application, the applicant, or any adversely  
13 affected or aggrieved person who provided written comments during the  
14 specified comment period, may request a hearing with the state banking  
15 board. Upon receipt of a timely request, the board shall conduct a hearing  
16 in accordance with the provisions of the Kansas administrative procedure  
17 act. *Any party requesting a public hearing pursuant to this section shall*  
18 *pay the actual expenses associated with such hearing.* Any decision of the  
19 state banking board is subject to review in accordance with the Kansas  
20 judicial review act.

21 (d) If a bank does not meet the definition of an eligible bank or a trust  
22 company does not meet the definition of an eligible trust company, the  
23 state banking board shall examine and investigate the application. If the  
24 board determines:

25 (1) There is a reasonable probability of usefulness and success of the  
26 bank or trust company in the proposed location; and

27 (2) the applicant bank's or trust company's financial history and  
28 condition is sound, the application shall be approved, otherwise, it shall be  
29 denied.

30 (e) Any final action of the board approving or disapproving an  
31 application shall be subject to review in accordance with the Kansas  
32 judicial review act upon the petition of the applicant, or any adversely  
33 affected or aggrieved person who provided written comments during the  
34 specified comment period.

35 ~~(f) The expenses of such examination and investigation shall be paid~~  
36 ~~by the bank or trust company which shall deposit with the commissioner a~~  
37 ~~fee in an amount~~ *A person making application pursuant to this section*  
38 *shall pay a fee to the commissioner. The amount of such fee shall be*  
39 *established by rules and regulations adopted by the commissioner. The*  
40 *commissioner shall remit all amounts received under this section to the*  
41 *state treasurer in accordance with the provisions of K.S.A. 75-4215, and*  
42 *amendments thereto. Upon receipt of each such remittance, the state*  
43 *treasurer shall deposit the entire amount in the state treasury to the credit*

1 of a separate special account in the state treasury for each application. The  
2 moneys in each such account shall be used only to pay the expenses of the  
3 examination and investigation to which it relates, and any unused portion  
4 of such deposit shall be transferred to the bank commissioner fee fund.

5 (g) For purposes of this section:

6 (1) "Eligible bank" means a state bank that meets the following  
7 criteria:

8 (A) Received a composite rating of 1 or 2 under the uniform financial  
9 institutions rating system as a result of its most recent federal or state  
10 examination;

11 (B) meets the following three criteria for a well capitalized bank:

12 (i) Has a total risk based capital ratio of 10% or greater;

13 (ii) has a tier one risk based capital ratio of 6% or greater; and

14 (iii) has a leverage ratio of 5% or greater; and

15 (C) is not subject to a cease and desist order, consent order, prompt  
16 corrective action directive, written agreement, memorandum of  
17 understanding or other administrative agreement with its primary federal  
18 regulator or the office of the state bank commissioner; and

19 (2) "eligible trust company" means a state chartered trust company  
20 that meets the following criteria:

21 (A) Received a composite rating of 1 or 2 under the uniform  
22 interagency trust rating system as a result of its most recent state  
23 examination; and

24 (B) is not subject to a cease and desist order, consent order, written  
25 agreement, memorandum of understanding or other administrative  
26 agreement with the office of the state bank commissioner.

27 Sec. 6. K.S.A. 2012 Supp. 9-2107 is hereby amended to read as  
28 follows: 9-2107. (a) As used in this section:

29 (1) "Contracting trustee" means any trust company, as defined in  
30 K.S.A. 9-701, and amendments thereto, any bank that has been granted  
31 trust authority by the state bank commissioner under K.S.A. 9-1602, and  
32 amendments thereto, or any national bank chartered to do business in  
33 Kansas that has been granted trust authority by the comptroller of the  
34 currency under 12 U.S.C. § 92a, or any bank that has been granted trust  
35 authority or any trust company, regardless of where such bank or trust  
36 company is located, and which is controlled, as defined in K.S.A. 9-1612,  
37 and amendments thereto, by the same bank holding company as any trust  
38 company, state bank or national bank chartered to do business in Kansas,  
39 which accepts or succeeds to any fiduciary responsibility as provided in  
40 this section;

41 (2) "originating trustee" means any trust company, bank, national  
42 banking association, savings and loan association or savings bank which  
43 has trust powers and its principal place of business is in this state and

1 which places or transfers any fiduciary responsibility to a contracting  
2 trustee as provided in this section;

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

7 (b) Any contracting trustee and any originating trustee may enter into  
8 an agreement by which the contracting trustee, without any further  
9 authorization of any kind, succeeds to and is substituted for the originating  
10 trustee as to all fiduciary powers, rights, duties, privileges and liabilities  
11 with respect to all accounts for which the originating trustee serves in any  
12 fiduciary capacity, except as may be provided otherwise in the agreement.  
13 Notwithstanding the provisions of this section, no contracting trustee as  
14 defined in K.S.A. 9-2107(a)(1), and amendments thereto, having its home  
15 office outside the state of Kansas shall enter into an agreement except with  
16 an originating trustee which is commonly controlled as defined in K.S.A.  
17 9-1612, and amendments thereto, by the same bank holding company.

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

20 (1) The contracting trustee shall be deemed to be named as the  
21 fiduciary in all writings, including, without limitation, trust agreements,  
22 wills and court orders, which pertain to the affected fiduciary accounts;

23 (2) the originating trustee is absolved from all fiduciary duties and  
24 obligations arising under such writings and shall discontinue the exercise  
25 of any fiduciary duties with respect to such writings, except that the  
26 originating trustee is not absolved or discharged from any duty to account  
27 required by K.S.A. 59-1709, and amendments thereto, or any other  
28 applicable statute, rule of law, rules and regulations or court order, nor  
29 shall the originating trustee be absolved from any breach of fiduciary duty  
30 or obligation occurring prior to the effective date of the agreement.

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

32 (1) To establish a trust service desk at any office of the originating  
33 trustee at which the contracting trustee may conduct any trust business and  
34 any business incidental thereto and which the contracting trustee may  
35 otherwise conduct at its principal place of business; and

36 (2) to engage the originating trustee as the agent of the contracting  
37 trustee, on a disclosed basis to customers, for the purposes of providing  
38 administrative, advertising and safekeeping services incident to the  
39 fiduciary services provided by the contracting trustee.

40 (e) Any contracting trustee may enter into an agreement with a  
41 financial institution providing that the contracting trustee may establish a  
42 trust service desk as authorized by subsection (d) in the offices of such  
43 financial institution and which provides such financial institution, on a

1 disclosed basis to customers, may act as the agent of contracting trustee for  
2 purposes of providing administrative services and advertising incident to  
3 the fiduciary services to be performed by the contracting trustee.

4 (f) No activity authorized by subsections (b) through (e) shall be  
5 conducted by any contracting trustee, originating trustee or financial  
6 institution until an application for such authority has been submitted to and  
7 approved by the commissioner. The application shall be in the form and  
8 contain the information required by the commissioner, which shall at a  
9 minimum include certified copies of the following documents:

10 (1) The agreement;

11 (2) the written action taken by the board of directors of the  
12 originating trustee or financial institution approving the agreement;

13 (3) all other required regulatory approvals;

14 (4) an affidavit of publication of notice of intent to file the application  
15 with the commissioner. Publication of the notice shall be on the same day  
16 for two consecutive weeks in the official newspaper of the city or county  
17 where the principal office of the originating trustee or financial institution  
18 is located. The notice shall be in the form prescribed by the commissioner  
19 and shall contain the name of the applicant contracting trustee, the  
20 originating trustee or financial institution, the proposed date of filing of the  
21 application with the commissioner, a solicitation for written comments  
22 concerning the application, and a notice of the public's right to file a  
23 written request for a public hearing for the purpose of presenting oral or  
24 written evidence regarding the proposed agreement. All comments and  
25 requests for public hearing shall be filed with the commissioner on or  
26 before the 30<sup>th</sup> day after the date the application is filed; and

27 (5) a certification by the parties to the agreement that written notice  
28 of the proposed substitution was sent by first-class mail to each  
29 cofiduciary, each surviving settlor of a trust, each ward of a guardianship,  
30 each person who has sole or shared power to remove the originating  
31 trustee as fiduciary and each adult beneficiary currently receiving or  
32 entitled to receive a distribution of principle or income from a fiduciary  
33 account affected by the agreement, and that such notice was sent to each  
34 such person's address as shown in the originating trustee's records. An  
35 unintentional failure to give such notice shall not impair the validity or  
36 effect of any such agreement, except an intentional failure to give such  
37 notice shall render the agreement null and void as to the party not  
38 receiving the notice of substitution.

39 (g) A contracting trustee making application to the commissioner for  
40 approval of any agreement pursuant to this section shall pay to the  
41 commissioner a fee, in an amount established by rules and regulations of  
42 the commissioner adopted pursuant to K.S.A. 9-1713, and amendments  
43 thereto, to defray the expenses of the commissioner or designee in the



1 examination and investigation of the application. The commissioner shall  
2 remit all amounts 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 a separate  
6 account in the state treasury for each application. The money in each such  
7 account shall be used to pay the expenses of the commissioner, or designee  
8 in the examination and investigation of the application to which it relates  
9 and any unused balance shall be transferred to the bank commissioner fee  
10 fund.

11 (h) Upon the filing of any such application with the commissioner,  
12 the commissioner shall make or cause to be made, a careful examination  
13 and investigation concerning:

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

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

19 (3) whether the contracting agreement will result in any undue injury  
20 to properly conducted existing banks, national banks and trust companies.

21 If the commissioner shall determine any of such matters unfavorably to  
22 the applicants, the application shall be disapproved, but if not, then the  
23 application shall be approved.

24 (i) If no written request for public hearing is filed, the commissioner  
25 shall render approval or disapproval of the application within 60 days of  
26 the date upon which the application was filed.

27 (j) If a written request for public hearing is filed, the commissioner  
28 shall hold within 30 days of the close of the comment period, a public  
29 hearing in a location determined by the commissioner. *The applicant shall*  
30 *be responsible for paying the actual costs associated with the public*  
31 *hearing.* Notice of the time, date and place of such hearing shall be  
32 published by the applicant in a newspaper of general circulation in the  
33 county where the originating trustee or financial institution is located, not  
34 less than 10 nor more than 30 days prior to the date of the hearing, and an  
35 affidavit of publication shall be filed with the commissioner. At any such  
36 hearing, all interested persons may present written and oral evidence to the  
37 commissioner in support of or in opposition to the application. Upon  
38 completion of a transcript of the testimony given at any such hearing, the  
39 transcript shall be filed in the office of the commissioner. Within 14 days  
40 after the public hearing, the commissioner shall approve or disapprove the  
41 application after consideration of the application and evidence gathered  
42 during the commissioner's investigation.

43 (k) The commissioner may extend the period for approval or

1 disapproval if the commissioner determines that any information required  
2 by this section has not been furnished, any material information submitted  
3 is inaccurate or additional investigation is required. The commissioner,  
4 prior to expiration of the application period provided for by this section,  
5 shall give written notice to each party to the agreement of the  
6 commissioner's intent to extend the period which shall include a specific  
7 date for expiration of the extension period. If any information remains  
8 incomplete or inaccurate upon the expiration of the extension period the  
9 application shall be disapproved.

10 (l) Within 15 days of the date of the commissioner's approval or  
11 denial, the applicant or any individual or corporation who filed a request  
12 for and presented evidence at the public hearing shall have the right to  
13 appeal in writing to the state banking board the commissioner's  
14 determination by filing a notice of appeal with the commissioner. The state  
15 banking board shall fix a date for hearing, which hearing shall be held  
16 within 45 days after such notice of appeal is filed. The board shall conduct  
17 the hearing in accordance with the provisions of the Kansas administrative  
18 procedure act and render its decision affirming or rescinding the  
19 determination of the commissioner. Any action of the board pursuant to  
20 this section is subject to review in accordance with the Kansas judicial  
21 review act. Any party which files an appeal to the state banking board of  
22 the commissioner's determination shall pay to the commissioner a fee in an  
23 amount established by rules and regulations of the commissioner, adopted  
24 pursuant to K.S.A. 9-1713, and amendments thereto, to defray the board's  
25 expenses associated with the conduct of the appeal.

26 (m) When the commissioner determines that any contracting trustee  
27 domiciled in this state has entered into a contracting agreement in violation  
28 of the laws governing the operation of such contracting trustee, the  
29 commissioner shall give written notice to the contracting trustee and the  
30 originating trustee or financial institution of such determination. Within 15  
31 days after receipt of such notification, the contracting trustee and  
32 originating trustee or financial institution shall have the right to appeal in  
33 writing to the state banking board the commissioner's determination. The  
34 board shall fix a date for hearing, which shall be held within 45 days after  
35 the date of the appeal and shall be conducted in accordance with the  
36 Kansas administrative procedure act. At such hearing the board shall hear  
37 all matters relevant to the commissioner's determination and shall approve  
38 or disapprove the commissioner's determination. The decision of the board  
39 shall be final and conclusive. If the contracting trustee does not appeal to  
40 the board from the commissioner's determination or if an appeal is made  
41 and the commissioner's determination is upheld by the board, the  
42 commissioner may proceed as provided in K.S.A. 9-1714, and  
43 amendments thereto, until such time as the commissioner determines the

1 contracting trustee, originating trustee and financial institution are in full  
2 compliance with the laws governing the operation of a contracting trustee  
3 and originating trustee or financial institution.

4 (n) Any party entitled to receive a notice under subsection (f)(5) may  
5 file a petition in the court having jurisdiction over the fiduciary  
6 relationship, or if none, in the district court in the county where the  
7 originating trustee has its principal office, seeking to remove any  
8 contracting trustee substituted or about to be substituted as fiduciary  
9 pursuant to this section. Unless the contracting trustee files a written  
10 consent to its removal or a written declination to act subsequent to the  
11 filing of the petition, the court, upon notice and hearing, shall determine  
12 the best interest of the petitioner and all other parties concerned and shall  
13 fashion such relief as it deems appropriate in the circumstances, including  
14 the awarding of reasonable attorney fees. The right to file a petition under  
15 this subsection shall be in addition to any other rights to remove fiduciary  
16 provided by any other statute or regulation or by the writing creating the  
17 fiduciary relationship. If the removal of the fiduciary is prompted solely as  
18 a result of the contracting agreement, any reasonable cost associated with  
19 such removal and transfer, not to exceed \$200 per account, shall be paid by  
20 the originating trustee or financial institution entering into the agreement.

21 Sec. 7. K.S.A. 2012 Supp. 9-2108 is hereby amended to read as  
22 follows: 9-2108. It is unlawful for any trust company to establish or  
23 operate a trust service office or relocate an existing trust service office  
24 except as provided in this act.

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

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

36 (c) An application to establish or operate a trust service office or to  
37 relocate an existing trust service office shall be in such form and contain  
38 such information as required by the commissioner and shall include  
39 certified copies of the following documents:

40 (1) The written action taken by the board of directors of the trust  
41 company approving the establishment or operation of the proposed trust  
42 service office or the proposed relocation of the trust service office;

43 (2) all other required regulatory approvals; and

1 (3) an affidavit of publication of notice of intent to file an application  
2 to establish or operate a trust service office or relocate an existing trust  
3 service office. Publication of the notice shall be on the same day for two  
4 consecutive weeks in the official newspaper of the city where the proposed  
5 trust service office is to be located. The notice shall be in the form  
6 prescribed by the commissioner and shall contain the name of the  
7 applicant, the location of the proposed trust service office, the proposed  
8 date of filing of the application with the commissioner, a solicitation for  
9 written comments concerning the application and a notice of the public's  
10 right to file a written request for a public hearing for the purpose of  
11 presenting oral or written evidence regarding the proposed trust service  
12 office. All comments and requests for public hearing shall be filed with the  
13 commissioner on or before the 30<sup>th</sup> day after the date the application is  
14 filed.

15 (d) A trust company making application to the commissioner for  
16 approval of a trust service office under this section shall pay to the  
17 commissioner a fee, in an amount established by rules and regulations of  
18 the commissioner, adopted pursuant to K.S.A. 9-1713, and amendments  
19 thereto, to defray the expenses of the commissioner or designee in the  
20 examination and investigation of the application. The commissioner shall  
21 remit all amounts received under this section to the state treasurer in  
22 accordance with the provisions of K.S.A. 75-4215, and amendments  
23 thereto. Upon receipt of each such remittance, the state treasurer shall  
24 deposit the entire amount in the state treasury to the credit of a separate  
25 account in the state treasury for each application. The moneys in each such  
26 account shall be used to pay the expenses of the commissioner or designee  
27 in the examination and investigation of the application to which it relates  
28 and any unused balance shall be transferred to the bank commissioner fee  
29 fund.

30 (e) Upon filing of any such application with the commissioner, the  
31 commissioner shall make or cause to be made, a careful examination and  
32 investigation concerning:

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

35 (2) the applicant trust company's financial history and condition  
36 including the character, qualifications and experience of the officers  
37 employed by the trust company; and

38 (3) whether the proposed trust service office can be established  
39 without undue injury to properly conducted existing banks, national  
40 banking associations and trust companies. If the commissioner determines  
41 any of such matters unfavorably to the applicants, the application shall be  
42 disapproved, but if not, the application shall be approved.

43 (f) If no written request for public hearing is filed, the commissioner

1 shall render approval or disapproval of the application within 60 days of  
2 the date upon which the application was filed.

3 (g) If a written request for public hearing is filed, the commissioner  
4 shall hold a public hearing in a location determined by the commissioner  
5 within 30 days of the close of the comment period. *The applicant shall be*  
6 *responsible for paying the actual costs associated with the public hearing.*

7 Notice of the time, date and place of the hearing shall be published by the  
8 applicant in a newspaper of general circulation in the county where the  
9 proposed trust service office is to be located, not less than 10 or more than  
10 30 days prior to the date of the hearing, and an affidavit of publication  
11 shall be filed with the commissioner. At any such hearing, all interested  
12 persons shall be allowed to present written and oral evidence to the  
13 commissioner in support of or in opposition to the application. Upon  
14 completion of a transcript of the testimony given at any such hearing, the  
15 transcript shall be filed in the office of the commissioner. Within 14 days  
16 after the public hearing, the commissioner shall approve or disapprove the  
17 application after consideration of the application and evidence gathered  
18 during the commissioner's investigation.

19 (h) The commissioner may extend the period for approval or  
20 disapproval if the commissioner determines that any information required  
21 by this section has not been furnished, any material information submitted  
22 is inaccurate or additional investigation is required. The commissioner,  
23 prior to expiration of the application period as provided in this section,  
24 shall give written notice to the applicant of the commissioner's intent to  
25 extend the period and such notice shall include a specific date for  
26 expiration of the extension period. If any information remains incomplete  
27 or inaccurate upon the expiration of the extension period the application  
28 shall be disapproved.

29 (i) Within 15 days of the date after the commissioner's approval or  
30 disapproval of the application, the applicant or any individual or  
31 corporation who filed a request for and presented evidence at the public  
32 hearing shall have the right to appeal in writing to the state banking board  
33 the commissioner's determination, by filing a notice of appeal with the  
34 commissioner. The state banking board shall fix a date for a hearing, which  
35 hearing shall be held within 45 days from the date such notice of appeal is  
36 filed. The board shall conduct the hearing in accordance with the  
37 provisions of the Kansas administrative procedure act and render its  
38 decision affirming or rescinding the determination of the commissioner.  
39 Action of the board pursuant to this section is subject to review in  
40 accordance with the Kansas judicial review act. Any party which files an  
41 appeal to the state banking board of the commissioner's determination  
42 shall pay to the commissioner a fee in an amount established by rules and  
43 regulations of the commissioner, adopted pursuant to K.S.A. 9-1713, and

1 amendments thereto, to defray the board's expenses associated with the  
2 conduct of the appeal.

3 (j) When the commissioner determines that a trust company  
4 domiciled in this state has established or is operating a trust service office  
5 in violation of the laws governing the operation of such trust company, the  
6 commissioner shall give written notice to the trust company of such  
7 determination. Within 15 days after receipt of such notification, the trust  
8 company may appeal in writing to the state banking board the  
9 commissioner's determination. The board shall fix a date for hearing,  
10 which hearing shall be held within 45 days from the date of such appeal  
11 and shall be conducted in accordance with the provisions of the Kansas  
12 administrative procedure act. At such hearing the board shall hear all  
13 matters relevant to the commissioner's determination and shall approve or  
14 disapprove the commissioner's determination, and the decision of the  
15 board shall be final and conclusive. If the trust company does not appeal to  
16 the state banking board from the commissioner's determination or if an  
17 appeal is made and the commissioner's determination is upheld by the  
18 board, the commissioner may proceed as provided in K.S.A. 9-1714, and  
19 amendments thereto, until such time as the commissioner determines the  
20 trust company is in full compliance with the laws governing the operation  
21 of a trust service office.

22 Sec. 8. K.S.A. 2012 Supp. 9-2111 is hereby amended to read as  
23 follows: 9-2111. (a) Except as provided in K.S.A. 9-2107, and  
24 amendments thereto, no trust company, trust department of a bank,  
25 corporation or other business entity, the home office of which is located  
26 outside the state of Kansas, shall establish or operate a trust facility within  
27 the state of Kansas, unless the laws of the state where the home office of  
28 the nonresident trust company, trust department of a bank, corporation or  
29 other business entity is located, reciprocally authorize a Kansas chartered  
30 trust company, trust department of a bank, corporation or other business  
31 entity to establish or operate a trust facility within that state.

32 (b) Before any nonresident trust company, trust department of a bank,  
33 corporation or other business entity establishes a trust facility in Kansas, a  
34 copy of the application submitted to the home state, and proof that the  
35 home state has reciprocity with Kansas, must be filed by the applicant with  
36 the commissioner.

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

42 (d) No Kansas bank with a trust department shall establish an out-of-  
43 state trust facility until an application has been filed with the commissioner

1 and approval has been received. An application filed pursuant to this  
 2 section shall be subject to the provisions in K.S.A. 9-1135, and  
 3 amendments thereto.

4 (e) *A Kansas trust company or Kansas bank making application to*  
 5 *the commissioner for approval to establish a trust facility pursuant to*  
 6 *subsection (c) or (d) shall pay to the commissioner a fee. The amount of*  
 7 *such fee shall be established by rules and regulations of the commissioner*  
 8 *adopted pursuant to K.S.A. 9-1713, and amendments thereto. The*  
 9 *commissioner shall remit all amounts received under this section to the*  
 10 *state treasurer in accordance with the provisions of K.S.A. 75-4215, and*  
 11 *amendments thereto. Upon receipt of each such remittance, the state*  
 12 *treasurer shall deposit the entire amount in the state treasury to the credit*  
 13 *of a separate account in the state treasury for each application. The*  
 14 *money in each such account shall be used to pay the expenses of the*  
 15 *commissioner, or commissioner's designee in the examination and*  
 16 *investigation of the application to which it relates ~~and any unused balance~~*  
 17 *shall be transferred to the ~~bank commissioner fee fund.~~*

18 (f) As used in this section, "trust facility" means any office, agency,  
 19 desk or other place of business, at which trust business is conducted.

20 **New Sec. 9. (a) Except as provided in subsection (b), at the time of**  
 21 **filing any application described below, the applicant shall remit to the**  
 22 **office of the state bank commissioner a nonrefundable fee in the**  
 23 **amount of:**

24	<b>(1) Bank or trust company charter.....</b>	<b>\$2,500</b>
25	<b>(2) New branch bank:</b>	
26	<b>(A) Ineligible bank.....</b>	<b>1,000</b>
27	<b>(B) Eligible bank.....</b>	<b>500</b>
28	<b>(3) Relocation of a branch bank or main office:</b>	
29	<b>(A) Ineligible bank.....</b>	<b>1,000</b>
30	<b>(B) Eligible bank.....</b>	<b>500</b>
31	<b>(4) Merger, consolidation, or transfer of assets and liabilities.....</b>	<b>1,000</b>
32	<b>(5) Change of control:</b>	
33	<b>(A) General.....</b>	<b>1,000</b>
34	<b>(B) Bona fide gift or inheritance.....</b>	<b>500</b>
35	<b>(C) Formation of one-bank holding company and</b>	
36	<b>associated exchange of stock.....</b>	<b>500</b>
37	<b>(6) Conversion to state charter.....</b>	<b>no fee</b>
38	<b>(7) Bank service corporation.....</b>	<b>no fee</b>
39	<b>(8) Fiduciary activities:</b>	
40	<b>(A) Fiduciary powers.....</b>	<b>no fee</b>
41	<b>(B) Trust branch.....</b>	<b>500</b>
42	<b>(C) Trust service office.....</b>	<b>500</b>
43	<b>(D) Contracting trustee agreement.....</b>	<b>500</b>

1       **(E) Out of state trust facility.....500**  
 2       **(9) Change of name.....no fee**  
 3       **(10) Revenue bond pledgibility.....200**  
 4       **(11) Letter of good standing.....50**  
 5       **(12) Administrative appeals.....1,000**  
 6       **(b) The commissioner may adopt rules and regulations to change**  
 7       **the amount of the fees, either increasing or decreasing such fees, as**  
 8       **established in subsection (a) to an amount not to exceed 150% of any**  
 9       **such fee established in subsection (a).**  
 10       **(c) Any applicant may be required by the commissioner to pay**  
 11       **any additional cost associated with any examination or investigation if**  
 12       **the state bank commissioner determines that an on-site examination of**  
 13       **the financial institutions or trust companies that are parties to the**  
 14       **application is necessary.**  
 15       **(d) The commissioner may adopt rules and regulations necessary**  
 16       **to administer the provisions of this section.**  
 17        Sec. ~~9~~ **10.** K.S.A. 9-804 and K.S.A. 2012 Supp. 9-1111, 9-1135, 9-  
 18        1402, 9-1804, 9-2107, 9-2108 and 9-2111 are hereby repealed.  
 19        Sec. ~~10~~ **11.** This act shall take effect and be in force from and after its  
 20        publication in the statute book.