

SENATE BILL No. 390

By Committee on Financial Institutions and Insurance

2-1

1 AN ACT concerning the state banking code; relating to the state bank
2 commissioner; amending K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-
3 801, 9-802, 9-803, 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-
4 816, 9-901a, 9-902, 9-903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-
5 1104, 9-1111, 9-1112, 9-1114, 9-1122, 9-1124, 9-1127c, 9-1130, 9-
6 1137, 9-1213, 9-1304, 9-1401, 9-1402, 9-1405, 9-1408, 9-1504, 9-
7 1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704, 9-1712, 9-1715, 9-
8 1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905, 9-1906, 9-
9 1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104, 9-2107
10 and 9-2108 and repealing the existing sections.

11

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

13 Section 1. K.S.A. 2015 Supp. 9-519 is hereby amended to read as
14 follows: 9-519. For the purposes of K.S.A. 9-520 through 9-524, and
15 amendments thereto, and K.S.A. 9-532 through 9-541, and amendments
16 thereto, unless otherwise required by the context:

17 (a) "Bank" means an insured bank as defined in 12 U.S.C. § 1813(h)
18 except the term shall not include a national bank that: (1) Engages only in
19 credit card operations;

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

23 (3) does not accept any savings or time deposits of less than
24 \$100,000;

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

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

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

28 (A) ~~which~~ Directly or indirectly owns, controls, or has power to vote
29 25% or more of any class of the voting shares of a bank or 25% or more of
30 any class of the voting shares of a company ~~which~~ *that* is or becomes a
31 bank holding company by virtue of this act;

32 (B) ~~which~~ controls in any manner the election of a majority of the
33 directors of a bank or of a company ~~which~~ *that* is or becomes a bank
34 holding company by virtue of this act;

35 (C) ~~which~~ the commissioner determines, after notice and opportunity
36 for a hearing, ~~that the company~~ directly or indirectly exercises a

1 controlling influence over the management or policies of the bank or
2 company.

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

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

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

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

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

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

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

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

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

41 (g) "Out-of-state bank holding company" means any holding
42 company ~~which~~ *that* is not a Kansas bank holding company as defined in
43 subsection (f).

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

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

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

9 Sec. 2. K.S.A. 2015 Supp. 9-534 is hereby amended to read as
10 follows: 9-534. In determining whether to approve an application filed
11 pursuant to K.S.A. 9-532, and amendments thereto, the commissioner shall
12 consider the following factors:

13 (a) Whether the subsidiary banks of the applicant are operated in a
14 safe, sound and prudent manner.

15 (b) Whether the subsidiary banks of the applicant have provided
16 adequate and appropriate services to their communities, including services
17 contemplated by 12 U.S.C. § 2901 et seq.

18 (c) Whether the applicant proposes to provide adequate and
19 appropriate services, including services contemplated by 12 U.S.C. § 2901
20 et seq., in the communities served by the Kansas state chartered bank or by
21 the Kansas bank subsidiaries of the bank holding company that has an
22 ownership interest in a Kansas state chartered bank.

23 (d) Whether the proposed acquisition will result in a Kansas state
24 chartered bank or bank holding company that has an ownership interest in
25 a Kansas state chartered bank that has adequate capital and good earnings
26 prospects.

27 (e) Whether the financial condition of the applicant or any of ~~its~~ *the*
28 *applicant's* subsidiary banks would jeopardize the financial stability of the
29 Kansas state chartered bank or bank holding company that has an
30 ownership interest in a Kansas state chartered bank which is the subject of
31 the application.

32 (f) Whether the competence, experience and integrity of the
33 managerial resources of the applicant or any proposed management
34 personnel of any Kansas state chartered bank or any Kansas bank
35 subsidiaries of the bank holding company that has an ownership interest in
36 a Kansas state chartered bank indicates that to permit such person to
37 control a bank would not be in the interest of the depositors of a bank or in
38 the interest of the public.

39 Sec. 3. K.S.A. 2015 Supp. 9-701 is hereby amended to read as
40 follows: 9-701. Unless otherwise clearly indicated by the context, the
41 following words when used in the state banking code, for the purposes of
42 the state banking code, shall have the meanings respectively ascribed to
43 them in this section:

1 (a) "Bank" means a state bank incorporated under the laws of Kansas.

2 (b) "Business of banking" means receiving or accepting money on
3 deposit, and may include the performance of related activities that are not
4 exclusive to banks, including paying drafts or checks, lending money or
5 any other activity authorized by applicable law. *"Business of banking"*
6 *shall not include any activity conducted by a student bank.*

7 (c) "Trust company" means a trust company incorporated under the
8 laws of Kansas and which does not accept deposits.

9 (d) "Commissioner" means the Kansas state bank commissioner.

10 (e) "Executive officer" means a person who participates or has
11 authority to participate, other than in the capacity of a director, in major
12 policymaking functions of the bank or trust company, whether or not the
13 officer has an official title, the title designates the officer as an assistant or
14 the officer is serving without salary or other compensation. The
15 chairperson of the board, the president, every vice president, the cashier,
16 the secretary and the treasurer of a company or bank are considered
17 executive officers.

18 (1) A bank may, by resolution of the board of directors or by the
19 bylaws of the bank or trust company, exempt an officer from participation,
20 other than in the capacity of a director, in major policymaking functions of
21 the bank or trust company if the officer does not actually participate
22 therein.

23 (2) The commissioner may make the determination that a person is an
24 executive officer if the commissioner determines that the criteria are met
25 despite the existence of a resolution allowed pursuant to this subsection.

26 (f) "Demand deposit" means a deposit that: (1) (A) Is payable on
27 demand;

28 (B) is issued with an original maturity or required notice period of
29 less than seven days;

30 (C) represents funds for which the depository institution does not
31 reserve the right to require at least seven days' written notice of an
32 intended withdrawal; or

33 (D) represents funds for which the depository institution does reserve
34 the right to require at least seven days' written notice of an intended
35 withdrawal; and

36 (2) is not also a negotiable order of withdraw account.

37 (3) "Demand deposit" does not include "time deposits" or "savings
38 deposits" as defined in this section.

39 (g) "Time deposit," also known as a certificate of deposit, means a
40 deposit that the depositor does not have a right and is not permitted to
41 make withdrawals from within six days after the date of deposit unless the
42 deposit is subject to an early withdrawal penalty of at least seven days'
43 simple interest on amounts withdrawn within the first six days after

1 deposit. A time deposit from which partial early withdrawals are permitted
2 must impose additional early withdrawal penalties for at least seven days'
3 simple interest on amounts withdrawn within six days after each partial
4 withdrawal. If such additional early withdrawal penalties are not
5 contractually imposed, the account ceases to be a time deposit, but may
6 become a savings deposit if the account meets the requirements for a
7 savings deposit.

8 (h) "Savings deposit" means a deposit or account with respect to
9 which the depositor is not required by the deposit contract, but may at any
10 time, be required by the depository institution to give written notice of an
11 intended withdrawal not less than seven days before such withdrawal is
12 made and that is not payable on a specified date or at the expiration of a
13 specified time after the date of deposit.

14 (i) "Public moneys" means all moneys coming into the custody of the
15 United States government or any board, commission or agency thereof,
16 and also shall mean all moneys coming into the custody of any officer of
17 any municipal or quasi-municipal or public corporation, the state or any
18 political subdivision thereof, pursuant to any provision of law authorizing
19 any such official to collect or receive the same.

20 (j) "Municipal corporation" means any city incorporated under the
21 laws of Kansas.

22 (k) "Quasi-municipal corporation" means any county, township,
23 school district, drainage district, rural water district or any other
24 governmental subdivision in the state of Kansas having authority to
25 receive or hold moneys or funds.

26 (l) "Certificate of authority" means a certificate signed and sealed by
27 the commissioner evidencing the authority of a bank or trust company to
28 transact a general banking or trust business as provided by law.

29 (m) "Trust business" means engaging in, or holding out to the public
30 as willing to engage in, the business of acting as a fiduciary for hire,
31 except that no accountant, attorney, credit union, insurance broker,
32 insurance company, investment adviser, real estate broker or sales agent,
33 savings and loan association, savings bank, securities broker or dealer, real
34 estate title insurance company or real estate escrow company shall be
35 deemed to be engaged in a trust company business with respect to
36 fiduciary services customarily performed by ~~them~~ *those persons or entities*
37 for compensation as a traditional incident to their regular business
38 activities.

39 (n) "Community and economic development entity" means an entity
40 that makes investments or conducts activities that primarily benefit low-
41 income and moderate-income individuals, low-income and moderate-
42 income areas, or other areas targeted by a governmental entity for
43 redevelopment, or would receive consideration as "qualified investments"

1 under the community reinvestment act pub. L. 95-128, title VIII, 91 stat.
2 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund
3 established pursuant to K.S.A. 74-8904, and amendments thereto.

4 (o) "Depository institution" means any state bank, national banking
5 association, state savings and loan or federal savings association, without
6 regard to the state where the institution is chartered or the state in which
7 the institution's main office is located.

8 (p) "Student bank" means any nonprofit program offered by a high
9 school accredited by the state board of education, where deposits are
10 received, checks are paid or money is lent for limited in-school purposes.

11 Sec. 4. K.S.A. 2015 Supp. 9-801 is hereby amended to read as
12 follows: 9-801. (a) No bank or trust company shall be organized or
13 incorporated under the laws of this state nor transact either a banking
14 business or a trust business in this state, until the application for such
15 bank's or trust company's incorporation and application for certificate of
16 authority has been submitted to and approved by the state banking board.
17 The form for making any such application shall be prescribed by the state
18 banking board and any application made to the state banking board shall
19 contain such information as the state banking board shall require.

20 (b) No private bank shall engage in the banking business in this state.

21 (c) The state banking board shall not accept an application unless:

22 (1) The bank or trust company is organized by five or more persons
23 who shall also be stockholders of the proposed bank or trust company or
24 parent company of the proposed bank or trust company;

25 (2) at least five of the organizers are residents of the state of Kansas
26 and at least those five sign and acknowledge the articles of incorporation;

27 (3) the name selected for a bank is different from that of any other
28 bank: (A) Doing business in the same city or town; and

29 (B) within a 15-mile radius of the proposed location, ~~and;~~

30 (4) the name selected for the trust company is different *or*
31 *substantially dissimilar* from any other trust company doing business in
32 this state. ~~Although, any bank or trust company may request exemption~~
33 ~~from the commissioner from the provisions of this subsection; and~~

34 ~~(4) (5)~~ (5) the articles of incorporation contain the names and addresses
35 of ~~its~~ *the bank's or the trust company's* stockholders and the amount of
36 common stock subscribed by each. The articles of incorporation may
37 contain such other provisions as are consistent with the general
38 corporation code.

39 (d) *Any bank or trust company may request an exemption from the*
40 *commissioner from the provisions of subsections (c)(3) and (c)(4).*

41 ~~(d)~~ (e) If the state banking board shall determine any of the following
42 factors unfavorably to the applicants, the application may be denied:

43 (1) The financial standing, general business experience and character

1 of the organizers and incorporators;

2 (2) the character, qualifications and experience of the officers of the
3 proposed bank or trust company;

4 (3) the public need for the proposed bank or trust company in the
5 community wherein it is proposed to locate the same and whether existing
6 banks or trust companies are meeting such need;

7 (4) the prospects for success of the proposed bank or trust company;
8 and

9 (5) any other criteria the state banking board may require.

10 (e) (f) The state banking board shall not make membership in any
11 federal government agency a condition precedent to the granting of the
12 authority to do business.

13 (f) (g) The state banking board may require fingerprinting of any
14 officer, director, incorporator or any other person of the proposed trust
15 company related to the application deemed necessary by the state banking
16 board. Such fingerprints may be submitted to the Kansas bureau of
17 investigation and the federal bureau of investigation for a state and
18 national criminal history record check. The fingerprints shall be used to
19 identify the person and to determine whether the person has a record of
20 arrests and convictions in this state or other jurisdictions. The state
21 banking board may use information obtained from fingerprinting and the
22 criminal history for purposes of verifying the identification of the person
23 and in the official determination of the qualifications and fitness of the
24 persons associated with the applicant trust company to be issued a charter.
25 Whenever the state banking board requires fingerprinting, any associated
26 costs shall be paid by the applicant or the parties to the application.

27 ~~(g) In the event two or more applications for incorporation and~~
28 ~~authority to do business seeking to serve the same general territory are~~
29 ~~pending before the state banking board and the state banking board~~
30 ~~determines all of such matters favorably in two or more such applications,~~
31 ~~the state banking board may approve the application of the proposed bank~~
32 ~~or trust company which the state banking board determines will best serve~~
33 ~~the needs of the territory sought to be served.~~

34 ~~(h) The state banking board may approve the application of an~~
35 ~~existing bank or trust company to change such bank's or trust company's~~
36 ~~place of business and deny the application or applications for~~
37 ~~incorporation and authority to do business if:~~

38 ~~(1) One or more such applications seeking to serve a territory are~~
39 ~~pending before the state banking board;~~

40 ~~(2) the board has determined all of such matters favorably in one or~~
41 ~~more of such applications;~~

42 ~~(3) there is an application of an existing bank or trust company~~
43 ~~pending before the state banking board to change such bank's or trust~~

1 company's place of business to serve the same territory which the state
2 banking board determines should be approved; and

3 ~~(4) the board determines that there is public need for only one bank or~~
4 ~~trust company to serve the territory.~~

5 ~~(j) (h)~~ Any final action of the state banking board approving or
6 disapproving an application shall be subject to review in accordance with
7 the Kansas judicial review act.

8 ~~(j) (i)~~ If upon the dissolution, insolvency or appointment of a receiver
9 of any bank, trust company, national bank association, savings and loan
10 association, savings bank or credit union, the commissioner is of the
11 opinion that by reason of the loss of services in the community, an
12 emergency exists which may result in serious inconvenience or losses to
13 the depositors or the public interest in the community, the commissioner
14 may accept and approve an application for incorporation and an
15 application for authority to do business from applicants for the
16 organization and establishment of a successor bank or trust company.

17 Sec. 5. K.S.A. 2015 Supp. 9-802 is hereby amended to read as
18 follows: 9-802. (a) The existence of any bank or trust company as a
19 corporation shall date from the filing of the bank's or trust company's
20 articles of incorporation with the Kansas secretary of state's office from
21 which time such bank or trust company shall have and may exercise the
22 incidental powers conferred by law upon corporations, except that no bank
23 or trust company shall transact any business except the election of officers,
24 the taking and approving of ~~their~~ official bonds, the receipts of payment
25 upon stock subscriptions and other business incidental to ~~its~~ *their*
26 organization, until such bank or trust company has secured the approval of
27 the state banking board and the authorization of the commissioner to
28 commence business.

29 (b) The full amount of the common stock including the surplus and
30 undivided profits as required by the Kansas banking code shall be
31 subscribed before the articles of incorporation are filed with the Kansas
32 secretary of state's office.

33 Sec. 6. K.S.A. 2015 Supp. 9-803 is hereby amended to read as
34 follows: 9-803. (a) Any bank ~~whose~~ *with* articles of incorporation ~~has~~ *that*
35 *have* lapsed, or hereafter shall lapse, may renew and extend the bank's
36 corporate existence in the manner provided by law and upon payment of
37 the requisite fees.

38 (b) The acts of any bank or trust company ~~whose~~ *with* articles of
39 incorporation *that* have lapsed or terminated by the expiration of time and
40 ~~whose~~ *such bank's or trust company's* corporate existence is renewed and
41 extended are hereby legalized and declared to be valid in the same manner
42 and to the same effect as though the banks and trust companies had been
43 duly authorized at all times since their organization.

1 Sec. 7. K.S.A. 2015 Supp. 9-804 is hereby amended to read as
2 follows: 9-804. (a) Upon approval of an application to organize a bank or
3 trust company with the state banking board, such board shall cause to be
4 made by and through the commissioner, a careful examination and
5 investigation concerning:

6 (1) The amount of moneys paid in for capital, surplus and undivided
7 profits, the persons that paid and the amount of capital stock owned in
8 good faith by each stockholder;

9 (2) whether such bank or trust company has complied with the
10 applicable provisions of law; and

11 (3) any other criteria the commissioner may require.

12 (b) When the capital of any bank or trust company shall have been
13 paid in, the president or cashier shall transmit to the commissioner a
14 verified statement showing the names and addresses of all stockholders,
15 the amount of stock each subscribed and the amount paid in by each.

16 (c) If the commissioner finds, after examination and investigation,
17 that the bank or trust company has been organized as provided by law, has
18 complied with the provisions of law and has secured the preliminary
19 approval of the commissioner, if required by K.S.A. 9-801(e)(i), and
20 amendments thereto, or upon the approval of the state banking board, the
21 commissioner shall issue a certificate showing that such bank or trust
22 company has been organized and its capital *has been* paid in as required by
23 law, and that ~~it~~ *the bank or trust company* is authorized to transact a
24 general banking or trust business as provided by law.

25 Sec. 8. K.S.A. 2015 Supp. 9-808 is hereby amended to read as
26 follows: 9-808. (a) ~~Upon the affirmative vote of not less than $\frac{2}{3}$ of its~~
27 ~~outstanding voting stock,~~ Any national bank, federal savings association or
28 federal savings bank organized under the laws of the United States and
29 located in this state may become a state bank *upon the affirmative vote of*
30 *not less than $\frac{2}{3}$ of the institution's outstanding voting stock.* Any national
31 bank, federal savings association or federal savings bank desiring to
32 become a state bank shall apply to the commissioner for permission to
33 convert to a state bank and:

34 (1) Shall submit a transcript of the minutes of the meeting of ~~its~~ *the*
35 *institution's* stockholders showing approval of the proposed conversion;

36 (2) the name selected for the bank shall not be the name of any other
37 bank: (A) Doing business in the same city or town; or

38 (B) within a 15-mile radius of the location of the converted
39 institution. The name shall be accepted or rejected by the commissioner,
40 although any bank may request exemption from the commissioner from
41 this paragraph; and

42 (3) provide any other information required in the application form
43 prescribed by the commissioner.

1 (b) A federal savings association or federal savings bank operating in
2 a mutual form must also convert to a stock form prior to converting to a
3 state bank and shall submit appropriate documentation to the
4 commissioner to show that the appropriate federal regulator has approved
5 such mutual to stock conversion.

6 (c) Upon receipt of each of the items required by this section the
7 commissioner shall make or cause to be made such investigation as the
8 commissioner deems necessary to determine whether:

9 (1) All state and federal requirements for a conversion have been
10 satisfied;

11 (2) the conversion or the financial condition of the bank will not
12 adversely affect the interests of the depositors;

13 (3) the resulting state bank will have an adequate capital structure in
14 accordance with K.S.A. 9-901a et seq., and amendments thereto; and

15 (4) the competence, experience or integrity of the proposed
16 management personnel indicates ~~it~~ *that approving the conversion* would be
17 in the interest of the depositors of the bank and in the interest of the public
18 ~~to permit the conversion.~~

19 (d) If the commissioner determines each of the matters in subsection
20 (c) favorably, the conversion shall be approved and the commissioner shall
21 issue a certificate of authority. Upon issuance of a certificate of authority,
22 the articles of incorporation, duly executed as required by the Kansas
23 corporate code, shall be filed with the Kansas secretary of state's office.

24 (e) In any conversion authorized by this section, the resulting state
25 bank by operation of law shall continue all trust functions being exercised
26 by the national bank, federal savings association or federal savings bank
27 and shall be substituted for the national bank, federal savings association
28 or federal savings bank and shall have the right to exercise trust or
29 fiduciary powers created by any instrument designating the national bank,
30 federal savings association or federal savings bank even though such
31 instruments are not yet effective.

32 (f) In any conversion authorized by this section, the resulting state
33 bank shall succeed by operation of law without any conveyance or transfer
34 by the act of the national bank, federal savings association or federal
35 savings bank to all the actual or potential assets, real property, tangible
36 personal property, intangible personal property, rights, franchises and
37 interests, including those in a fiduciary capacity of the national bank,
38 federal savings association or federal savings bank and shall be subject to
39 all of the liabilities of the national bank, federal savings association or
40 federal savings bank.

41 (g) In any conversion authorized by this section the corporate
42 existence of the national bank, federal savings association or federal
43 savings bank shall be continued in the resulting state bank, and the

1 resulting state bank shall be deemed to be the identical corporate entity as
2 the national bank, federal savings association or federal savings bank.

3 (h) Within a reasonable time after the effective date of the conversion,
4 the resulting bank shall divest ~~itself of~~ all assets and liabilities that do not
5 conform to state banking laws and rules and regulations. The length of this
6 transition period shall be determined by the commissioner.

7 Sec. 9. K.S.A. 2015 Supp. 9-809 is hereby amended to read as
8 follows: 9-809. ~~(a) Upon the affirmative vote of not less than $\frac{2}{3}$ of its~~
9 ~~outstanding voting stock,~~ Any state bank may convert to a national bank
10 *upon the affirmative vote of not less than $\frac{2}{3}$ of the bank's outstanding*
11 *voting stock.*

12 (b) The state bank shall provide a copy of the application submitted to
13 the comptroller of currency to the commissioner within 10 days after the
14 date the state bank applies for approval to convert to a national banking
15 association from the office of the comptroller of the currency.

16 (c) The state bank shall provide to the commissioner written notice of
17 approval by the comptroller of currency to convert to a national bank
18 within 10 days of receiving the approval.

19 (d) Within 15 days following the issuance of a charter certificate to
20 the bank by the comptroller, the bank shall surrender its state certificate of
21 authority or charter and shall certify in writing that notice of the
22 conversion has been given to the Kansas secretary of state's office.

23 Sec. 10. K.S.A. 2015 Supp. 9-811 is hereby amended to read as
24 follows: 9-811. No financial institution ~~whose~~ *with* deposits ~~are~~ insured by
25 the federal deposit insurance corporation shall conduct business in this
26 state unless such institution: (a) Has the legal right to accept deposits that
27 the depositor has the legal right to withdraw on demand and to engage in
28 the business of making commercial loans; or; (b) is a national bank which
29 engages only in credit card operations, does not accept demand deposits or
30 deposits that the depositor may withdraw by check or similar means for
31 payment to third parties or others, does not accept any savings or time
32 deposits of less than \$100,000, maintains only one office that accepts
33 deposits and does not engage in the business of making commercial loans.

34 Sec. 11. K.S.A. 2015 Supp. 9-812 is hereby amended to read as
35 follows: 9-812. (a) No bank or trust company shall change its name until
36 such name change has been submitted to and approved by the
37 commissioner.

38 (b) The commissioner shall not approve the name selected for the
39 bank if it is the name of any other bank: (1) Doing business in the same
40 city or town; or

41 (2) within a 15-mile radius of ~~the proposed location~~ *any bank or*
42 *branch bank.*

43 (c) The commissioner shall not approve the name selected for the

1 trust company if it is the same or substantially similar name of any other
2 trust company doing business in the state of Kansas.

3 (d) Any bank or trust company may request exemption from the
4 commissioner from subsection (b) or (c).

5 (e) Upon approval of such name change, the bank *or trust company*
6 must notify and make the necessary filings as may be required by the
7 Kansas secretary of state's office.

8 (f) Any bank or trust company authorized to do business pursuant to
9 the state banking code may use a name other than the name approved by
10 the commissioner, provided:

11 (1) The bank or trust company must notify the commissioner, and the
12 commissioner must approve, any use of a name other than the name
13 approved by the commissioner;

14 (2) the bank's or trust company's actual name is prominently
15 displayed adjacent to any other name displayed; and

16 (3) the bank or trust company continues to use the name approved by
17 the commissioner in all legally enforceable documents and memoranda.

18 Sec. 12. K.S.A. 2015 Supp. 9-814 is hereby amended to read as
19 follows: 9-814. (a) No bank or trust company organized under the laws of
20 this state shall change the bank's or trust company's place of business,
21 from one city or town to another or from one location to another within the
22 same city or town, without prior approval. Any such bank or trust
23 company desiring to change the bank's or trust company's place of
24 business shall file written application with the office of the state bank
25 commissioner in such form and containing such information the
26 commissioner shall require. Notice of the proposed relocation shall be
27 published in a newspaper of general circulation in the county where the
28 main bank or trust company is currently located and in the county to which
29 the bank or trust company proposes to relocate. The notice shall be in the
30 form prescribed by the commissioner and at a minimum shall contain the
31 name and address of the applicant bank or trust company, the address of
32 the proposed new location and a solicitation for written comments. The
33 notice shall be published on the same day for two consecutive weeks and
34 provide for a comment period of not less than 10 calendar days after the
35 date of the second publication. The applicant shall provide proof of
36 publication to the commissioner.

37 (b) The commissioner shall examine and investigate the application.
38 The commissioner shall approve the application if it is found *that*:

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

41 (2) the applicant bank's or trust company's financial history and
42 condition is sound; and

43 (3) the name selected for the bank is different from that of any other

- 1 bank: (A) Doing business in the same city or town; and
2 (B) within a 15-mile radius of the proposed location—~~although any~~
3 ~~bank or trust company may request exemption from the commissioner~~
4 ~~from this paragraph.; and~~
5 (4) *the name selected for a trust company is different or substantially*
6 *dissimilar from any other trust company doing business in this state.*
7 (c) *any bank or trust company may request an exemption from the*
8 *commissioner from the provisions of subsection (b)(3) or (b)(4).*
9 (e) (d) If the commissioner denies an application, the applicant shall
10 have the right to a hearing before the state banking board to be conducted
11 in accordance with the Kansas administrative procedure act. Any action of
12 the state banking board pursuant to this section is subject to review in
13 accordance with the Kansas judicial review act.
14 (d) (e) Upon approval of such place of business change, the bank or
15 trust company must notify and make the necessary filings as may be
16 required by the secretary of state's office.
- 17 Sec. 13. K.S.A. 2015 Supp. 9-815 is hereby amended to read as
18 follows: 9-815. (a) Any applicant making application under article 8 of
19 chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall
20 pay to the commissioner a fee in an amount established pursuant to K.S.A.
21 2015 Supp. 9-1726, and amendments thereto, to defray the expenses of the
22 state banking board, commissioner or other designees in the examination
23 and investigation of the application.
24 (b) The commissioner shall remit all moneys received under this
25 section to the state treasurer in accordance with the provisions of K.S.A.
26 75-4215, and amendments thereto. Upon receipt of each such remittance,
27 the state treasurer shall deposit the entire amount in the state treasury to
28 the credit of the bank investigation fund. The moneys in the bank
29 investigation fund shall be used to pay the expenses of the commissioner,
30 or designee, in the examination and investigation of such applications and
31 any unused balance shall be transferred to the bank commissioner fee
32 fund.
33 (c) Any members of the state banking board who make such an
34 examination or investigation shall be paid the sum of \$35 per diem for the
35 time ~~they~~ *the members* actually are engaged in performing ~~their~~
36 members of ~~such~~ *the state banking* board and shall be compensated ~~from~~
37 *such funds* all ~~their~~ *the* actual and necessary expenses incurred in the
38 performance of ~~such~~ *the members'* duties ~~from such funds~~.
39 Sec. 14. K.S.A. 2015 Supp. 9-816 is hereby amended to read as
40 follows: 9-816. (a) As used in this section, "bankers' bank" means a state
41 bank which is owned exclusively, except to the extent directors' qualifying
42 shares are required by law, by other state banks, federally chartered banks
43 or a one-bank holding company and is organized to engage exclusively in

1 providing services for other state banks or federally chartered banks and
2 ~~their~~ *the banks'* officers, directors and employees.

3 (b) The state banking board may approve the application for the
4 organization of a state bankers' bank under the provisions of K.S.A. 9-801
5 et seq., and amendments thereto.

6 Sec. 15. K.S.A. 2015 Supp. 9-901a is hereby amended to read as
7 follows: 9-901a. (a) For purposes of this section: (1) "Capital" means the
8 total of the aggregate par value of ~~its~~ *a bank's or trust company's*
9 outstanding shares of capital stock, its surplus and its undivided profits;

10 (2) "equity capital" means the total of common stock, preferred stock,
11 surplus and undivided profits less intangibles; and

12 (3) "total assets" means the total of all tangible bank assets as
13 reported on the daily balance sheet of the bank.

14 (b) (1) For banks organized on or after July 1, 2015, the minimum
15 capital of a bank at the time of organization shall be the greater of
16 \$3,000,000 or an amount equal to 8% of the proposed bank's estimated
17 deposits five years after its organization. The capital shall be divided with
18 60% of the amount as the aggregate par value of outstanding shares of
19 capital stock, 30% as surplus and 10% as undivided profits.

20 (2) For trust companies organized on or after July 1, 2015, the
21 minimum capital shall at all times be \$500,000. The capital shall be
22 divided with 60% of the amount as the aggregate par value of outstanding
23 shares of capital stock, 30% as surplus and 10% as undivided profits.

24 (3) The state banking board may require that a bank or trust company
25 have capital in excess of the amounts specified in this subsection if the
26 state banking board determines that excess capital is necessary based on
27 the character and qualifications of the proposed board of directors and the
28 nature of the business of the bank or trust company.

29 (c) The minimum capital of a bank or trust company organized
30 pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined
31 by the commissioner, provided that the successor bank has obtained
32 deposit insurance from the federal deposit insurance corporation or ~~its~~ *any*
33 successor.

34 (d) All banks shall maintain a capital ratio of at least 5% of equity
35 capital to total assets at all times.

36 (e) Any bank that relocates its main office from one city to another
37 pursuant to K.S.A. 2015 Supp. 9-814, and amendments thereto, shall have
38 equity capital equal to the greater of \$3,000,000 or 8% of its estimated
39 deposits five years after the relocation.

40 (1) The commissioner, in the commissioner's discretion, may approve
41 a relocation with a smaller equity capital amount if the bank can show that
42 the circumstances surrounding the relocation warrant consideration of a
43 lesser amount and the safety of depositors would not be impacted by

1 requiring a lesser amount.

2 (2) If the main office relocation is part of an interchange of the main
3 office with a branch location that has been in operation for at least one
4 year, this equity capital requirement shall not apply.

5 (f) Any national bank, federal savings association or federal savings
6 bank which converts its charter to a state bank pursuant to K.S.A. 9-808,
7 and amendments thereto, shall have a minimum capital ratio of 5% of
8 equity capital to total assets at the time of its conversion. The capital
9 division requirements of subsection (b) shall not apply.

10 (g) The commissioner may require that a bank or trust company have
11 capital in excess of the amounts specified in subsections (b) through (d) if
12 the commissioner determines that excess capital is necessary based on the
13 character and qualifications of the proposed board of directors and nature
14 of the business of the bank or trust company.

15 (h) Any bank that fails to meet the minimum capital ratio of 5% of
16 equity capital to total assets required by this section shall notify the
17 commissioner within three business days. Upon notice, the commissioner
18 may require the bank to submit a written plan for restoring capital
19 approved by the commissioner.

20 Sec. 16. K.S.A. 2015 Supp. 9-902 is hereby amended to read as
21 follows: 9-902. (a) The common and preferred stock of any bank or trust
22 company hereafter created shall be divided into shares of \$1 each, or any
23 whole number multiple thereof. All subscriptions to such stock shall be
24 paid in cash and any bank or trust company may change the par value of
25 its shares to conform with this section.

26 (b) Any bank or trust company may reduce the number of shares of
27 common stock and replace ~~them~~ *the shares of common stock* with a like
28 amount of *shares of* preferred stock, as long as the total dollar amount of
29 capital stock is not changed. In lieu of reducing the number of shares of
30 common stock, the bank may reduce the par value of the common stock
31 and ~~replace it with~~ *issue* preferred stock with a par value that is equal to
32 the amount of the reduction in the par value of the common stock. When
33 the preferred stock is retired, the par value of the common shares shall be
34 restored.

35 (c) The requirements for a capital reduction pursuant to K.S.A. 9-904,
36 and amendments thereto, and the requirements for new issue of preferred
37 stock pursuant to K.S.A. 9-908, and amendments thereto, shall not apply
38 to the circumstance described in this section.

39 Sec. 17. K.S.A. 2015 Supp. 9-903 is hereby amended to read as
40 follows: 9-903. (a) The shares of stock of any bank or trust company shall
41 be deemed personal property and shall be transferred on the books of the
42 bank or trust company in such manner as the bylaws thereof may direct.

43 (b) No transfer of stock shall be valid against the issuing bank or trust

1 company so long as the registered owner thereof shall be liable as
2 principal debtor, surety or otherwise to the bank or trust company on a
3 matured, charged off or forgiven obligation. No dividend, interest or profit
4 shall be paid on such stock so long as the registered owner thereof is
5 indebted to the bank or trust company on a matured, charged off or
6 forgiven obligation. All such dividends or profits shall be retained by the
7 bank or trust company and applied to the discharge of any such
8 obligations.

9 (c) No stock shall be transferred on the books of any bank or trust
10 company when the bank or trust company is in a failing condition, or when
11 its capital stock is impaired, except upon approval of the commissioner.

12 (d) The president or other chief executive officer of a bank or trust
13 company shall report to the commissioner within 10 days of the transfer of
14 shares of stock on the books of the bank or trust company if there is a
15 transfer of:

16 (1) Shares of stock that results in the direct or indirect ownership by a
17 stockholder or an affiliated group of stockholders of 10% or more of the
18 outstanding stock of the bank or trust company; or

19 (2) additional shares of stock to stockholders or an affiliated group of
20 stockholders who own 10% or more of the outstanding stock of a bank or
21 trust company.

22 (e) If there is a transfer of shares of stock that results in the direct or
23 indirect ownership by a stockholder or an affiliate group of stockholders of
24 25% or more of the outstanding stock of the bank or trust company, a
25 change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and
26 amendments thereto.

27 Sec. 18. K.S.A. 2015 Supp. 9-904 is hereby amended to read as
28 follows: 9-904. (a) With prior approval of the commissioner, a bank or
29 trust company may reduce the amount of its capital stock account. No such
30 reduction shall be approved unless the commissioner finds that:

31 (1) The proposed reduction is necessary to provide greater
32 operational flexibility to an adequately capitalized, well-managed
33 institution;

34 (2) the proposed reduction does not result in or is not in furtherance
35 of a reduction in the institution's capital to an amount below the amount
36 required by K.S.A. 9-901(a), and amendments thereto;

37 (3) the proposed reduction is not intended to delay, prevent or be in
38 lieu of capital stock impairment or a stockholder's assessment pursuant to
39 K.S.A. 9-906, and amendments thereto;

40 (4) the proposed reduction poses no significant risk to the financial
41 stability, safety or soundness of the institution;

42 (5) the bank's *or trust company's* surplus account will be increased in
43 an amount equal to the amount of the proposed reduction in the capital

1 stock account, unless a waiver is granted by the commissioner; and

2 (6) a resolution approving the reduction has been adopted by the
3 stockholders representing $\frac{2}{3}$ of the voting stock of the bank or trust
4 company.

5 (b) Upon completion of the reduction, the bank or trust company
6 shall file with the commissioner a list of its stockholders and the amount of
7 stock held by each.

8 (c) Whenever the capital stock of any bank or trust company shall be
9 reduced as herein provided, every stockholder, owner or holder of any
10 stock certificate shall surrender the same for cancellation and shall be
11 entitled to receive a new certificate for such person's proportion of the new
12 stock. No dividends shall be paid to any such stockholder until the old
13 certificate is surrendered.

14 Sec. 19. K.S.A. 2015 Supp. 9-906 is hereby amended to read as
15 follows: 9-906. (a) Whenever it shall appear that the capital stock of any
16 bank or trust company is impaired, the commissioner shall notify the bank
17 or trust company to restore the capital stock within 90 days of receipt of
18 such notice.

19 (b) For purposes of this section, "impairment" means that charges or
20 losses to the bank or trust company's capital accounts have been sufficient
21 to eliminate all of the bank or trust company's allowance for loan and lease
22 loss, undivided profits, surplus fund and any other capital reserves and has
23 brought the book amount of the capital stock ~~value~~ below ~~its~~ *the* par value
24 *of the capital stock*.

25 (c) Within 15 days of receipt of the impairment notice from the
26 commissioner, the board of directors of the bank or trust company shall
27 levy an assessment on the common stockholders sufficient to restore the
28 capital stock.

29 (d) A bank or trust company may reduce its capital stock to the extent
30 of the impairment, if such reduction is conducted pursuant to the
31 requirements of K.S.A. 9-904, and amendments thereto.

32 Sec. 20. K.S.A. 2015 Supp. 9-907 is hereby amended to read as
33 follows: 9-907. (a) Whenever any stockholder of a bank or trust company
34 or an assignee of such stockholder, fails to pay any assessment as required
35 by K.S.A. 9-906, and amendments thereto, the directors of the bank or
36 trust company may sell the stock of such delinquent stockholder, or so
37 much of the stock as necessary, to satisfy the assessment and any related
38 incidental expenses within 120 days of the bank or trust company's receipt
39 of impairment notice.

40 (b) The sale of stock of a delinquent stockholder may be either public
41 or private. The bank or trust company may sell the stock to any person
42 paying the highest price, however, the price shall not be less than the
43 amount due upon the stock, including any incidental expenses. If the stock

1 is sold at private sale and the price offered by any non-stockholder does
2 not exceed the highest bid of any stockholder, then such stock shall be sold
3 to the stockholder. If the stock is sold at a public sale, then notice of the
4 public sale shall be published on the same day for two consecutive weeks,
5 in a newspaper of general circulation in the city or county where the bank
6 or trust company is located.

7 (c) Any excess moneys realized from the sale of the stock shall be
8 paid to the delinquent stockholder, unless the stockholder is indebted to the
9 bank or trust company. If the stockholder has debt, then the excess may be
10 retained by the bank or trust company as an offset against the debt.

11 (d) If no purchaser can be found for the stock at the public or private
12 sale, ~~the~~ *the stock* shall be forfeited to the bank or trust company to be
13 disposed of as the board of directors shall determine within six months
14 from the date of the public or private sale. If the stock cannot be disposed
15 of within six months, the bank or trust company may request permission
16 from the commissioner for additional time to dispose of the stock.

17 Sec. 21. K.S.A. 2015 Supp. 9-1101 is hereby amended to read as
18 follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board
19 of directors or duly authorized officers or agents, subject to law, the
20 following powers:

21 (1) To receive and to pay interest on deposits. The commissioner,
22 with approval of the state banking board, may by rules and regulations fix
23 maximum rates of interest to be paid on deposit accounts other than
24 accounts for public moneys;

25 (2) to buy, sell, discount or negotiate domestic currency, gold, silver,
26 foreign currency, bullion, commercial paper, bills of exchange, notes and
27 bonds. Foreign currency shall not be bought, sold, discounted or
28 negotiated for investment purposes;

29 (3) to make all types of loans, subject to the loan limitations
30 contained in the state banking code;

31 (4) (A) to buy and sell: (i) Bonds, securities; or other evidences of
32 indebtedness, including temporary notes, of: *the United States of America;*

33 ~~(ii) Bonds, securities or other evidences of indebtedness, including~~
34 ~~temporary notes, fully guaranteed, directly or indirectly, by the United~~
35 ~~States of America or those fully guaranteed, directly or indirectly, by it; or~~

36 ~~(ii) general obligations (iii) general obligation bonds of any state of~~
37 ~~the United States of America or any municipality or quasi-municipality~~
38 ~~thereof.~~

39 (B) No bank shall invest in bonds, securities or other evidences of
40 indebtedness if:

41 (i) The direct and overlapping indebtedness of such municipality or
42 quasi-municipality is in excess of 10% of its assessed valuation, excluding
43 therefrom all valuations on intangibles and homestead exemption

1 valuation; or

2 (ii) any bond, security, or evidence of indebtedness of any such
3 municipality or quasi-municipality that has been in default in the payment
4 of principal or interest within 10 years prior to the time that any bank
5 acquires any such bonds, security or evidence of indebtedness;

6 (5) to buy and sell investment securities which are evidences of
7 indebtedness limited to buying and selling without recourse marketable
8 obligations evidencing indebtedness of any state or federal agency,
9 including revenue bonds issued pursuant to K.S.A. 76-6a15, and
10 amendments thereto, or the state armory board in the form of bonds, notes
11 or debentures or both. The total amount of such investment securities of
12 any one obligor or maker held by such bank shall at no time exceed 25%
13 of the capital stock, surplus, undivided profits, 100% of the allowance for
14 loan and lease loss, capital notes and debentures and reserve for
15 contingencies of such bank, except that this limit shall not apply to
16 obligations of the United States government or any agency thereof;

17 (6) to buy and sell investment securities which are evidences of
18 indebtedness limited to buying and selling without recourse marketable
19 obligations evidencing indebtedness of any person, copartnership,
20 association or corporation. The total amount of such investment securities
21 of any one obligor or maker held by such bank shall at no time exceed
22 25% of the capital stock surplus, undivided profits, 100% of the allowance
23 for loan and lease loss, capital notes and debentures and reserve for
24 contingencies of such bank;

25 (7) to subscribe to, buy, hold and sell stock of:

26 (A) The federal national mortgage association in accordance with the
27 national housing act;

28 (B) the federal home loan mortgage corporation in accordance with
29 the federal home loan mortgage corporation act;

30 (C) the federal agricultural mortgage corporation, provided no bank's
31 investment in such corporation shall exceed 5% of ~~its~~ *the bank's* capital
32 stock, surplus and undivided profits; and

33 (D) a federal home loan bank. Any bank may also become a member
34 of a federal home loan bank;

35 (8) to subscribe to, buy and own stock in one or more small business
36 investment companies in Kansas as otherwise authorized by federal law,
37 except that in no event shall any bank acquire shares in any small business
38 investment company if, upon the ~~making of that~~ acquisition, the aggregate
39 amount of shares in small business investment companies then held by the
40 bank would exceed 5% of ~~its~~ *the bank's* capital and surplus;

41 (9) to subscribe to, buy and own stock in any agricultural credit
42 corporation or livestock loan company, or its affiliate, organized pursuant
43 to the provisions of the laws of the United States providing for the

1 information and operation of agricultural credit corporations and livestock
2 loan companies, in an amount not exceeding either the undivided profits or
3 10% of the capital stock and surplus and undivided profits from such bank,
4 whichever is greater;

5 (10) to buy, hold and sell any type of investment securities not
6 enumerated in this section with approval of the commissioner and upon
7 such conditions and under such regulations as are prescribed by the state
8 banking board;

9 (11) to act as escrow agent;

10 (12) to subscribe to, acquire, hold and dispose of stock of a
11 corporation ~~having as its purpose the acquisition, holding and disposition~~
12 *the purpose of which is to acquire, hold and dispose* of loans secured by
13 real estate mortgages, and to acquire, hold and dispose of the debentures
14 and capital notes of such corporation. No bank's investment in such stock,
15 debentures and capital notes shall exceed 2% of its capital stock, surplus
16 and undivided profits;

17 (13) to purchase and sell securities and stock without recourse solely
18 upon the order, and for the account, of customers;

19 (14) to subscribe to, acquire, hold and dispose of any class of stock,
20 debentures and capital notes of MABSCO agricultural services, inc. or any
21 similar corporation ~~having as its purpose the acquisition, holding and~~
22 *disposition the purpose of which is to acquire, hold and dispose* of
23 agricultural loans originated by Kansas banks. No bank's investment in
24 such stock, debentures and capital notes shall exceed 2% of its capital
25 stock, surplus and undivided profits;

26 (15) to engage in financial future contracts on United States
27 government and agency securities subject to such rules and regulations as
28 the commissioner may prescribe pursuant to K.S.A. 9-1713, and
29 amendments thereto, to promote safe and sound banking practices;

30 (16) to subscribe to, buy and own stock in a bankers' bank organized
31 under the laws of the United States, this state or any other state, or a one
32 bank holding company which owns or controls such a bankers' bank,
33 except no bank's investment in such stock shall exceed 10% of its capital
34 stock, surplus and undivided profits;

35 (17) to buy, hold and sell shares of an open-end investment company
36 in a manner consistent with the parameters outlined by the office of the
37 comptroller of the currency in banking circular 220, as such circular was
38 issued on November 21, 1986;

39 (18) subject to the prior approval of the commissioner and subject to
40 such rules and regulations as are adopted by the commissioner pursuant to
41 K.S.A. 9-1713, and amendments thereto, to promote safe and sound
42 banking practices, a bank may establish a subsidiary which engages in the
43 following securities activities: (A) Selling or distributing stocks, bonds,

1 debentures, notes, mutual funds and other securities; (B) issuing and
2 underwriting municipal bonds; (C) organizing, sponsoring and operating
3 mutual funds; or (D) acting as a securities broker-dealer;

4 (19) to subscribe to, buy and own stock in an insurance company
5 incorporated prior to 1910, under the laws of Kansas, with corporate
6 headquarters in this state, which only provides insurance to financial
7 institutions. The investment in such stock shall not exceed 2% of the
8 bank's capital stock, surplus and undivided profits;

9 (20) to purchase and hold an interest in life insurance policies and, to
10 the extent applicable, to purchase and hold an annuity in a manner
11 consistent with the parameters outlined in the interagency statement of the
12 purchase and risk management of life insurance, issued by the office of the
13 comptroller of the currency, the board of governors of the federal reserve
14 system, the federal deposit insurance corporation and the office of the
15 thrift supervision on December 7, 2004; and set out in the respective
16 agencies' issuances, including the federal deposit insurance corporation
17 financial institution letter 127-2004, effective December 7, 2004, subject
18 to the following limitations:

19 (A) The cash surrender value of any life insurance policy or policies
20 underwritten by any one life insurance company shall not at any time
21 exceed 15% of the total of the bank's capital stock, surplus, undivided
22 profits, 100% of the allowance for loan and lease losses, capital notes and
23 debentures and reserve for ~~contingency~~ contingencies, unless the bank has
24 obtained the prior approval of the commissioner;

25 (B) the cash surrender value of life insurance policies, in the
26 aggregate from all companies, cannot at any time exceed 25% of the total
27 of the bank's capital stock, surplus, undivided profits, 100% of the
28 allowance for loan and lease losses, capital notes and debentures and
29 reserve for ~~contingency~~ contingencies, unless the bank has obtained the
30 prior approval of the state bank commissioner; ~~and~~

31 (C) the limitations set forth in subparagraphs (A) and (B) shall not
32 apply to any life insurance policy in place prior to July 1, 1993; and

33 (D) for the purposes of subsections (a)(20)(A) and (a)(20)(B),
34 intangibles, such as goodwill, shall not be included in the calculation of
35 capital.

36 (21) act as an agent and receive deposits, renew time deposits, close
37 loans, service loans and receive payments on loans and other obligations
38 for any company which is a subsidiary, as defined in K.S.A. 9-519, and
39 amendments thereto, of the bank holding company which owns the bank.
40 Nothing in this subsection shall authorize a bank to conduct activities as an
41 agent which the bank or the subsidiary would be prohibited from
42 conducting as a principal under any applicable federal or state law. Any
43 bank which enters or terminates any agreement pursuant to this subsection

1 shall within 30 days of the effective date of the agreement or termination
2 provide written notification to the commissioner which details all parties
3 involved and services to be performed or terminated;

4 (22) to make loans to the bank's stockholders or the bank's controlling
5 holding company stockholders on the security of the shares of the bank or
6 the bank's controlling bank holding company, but loans on the security of
7 the shares of the bank may occur only if the bank would have extended
8 credit to such stockholder on exactly the same terms without the bank
9 shares pledged as collateral;

10 (23) to make investments in and loans to community and economic
11 development entities as defined in K.S.A. 9-701, and amendments thereto,
12 subject to the limitations prescribed by community reinvestment act pub. l.
13 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

14 (24) to participate in a school savings deposit program authorized
15 under K.S.A. 9-1138, and amendments thereto;

16 (25) with prior approval of the commissioner, to control or hold an
17 interest in a financial subsidiary.

18 (A) The financial subsidiary may engage in one or more of the
19 following activities:

20 (i) Lending, exchanging, transferring, investing for others or
21 safeguarding money or securities;

22 (ii) acting as agent or broker for purposes of insuring, guaranteeing or
23 indemnifying against loss, harm, damage, illness, disability, death or
24 providing annuities as agent or broker subject to the requirements of
25 chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

26 (iii) issuing or selling instruments representing interests in pools or
27 assets permissible for a bank to hold directly;

28 (iv) operating a travel agency; and

29 (v) activities that are financial in nature as determined by the
30 commissioner.

31 (B) Such activities do not include:

32 (i) Insuring, guaranteeing or indemnifying against loss, harm,
33 damage, illness, disability, death or providing or issuing annuities the
34 income of which is subject to tax treatment under 26 U.S.C. § 72;

35 (ii) real estate development or real estate investment, except as
36 otherwise expressly authorized by Kansas law; or

37 (iii) any activity permitted for financial holding companies under 12
38 U.S.C. § 1843(k)(4)(H) and (I).

39 (C) As used in subsection (a)(25), "control" means:

40 (i) Directly or indirectly owning, controlling or having power to vote
41 25% or more of any class of the voting shares of a financial subsidiary;

42 (ii) controlling in any manner the election of a majority of the
43 directors or trustees of the financial subsidiary; or

1 (iii) otherwise directly or indirectly exercising a controlling influence
2 over the management or policies of the financial subsidiary, as determined
3 by the commissioner;

4 (26) to maintain and operate a postal substation on banking premises,
5 in accordance with the rules and regulations of the United States postal
6 service. The bank may advertise the services of the substation for the
7 purpose of attracting customers to the bank and receive income therefrom.
8 The bank shall keep the books and records of the substation separate from
9 ~~those~~ *the records* of other banking operations;

10 (27) with prior approval of the commissioner, to invest in foreign
11 bonds an amount not to exceed 1% of the bank's capital or surplus as long
12 as such bonds comply with the form and definition of investment
13 securities;

14 (28) to act as an agent for any credit life, health and accident
15 insurance, sometimes referred to as credit life and disability insurance, and
16 mortgage life and disability insurance in connection with extensions of
17 credit and only as a source of protection for such extension of credit;

18 (29) to act as agent for any fire, life or other insurance company
19 authorized to do business in this state at any approved office of the bank
20 which is located in any place the population does not exceed 5,000
21 inhabitants. Such insurance may be sold to existing and potential
22 customers of the bank regardless of the geographic location of the
23 customers;

24 (30) to become a stockholder and member of the federal reserve bank
25 of the federal reserve district where such bank is located;

26 (31) with prior approval of the commissioner, to acquire the stock of,
27 or establish and operate a subsidiary to acquire the stock of, another
28 insured depository institution or the holding company of the insured
29 depository institution provided such acquisition is incidental to a
30 reorganization otherwise authorized by the law of this state and which
31 occurs nearly simultaneously with such acquisition;

32 (32) with prior approval of the commissioner, to establish and operate
33 a subsidiary for the purpose of owning, holding and managing all or part
34 of the bank's securities portfolio provided the parent bank owns 100% of
35 the stock of the subsidiary and the subsidiary shall not own, hold or
36 manage securities for any party other than the parent bank. The subsidiary
37 shall be subject to:

38 (A) All banking laws and rules and regulations applicable to the
39 parent bank unless otherwise provided;

40 (B) consolidation with the parent bank of pertinent book figures for
41 the purpose of applying all applicable statutory limitations including, but
42 not limited to, capital requirements, owning and holding real estate and
43 legal lending limitations;

1 (C) examination and supervision by the commissioner, the cost and
2 responsibility of which will be attributable to the parent bank; and

3 (D) any additional terms or conditions required by the commissioner
4 to address any legal or safety and soundness concerns;

5 (33) with prior approval of the commissioner, to establish or acquire
6 operating subsidiaries for the purpose of engaging in any activity which is
7 part or incidental to the business of banking as long as the parent bank
8 owns at least 50% of the stock of the subsidiary. The subsidiary shall be
9 subject to:

10 (A) All banking laws and regulations applicable to the parent bank
11 unless otherwise provided;

12 (B) consolidation with the parent bank of pertinent book figures for
13 the purpose of applying all applicable statutory limitations including, but
14 not limited to, capital requirements, owning and holding real estate and
15 legal lending limitations;

16 (C) examination and supervision by the commissioner the cost and
17 responsibility of which will be attributable to the parent bank; and

18 (D) any additional terms or conditions required by the commissioner
19 to address any legal or safety and soundness concerns;

20 (34) to invest in, without limitation, obligations of or obligations
21 which are insured as to principal and interest by or evidences of
22 indebtedness that are fully collateralized by obligations of the federal
23 home loan banks, the federal national mortgage association, the
24 government national mortgage association, the federal home loan
25 mortgage corporation, the student loan marketing association and the
26 federal farm credit banks; and

27 (35) any bank or trust company may invest in bonds or notes secured
28 by mortgages which in turn are insured or upon which there is a
29 commitment to insure by the federal housing administration, or any
30 successor thereto, in debentures issued by the federal housing
31 administration or ~~its~~ any successor, and in obligations of national mortgage
32 associations.

33 (b) Any bank hereby is authorized to exercise by the bank's board of
34 directors or duly authorized officers or agents, subject to approval by the
35 commissioner, any incidental power necessary to carry on the business of
36 banking.

37 Sec. 22. K.S.A. 2015 Supp. 9-1102 is hereby amended to read as
38 follows: 9-1102. (a) Any bank or trust company may own, purchase, lease,
39 hold, encumber or convey real property, including any building or
40 buildings necessary for the bank's or trust company's accommodation in
41 the transaction of its business. Real property shall be disposed of or
42 charged off the bank's or trust company's books not later than seven years
43 after the real property's intended use for bank or trust purposes ends.

1 Before the end of the holding period, a bank or trust company may request
2 authorization from the commissioner to hold the real property for an
3 additional year. No bank or trust company shall be granted more than three
4 requests for additional time to hold any one parcel of real property.

5 (b) Any bank or trust company may own, purchase, lease, hold,
6 encumber or convey certain personal property necessary for the bank's or
7 trust company's accommodation in the transaction of such bank's or trust
8 company's business.

9 (c) Any bank may own all or part of the stock in a single trust
10 company or safe deposit company organized under the laws of the state of
11 Kansas.

12 (d) Any bank may own all of the stock in a corporation or limited
13 liability company organized under the laws of the state of Kansas, owning
14 real estate, all or a part of which is occupied or to be occupied by the bank
15 or trust company.

16 (e) A bank's or trust company's total investment or ownership at all
17 times in any one or more of the following shall not exceed 50% of ~~its~~
18 ~~unimpaired capital stock, surplus, undivided profits and capital notes and~~
19 ~~debentures and the total of capital stock, surplus, undivided profits, 100%~~
20 ~~of the allowance for loan and lease loss, capital notes and debentures and~~
21 ~~reserve for contingencies. For purposes of this subsection, intangibles,~~
22 ~~such as goodwill, shall not be included in the calculation of capital.~~ Any
23 such excess shall be removed from the bank's or trust company's books
24 unless approval is granted by the commissioner:

25 (1) The book value of real estate plus all encumbrances thereon;
26 (2) the book value of furniture and fixtures;
27 (3) the book value of stock in a safe deposit company;
28 (4) the book value of stock in a trust company; or
29 (5) the book value of stock in a corporation organized under the laws
30 of this state owning real estate occupied by the bank or trust company and
31 advances to such corporation acquired or made after July 1, 1973, except
32 that any real estate not necessary for the accommodation of the bank's or
33 trust company's business shall be disposed of or charged off its books
34 according to subsection (a).

35 (f) Any bank or trust company may acquire or purchase real estate in
36 satisfaction of any debts due such bank or trust company, and may
37 purchase real estate at judicial sales, subject to the following:

38 (1) No bank or trust company shall bid at any judicial sale a larger
39 amount than is necessary to protect its debts and costs.

40 (2) No real estate or interest in oil and gas leasehold acquired in the
41 satisfaction of debts or upon judicial sales shall be carried as a book asset
42 of the bank or trust company for more than 10 years.

43 (3) At the termination of the 10 years such real estate shall be charged

1 off. The commissioner may grant an extension not to exceed four years, if
2 in the commissioner's judgment, ~~it will be to the advantage of the bank or~~
3 ~~trust company to carry~~ *carrying* the real estate as an asset for such
4 extended period *will be to the advantage of the bank or trust company*.
5 Any such extensions issued shall be reviewed by the commissioner on an
6 annual basis.

7 (g) No bank or trust company may buy and sell real estate as a
8 business.

9 (h) A bank may hold or sell any personal property coming into
10 ownership of the bank in the collection of debts. All such property, except
11 legal investments, shall be sold within one year of acquisition, provided a
12 commercially reasonable sale can occur. If a commercially reasonable sale
13 cannot occur within one year, the commissioner may authorize a bank to
14 carry such property as a book asset for a longer period. The bank shall not
15 carry such property as a nonbook asset.

16 (i) The time periods for holding real estate or other property shall
17 begin when:

18 (1) The bank has received title or deed to the property;

19 (2) the property is in a redemption period following the bank's
20 purchase at a judicial sale; or

21 (3) the bank has actual control of the property.

22 (j) With prior notification to the commissioner, any bank may operate
23 a wholly owned subsidiary corporation or limited liability company which
24 holds and manages property acquired through debt previously contracted.
25 The subsidiary shall be subject to:

26 (1) All banking laws and rules and regulations applicable to the
27 parent bank unless otherwise provided;

28 (2) consolidation with the parent bank of pertinent book figures for
29 the purpose of applying all applicable statutory limitations including, but
30 not limited to, capital requirements, owning and holding real estate and
31 legal lending limitations;

32 (3) examination and supervision by the commissioner, the cost and
33 responsibility of which will be attributable to the parent bank; and

34 (4) any additional terms or conditions required by the commissioner
35 to address any legal or safety and soundness concerns.

36 (k) (1) With prior approval of the commissioner, any bank may
37 exchange such bank's participation interest in real estate acquired or
38 purchased in satisfaction of any debts previously contracted for an interest
39 in a corporation or limited liability company which will manage, market
40 and dispose of the real property. Prior to the exchange, the bank's directors
41 must:

42 (A) Find and document that the exchange is in the best interest of the
43 bank and would improve the ability of the bank to recover, or otherwise

1 limit, the bank's loss on real estate acquired through debts previously
2 contracted;

3 (B) certify that the bank's loss exposure is limited, as a legal and
4 accounting matter, and that the bank does not have open-ended liability for
5 the obligations of the corporation or limited liability company;

6 (C) certify that the corporation or limited liability company agrees to
7 be subject to the supervision and examination by the commissioner; and

8 (D) ensure that the corporation or limited liability company complies
9 with this section and K.A.R. 17-11-17, including obtaining a current
10 appraisal of the real estate.

11 (2) A bank may not further exchange the bank's interest in the
12 corporation or limited liability company for an interest in any other real or
13 personal property.

14 Sec. 23. K.S.A. 2015 Supp. 9-1104 is hereby amended to read as
15 follows: 9-1104. (a) *Definitions*. As used in this section:

16 (1) "Borrower" means an individual, sole proprietorship, partnership,
17 joint venture, association, trust, estate, business trust, corporation, limited
18 liability company, not-for-profit corporation, state government of the
19 United States or a United States government unit or agency,
20 instrumentality or political subdivision thereof or any similar entity or
21 organization.

22 (2) "Capital" means the total of capital stock, surplus, undivided
23 profits, 100% of the allowance for loan and lease loss, capital notes and
24 debentures and reserve for contingencies. Intangibles, such as goodwill,
25 shall not be included in the definition of capital when determining lending
26 limits.

27 (3) "Loan" means:

28 (A) A bank's direct or indirect advance of funds to or on behalf of a
29 borrower based on an obligation of the borrower to repay the funds;

30 (B) a contractual commitment to advance funds;

31 (C) an overdraft;

32 (D) loans that have been charged off the bank's books in whole or in
33 part, unless the loan is unenforceable by reason of:

34 (i) Discharge in bankruptcy;

35 (ii) expiration of the statute of limitations;

36 (iii) judicial decision; or

37 (iv) the bank's forgiveness of the debt;

38 (E) any credit exposure to a borrower arising from a derivative
39 transaction, repurchase agreement, reverse repurchase agreement,
40 securities lending transaction or securities borrowing transaction between
41 a bank and that borrower.

42 (4) "Derivative transaction" means any transaction that is a contract,
43 agreement, swap, warrant, note or option that is based in whole, or in part,

1 on the value of any interest in, or any quantitative measure or the
2 occurrence of any event relating to, one or more commodities, securities,
3 currencies, interest or other rates, indices or other assets.

4 (b) *General lending limit rule.* Subject to the provisions in
5 subsections (d), (e) and (f), loans to one borrower, including any bank
6 officer or employee, shall not exceed 25% of a bank's capital.

7 (c) *Calculation of the lending limit.* (1) The bank's lending limit shall
8 be calculated on the date the loan or written commitment is made. The
9 renewal or refinancing of a loan shall not constitute a new lending limit
10 calculation date unless new funds are advanced.

11 (2) If the bank's lending limit increases subsequent to the origination
12 date, a bank may use the current lending limit to determine compliance
13 when advancing funds. An advance of funds includes the lending of
14 money or the repurchase of any portion of a participation.

15 (3) If the bank's lending limit decreases subsequent to the origination
16 date, a bank is not prohibited from advancing on a prior commitment that
17 was legal on the date the commitment was made.

18 (d) *Exemptions.* (1) Overnight federal funds.

19 (2) That portion of a loan which is continuously secured on a dollar
20 for dollar basis by any of the following will be exempt from any lending
21 limit:

22 (A) A guaranty, commitment or agreement to take over or to
23 purchase, made by any federal reserve bank or by any department, bureau,
24 board, commission, agency or establishment of the United States of
25 America, including any corporation wholly owned, directly or indirectly
26 by the United States;

27 (B) a perfected interest in a time deposit account in the lending bank.
28 In the case of a time deposit which may be withdrawn in whole or in part
29 prior to maturity, the bank shall establish written internal procedures to
30 prevent the release of the deposit;

31 (C) a bonded warehouse receipt issued to the borrower by some other
32 person;

33 (D) treasury bills, certificates of indebtedness or bonds or notes of, *or*
34 *fully guaranteed by*, the United States of America or instrumentalities or
35 agencies thereof ~~or those fully guaranteed by them~~;

36 (E) general obligation bonds or notes of the state of Kansas or any
37 other state in the United States of America;

38 (F) general obligation bonds or notes of any Kansas municipality or
39 quasi-municipality; or

40 (G) a perfected interest in a repurchase agreement of United States
41 government securities with the lending bank.

42 (e) *Special rules.* (1) The total liability of any borrower may exceed
43 the general 25% limit by up to an additional 10% of the bank's capital. To

1 qualify for this expanded limit:

2 (A) The bank shall have as collateral a recorded first lien or liens on
3 real estate securing a portion of the borrower's total liability equal to at
4 least the amount by which the total liability exceeds the 25% limit;

5 (B) the appraised value of the real estate shall equal at least twice the
6 amount by which the borrower's total liability exceeds the 25% limit; and

7 (C) a portion of the borrower's total liability, equal to at least the
8 amount by which the total liability exceeds the 25% limit, shall amortize
9 within 20 years by regularly scheduled installment payments.

10 (2) That portion of any loan endorsed or guaranteed by a borrower
11 will not be added to that borrower's liability until the endorsed or
12 guaranteed loan is past due 10 days.

13 (3) If the total liability of any shareholder owning 25% or more of
14 any class of voting shares, officers or directors will exceed \$50,000, prior
15 approval from the bank's board of directors shall be noted in the minutes.

16 (4) To the extent ~~they~~ *time deposits* are insured by the federal deposit
17 insurance corporation, ~~time~~ *such* deposits purchased by a bank from
18 another financial institution shall not be considered a loan to that financial
19 institution and shall not be subject to the bank's lending limit.

20 (5) Third-party paper purchased by the bank will not be considered a
21 loan to the seller unless and until the bank has the right under the
22 agreement to require the seller to repurchase the paper.

23 (f) *Combination rules.*

24 (1) *General rule.* Loans to one borrower will be attributed to another
25 borrower and ~~their~~ *the borrowers'* total liability will be combined:

26 (A) When proceeds of a loan are to be used for the direct benefit of
27 the other borrower, to the extent of the proceeds so used; or

28 (B) when a common enterprise is deemed to exist between the
29 borrowers.

30 (2) *Direct benefit.* The proceeds of a loan to a borrower will be
31 deemed to be used for the direct benefit of another person and will be
32 attributed to the other person when the proceeds, or assets purchased with
33 the proceeds, are transferred to another person, other than in a bona fide
34 arm's length transaction where the proceeds are used to acquire property,
35 goods or services.

36 (3) *Common enterprise.* A common enterprise will be deemed to exist
37 and loans to separate borrowers will be aggregated:

38 (A) When the expected source of repayment for each loan or
39 extension of credit is the same for each borrower and neither borrower has
40 another source of income from which the loan, together with the
41 borrower's other obligations, may be fully repaid;

42 (B) when both of the following circumstances are present:

43 (i) Loans are made to borrowers ~~who~~ *that* are related directly or

1 indirectly through common control, including where one borrower is
2 directly or indirectly controlled by another borrower. Common control
3 means to own, control or have the power to vote 25% or more of any class
4 of voting securities or voting interests or to control, in any manner, the
5 election of a majority of the directors or to have the power to exercise a
6 controlling influence over the management or policies of another person;
7 and

8 (ii) substantial financial interdependence exists between or among the
9 borrowers. Substantial financial interdependence is deemed to exist when
10 50% or more of one borrower's gross receipts or gross expenditures, on an
11 annual basis, are derived from transactions with the other borrower. Gross
12 receipts and expenditures include gross revenues, expenses, intercompany
13 loans, dividends, capital contributions and similar receipts or payments; or

14 (C) when separate persons borrow from a bank to acquire a business
15 enterprise of which those borrowers will own more than 50% of the voting
16 securities or voting interests, in which case a common enterprise is
17 deemed to exist between the borrowers for purposes of combining the
18 acquisition loan.

19 (D) An employer will not be treated as a source of repayment for
20 purposes of determining a common enterprise because of wages and
21 salaries paid to an employee.

22 (4) *Special rules for loans to a corporate group.* (A) Loans by a bank
23 to a borrower and the borrower's subsidiaries shall not, in the aggregate,
24 exceed 50% of the bank's capital. At no time shall loans to any one
25 borrower or to any one subsidiary exceed the general lending limit of 25%,
26 except as allowed by other provisions of this section. For purposes of this
27 paragraph, a corporation or a limited liability company is a subsidiary of a
28 borrower if the borrower owns or beneficially owns directly or indirectly
29 more than 50% of the voting securities or voting interests of the
30 corporation or company.

31 (B) Loans to a borrower and a borrower's subsidiaries that do not
32 meet the test contained in subsection (f)(4)(A) will not be combined unless
33 either the direct benefit or the common enterprise test is met.

34 (5) *Special rules for loans to partnerships, joint ventures and*
35 *associations.* (A) As used in this paragraph, the term "partnership" shall
36 include a partnership, joint venture or association. The term partner shall
37 include a partner in a partnership or a member in a joint venture or
38 association.

39 (B) *General partner.* Loans to a partnership are considered to be
40 loans to a partner if, by the terms of the partnership agreement, that partner
41 is held generally liable for debts or actions of the partnership.

42 (C) *Limited partner.* If the liability of a partner is limited by the terms
43 of the partnership agreement, the amount of the partnership debt

1 attributable to the partner is in direct proportion to that partner's limited
2 partnership liability.

3 (D) Notwithstanding the provisions of subsections (f)(5)(B) and (f)(5)
4 (C), if by the terms of the loan agreement the liability of any partner is
5 different than delineated in the partnership agreement, for the purpose of
6 attributing debt to the partner, the loan agreement shall control.

7 (E) Loans to a partner are not attributed to the partnership unless
8 either the direct benefit or the common enterprise test is met.

9 (F) Loans to one partner are not attributed to other partners unless
10 either the direct benefit or common enterprise test is met.

11 (G) When a loan is made to a partner to purchase an interest in a
12 partnership, both the direct benefit and common enterprise tests are
13 deemed to be met, and the loan is attributed to the partnership.

14 (6) Notwithstanding the provisions of this subsection, the
15 commissioner may determine, based upon an evaluation of the facts and
16 circumstances of a particular transaction, that a loan to one borrower may
17 be attributed to another borrower.

18 (g) The commissioner may order a bank to correct any loan not in
19 compliance with this section within 60 days. A violation of this section
20 shall be deemed corrected if that portion of the borrower's liability which
21 created the violation could be legally advanced under current lending
22 limits.

23 Sec. 24. K.S.A. 2015 Supp. 9-1111 is hereby amended to read as
24 follows: 9-1111. The general business of every bank shall be transacted at
25 the place of business specified in the bank's certificate of authority and at
26 one or more branch banks established and operated as provided in this
27 section. It shall be unlawful for any bank to establish and operate any
28 branch bank or relocate an existing branch bank except as hereinafter
29 provided. Notwithstanding the provisions of this section, any location at
30 which a depository institution, as defined by K.S.A. 9-701, and
31 amendments thereto, receives deposits, renews time deposits, closes loans,
32 services loans or receives payments on loans or other obligations, as agent,
33 for a bank pursuant to K.S.A. 9-1101(a)(25), and amendments thereto, or
34 other applicable state or federal law, or is authorized to open accounts or
35 receive deposits under K.S.A. 9-1101(a)(28), and amendments thereto,
36 shall not be deemed to be a branch bank:

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

43 (b) establishment of a new branch *bank* or relocation of an existing

1 ~~branch-for-eligible~~ banks:

2 (1) After first applying for and obtaining the approval of the
3 commissioner, a bank incorporated under the laws of this state, may
4 establish and operate one or more branch banks or relocate an existing
5 branch bank, anywhere within this state;

6 (2) the application shall include the nature of the banking business to
7 be conducted at the proposed branch bank, the primary geographical area
8 to be served by the proposed branch bank, the personnel and office
9 facilities to be provided at the proposed branch bank and other information
10 the commissioner may require;

11 (3) the application shall include the name selected for the proposed
12 branch bank. The name selected for the proposed branch bank shall not be
13 the name of any other bank or branch bank: (A) Doing business in the
14 same city or town; or

15 (B) within a 15-mile radius of the proposed location, nor shall the
16 name selected be required to contain the name of the applicant bank. If the
17 name selected for the proposed branch bank does not contain the name of
18 the applicant bank, the branch bank shall provide in the public lobby of
19 such branch bank, a public notice that it is a branch bank of the applicant
20 bank. Any bank may request exemption from the commissioner from the
21 provisions of this paragraph;

22 (4) the application shall include proof of publication of notice that the
23 applicant bank intends to file or has filed an application to establish a
24 branch bank or relocate an existing branch bank. The notice shall be
25 published in a newspaper of general circulation in the county where the
26 applicant bank proposes to locate the branch bank. The notice shall be in
27 the form prescribed by the commissioner and at a minimum shall contain
28 the 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 (5) upon receipt of the application, and following expiration of the
34 comment period, the commissioner may hold a hearing in the county in
35 which the applicant bank seeks to operate the branch bank. The applicant
36 shall publish notice of the time, date and place of such hearing in a
37 newspaper of general circulation in the county where the applicant bank
38 proposes to locate the branch bank, not less than 10, nor more than 30,
39 days prior to the date of the hearing, and proof of publication shall be filed
40 with the commissioner. At any such hearing, all interested persons shall be
41 allowed to present written and oral evidence to the commissioner, or the
42 commissioner's designee, in support of or in opposition to the branch bank.
43 Upon completion of a transcript of the testimony given at any such

1 hearing, the transcript shall be filed in the office of the commissioner;

2 (6) if the commissioner determines a public hearing is not warranted,
3 the commissioner shall approve or disapprove the application within 15
4 days after receipt of a complete application, but not prior to the end of the
5 comment period. If a public hearing is held, the commissioner shall
6 approve or disapprove the application within 60 days after consideration of
7 the complete application and the evidence gathered during the
8 commissioner's investigation. The period for consideration of the
9 application may be extended if the commissioner determines the
10 application presents a significant supervisory concern. The new branch or
11 relocation shall only be granted if the commissioner finds that:

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

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

15 (7) within 15 days after any final action of the commissioner
16 approving or disapproving an application, the applicant, or any adversely
17 affected or aggrieved person ~~who~~ *that* provided written comments during
18 the specified comment period, may request a hearing with the state
19 banking board. Upon receipt of a timely request, the state banking board
20 shall conduct a hearing in accordance with the provisions of the Kansas
21 administrative procedure act. Any decision of the state banking board is
22 subject to review in accordance with the Kansas judicial review act;

23 (c) upon the request of any bank ~~or trust company~~ proposing to
24 relocate an existing branch less than one mile from the existing location,
25 the commissioner may exempt such bank ~~or trust company~~ from the
26 requirements of this section;

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

30 (e) any bank location which has been established and is being
31 maintained by a bank at the time of ~~its~~ *the bank's* merger into or
32 consolidation with another bank or at the time the bank's assets are
33 purchased and the bank's liabilities are assumed by another bank may
34 continue to be operated by the surviving, resulting or purchasing and
35 assuming bank;

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

41 (g) as a condition to the operation and use of any remote service unit
42 in this state, a state bank or national banking association, each hereinafter
43 referred to as a bank, which desires to operate or enable its customers to

1 utilize a remote service unit must agree that such remote service unit will
2 be available for use by customers of any other bank or banks upon the
3 request of such bank or banks to share ~~its use~~ *the use of the remote service*
4 *unit* and the agreement of such bank or banks to share all costs, including a
5 reasonable return on capital expenditures incurred in connection with the
6 remote service unit's development, installation and operation. The owner
7 of the remote service unit, whether a bank or any other person, shall make
8 the remote service unit available for use by other banks and their
9 customers on a nondiscriminatory basis, conditioned upon payment of a
10 reasonable proportion of all costs, including a reasonable return on capital
11 expenditures incurred in connection with the development, installation and
12 operation of the remote service unit. Notwithstanding the foregoing
13 provisions of this subsection, a remote service unit located on the property
14 owned or leased by the bank where the principal place of business of a
15 bank, ~~or an attached auxiliary teller facility~~ or branch bank of a bank, is
16 located need not be made available for use by any other bank or banks or
17 customers of any other bank or banks;

18 (h) for purposes of this section, "remote service unit" means an
19 electronic information processing device, including associated equipment,
20 structures and systems, through or by means of which information relating
21 to financial services rendered to the public is stored and transmitted to a
22 bank and which, for activation and account access, is dependent upon the
23 use of a machine-readable instrument in the possession and control of the
24 holder of an account with a bank or is activated by a person upon
25 verifiable personal identification. The term shall include "online" computer
26 terminals which may be equipped with a telephone or televideo device that
27 allows contact with bank personnel and "offline" automated cash
28 dispensing machines and automated teller machines. Withdrawals by
29 means of "offline" systems shall not exceed \$300 per transaction and shall
30 be restricted to individual not corporate or commercial accounts;

31 (i) upon providing notice to the commissioner, any state bank may
32 conduct loan production activity at locations other than the place of
33 business specified in the bank's certificate of authority or approved branch
34 banks.

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

36 (A) Soliciting, assembling or processing of credit information and
37 loan applications;

38 (B) approval of loan applications; or

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

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

43 (j) upon providing notice to the commissioner, any state bank may

1 conduct deposit production activity at locations other than the place of
2 business specified in the bank's certificate of authority or approved branch
3 banks provided there is no acceptance of actual deposits in person or by
4 drop box;

5 (k) upon providing notice to the commissioner, any state bank may
6 provide any of the following at a location other than the place of business
7 specified in the bank's certificate of authority without becoming a branch
8 bank:

9 (1) Operate safe deposit boxes;

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

11 (3) operate check cashing services so long as no actual account
12 withdrawal occurs;

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

16 Sec. 25. K.S.A. 2015 Supp. 9-1112 is hereby amended to read as
17 follows: 9-1112. (a) No bank *or trust company* shall buy, sell or trade
18 tangible property as a business or invest in the stock of another bank or
19 corporation, except as specifically authorized.

20 (b) Unless prior approval of the commissioner is granted, no bank *or*
21 *trust company* shall sell, give or purchase any instrument, contract,
22 security or other asset or asset dividend to or from:

23 (1) Any employee or to an employee's related interest;

24 (2) any director or to a director's related interest;

25 (3) the ~~bank's~~ parent company; or

26 (4) a subsidiary of the ~~bank's~~ parent company.

27 This paragraph shall not apply to assignment of loans and related
28 security agreements to or from a subsidiary of the bank's parent company.

29 (c) No bank shall acquire or make a loan on the bank's own shares of
30 stock, or the stock of the bank's parent company or a subsidiary of the
31 bank's parent company, except as otherwise specifically authorized.

32 (d) No bank shall give any preference to any depositor either by
33 pledging any of the bank's assets as collateral security or in any other
34 manner, except:

35 (1) As provided under the provisions of K.S.A. 9-1603, and
36 amendments thereto; and

37 (2) the deposit of public moneys and funds in the custody of the
38 federal court or any of the court's officers may be secured as elsewhere
39 provided in the state banking code or as required by the federal court.

40 Sec. 26. K.S.A. 2015 Supp. 9-1114 is hereby amended to read as
41 follows: 9-1114. (a) The business of any bank or trust company shall be
42 managed and controlled by such bank's or trust company's board of
43 directors.

1 (b) The board shall consist of not less than five nor more than 25
2 members who shall be elected by the stockholders at any regular annual
3 meeting which shall be held on the date specified in the bank's or trust
4 company's bylaws. A majority of the directors shall be residents of this
5 state.

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

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

13 (e) Any newly created directorship must be approved and elected by
14 the shareholders in the manner provided in the general corporation code. A
15 special meeting of the shareholders may be convened at any time for such
16 purpose.

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

19 (g) Any director of any bank or trust company who shall become
20 indebted to such bank or trust company on any judgment or whose
21 indebtedness is charged off or forgiven shall forfeit such person's position
22 as director.

23 (h) Within 15 days after the annual meeting the president or cashier
24 of every bank and every trust company shall submit to the commissioner a
25 certified list of stockholders and the number of shares owned by each. This
26 list of stockholders shall be kept and maintained in the bank's or trust
27 company's main office and shall be subject to inspection by all
28 stockholders during the business hours of the bank or trust company. The
29 commissioner may require the list to be filed using an electronic means.

30 (i) Each director shall take and subscribe an oath to administer the
31 affairs of such bank or trust company diligently and honestly and to not
32 knowingly or willfully permit any of the laws relating to banks or trust
33 companies to be violated. A copy of each oath shall be ~~filed with the~~
34 ~~commissioner within 15 days of the election of any officer or director~~
35 *retained by the bank or trust company in the bank's or trust company's*
36 *records after the election of any officer or director, for review by the*
37 *commissioner's staff during the next examination.* The commissioner may
38 require the oath to be filed using an electronic means.

39 (j) Every bank and trust company shall notify the commissioner of
40 any change in the chief executive officer, president or directors, including
41 in such bank's or trust company's report a statement of the past and current
42 business and professional affiliations of the new chief executive officer,
43 president or directors.

1 Sec. 27. K.S.A. 2015 Supp. 9-1122 is hereby amended to read as
2 follows: 9-1122. (a) As used in this section:

3 (1) "Officers" means the person or persons designated by the board of
4 directors of a bank or trust company to act for the bank or trust company in
5 carrying out the provisions of this act or, in the absence of any such
6 designation or of the officer or officers so designated, the president or any
7 other officer currently in charge of the bank or trust company;

8 (2) "office" means any place at which a bank transacts business; *and*

9 (3) "emergency" means any condition or occurrence which may
10 interfere physically with the conduct of normal business operations at the
11 offices of a bank or trust company or which poses an imminent or existing
12 threat to the safety or security of persons or property, or both. An
13 emergency may arise as a result of and any one or more of the following,
14 but is not limited to, fire, flood, earthquake, hurricane, tornado, wind, rain
15 or snow storm, labor strike by bank or trust company employees, power
16 failure, transportation failure, interruption of communications facilities,
17 shortage of fuel, housing, food, transportation or labor, robbery or
18 attempted robbery, actual or threatened enemy attack, epidemic or other
19 catastrophe, riot, civil commotion and other acts of lawlessness or
20 violence, actual or threatened.

21 (b) A bank or trust company may remain closed on any one business
22 day of every week or may make a permanent change in the bank's or trust
23 company's hours of business. The bank or trust company shall post the
24 resolution in a conspicuous place at the main office and all branch
25 locations of the bank or trust company at least 15 days in advance of any
26 closing or change in business hours. If the business day designated in any
27 resolution regarding closing is a legal public holiday, the bank or trust
28 company may close on the business day preceding or following the legal
29 public holiday.

30 (c) The officers of a bank or trust company may close the bank's or
31 trust company's offices on any day or days designated by proclamation of
32 the president of the United States or the governor or legislature of this
33 state, as a day or days of mourning, rejoicing or other special observance
34 and on such other day or days of local or special observance—as in the
35 reasonable and proper exercise of their discretion the officers feel the bank
36 or trust company should observe. If the bank or trust company is closed
37 pursuant to this subsection, the bank or trust company shall give
38 reasonable notice of the closing by posting a notice in a conspicuous place
39 at the main office and all branch locations of the bank or trust company
40 and through any other means the bank or trust company deems
41 appropriate, including publication in a newspaper of general circulation in
42 the community, if time allows.

43 (d) Whenever the officers of a bank or trust company are of the

1 opinion that an emergency exists, or is impending, which affects, or may
2 affect, a bank's or trust company's offices, the officers shall have the
3 authority, in the reasonable and proper exercise of the officers' discretion,
4 to determine not to open such offices on any business or banking day or, if
5 having opened, to close such offices during the continuation of such
6 emergency. The officers shall notify the commissioner of the emergency,
7 the closing, the duration and the subsequent reopening within 48 hours of
8 any such event, if practical. In no case shall such offices remain closed for
9 more than 48 consecutive hours, excluding other legal holidays, without
10 requesting and obtaining the approval of the commissioner.

11 (e) Every day on which any bank or trust company shall remain
12 closed pursuant to this section shall be deemed a holiday for all of the
13 purposes of chapter 84 of the Kansas Statutes Annotated, and amendments
14 thereto, and with respect to any bank or trust company business of any
15 character. No bank or trust company shall be required to permit access to
16 the bank's or trust company's safe, deposit vault or vaults on any such day.
17 Where the terms of a contract requires the payment of money or the
18 performance of a condition on any such day by, through, with or at any
19 bank or trust company, then the payment may be made or condition
20 performed on the next business day with the same force and effect as if
21 made or performed in accordance with the terms of the contract. No
22 liability or loss of rights of any kind shall result from the delay.

23 (f) The posting of the notice provided for in this section shall be
24 notice to everyone of the closing or change in hours of the bank or trust
25 company, and thereafter no liability shall be incurred by the bank or trust
26 company by reason of closing or changing the bank hours pursuant to this
27 section.

28 (g) The provisions of this section shall be construed and applied as
29 being in addition to, and not in substitution for, or limitation of, any other
30 law of this state or of the United States, authorizing the closing of a bank
31 or trust company or excusing the delay by a bank or trust company in the
32 performance of the bank's or trust company's duties and obligations
33 because of emergencies or conditions beyond the bank's or trust company's
34 control or otherwise.

35 Sec. 28. K.S.A. 2015 Supp. 9-1124 is hereby amended to read as
36 follows: 9-1124. No limitation or prohibition otherwise imposed by any
37 provision of state law exclusively relating to banks shall prevent any state
38 bank or banks from investing not more than 10% of the paid-in and
39 unimpaired capital and unimpaired surplus in a bank service company. No
40 bank shall invest more than 5% of ~~its~~ *the bank's* total assets in bank service
41 companies.

42 Sec. 29. K.S.A. 2015 Supp. 9-1127c is hereby amended to read as
43 follows: 9-1127c. (a) No state bank shall invest in the capital stock of a

1 bank service company that performs any service under K.S.A. 9-1127b(c),
2 (d) or (e), and amendments thereto, without the prior approval of the
3 commissioner.

4 (b) No state bank shall invest in the capital stock of a bank service
5 company that performs any service under authority of K.S.A. 9-1127b(f),
6 and amendments thereto, and no bank service company shall perform any
7 activity under K.S.A. 9-1127b(f), and amendments thereto, without the
8 prior approval of the commissioner.

9 (c) In determining whether to approve or deny any application for
10 prior approval under K.S.A. 9-1124 through 9-1127c, and amendments
11 thereto, the commissioner is authorized to consider the financial and
12 managerial resources and future prospects of the bank or banks and bank
13 service company involved, including the financial capability of the bank to
14 make a proposed investment under this act, and possible adverse affects
15 such as undue concentration of resources, unfair or decreased competition,
16 conflicts of interest or unsafe or unsound banking practices.

17 (d) In the event the commissioner fails to act on any application under
18 this section within 90 days of the submission of a complete application ~~to~~
19 ~~them~~, the application shall be deemed approved.

20 Sec. 30. K.S.A. 2015 Supp. 9-1130 is hereby amended to read as
21 follows: 9-1130. (a) Every bank and trust company shall retain such bank's
22 and trust company's business records for such periods as are or may be
23 prescribed by or in accordance with the provisions of this section.

24 (b) Each bank and trust company shall retain permanently such bank's
25 or trust company's:

- 26 (1) Minute books of ~~its~~ *the* stockholders and directors;
- 27 (2) capital stock ledger and capital stock certificate ledger or stubs;
- 28 (3) general ledger or the record kept in lieu thereof;
- 29 (4) daily statements of condition; and
- 30 (5) all records which the commissioner shall, in accordance with the
31 provisions of this section, require to be retained permanently.

32 (c) All other records of a bank or trust company shall be retained for
33 such periods as the commissioner shall *prescribe*, in accordance with the
34 provisions of this section, ~~prescribe~~.

35 (d) The commissioner shall, in accordance with the provisions of
36 K.S.A. 9-1713, and amendments thereto, adopt and promulgate rules and
37 regulations classifying all records kept by banks and trust companies,
38 prescribing the period for which records of each class shall be retained,
39 and requiring to be kept such record of destruction of records as the
40 commissioner deems advisable. Such periods may be permanent or for a
41 term of years. Prior to the adoption, amendment or revocation of such
42 rules and regulations the commissioner shall consider:

- 43 (1) Actions and administrative proceedings in which the production

1 of bank or trust company records might be necessary or desirable;

2 (2) state and federal statutes of limitation applicable to such actions
3 or proceedings;

4 (3) the availability of information contained in bank and trust
5 company records from other sources; and

6 (4) such other matters as the commissioner shall deem pertinent to the
7 interest of customers and shareholders of banks and trust companies and of
8 the people of this state having such records available.

9 (e) Any bank or trust company may destroy any record which has
10 been retained for the period prescribed, in accordance with the terms of
11 this section for retention of records of such bank's or trust company's class,
12 and shall, after destroying such record, thereafter be under no duty to
13 produce such record.

14 (f) In lieu of retention of the original records with the exception of the
15 document or documents creating the fiduciary relationship, any bank or
16 trust company may cause any, or all, of such bank's or trust company's
17 records, and records at any time in the custody of such bank or trust
18 company, including those held by it as a fiduciary, to be photographed or
19 otherwise reproduced to permanent form. Any such photograph or
20 reproduction shall have the same force and effect as the original thereof
21 and be admitted in evidence equally with the original.

22 (g) Any bank or trust company may cause any, or all, transactions,
23 information and data occurring in the regular course of such bank's or trust
24 company's operations to be recorded and maintained by electronic means.
25 When the electronic records of such transactions, information and data are
26 converted to writing, such writings shall constitute the original records of
27 such transactions, information and data and shall have the force and effect
28 thereof.

29 (h) To the extent that ~~they~~ *the provisions of this section* are not in
30 contravention of any statute of the United States or regulations
31 promulgated thereunder, the provisions of this section shall apply to all
32 banks and trust companies doing business in this state.

33 (i) Nothing in this section shall be construed to affect any duty of a
34 bank or trust company to preserve the confidentiality of their records.

35 Sec. 31. K.S.A. 2015 Supp. 9-1137 is hereby amended to read as
36 follows: 9-1137. (a) For the purposes of this section:

37 (1) "Bank" means a state chartered or federally chartered bank, trust
38 company or bank holding company as defined in K.S.A. 9-519, and
39 amendments thereto, located in this state;

40 (2) "compliance review committee" means:

41 (A) An audit, loan review or compliance committee appointed by the
42 board of directors of a bank ~~whose~~ *that* functions ~~are~~ to evaluate and ~~seek~~
43 *seeks* to improve loan underwriting standards, asset quality, financial

1 reporting to federal or state regulatory agencies or compliance with federal
2 or state statutory or regulatory requirements; or

3 (B) any other person to the extent the person acts in an investigatory
4 capacity at the direction of a compliance review committee;

5 (3) "compliance review documents" means documents prepared for or
6 created by a compliance review committee;

7 (4) "loan review committee" means a person or group of persons
8 who, on behalf of a bank, reviews loans held by the institution for the
9 purpose of assessing the credit quality of the loans, compliance with the
10 institution's loan policies and compliance with applicable laws and
11 regulations; or

12 (5) "person" means an individual, group of individuals, board,
13 committee, partnership, firm, association, corporation or other entity.

14 (b) Except as provided in subsection (c):

15 (1) Compliance review documents are confidential and are not
16 discoverable or admissible in evidence in any civil action arising out of
17 matters evaluated by the compliance review committee; and

18 (2) compliance review documents delivered to a federal or state
19 governmental agency remain confidential and are not discoverable or
20 admissible in evidence in any civil action arising out of matters evaluated
21 by the compliance review committee.

22 (c) Subsection (b) does not apply to any information required by
23 statute or rules and regulations to be maintained by or provided to a
24 governmental agency while the information is in the possession of the
25 governmental agency to the extent applicable law expressly authorizes ~~its~~
26 disclosure *of such information*.

27 (d) This section may not be construed to limit the discovery or
28 admissibility in any civil action of any documents that are not compliance
29 review documents.

30 Sec. 32. K.S.A. 2015 Supp. 9-1213 is hereby amended to read as
31 follows: 9-1213. When any drawee bank shall be presented with a draft
32 drawn on ~~it~~ *the drawee bank* in the usual course of business by a drawer
33 bank that has failed or been closed by operation of law or legal action, the
34 drawee bank shall accept and pay such draft regardless of having received
35 notice, constructive or otherwise, of the failure or closing of the drawer
36 bank if the:

37 (a) Draft was issued prior to the failure or closing of the drawer bank;

38 (b) drawee bank has, on deposit to the credit of the failed or closed
39 drawer bank, sufficient funds to pay the draft; and

40 (c) drawee bank has received proof that the draft represents payment
41 of cash letters covering checks that had been charged to the individual
42 accounts of the failed or closed drawer bank prior to the failure or closing
43 of the drawer bank.

1 Sec. 33. K.S.A. 2015 Supp. 9-1304 is hereby amended to read as
2 follows: 9-1304. (a) Upon the approval of the commissioner, the receiver
3 or liquidator or the board of directors of any bank which may be closed
4 because of ~~its~~ *the bank's* inability to meet the demands of its depositors
5 may borrow from the federal deposit insurance corporation or its
6 successor, and pledge any part or all of ~~its~~ *the bank's* assets as security.

7 (b) The assets, or any portion thereof, of any bank which may close
8 because of ~~its~~ *the bank's* inability to meet the demands of its depositors
9 may be sold to the federal deposit insurance corporation or its successor
10 upon such terms and conditions as the commissioner shall approve.
11 Nothing contained in this section shall limit the power of any bank, the
12 commissioner or receiver or liquidator thereof to pledge or sell any assets
13 in accordance with other provisions of the state banking code and existing
14 laws.

15 Sec. 34. K.S.A. 2015 Supp. 9-1401 is hereby amended to read as
16 follows: 9-1401. (a) The governing body of any municipal corporation or
17 quasi-municipal corporation shall designate by official action recorded
18 upon ~~its~~ *the governing body's* minutes the banks, savings and loan
19 associations and savings banks which shall serve as depositories of ~~its~~ *the*
20 *governing body's* funds and the officer and official having the custody of
21 such funds shall not deposit such funds other than at such designated
22 banks, savings and loan associations and savings banks. The banks,
23 savings and loan associations and savings banks which have main or
24 branch offices in the county or counties in which all or part of such
25 municipal corporation or quasi-municipal corporation is located shall be
26 designated as such official depositories if the municipal or quasi-municipal
27 corporation can obtain satisfactory security therefor.

28 (b) Every officer or person depositing public funds shall deposit all
29 such public funds coming into ~~such officer~~ *the officer's* or person's
30 possession in their name and official title as such officer. If the governing
31 body of the municipal corporation or quasi-municipal corporation fails to
32 designate an official depository or depositories, the officer thereof having
33 custody of ~~its~~ *the governing body's* funds shall deposit such funds with one
34 or more banks, savings and loan associations or savings banks which have
35 main or branch offices in the county or counties in which all or part of
36 such municipal corporation or quasi-municipal corporation is located if
37 satisfactory security can be obtained therefor ~~and if not then elsewhere, but~~
38 ~~upon so doing.~~ *If the officer having custody is unable to obtain*
39 *satisfactory security at a depository within the county or counties where*
40 *the governing body is located, then the officer may deposit funds*
41 *elsewhere. If the governing body's funds are deposited elsewhere, the*
42 *officer shall serve notice in writing on the governing body showing the*
43 names and locations of ~~such~~ *the* banks, savings and loan associations and

1 savings banks where ~~such~~ *the* funds are deposited, and upon so doing the
2 officer having custody of ~~such~~ *the* funds shall not be liable for the loss of
3 any portion thereof except for official misconduct or for the
4 misappropriation of such funds by such officer.

5 (c) If eligible banks, savings and loan associations or savings banks
6 under subsections (a) or (b) cannot or will not provide an acceptable bid,
7 which shall include services, for the depositing of public funds under this
8 section, then banks, savings and loan associations or savings banks which
9 have main or branch offices in an adjoining county to the county in which
10 all or part of such municipal or quasi-municipal corporation is located may
11 receive deposits of such municipal corporation or quasi-municipal
12 corporation, if such banks, savings and loan associations or savings banks
13 have been designated as official depositories under subsection (a) and the
14 municipal corporation or quasi-municipal corporation can obtain
15 satisfactory security therefor.

16 (d) The depository bank, savings and loan association or savings bank
17 and any agent, trustee, wholly owned subsidiary or affiliate having
18 identical ownership granting a security interest shall enter into a written
19 agreement with the municipal corporation or quasi-municipal corporation
20 which so designates the bank as a depository for the municipal corporation
21 or quasi-municipal corporation's public moneys.

22 (1) The agreement shall secure the public moneys of the municipal
23 corporation or quasi-municipal corporation by granting a security interest
24 in securities held by the depository bank, savings and loan association or
25 savings bank and any agent, trustee, wholly owned subsidiary or affiliate
26 having identical ownership pursuant to K.S.A. 9-1402, and amendments
27 thereto.

28 (2) The depository bank, savings and loan association or savings bank
29 and any agent, trustee, wholly owned subsidiary or affiliate having
30 identical ownership shall perfect the security interest causing control to be
31 given to the municipal corporation or quasi-municipal corporation in
32 accordance with the Kansas uniform commercial code.

33 (3) The security agreement shall be in writing, executed by all parties
34 thereto, maintained as part of ~~their~~ *the parties'* official records, and except
35 for the municipal corporations or quasi-municipal corporations, approved
36 by ~~their~~ *the* boards of directors or ~~their~~ loan committees, which approvals
37 shall be reflected in the minutes of the boards or committees.

38 Sec. 35. K.S.A. 2015 Supp. 9-1402 is hereby amended to read as
39 follows: 9-1402. (a) Before any deposit of public moneys or funds shall be
40 made by any municipal corporation or quasi-municipal corporation of the
41 state of Kansas with any bank, savings and loan association or savings
42 bank, such municipal or quasi-municipal corporation shall obtain security
43 for such deposit in one of the following manners prescribed by this

1 section.

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

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

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

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

38 (3) bonds of the state of Kansas;

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

41 (5) revenue bonds of any municipal corporation or quasi-municipal
42 corporation of the state of Kansas if approved by the commissioner;

43 (6) temporary notes of any municipal corporation or quasi-municipal

1 corporation of the state of Kansas which are general obligations of the
2 municipal or quasi-municipal corporation issuing the same;

3 (7) warrants of any municipal corporation or quasi-municipal
4 corporation of the state of Kansas the issuance of which is authorized by
5 the state board of tax appeals and which are payable from the proceeds of
6 a mandatory tax levy;

7 (8) bonds of either a Kansas not-for-profit corporation or of a local
8 housing authority that are rated at least Aa by Moody's investors service or
9 AA by Standard & Poor's corp.;

10 (9) bonds issued pursuant to K.S.A. 12-1740 et seq., and amendments
11 thereto, that are rated at least MIG-1 or Aa by Moody's investors service or
12 AA by Standard & Poor's corp.;

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

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

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

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

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

26 (i) Are underwritten by the federal national mortgage association, the
27 federal home loan mortgage corporation, the federal housing
28 administration or the veterans administration standards;

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

32 (iii) are valued at not to exceed 50% of the lesser of the following
33 three values: Outstanding mortgage balance, current appraised value of the
34 real estate or discounted present value based upon current federal national
35 mortgage association or government national mortgage association interest
36 rates quoted for conventional, federal housing administration or veterans
37 administration mortgage loans.

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

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

43 (D) A status report on all such loans shall be provided to the investing

1 governmental entity by the financial institution on a quarterly basis.

2 (d) No such bank, savings and loan association or savings bank may
3 deposit and maintain for the benefit of the governing body of a municipal
4 or quasi-municipal corporation of the state of Kansas, any securities which
5 consist of:

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

8 (2) bonds issued under K.S.A. 12-1740 et seq., and amendments
9 thereto, unless such bonds have been refunded in advance of their maturity
10 as provided in subsection (d) or such bonds are rated at least Aa by
11 Moody's investors service or AA by Standard & Poor's corp.

12 (e) Any applicant requesting approval of a revenue bond pursuant to
13 subsection (c)(5) shall pay to the commissioner a fee in an amount
14 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
15 thereto, to defray the expenses of the commissioner in the examination and
16 investigation of the application. The commissioner shall remit all amounts
17 received under this section to the state treasurer in accordance with the
18 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
19 each such remittance, the state treasurer shall deposit the entire amount in
20 the state treasury to the credit of the bank investigation fund. The moneys
21 in the bank investigation fund shall be used to pay the expenses of the
22 commissioner in the examination and investigation of such applications
23 and any unused balance shall be transferred to the bank commissioner fee
24 fund.

25 Sec. 36. K.S.A. 2015 Supp. 9-1405 is hereby amended to read as
26 follows: 9-1405. (a) All bonds and securities given by any bank, savings
27 and loan association or savings bank to secure public moneys of the
28 United States or any board, commission or agency thereof, shall be
29 deposited as required by the United States government or any ~~of its~~
30 designated *federal* agencies.

31 (b) All securities, security entitlements and financial assets securing
32 the deposits of any municipal corporation or quasi-municipal corporation
33 shall be deposited as described in subsection (c) or (d) or in a securities
34 account with one of the following custodial banks or trust companies:

35 (1) A Kansas state bank;

36 (2) a Kansas national bank;

37 (3) a state bank organized in another state and which has a branch
38 office in this state;

39 (4) a trust company incorporated under the laws of this state or
40 another state; or

41 (5) the federal home loan bank of Topeka.

42 (c) Securities, security entitlements and financial assets securing the
43 deposits of any municipal corporation or quasi-municipal corporation may

1 be deposited with the state treasurer pursuant to a written custodial
2 agreement and a receipt issued with one copy going to the municipal
3 corporation or quasi-municipal corporation making the public deposit and
4 one copy going to the bank, savings and loan association or savings bank
5 which has secured such public deposits. The receipt shall identify the
6 securities, security entitlements and financial assets which are subject to a
7 security interest to secure payment of the deposits of the municipal
8 corporation or quasi-municipal corporation.

9 (d) Securities, security entitlements and financial assets securing the
10 deposits of any municipal corporation or quasi-municipal corporation may
11 be deposited with the federal reserve bank of Kansas City to be there held
12 in such manner, under regulations and operating letters of the federal
13 reserve bank of Kansas City, as to secure payment of the deposits of the
14 municipal corporation or quasi-municipal corporation in the depository
15 institution.

16 (e) This section shall not prohibit any custodial bank or trust
17 company from depositing securities, security entitlements and financial
18 assets in the custodial bank or trust company's account if:

19 (1) The custodial bank or trust company's account is located at a bank
20 or trust company organized under the laws of any state, the United States
21 or any centralized securities depository wherever located within the United
22 States; and

23 (2) the custodial bank or trust company issues a receipt which
24 identifies the securities, security entitlements and financial assets on
25 deposit at the custodial bank or trust company.

26 (f) No securities, security entitlements and financial assets securing
27 public deposits shall be deposited in any custodial bank or trust company
28 which has the following commonalities with the depository bank, savings
29 and loan association or savings bank:

30 (1) Direct or indirect ownership by any parent corporation;

31 (2) common controlling shareholders;

32 (3) common majority of the board of directors; or

33 (4) common directors with the ability to control or influence directly
34 or indirectly the acts or policies of the depository bank, savings and loan
35 association or savings bank securing such public deposits.

36 (g) When securities, security entitlements and financial assets are
37 deposited with the state treasurer as authorized by this section, the state
38 treasurer shall make a charge for such service which is equivalent to the
39 reasonable and customary charge made therefor.

40 (h) The custodial agreement shall be in writing, executed by all
41 parties thereto, maintained as part of ~~their~~ the parties' official records, and
42 except for the municipal corporations or quasi-municipal corporation,
43 approved by ~~their~~ the boards of directors or ~~their~~ loan committees, which

1 approvals shall be reflected in the minutes of the boards or committees.

2 (i) A bank, savings and loan association or savings bank which fails
3 to pay ~~according to its terms~~ any deposit of public moneys of any
4 municipal or quasi-municipal corporation *according to the terms of the*
5 *security agreement* shall immediately take action to enable bonds and
6 securities pledged to secure ~~such~~ *the* deposit to be sold to satisfy ~~its~~ *the*
7 *bank's or association's* obligation to the municipal or quasi-municipal
8 corporation.

9 Sec. 37. K.S.A. 2015 Supp. 9-1408 is hereby amended to read as
10 follows: 9-1408. As used in article 14 of chapter 9 of the Kansas Statutes
11 Annotated, and amendments thereto:

12 (a) "Branch" means any office within this state or another state, other
13 than the main office, that is approved as a branch by a federal or state
14 supervisory agency and at which deposits are received, checks paid or
15 money lent. Branch does not include an automated teller machine, remote
16 service unit or similar device, a loan production office or a deposit
17 production office;

18 (b) "centralized securities depository" means a clearing agency
19 registered with the securities and exchange commission which provides
20 safekeeping and book-entry settlement services to ~~its~~ *the agency's*
21 participants;

22 (c) "government unit" means any state, county, municipality or other
23 political subdivision thereof;

24 (d) "Kansas national bank" means a federally chartered bank which
25 has a main office or branch located in this state;

26 (e) "Kansas state bank" means a Kansas state chartered bank;

27 (f) "main office" means the place of business specified in the articles
28 of association, certificate of authority or similar document where the
29 business of the institution is carried on and which is not a branch;

30 (g) "municipal corporation" or "quasi-municipal corporation"
31 includes each investing governmental unit under K.S.A. 12-1675, and
32 amendments thereto;

33 (h) "savings and loan association" means any savings and loan
34 association incorporated under the laws of this state or any other state or
35 organized under the laws of the United States and which has a main or
36 branch office in this state;

37 (i) "savings bank" means any savings bank organized under the laws
38 of the United States and which has a main or branch office in this state;
39 and

40 (j) "securities," "security entitlements," "financial assets," "securities
41 account," "security agreement," "security interest," "perfection" and
42 "control" shall have the meanings given such terms under the Kansas
43 uniform commercial code.

1 Sec. 38. K.S.A. 2015 Supp. 9-1504 is hereby amended to read as
2 follows: 9-1504. (a) In the event the sole lessee or all lessees in joint
3 tenancy named in the lease agreement covering a safe deposit box rental
4 shall die, the safe deposit box may be opened, forcibly if necessary, at any
5 time thereafter, in the presence of persons holding a legal or beneficial
6 interest relating to the lessee, by two employees of the lessor, one of whom
7 shall be an officer of the lessor. The contents shall be disposed of as
8 follows:

9 (1) Instruments of a testamentary nature may be removed by the
10 named executor. If no executor is named or if the named executor fails to
11 act within 60 days after the date of death of the lessee, such employees
12 may remove all instruments of a testamentary nature and deposit the same
13 with the district court ~~pursuant to K.S.A. 59-601 et seq., and amendments~~
14 ~~thereto.~~

15 (2) The employees in their discretion may deliver life insurance
16 policies therein contained to the beneficiaries named in such policies, and
17 any deed to a cemetery lot and any burial instructions found therein to the
18 appropriate parties.

19 (3) Any and all other contents of such box so opened shall be kept
20 and retained by the bank, trust company or safe deposit company and shall
21 be delivered only to the parties legally entitled to the same.

22 (b) In the event no person claims to be interested in the contents of
23 such box within 60 days after the death of the lessee, the lessor may open
24 the box by forcible entry and remove all instruments of a testamentary
25 nature and deposit the same with the district court ~~pursuant to K.S.A. 59-~~
26 ~~601 et seq., and amendments thereto,~~ subject to payment of rentals,
27 expenses and repairs. Any and all other contents of such box so opened
28 shall be kept and retained by the bank or trust company and shall be
29 delivered only to the parties legally entitled to the same.

30 Sec. 39. K.S.A. 2015 Supp. 9-1506 is hereby amended to read as
31 follows: 9-1506. (a) The lessor shall have a lien upon the contents of any
32 safe deposit box for the rental thereon.

33 (b) The lessor may, after giving not less than 60 days' written notice
34 to the lessee of such lessor's intention to enter the box, remove the contents
35 and sell the same for the payment of rent due or other expenses incurred
36 by the bank in keeping the contents, open the box forcibly and remove the
37 contents in the presence of two of ~~its~~ *the lessor's* employees, one of whom
38 shall be an officer, when:

39 (1) The lessee has not paid the rent within 30 days after the same is
40 due; or

41 (2) the lessee has failed to surrender possession of any box within 30
42 days from the date of the termination of the lease.

43 (c) The lessor shall retain such contents for at least 90 days after

1 opening the box. The lessor then may sell any part or all of the contents at
2 public sale pursuant to the requirements for a commercially reasonable
3 sale under article 9 of the Kansas uniform commercial code and retain
4 from the proceeds of sale the rent due, the costs of opening and repairing
5 the box, the costs of sale and any other amounts due to the lessor.

6 (d) Any article, item or document without apparent market value may
7 be destroyed after two years from the date of giving or mailing the
8 required notice.

9 (e) Any notice required by this section shall be delivered either
10 personally or by registered mail delivered to the latest address shown on
11 the safe deposit records of the lessor.

12 Sec. 40. K.S.A. 2015 Supp. 9-1601 is hereby amended to read as
13 follows: 9-1601. (a) Any bank, upon the affirmative vote of at least $\frac{2}{3}$ of
14 the voting stock, may apply to the commissioner for approval to conduct
15 trust business. If approval is granted by the commissioner, a special permit
16 shall be issued and the bank shall be authorized, subject to such conditions
17 as the commissioner may require, to exercise all powers necessary or
18 incidental to carrying on a trust business and also may exercise the
19 following powers to:

20 (1) Receive for safekeeping personal property of every description;

21 (2) accept and execute any trust agreement and perform any trustee
22 duties as required by such trust agreement;

23 (3) act as agent, trustee, executor, administrator, registrar of stocks
24 and bonds, conservator, assignee, receiver, custodian, corporate trustee or
25 attorney-in-fact in any agreed-upon capacity;

26 (4) accept and execute all trusts and to perform any fiduciary duties
27 as may be committed or transferred to ~~it~~ *the bank* by order, judgment or
28 decree of any court of record of competent jurisdiction;

29 (5) act as executor or trustee under the last will and testament, or as
30 administrator, with or without the will annexed to the letters of
31 administration, of the estate of any deceased person;

32 (6) be a conservator for any minor, incapacitated person or trustee for
33 any convict under the appointment of any court of competent jurisdiction;

34 (7) receive money in trust for investment in real or personal property
35 of every kind and nature and to reinvest the proceeds thereof;

36 (8) act as either an originating trustee or as a contracting trustee
37 pursuant to K.S.A. 9-2107, and amendments thereto;

38 (9) buy and sell foreign or domestic exchange, gold, silver, coin or
39 bullion;

40 (10) act in any fiduciary capacity and to perform any act as a
41 fiduciary which trust companies incorporated under the laws of this state
42 may perform under any provision of the banking or insurance laws of this
43 state, including, without limitation, acting as a successor fiduciary to any

1 trust company upon liquidation pursuant to K.S.A. 9-2107, and
2 amendments thereto; and

3 (11) to perform or purchase trust services for or from a bank or
4 service corporation through a trust service agency agreement provided the
5 commissioner is notified 30 days after contracting for the service. Such
6 notification shall include the trust services provided, the name of the
7 servicer and the date the service will commence.

8 (b) (1) The commissioner has the discretion to grant or reject the
9 application of any bank to acquire trust authority. In making such
10 determination, the commissioner shall take into consideration:

11 (A) The reasonable probability of usefulness and success of the bank
12 having trust authority;

13 (B) the financial history and condition of the bank and the character,
14 qualifications and experience of the trust officers and personnel; and

15 (C) any other facts and circumstances that the commissioner deems
16 appropriate.

17 (2) If the commissioner denies an application, the applicant shall have
18 the right to a hearing to be conducted in accordance with the Kansas
19 administrative procedure act. Any final order of the commissioner
20 pursuant to this section is subject to review in accordance with the Kansas
21 judicial review act.

22 (c) (1) If the governing instrument limits investment of funds to
23 deposit in time or savings deposits in the bank, any bank may act as trustee
24 or custodian for any of the following without being issued a special
25 permit:

26 (A) Individual retirement accounts established pursuant to 26 U.S.C.
27 § 408;

28 (B) trusts established pursuant to 26 U.S.C. § 401; and

29 (C) medical savings accounts established pursuant to 26 U.S.C. §
30 220.

31 (2) If the governing instrument limits investment of funds to deposit
32 in time, savings or demand deposits in the bank, any bank may act as a
33 trustee or custodian for any health savings accounts established pursuant to
34 26 U.S.C. § 223, without being issued a special permit pursuant to
35 subsection (a).

36 (d) Any state bank having been granted trust authority by the
37 commissioner may add "and trust company" to its corporate name.

38 (e) A bank making application to the commissioner for approval to
39 conduct trust business shall pay to the commissioner a fee, in an amount
40 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
41 thereto, to defray the expenses of the commissioner in the examination and
42 investigation of the application. The commissioner shall remit all moneys
43 received under this section to the state treasurer in accordance with the

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

8 Sec. 41. K.S.A. 2015 Supp. 9-1607 is hereby amended to read as
9 follows: 9-1607. (a) Any bank or trust company, when acting as a fiduciary
10 or a co-fiduciary with others and with the consent of its co-fiduciary or co-
11 fiduciaries, if any, ~~who~~ *that* are hereby authorized to give such consent,
12 may cause any investment held in any such capacity to be registered and
13 held in the name of a nominee or nominees of such bank or trust company.
14 Such bank or trust company shall be liable for the acts of any such
15 nominee with respect to any investment so registered.

16 (b) The records of the bank or trust company shall at all times show
17 the ownership of any investment registered and held in the name of a
18 nominee, which investment shall be in the control of the bank or trust
19 company and be kept separate and apart from the assets of the bank or
20 trust company.

21 Sec. 42. K.S.A. 2015 Supp. 9-1609 is hereby amended to read as
22 follows: 9-1609. (a) Any bank or trust company authorized to act as
23 fiduciary may establish common trust funds for the purpose of furnishing
24 investments to:

- 25 (1) Such bank or trust company as fiduciary;
- 26 (2) such bank or trust company and others, as co-fiduciaries;
- 27 (3) another state or national bank or trust company, as fiduciary,
28 which is a subsidiary of the same bank holding company of which ~~it~~ *the*
29 *bank or trust company* is a subsidiary, as such terms are defined in K.S.A.
30 9-519, and amendments thereto; or
- 31 (4) another state or national bank or trust company with which ~~it~~ *the*
32 *bank or trust company* is affiliated through common control, as defined in
33 K.S.A. 9-1612, and amendments thereto.

34 (b) Any bank or trust company authorized to act as fiduciary may, as
35 such fiduciary or co-fiduciary, invest funds which it lawfully holds for
36 investment in interests in such common trust funds, if such investment is
37 not prohibited by the instrument, judgment, decree or order creating such
38 fiduciary relationship, and if, in the case of co-fiduciaries, the bank or trust
39 company procures the consent of its co-fiduciaries to such investment.

40 Sec. 43. K.S.A. 2015 Supp. 9-1611 is hereby amended to read as
41 follows: 9-1611. Whenever the governing instrument of any trust
42 authorizes a bank or trust company acting as fiduciary to engage in any of
43 the following activities, such instrument shall also be deemed to authorize

1 the bank or trust company to engage in the following activities, with any
2 company which has or acquires control of such bank or trust company:

3 (a) Hold as a trust investment ~~its~~ *the bank's or trust company's* own
4 stock or obligations, or property acquired from the bank or trust company;
5 or

6 (b) sell or transfer, by loan or otherwise, property held as fiduciary to
7 the bank or trust company; or

8 (c) purchase for investment the stock or obligations of, or property
9 from, the bank or trust company.

10 Sec. 44. K.S.A. 2015 Supp. 9-1704 is hereby amended to read as
11 follows: 9-1704. (a) Each bank or trust company shall be required to make
12 a report to the commissioner at any time upon the commissioner's request.
13 Such reports shall be in a form and manner prescribed by the
14 commissioner and shall be verified by the president, chief executive
15 officer or cashier and attested *to* by at least three directors of the bank or
16 trust company, none of whom shall have verified the report. The report
17 shall show in detail the assets and liabilities of the bank or trust company
18 at the close of business upon the date determined by the commissioner.
19 The commissioner may require a copy of the report, or a portion thereof, to
20 be published in a newspaper, published in or having a general circulation
21 in the place where the bank or trust company is located, within 10 days
22 after the report is forwarded to the commissioner. The expense of
23 publication shall be paid by the bank or trust company.

24 (b) Each trust company shall report to the commissioner all assets
25 held by the trust company in a fiduciary capacity as of December 31 of
26 each year. The report shall be in the form and manner prescribed by the
27 commissioner and shall be filed with the commissioner by January 30 of
28 each year. The commissioner may require the report to be filed using an
29 electronic means.

30 (c) Each trust department of a bank shall report to the commissioner
31 all assets held by the trust department in a fiduciary capacity at any time
32 upon the commissioner's request. The report shall be in the form
33 prescribed by the commissioner. The commissioner may require the report
34 to be filed using an electronic means.

35 (d) A request for information made pursuant to this section shall be
36 made in writing and mailed to each bank and trust company. The request
37 shall be deemed to be legal notice to each bank and trust company. The
38 request may include the requirement for the filing of information by the
39 bank or trust company using electronic means.

40 Sec. 45. K.S.A. 2015 Supp. 9-1712 is hereby amended to read as
41 follows: 9-1712. (a) All information the state bank commissioner generates
42 in making an investigation or examination of a state bank or trust company
43 shall be confidential information.

1 (b) All confidential information shall be the property of the state of
2 Kansas and shall not be disclosed except upon the written approval of the
3 commissioner.

4 (c) Except for disclosure pursuant to subsection (e) and K.S.A. 9-
5 2014, and amendments thereto, the commissioner shall give 10 days prior
6 written notice to the affected bank or trust company of intent to disclose
7 confidential information.

8 (d) Any bank or trust company receiving notice of the intent to
9 disclose confidential information may object to the disclosure of the
10 confidential information and shall be afforded the right to a hearing in
11 accordance with the provisions of the Kansas administrative procedure act.

12 (e) (1) The commissioner may furnish to the federal deposit insurance
13 corporation, or to any officer or examiner thereof, a copy of any or all
14 examination reports made by the commissioner, or the commissioner's
15 examiners, of any bank or trust company insured by such corporation. The
16 commissioner may disclose to the federal deposit insurance corporation, or
17 any official or examiner thereof, any and all information contained in the
18 commissioner's office concerning the condition of any bank or trust
19 company insured by such corporation.

20 (2) The commissioner may disclose any and all information contained
21 in the commissioner's office concerning the condition of any bank or trust
22 company to the:

- 23 (A) Federal reserve bank;
- 24 (B) office of the comptroller of currency;
- 25 (C) federal home loan bank;
- 26 (D) office of thrift supervision;
- 27 (E) financial crimes enforcement network; or
- 28 (F) consumer financial protection bureau.

29 (3) The commissioner may furnish to the state treasurer a copy of any
30 or all examination information relating specifically to apparent violations
31 of the uniform unclaimed property act, K.S.A. 58-3934 through 58-3978,
32 and amendments thereto.

33 (4) To reduce the potential for duplicative and burdensome filings,
34 examinations and other regulatory activities, the commissioner, by
35 agreement, may establish an information sharing and exchange program
36 with any regulatory agency of this state, another state or the United States
37 concerning activities that are financial in nature, incidental to financial
38 activities, or complementary to financial activities, as those terms are used
39 in 15 U.S.C. § 6801 et seq. on the effective date of this act. Each agency
40 that is party to such an agreement shall agree to maintain confidentiality of
41 information that is confidential under applicable state or federal law and to
42 take all reasonable steps to oppose any effort to secure disclosure of the
43 information by such agency.

1 (5) Disclosure of information by or to the commissioner pursuant to
2 this section shall not constitute a waiver of or otherwise affect or diminish
3 a privilege to which the information is otherwise subject, whether or not
4 the disclosure is governed by a confidentiality agreement. "Privilege"
5 includes any work product, attorney-client or other privilege recognized
6 under federal or state law.

7 (6) Nothing in this section shall be construed to limit the powers of
8 the commissioner with reference to examinations and reports required by
9 the state banking code.

10 (f) As used in this section, "information" means, but is not limited to,
11 all documents, oral and written communication and all electronic data.

12 (g) Any person ~~who~~ *that* violates this section, upon conviction, shall
13 be guilty of a class C misdemeanor.

14 (h) The commissioner may provide any person with a letter of good
15 standing upon request. Any person requesting a letter of good standing
16 shall pay to the commissioner a fee in an amount established pursuant to
17 K.S.A. 2015 Supp. 9-1726, and amendments thereto, to defray the
18 expenses of the commissioner in investigating and complying with the
19 request. The commissioner shall remit all moneys received under this
20 section to the state treasurer in accordance with the provisions of K.S.A.
21 75-4215, and amendments thereto. Upon receipt of each such remittance,
22 the state treasurer shall deposit the entire amount in the state treasury to
23 the credit of the bank investigation fund. The moneys in the bank
24 investigation fund shall be used to pay the expenses of the commissioner
25 in the examination and investigation of such applications and any unused
26 balance shall be transferred to the bank commissioner fee fund.

27 Sec. 46. K.S.A. 2015 Supp. 9-1715 is hereby amended to read as
28 follows: 9-1715. (a) (1) Notwithstanding any provision of law to the
29 contrary, the commissioner shall have the power to authorize any or all
30 banks to engage in any activity in which any other bank, savings and loan
31 association or a savings bank, organized under the laws of the United
32 States, this state or any other state ~~whose~~ *with* deposits ~~are~~ insured by the
33 United States government is lawfully authorized to engage in at the time
34 authority is granted.

35 (2) The commissioner shall have the power to authorize any or all
36 Kansas trust companies, trust departments or both to engage in any trust-
37 related activity in which any trust company or trust department, organized
38 under the laws of the United States, this state or any other state, is lawfully
39 authorized to engage in at the time authority is granted.

40 (b) (1) The commissioner shall exercise the power granted in
41 subsection (a) by the issuance of a special order if the commissioner
42 deems ~~it~~ *such action is* reasonably required to: (A) Preserve and protect
43 the welfare of a particular institution; or (B) preserve the welfare of all

1 state banks or trust companies and to promote competitive equality of state
2 and other insured depository institutions.

3 Such special order shall provide for the effective date thereof and upon
4 and after such date shall be in full force and effect until amended or
5 revoked by the commissioner. Promptly following issuance, the
6 commissioner shall mail a copy of each special order to all state banks and
7 trust companies and shall be published in the Kansas register.

8 (c) The commissioner, at the time of issuing any special order
9 pursuant to this section, shall prepare a written report, which shall include
10 a description of the special order and a copy of the special order and
11 submit the written report to:

12 (1) The president and the minority leader of the senate;

13 (2) the chairperson and ranking minority member of the senate
14 standing committee on financial institutions and insurance;

15 (3) the speaker and the minority leader of the house of
16 representatives;

17 (4) the chairperson and ranking minority member of the house of
18 representatives standing committee on financial institutions; and

19 (5) the governor.

20 (d) Within two weeks of the beginning of each legislative session, the
21 commissioner shall submit to the senate committee on financial
22 institutions and insurance and the house of representatives committee on
23 financial institutions, a written summary of each special order issued
24 during the preceding year. Upon request of the chair of the senate standing
25 committee on financial institutions and insurance or the chair of the house
26 standing committee on financial institutions, the commissioner, or the
27 commissioner's designee, shall appear before the committee to discuss any
28 special order issued during the preceding year. If the committee desires
29 information concerning the economic impact of any special order, the
30 committee chair or ranking minority member may request assistance from
31 the division of budget.

32 (e) The issuance of special orders under this section shall not be
33 subject to the provisions of article 4 of chapter 77 of the Kansas Statutes
34 Annotated, and amendments thereto.

35 (f) The powers contained in this section shall be in addition to any
36 and all other powers granted to the commissioner.

37 Sec. 47. K.S.A. 2015 Supp. 9-1720 is hereby amended to read as
38 follows: 9-1720. **(a)** Except with the *prior written* approval of the
39 commissioner, or as otherwise permitted by the state banking code, it shall
40 be unlawful for ~~a person, acting directly or indirectly or through concert~~
41 ~~with one or more persons to:~~

42 **(a) (1)** *A person, acting directly or indirectly or through concert with*
43 *one or more persons, to acquire control of any bank or trust company;* ~~or~~

1 ~~(b) (2) commence any merger transaction with a bank or trust~~
 2 ~~company which includes, but is not limited to, any merger, consolidation,~~
 3 ~~acquisition of assets or assumption of any liabilities a bank to merge or~~
 4 ~~consolidate with any bank or institution, or either directly or indirectly~~
 5 ~~acquire the assets of, or assume the liability to pay any deposit made in~~
 6 ~~any other bank or institution, referred to hereinafter as a merger~~
 7 ~~transaction; or~~

8 ~~(3) a trust company to merge or consolidate with any trust~~
 9 ~~company, or either directly or indirectly acquire the assets of any other~~
 10 ~~trust company, referred to hereinafter as a merger transaction.~~

11 ~~(b) A trust company may merge or consolidate with a trust company~~
 12 ~~chartered by:~~

13 ~~(1) The comptroller of the currency; or~~

14 ~~(2) another state with the prior written approval of the~~
 15 ~~commissioner. An application filed pursuant to this subsection shall be~~
 16 ~~subject to the provisions of K.S.A. 9-1721, 9-1722 and 9-1724, and~~
 17 ~~amendments thereto.~~

18 Sec. 48. K.S.A. 2015 Supp. 9-1721 is hereby amended to read as
 19 follows: 9-1721. (a) ~~The party person~~ proposing to acquire, control or
 20 effectuate ~~a bank or trust company undertaking a~~ merger transaction,
 21 hereinafter referred to as the applicant, shall ~~apply in writing for approval~~
 22 ~~from file an application with~~ the commissioner at least 60 days prior to the
 23 proposed change of control or merger transaction. If the commissioner
 24 does not act on the application within the 60-day time period, the
 25 application shall stand approved. The commissioner may, for any reason,
 26 extend the time period to act on an application for an additional 30 days.
 27 The time period to act on an application may be further extended if the
 28 commissioner determines that the applicant has not furnished all the
 29 information required under K.S.A. 9-1722, and amendments thereto, or
 30 that, in the commissioner's judgment, any material information submitted
 31 is substantially inaccurate.

32 (b) Upon the filing of an application, the commissioner shall make an
 33 investigation of ~~each party to~~ *the applicant* for the change of control or
 34 merger transaction. The commissioner may deny the application if the
 35 commissioner finds the:

36 (1) Proposed change of control or merger transaction would result in
 37 a monopoly or would be in furtherance of any combination or conspiracy
 38 to monopolize or attempt to monopolize the business of banking or trust
 39 services in any part of this state;

40 (2) financial condition of ~~any party to a change of control or merger~~
 41 ~~transaction~~ *the applicant* might jeopardize the financial stability of the
 42 bank or trust company or prejudice the interests of the depositors of a
 43 bank;

1 (3) competence, experience or integrity of ~~any party to a change of~~
2 ~~control or merger transaction~~ *the applicant* or of any of the proposed
3 management personnel *of the bank or trust company or resulting bank or*
4 *trust company* indicates it would not be in the interest of the depositors of
5 the bank, the clients of trust services, or in the interest of the public ~~to~~
6 ~~permit such person to control the bank or trust company~~; or

7 (4) applicant neglects, fails or refuses to furnish the commissioner
8 with all of the information required by the commissioner.

9 (c) Upon service of an order denying an application, the applicant
10 shall have the right to a hearing to be conducted in accordance with the
11 Kansas administrative procedure act before the state banking board. Any
12 final order of the commissioner pursuant to this section is subject to
13 review in accordance with the Kansas judicial review act.

14 Sec. 49. K.S.A. 2015 Supp. 9-1722 is hereby amended to read as
15 follows: 9-1722. (a) ~~An~~ *A change of control* application filed pursuant to
16 K.S.A. 9-1721, and amendments thereto, shall contain the following
17 information:

18 (1) The identity, personal history, business background and
19 experience of each person by ~~whom or on whose behalf~~ *or for whom* the
20 change of control ~~or merger transaction~~ is to be made, including the
21 material business activities and affiliations during the past five years and a
22 description of any material pending legal or administrative proceedings in
23 which the person is a party and any criminal indictment or conviction of
24 such person by a state or federal court;

25 (2) a statement of the assets and liabilities of each person by ~~whom or~~
26 ~~on whose behalf~~ *or for whom* the change of control ~~or merger transaction~~
27 is to be made, along with any related statements of income and source and
28 application of funds, as of a date not more than 90 days prior to the date of
29 the application. Individuals who own 10% or more shares in a bank
30 holding company, as defined in K.S.A. 9-519, and amendments thereto,
31 shall file the financial information required by this paragraph;

32 (3) the terms and conditions of the proposed change of control ~~or~~
33 ~~merger transaction~~ and the manner in which such change of control ~~or~~
34 ~~merger transaction~~ is to be made;

35 (4) the identity, source and amount of the funds or other
36 considerations used or to be used in making the change of control ~~or~~
37 ~~merger transaction~~ and, if any part of these funds or other considerations
38 has been or is to be borrowed or otherwise obtained for such purpose, a
39 description of the transaction, the names of the parties, and any
40 arrangements, agreements or understandings with such persons;

41 (5) any plans or proposals which any applicant may have to liquidate
42 the bank or trust company or to make any other major change in ~~its~~ *the*
43 *bank's or trust company's* business or corporate structure or management;

1 (6) the identification of any person employed, retained or to be
2 compensated by any party or by any person on such person's behalf to
3 make solicitations or recommendations to stockholders for the purpose of
4 assisting in the change of control ~~or merger transaction~~ and a brief
5 description of the terms of such employment, retainer or arrangement for
6 compensation;

7 (7) copies of all invitations or tenders or advertisements making a
8 tender offer to stockholders for purchase of their stock to be used in
9 connection with the proposed change of control ~~or merger transaction~~;

10 (8) when applicable, the certified copies of the stockholder
11 proceedings showing a majority of the outstanding voting stock was voted
12 in favor of the change of control ~~or merger transaction~~; and

13 (9) any additional relevant information in the form and manner
14 prescribed by the commissioner.

15 (b) *A merger transaction application filed pursuant to K.S.A. 9-1721,*
16 *and amendments thereto, shall contain the following information:*

17 (1) *The structure, terms and conditions and financing arrangements*
18 *of the proposed merger transaction;*

19 (2) *a complete and final copy of the merger transaction agreement;*

20 (3) *certified copies of the stockholder proceedings showing a*
21 *majority of the outstanding voting stock of the banks **or trust companies** in*
22 *the merger transaction was voted in favor of the merger transaction;*

23 (4) *a list of directors and senior executive officers of the resulting*
24 *bank **or trust company**;*

25 (5) *one year pro forma statements of financial conditions and future*
26 *prospects of the resulting bank **or trust company**, including capital*
27 *positions;*

28 (6) *how the merger transaction will meet the convenience and needs*
29 *of the community; and*

30 (7) *any other relevant information in the form and manner prescribed*
31 *by the commissioner.*

32 (b) (c) With regard to any trust company which files a notice pursuant
33 to this section, the commissioner may require fingerprinting of any
34 proposed officer, director, shareholder or any other person deemed
35 necessary by the commissioner. Such fingerprints may be submitted to the
36 Kansas bureau of investigation and the federal bureau of investigation for
37 a state and national criminal history record check. The fingerprints shall be
38 used to identify the person and to determine whether the person has a
39 record of arrests and convictions in this state or *any* other jurisdiction. The
40 commissioner may use information obtained from fingerprinting and the
41 criminal history for purposes of verifying the identification of the person
42 and in the official determination of the qualifications and fitness of the
43 persons proposing to acquire the trust company. Whenever the

1 commissioner requires fingerprinting, any associated costs shall be paid by
2 the applicant or the parties to the application.

3 ~~(e)~~ (d) The commissioner may accept an application filed with the
4 federal reserve bank or federal deposit insurance corporation in lieu of a
5 ~~statement~~ *an application* filed pursuant to subsection (a). The
6 commissioner may, in addition to such application, request additional
7 relevant information.

8 ~~(d)~~ (e) At the time of filing an application pursuant to K.S.A. 9-1721,
9 and amendments thereto, or an application filed pursuant to subsection ~~(e)~~
10 (d), the applicant shall pay to the commissioner a fee in an amount
11 established pursuant to K.S.A. 2015 Supp. 9-1726, and amendments
12 thereto, to defray the expenses of the commissioner in the examination and
13 investigation of the application. The commissioner shall remit all moneys
14 received under this section to the state treasurer in accordance with the
15 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
16 each such remittance, the state treasurer shall deposit the entire amount in
17 the state treasury to the credit of the bank investigation fund. The moneys
18 in the bank investigation fund shall be used to pay the expenses of the
19 commissioner in the examination and investigation of such applications
20 and any unused balance shall be transferred to the bank commissioner fee
21 fund.

22 Sec. 50. K.S.A. 2015 Supp. 9-1724 is hereby amended to read as
23 follows: 9-1724. (a) The provisions of K.S.A. 9-1720 through 9-1724, and
24 amendments thereto, shall not apply to the merger transaction of a bank or
25 trust company when the surviving entity is a national banking association
26 or other federally chartered financial institution *or a trust company*
27 *chartered by:*

28 (1) *The comptroller of the currency; or*

29 (2) *another state*, except that the bank shall provide written
30 notification to the commissioner of such a merger, consolidation or
31 transfer of assets and liabilities at least 10 days prior to ~~its~~ *the*
32 *consummation of any such transaction.*

33 (b) Not more than 15 days following any merger transaction, any
34 bank or trust company that will cease to exist shall surrender such bank's
35 or trust company's state certificate of authority or charter and shall certify
36 in writing that the proper instruments have been executed and filed in
37 accordance with K.S.A. 17-6003, and amendments thereto.

38 (c) Notice of the merger transaction shall be published twice in a
39 newspaper of general circulation in each city or county in which the bank
40 *or trust company* is located, or the newspaper nearest such city or county
41 and a certified copy of each notice shall be filed with the commissioner.
42 The first publication shall be no later than five days after an application is
43 filed. The second publication shall be on the 14th day after the date of the

1 first publication or, if the newspaper does not publish on the 14th day, then
2 the date that is the closest to the 14th day. The notice shall be in the form
3 prescribed by the commissioner and shall provide for a comment period of
4 not less than 10 days after the date of the second publication.

5 Sec. 51. K.S.A. 2015 Supp. 9-1807 is hereby amended to read as
6 follows: 9-1807. (a) If the commissioner finds that any bank or trust
7 company is engaging, has engaged or is about to engage in an unsafe or
8 unsound practice or if the commissioner finds that any bank or trust
9 company is violating, has violated or is about to violate a law, rule and
10 regulation or order of the commissioner or state banking board, the
11 commissioner may issue and serve upon the bank or trust company a
12 notice of charges. The notice of charges shall contain a statement of the
13 facts that forms the basis for a proposed cease and desist order and shall
14 state the time and place at which a hearing will be held by the state
15 banking board to determine whether an order to cease and desist therefrom
16 should be issued by the state banking board against the bank or trust
17 company. Such hearing shall be fixed for a date not earlier than 30 days
18 nor later than 60 days after service of such notice.

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

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

1 notice and until such time as the state banking board shall dismiss the
2 charges specified in such notice, or if a cease and desist order is issued
3 against the bank or trust company, until the effective date of any such
4 order.

5 Sec. 52. K.S.A. 2015 Supp. 9-1902 is hereby amended to read as
6 follows: 9-1902. A bank or trust company shall be deemed to be insolvent
7 when: (a) The actual cash market value of a bank's or trust company's
8 assets is insufficient to pay such bank's or trust company's creditor
9 liabilities, except that for this purpose unconditional evidence of
10 indebtedness of the United States of America may be valued, at the
11 discretion of the commissioner, at par or cost whichever is the lesser; or
12 (b) ~~when it the bank or trust company~~ is unable to meet the demands of its
13 creditors in the usual and customary manner.

14 Sec. 53. K.S.A. 2015 Supp. 9-1905 is hereby amended to read as
15 follows: 9-1905. (a) In the event the commissioner appoints a receiver for
16 any bank or trust company, the commissioner shall appoint:

17 (1) The federal deposit insurance corporation; or

18 (2) any individual, partnership, association, limited liability company,
19 corporation or any other business entity which shall have accounting,
20 regulatory, legal or other relevant experience in the field of banking or
21 trust as shall be determined by the commissioner.

22 (b) Any receiver other than the federal deposit insurance corporation
23 shall give such bond as the commissioner deems proper and immediately
24 file in the district court of the county where the bank or trust company is
25 located for liquidation, disposition and dissolution pursuant to the state
26 banking code, ~~and K.S.A. 17-101 et seq., and amendments thereto~~ *the*
27 *Kansas general corporation code*, and as may be ordered by the court.

28 (1) The receiver shall be entitled to reasonable compensation subject
29 to the approval of the district court.

30 (2) Upon written application made within 30 days after the filing in
31 district court, the court may appoint as receiver any person ~~whom~~ *that*
32 the holders of more than 60% in amount of the claims against such bank or
33 trust company shall agree upon in writing. The creditors so agreeing may
34 also agree upon the compensation and charges to be paid such receiver.
35 Each receiver so appointed shall make a complete report to the
36 commissioner covering the receiver's acts and proceedings as such.

37 (c) The bank or trust company shall have the right to petition for
38 review of the commissioner's order taking charge, appointment of a special
39 deputy or appointment of a receiver. Such review shall not be subject to
40 the provisions of K.S.A. 77-501 et seq., and amendments thereto. A
41 petition for review shall be filed within 10 days of the commissioner's
42 action. Notwithstanding any provision of law to the contrary, or by order
43 of the court, review shall proceed as expeditiously as possible pursuant to

1 the provisions of K.S.A. 77-601 et seq., and amendments thereto.
2 Notwithstanding any provision of law to the contrary, the decision of the
3 district court may be appealed only to the supreme court of Kansas. The
4 time within which an appeal may be taken shall be 10 days from final
5 disposition of the district court.

6 Sec. 54. K.S.A. 2015 Supp. 9-1906 is hereby amended to read as
7 follows: 9-1906. (a) A receiver appointed pursuant to K.S.A. 9-1905, and
8 amendments thereto, other than the federal deposit insurance corporation,
9 shall take charge of any bank or trust company and all of ~~its~~ *the bank's or*
10 *trust company's* assets and property, and liquidate the affairs and business
11 thereof for the benefit of ~~its~~ *the* depositors, creditors and stockholders of
12 *the bank or trust company*. The receiver may sell all the property of the
13 bank or trust company upon such terms as the district court of the county
14 where the bank or trust company is located shall approve. The receiver
15 shall pay over all moneys received to the creditors and depositors of such
16 bank or trust company.

17 (b) In distributing assets of the bank or trust company in payment of
18 its liabilities, the order of payment, in the event its assets are insufficient to
19 pay in full all of its liabilities, shall be by category as follows:

20 (1) The costs and expenses of the receivership and real and personal
21 property taxes assessed against the bank or trust company pursuant to
22 applicable law;

23 (2) claims which are secured or given priority by applicable law;

24 (3) claims of unsecured depositors;

25 (4) all other claims exclusive of claims on capital notes and
26 debentures; and

27 (5) claims on capital notes and debentures.

28 Should the assets be insufficient for the payment in full of all claims
29 within a category, such claims shall be paid in the order provided by other
30 applicable law or, in the absence of such applicable law, pro rata.

31 Sec. 55. K.S.A. 2015 Supp. 9-1907 is hereby amended to read as
32 follows: 9-1907. The federal deposit insurance corporation or ~~its~~ *any*
33 successor, hereby is authorized and empowered to be and act without bond
34 as receiver of any bank, the deposits in which are to any extent insured by
35 such corporation. If the federal deposit insurance corporation, or ~~its~~ *any*
36 successor, accepts the appointment, then the federal deposit insurance
37 corporation, or ~~its~~ *any* successor, shall succeed to all the rights, titles,
38 powers and privileges of the bank and of any stockholder, member,
39 account holder, depositor, officer or director of the bank with respect to the
40 bank.

41 Sec. 56. K.S.A. 2015 Supp. 9-1908 is hereby amended to read as
42 follows: 9-1908. Whenever the federal deposit insurance corporation, or ~~its~~
43 *any* successor, shall accept the appointment as receiver for any bank the

1 possession of and title to all of the assets, business and property of every
2 kind of such bank shall pass to and vest in the federal deposit insurance
3 corporation, or ~~its~~ *any* successor, as receiver without the execution of any
4 instruments of assignment, endorsement, transfer or conveyance.

5 Sec. 57. K.S.A. 2015 Supp. 9-1909 is hereby amended to read as
6 follows: 9-1909. All claims of depositors and other creditors must be filed
7 with the receiver within one year after the date of the receiver's
8 appointment, and if any claim is not filed, then ~~it~~ *the claim* shall be barred
9 from participation in the estate and assets of any such bank or trust
10 company.

11 Sec. 58. K.S.A. 2015 Supp. 9-1910 is hereby amended to read as
12 follows: 9-1910. Upon the affirmative vote of $\frac{2}{3}$ of the outstanding voting
13 stock, the shareholders of a bank or trust company may transfer all of ~~its~~
14 *the bank's or trust company's* assets and property of whatever nature and
15 any rights thereto to the possession and control of the commissioner and
16 waive any right to the Kansas administrative procedure act, the Kansas
17 judicial review act or any other lawful right to challenge the
18 commissioner's authority without the execution of any instruments of
19 assignment, endorsement, transfer or conveyance. Such action shall
20 operate as a bar to any attachment proceedings.

21 Sec. 59. K.S.A. 2015 Supp. 9-1915 is hereby amended to read as
22 follows: 9-1915. It shall be unlawful for the president, director, managing
23 officer, cashier or any other officer of any bank to agree to accept deposits,
24 in an amount that would create an excess above the federal deposit
25 insurance corporation insured deposit amount, after such person has
26 knowledge of the fact that such bank is insolvent or in failing
27 circumstances. It hereby is made the duty of every such officer or
28 managing officer to examine into the affairs of every such bank and know
29 its condition if possible. Upon failure to discharge such duty such person
30 shall be held to have had knowledge of the insolvency of such bank or that
31 ~~it~~ *the bank* was in failing circumstances, for the purposes of this section.
32 Every person ~~who shall violate~~ *that violates* the provisions of this section
33 shall be responsible individually for such deposits so received, except that
34 any director or officer who may have paid more than such person's share
35 of the liabilities mentioned in this section shall have the proper remedy at
36 law against such other persons as shall not have paid their full share of
37 such liabilities.

38 Sec. 60. K.S.A. 2015 Supp. 9-2007 is hereby amended to read as
39 follows: 9-2007. Any receiver of an insolvent bank or trust company, other
40 than the federal deposit insurance corporation, ~~who or any successor;~~ *that*
41 fails to comply with the provisions of the state banking code, upon
42 conviction shall be guilty of a class A, nonperson misdemeanor.

43 Sec. 61. K.S.A. 2015 Supp. 9-2011 is hereby amended to read as

1 follows: 9-2011. It shall be unlawful for any individual, firm or
2 corporation to advertise, publish or otherwise promulgate that ~~they are~~ *the*
3 *individual, firm or corporation is* engaged in the banking business or trust
4 business without first having obtained authority from the commissioner.
5 Any such individual or member of any such firm or officer of any such
6 corporation violating this section, upon conviction shall be guilty of a class
7 A, nonperson misdemeanor.

8 Sec. 62. K.S.A. 2015 Supp. 9-2104 is hereby amended to read as
9 follows: 9-2104. (a) No executor, administrator, conservator or trustee
10 holding trust company stock shall be personally subject to any liability as
11 stockholders in such trust company.

12 (b) No person holding trust company stock as collateral security shall
13 be personally subject to any liability as stockholders in such trust
14 company.

15 (c) The person owning the stock or the person pledging such stock
16 shall be deemed the person liable as a stockholder in the trust company.

17 (d) Any executor, administrator, conservator or trustee holding trust
18 company stock shall be liable in the normal course of acting and carrying
19 out the fiduciary duties of an executor, administrator, conservator or
20 trustee.

21 (e) (1) Any executor, administrator, conservator or trustee holding
22 shares of stock may vote as a shareholder.

23 (2) Any person ~~who~~ *that* has pledged such person's stock as collateral
24 security may represent the same at all meetings and may vote accordingly
25 as a shareholder.

26 Sec. 63. K.S.A. 2015 Supp. 9-2107 is hereby amended to read as
27 follows: 9-2107. (a) As used in this section:

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

39 (2) "originating trustee" means any trust company, bank, national
40 banking association, savings and loan association or savings bank which
41 has trust powers and its principal place of business is in this state and
42 which places or transfers any fiduciary responsibility to a contracting
43 trustee as provided in this section; *and*

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

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

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

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

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

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

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

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

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

1 purposes of providing administrative services and advertising incident to
2 the fiduciary services to be performed by the contracting trustee.

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

9 (1) The agreement;

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

12 (3) all other required regulatory approvals;

13 (4) proof of publication of notice that the applicant intends to file or
14 has filed an application pursuant to this section. The notice shall be
15 published in a newspaper of general circulation in the county where the
16 principal office of the originating trustee or financial institution is located.
17 The notice shall be in the form prescribed by the commissioner and shall
18 contain the name of the applicant contracting trustee and the originating
19 trustee, ~~the proposed date of filing of the application with the~~
20 ~~commissioner~~ and a solicitation for written comments. The notice shall be
21 published on the same day for two consecutive weeks and provide for a
22 comment period of not less than 10 days after the date of the second
23 publication; and

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

36 (g) A contracting trustee making application to the commissioner for
37 approval of any agreement pursuant to this section shall pay to the
38 commissioner a fee, in an amount established pursuant to K.S.A. 2015
39 Supp. 9-1726, and amendments thereto, to defray the expenses of the
40 commissioner in the examination and investigation of the application. The
41 commissioner shall remit all moneys received under this section to the
42 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
43 amendments thereto. Upon receipt of each such remittance, the state

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

6 (h) Upon the filing of a complete application with the commissioner,
7 the commissioner shall make or cause to be made, a careful examination
8 and investigation of the proposed agreement. If the commissioner finds
9 any of the following matters unfavorably, the commissioner may deny the
10 application:

11 (1) The reasonable probability of usefulness and success of the
12 contracting trustee; and

13 (2) the financial history and condition of the contracting trustee
14 including the character, qualifications and experience of the officers
15 employed by the contracting trustee.

16 (i) The commissioner shall render approval or disapproval of the
17 application within 90 days of receiving a complete application.

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

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

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

1 reasonable cost associated with such removal and transfer shall be paid by
2 the originating trustee or financial institution entering into the agreement.

3 Sec. 64. K.S.A. 2015 Supp. 9-2108 is hereby amended to read as
4 follows: 9-2108. It is unlawful for any trust company to establish or
5 operate a trust service office or relocate an existing trust service office
6 except as provided herein.

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

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

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

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

25 (2) all other required regulatory approvals;

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

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

1 notice that it is a trust service office of the applicant trust company. Any
2 trust company may request exemption from the commissioner from the
3 provisions of this subsection.

4 (d) A trust company making application to the commissioner for
5 approval of a trust service office under this section shall pay to the
6 commissioner a fee, in an amount established pursuant to K.S.A. 2015
7 Supp. 9-1726, and amendments thereto, to defray the expenses of the
8 commissioner in the examination and investigation of the application. The
9 commissioner shall remit all moneys 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 the bank investigation fund. The moneys in the bank investigation fund
14 shall be used to pay the expenses of the commissioner or designee in the
15 examination and investigation of such applications and any unused balance
16 shall be transferred to the bank commissioner fee fund.

17 (e) *Upon the request of any trust company proposing to relocate an*
18 *existing trust service office less than one mile from the trust company's*
19 *existing location, the commissioner may exempt such trust company from*
20 *the requirements of this section.*

21 (f) Upon the filing of a complete application with the
22 commissioner, the commissioner shall make or cause to be made, a careful
23 examination and investigation. If the commissioner finds any of the
24 following matters unfavorably, the commissioner may deny the
25 application:

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

28 (2) the applicant trust company's financial history and condition
29 including the character, qualifications and experience of the officers
30 employed by the trust company.

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

36 (h) When the commissioner determines that a trust company
37 domiciled in this state has established or is operating a trust service office
38 in violation of the laws governing the operation of such trust company, the
39 commissioner may take such action as available under K.S.A. 9-1714, 9-
40 1805, 9-1807 or 9-1809, and amendments thereto, to remedy such
41 violation.

42 Sec. 65. K.S.A. 2015 Supp. 9-519, 9-534, 9-701, 9-801, 9-802, 9-803,
43 9-804, 9-808, 9-809, 9-811, 9-812, 9-814, 9-815, 9-816, 9-901a, 9-902, 9-

1 903, 9-904, 9-906, 9-907, 9-1101, 9-1102, 9-1104, 9-1111, 9-1112, 9-1114,
2 9-1122, 9-1124, 9-1127c, 9-1130, 9-1137, 9-1213, 9-1304, 9-1401, 9-1402,
3 9-1405, 9-1408, 9-1504, 9-1506, 9-1601, 9-1607, 9-1609, 9-1611, 9-1704,
4 9-1712, 9-1715, 9-1720, 9-1721, 9-1722, 9-1724, 9-1807, 9-1902, 9-1905,
5 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-1915, 9-2007, 9-2011, 9-2104,
6 9-2107 and 9-2108 are hereby repealed.

7 Sec. 66. This act shall take effect and be in force from and after its
8 publication in the statute book.