

State of Kansas

Office of the State Bank Commissioner

Notice of Hearing on Proposed Administrative Regulation

A public hearing will be conducted on Thursday, January 19, 2023 at 2:00 p.m. in the Bank Commissioner’s Conference Room A of the Jayhawk Tower Building, 700 SW Jackson, Fourth Floor, Topeka, KS 66603 to consider proposed Kansas Administrative Regulation 17-11-24, an administrative regulation promulgated by the Office of the State Bank Commissioner regarding sales of tangible personal property to executive officers, employees, directors, and related interests.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulation. All interested parties may submit written comments prior to the hearing by mailing them to the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas 66603-3796 or by email to Brock.Roehler@osbckansas.org. All interested parties will be given a reasonable opportunity to present their views orally or in writing regarding the new K.A.R. 17-11-24 during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation.

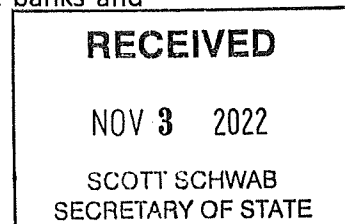
Copies of the proposed regulation and the economic impact statement may be obtained from the Office of the State Bank Commissioner by contacting Brock Roehler at 785-379-3890, Brock.Roehler@osbckansas.org, the Office of the State Bank Commissioner’s website at www.osbckansas.org, or the mailing address given above.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Brock Roehler at the Office of the State Bank Commissioner. The west entrance to the Jayhawk Tower Building is accessible and there is one accessible parking spot at 720 SW Jackson. There is additional accessible parking on the northwest corner of Jackson and 8th Street.

A summary of the proposed regulation and economic impact follows.

Summary: K.A.R. 17-11-24 is a new regulation that creates rules where a bank or trust company may sell tangible personal property to bank executive officers, employees, directors, and related interests without receiving the Bank Commissioner’s preapproval under K.S.A 9-1112.

Economic Impact: This regulation removes a bureaucratic burden on state banks and



trust companies to quickly offload other assets and fixed assets on their books. The Banking Code does not require a bank or trust company to receive the Commissioner's preapproval to sell tangible personal property to a person with no business ties with the bank or trust company. However, a bank or trust company needs the commissioner's approval if the sale is to an executive officer, employee, director, or related interest. All other sales to an executive officer, employee, director, or related interest would need commissioner approval under K.S.A. 9-1112, including real estate. It is also important to note that if the sale of personal property is financed by the bank, federal law requires any loan to an executive officer or director or a related interest of each to be at no more favorable terms than what a similar bank consumer could receive.

The Office of the State Bank Commissioner's office expects a very marginal record retention expense due to a bank or trust company keeping a record of the sale for review at the next examination.

Brock Roehler
General Counsel

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17-11-24. Sale of tangible personal property to bank or trust company executive officers, employees, directors, and related interests. (a) The commissioner's approval shall not be required if a bank or trust company sells tangible personal property held on the bank's or trust company's accounting books to an executive officer, employee, director, or a related interest under either of the following conditions:

(1) If the tangible personal property has a vehicle identification number or a hull identification number, at a price at or above the average trade-in value specified by a nationally recognized value-reporting service; or

(2) if the tangible personal property does not have a vehicle identification number or a hull identification number, at a price at or above the accounting book value calculated in accordance with generally accepted accounting principles.

(b) Each bank or trust company that sells tangible personal property as specified in subsection (a) shall maintain a record of the property value and the sales agreement for review at the next examination. (Authorized by K.S.A. 9-1713; implementing K.S.A. 9-1112; effective P-
_____.)

APPROVED

OCT 28 2022

DEPT. OF ADMINISTRATION

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Office of the State Bank Commissioner
Agency

Brock Roehler
Agency Contact

785-379-3892
Contact Phone Number

17-11-24

K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.

No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

K.A.R. 17-11-24 provides for the sale of tangible personal property to bank or trust company executive officers, employees, directors, and related interests. Specifically, the proposed regulation establishes the criteria necessary that a bank or trust company does not need to obtain Commissioner preapproval.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

This regulation is not mandated by the federal law. Though contiguous states prescribe broad power for banks, trust companies, or similar entities to purchase and sell property in certain capacities, these states do not have any known analogous statutes or regulations that specifically pertain to the sale of tangible personal property to bank or trust company officers, employees, directors, or related interests. In Kansas, a state bank or trust company may sell personal property to an executive officer, employee, director or related interest provided the bank or trust company receives Commissioner approval. The proposed regulation provides additional guidance on what transactions do not need to get Commissioner approval.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

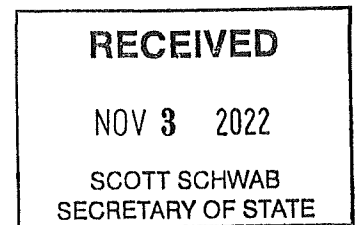
The proposed regulation is anticipated to slightly enhance business activities by allowing bank or trust companies to quickly sell depreciating assets.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

There are very little quantifiable costs associated with promulgating this regulation. A bank or trust company is now required to maintain records of sales for up to 18 months. This does not affect individuals or local governments.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

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Kansas state-chartered banks and trust companies would be directly affected by the proposed regulation.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The expected benefits of the proposed regulation include legal clarity for the type of targeted transaction and accountability for such transactions, and the costs anticipated are negligible, to the extent that a bank or trust company implements the documentation and valuation requirements for a sale.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The regulation update should have a negligible reduction in costs.

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$0.

Costs to Local Governmental Units – \$0.

Costs to Members of the Public – \$0.

Total Annual Costs – \$0.

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The data and methodology are based on the legal opinions of the agency.

- Yes
 - No
 - Not Applicable
- If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

If applicable, click here to enter public hearing information.

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Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

\$0.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

\$0.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The proposed regulation does not impact local government or school districts.

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The agency consulted the Kansas Bankers Association and the Community Bankers Association of Kansas. The Community Bankers Association of Kansas stated it supports this regulation change. No comment was received from the Kansas Bankers Association.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
- No If no, skip the remainder of Section IV.

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- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

Click here to enter agency response.

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

Click here to enter agency response.

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

Click here to enter agency response.

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

Click here to enter agency response.

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