

**SENATE BILL No. 240**

By Committee on Federal and State Affairs

2-17

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1 AN ACT concerning the banking code; relating to the state bank  
2 commissioner; amending K.S.A. 9-519, 9-520, 9-536, 9-542, 9-701, 9-  
3 801, 9-802, 9-803, 9-804, 9-806, 9-808, 9-809, 9-811, 9-812, 9-901a, 9-  
4 902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-909, 9-910, 9-911, 9-  
5 912, 9-1101a, 9-1102, 9-1107, 9-1111b, 9-1112, 9-1116, 9-1119, 9-  
6 1122, 9-1123, 9-1124, 9-1125, 9-1127a, 9-1127b, 9-1127c, 9-1130, 9-  
7 1132, 9-1133, 9-1137, 9-1138, 9-1201, 9-1204, 9-1205, 9-1207, 9-1213,  
8 9-1214, 9-1301, 9-1304, 9-1403, 9-1405, 9-1501, 9-1502, 9-1503, 9-  
9 1504, 9-1505, 9-1506, 9-1602, 9-1603, 9-1604, 9-1607, 9-1609, 9-  
10 1611, 9-1612, 9-1701, 9-1708, 9-1709, 9-1712, 9-1714, 9-1715, 9-  
11 1716, 9-1717, 9-1719, 9-1720, 9-1724, 9-1807, 9-1901, 9-1902, 9-  
12 1902a, 9-1903, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-1910, 9-  
13 1915, 9-1916, 9-2001, 9-2002, 9-2005, 9-2006, 9-2007, 9-2008, 9-  
14 2010, 9-2011, 9-2012, 9-2013, 9-2014, 9-2016, 9-2018, 9-2101, 9-  
15 2102, 9-2103 and 9-2104 and K.S.A. 2014 Supp. 9-532, 9-533, 9-534,  
16 9-535, 9-1101, 9-1104, 9-1111, 9-1114, 9-1140, 9-1215, 9-1401, 9-  
17 1402, 9-1407, 9-1408, 9-1601, 9-1702, 9-1703, 9-1704, 9-1713, 9-  
18 1721, 9-1722, 9-1805, 9-2004, 9-2107, 9-2108, 9-2111, 39-709 and 44-  
19 314 and repealing the existing sections; also repealing K.S.A. 9-514, 9-  
20 515, 9-516, 9-517, 9-518, 9-523, 9-538, 9-539, 9-702, 9-703, 9-807, 9-  
21 810, 9-813, 9-1101b, 9-1103, 9-1105, 9-1106, 9-1108, 9-1109, 9-1110,  
22 9-1111d, 9-1113, 9-1301a, 9-1507, 9-1605, 9-1606, 9-1608, 9-1610, 9-  
23 1705, 9-1710, 9-1711, 9-1718, 9-1723, 9-1802, 9-1803, 9-1808, 9-  
24 1904, 9-1912, 9-1914, 9-1914a, 9-2003, 9-2009, 9-2015, 9-2017 and 9-  
25 2105 and K.S.A. 2014 Supp. 9-805, 9-1118, 9-1135, 9-1139, 9-1216, 9-  
26 1303, 9-1706, 9-1707, 9-1801, 9-1804 and 9-2106.

27

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

29 New Section 1. A Kansas state bank may pledge any of the bank's  
30 assets as collateral or otherwise secure the deposits of public money for  
31 governmental units located in another state where the Kansas state bank  
32 has a branch location, so long as such security is given in accordance with  
33 the laws of that state.

34 New Sec. 2. (a) Whenever the commissioner is of the opinion that an  
35 emergency, as defined by K.S.A. 9-1122, and amendments thereto, exists  
36 or is impending in this state which affects, or may affect, a particular bank,

1 trust company, multiple banks or multiple trust companies, the  
2 commissioner may, by proclamation, temporarily close the particular  
3 institutions located in the affected area. The banks or trust companies so  
4 closed shall remain closed until the commissioner proclaims that the  
5 emergency has ended.

6 (b) The commissioner may approve a request for an emergency  
7 temporary closing and subsequent reopening of a particular bank or trust  
8 company by the officers of such bank or trust company pursuant to K.S.A.  
9 9-1122, and amendments thereto.

10 (c) Whenever the commissioner is of the opinion that an emergency,  
11 as defined by K.S.A. 9-1122, and amendments thereto, affects, or may  
12 affect, a particular bank, branch bank, trust company or trust service  
13 office, the commissioner may approve a temporary relocation of the bank,  
14 branch bank, trust company or trust service office. The temporary  
15 relocation shall be as close as the commissioner determines is safely  
16 possible to the bank, branch bank, trust company or trust service office's  
17 approved place of business.

18 (d) Every that any bank, branch bank, trust company, or trust service  
19 office thereof, remains closed pursuant to this section shall be deemed a  
20 holiday for all of the purposes of chapter 84 of the Kansas Statutes  
21 Annotated, and amendments thereto, and with respect to any banking  
22 business of any character. No bank, branch bank, trust company or trust  
23 service office shall be required to permit access to such bank's, branch  
24 bank's or trust company's safe deposit vault or vaults on any such day. If  
25 the terms of a contract require the payment of money or the performance  
26 of a condition on any such day by, through, with or at any bank, branch  
27 bank, trust company or trust service office, then the payment may be made  
28 or condition performed on the next business day with the same force and  
29 effect as if made or performed in accordance with the terms of the  
30 contract. No liability or loss of rights of any kind shall result from the  
31 delay.

32 (e) Any bank, branch bank, trust company or trust service office  
33 temporarily closed or relocated pursuant to this section shall post notice of  
34 such closing in a conspicuous place at each closed location. Such notice  
35 shall serve as official notification to everyone of the temporary closing or  
36 relocation of the bank, branch bank, trust company or trust service office  
37 and thereafter no liability shall be incurred by the bank or trust company  
38 by reason of the temporary closing or relocation pursuant to this section.

39 New Sec. 3. (a) The commissioner may enter into any informal  
40 agreement with any bank or trust company for a plan of action to address  
41 possible safety or soundness concerns, violations of law or any weakness  
42 displayed by the bank or trust company if the commissioner determines  
43 that the bank or trust company displays:

1 (1) Possible safety and soundness concerns or is violating, has  
2 violated or is about to violate any law, rule and regulation or order of the  
3 commissioner or the state banking board resulting in a less than  
4 satisfactory condition, but not to a degree requiring formal administrative  
5 action; or

6 (2) any weakness that if not properly addressed and corrected would  
7 reasonably be expected to result in future safety and soundness concerns,  
8 violations of applicable laws, rules and regulations and further  
9 deterioration in the condition of the bank or trust company.

10 (b) The adoption of an informal agreement authorized by this section  
11 shall not be subject to the provisions of K.S.A. 77-501 et seq., and  
12 amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto.  
13 Any informal agreement authorized by this section shall not be considered  
14 an order or other agency action and shall be considered confidential  
15 examination material pursuant to K.S.A. 9-1712, and amendments thereto.  
16 The provisions of this subsection shall expire on July1, 2020, unless the  
17 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,  
18 and amendments thereto, prior to July 1, 2020.

19 New Sec. 4. The commissioner may enter into a consent order at any  
20 time with a bank, trust company, any executive officer, director, employee,  
21 agent or other person to resolve a matter arising under the state banking  
22 code, rules and regulations adopted thereto or an order issued pursuant to  
23 the state banking code.

24 New Sec. 5. (a) Upon the affirmative vote of a majority of the  
25 outstanding voting stock and approval of a liquidation plan by the  
26 commissioner, any bank may liquidate by paying in full all of the bank's  
27 depositors and creditors. Any bank desiring to voluntarily liquidate shall  
28 file a plan for liquidation with the commissioner.

29 (b) The commissioner may examine the bank or compel the bank to  
30 file reports with the commissioner during the time the bank is being  
31 liquidated. If the commissioner finds at any time during the liquidation  
32 period that the bank is not adhering to the approved liquidation plan, the  
33 commissioner may take action as authorized by article 18 of chapter 9 of  
34 the Kansas Statutes Annotated, and amendments thereto. If the  
35 commissioner finds that any deviation from the liquidation plan may be  
36 harmful to the depositors and creditors of the institution, the commissioner  
37 may appoint a receiver in accordance with procedures provided in article  
38 19 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

39 (c) Upon the completion of the liquidation, the bank shall  
40 immediately surrender the bank's certificate of authority to transact a  
41 banking business, remove all advertising signs, and notify and make the  
42 necessary filings with the secretary of state. The commissioner shall make  
43 a final examination to determine that all depositors and creditors have been

1 paid before any distribution is made to stockholders.

2 New Sec. 6. Upon the approval of the commissioner, the board of  
3 directors of any bank in the process of voluntary liquidation may borrow  
4 an amount not in excess of 100% of the bank's total deposit liabilities and  
5 may pledge the bank's assets.

6 New Sec. 7. As part of the liquidation plan as approved by the  
7 commissioner, any bank, for the purpose of liquidation, may sell all or any  
8 part of the bank's assets to any other bank, either state or national, and may  
9 receive in payment cash or its equivalent, shares of stock in the purchasing  
10 bank, or both.

11 New Sec. 8. It shall be unlawful for any director, officer, employee or  
12 agent of a bank or trust company to alter, destroy, shred, mutilate, conceal,  
13 cover up or falsify any record with the intent to impede, obstruct, impair or  
14 influence any examination, investigation or proceeding by the  
15 commissioner. Any director, officer, employee or agent of a bank or trust  
16 company who violates this section, upon conviction shall be guilty of a  
17 severity level 8, nonperson felony.

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

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

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

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

42 (3) the name selected for the bank is not the name of any other bank  
43 doing business in the same city or town and within a 15-mile radius of the

1 proposed location although any bank or trust company may request  
2 exemption from the commissioner from this paragraph.

3 (c) If the commissioner denies an application, the applicant shall have  
4 the right to a hearing before the state banking board to be conducted in  
5 accordance with the Kansas administrative procedure act. Any action of  
6 the state banking board pursuant to this section is subject to review in  
7 accordance with the Kansas judicial review act.

8 (d) Upon approval of such place of business change, the bank or trust  
9 company must notify and make the necessary filings as may be required  
10 by the secretary of state's office.

11 New Sec. 10. (a) Any applicant making application under article 8 of  
12 chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall  
13 pay to the commissioner a fee in an amount established pursuant to section  
14 12, and amendments thereto, to defray the expenses of the state banking  
15 board, commissioner or other designees in the examination and  
16 investigation of the application.

17 (b) The commissioner shall remit all moneys received under this  
18 section to the state treasurer in accordance with the provisions of K.S.A.  
19 75-4215, and amendments thereto. Upon receipt of each such remittance,  
20 the state treasurer shall deposit the entire amount in the state treasury to  
21 the credit of the bank investigation fund. The moneys in the bank  
22 investigation fund shall be used to pay the expenses of the commissioner,  
23 or designee in the examination and investigation of such applications and  
24 any unused balance shall be transferred to the bank commissioner fee  
25 fund.

26 (c) Any members of the state banking board who make such an  
27 examination or investigation shall be paid the sum of \$35 per diem for the  
28 time they actually are engaged in performing their duties as members of  
29 such board, and in addition thereto, shall be paid all their actual and  
30 necessary expenses incurred in the performance of such duties from such  
31 funds.

32 New Sec. 11. (a) As used in this section, "bankers' bank" means a  
33 state bank which is owned exclusively, except to the extent directors'  
34 qualifying shares are required by law, by other state banks, federally  
35 chartered banks or a one-bank holding company and is organized to  
36 engage exclusively in providing services for other state banks or federally  
37 chartered banks and their officers, directors and employees.

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

41 New Sec. 12. (a) Except as provided in subsection (b), at the time of  
42 filing any application described below, the applicant shall remit to the  
43 commissioner a nonrefundable fee in the amount of:

1 (1) Bank or trust company charter .....\$2,500  
 2 (2) New branch bank .....750  
 3 (3) Relocation of a branch bank or main office .....750  
 4 (4) Merger, consolidation, or transfer of assets and liabilities .....1,000  
 5 (5) Change of control:  
 6 (A) General .....1,000  
 7 (B) Bona fide gift or inheritance .....500  
 8 (C) Formation of one-bank holding company and associated  
 9 exchange of stock .....500  
 10 (6) Conversion to state charter .....500  
 11 (7) Fiduciary activities:  
 12 (A) Trust authority .....500  
 13 (B) Trust branch .....500  
 14 (C) Trust service office .....500  
 15 (D) Contracting trustee agreement .....500  
 16 (E) Out of state trust facility .....500  
 17 (8) Change of name .....250  
 18 (9) Revenue bond pledgibility .....200  
 19 (10) Letter of good standing .....50

20 (b) The commissioner may adopt rules and regulations to change the  
 21 amount of the fees established in subsection (a) to an amount not to exceed  
 22 150% of any such fee established in subsection (a).

23 (c) The commissioner may waive any fee established by this section.

24 (d) Any applicant may be required by the commissioner to pay any  
 25 additional cost associated with any examination or investigation if the state  
 26 bank commissioner determines that an on-site examination of the financial  
 27 institutions or trust companies that are parties to the application is  
 28 necessary.

29 (e) The commissioner may adopt rules and regulations necessary to  
 30 administer the provisions of this section.

31 New Sec. 13. Banks are hereby authorized to give security for the  
 32 safekeeping and prompt payment of funds deposited by any federally  
 33 recognized Indian tribe.

34 Sec. 14. K.S.A. 9-519 is hereby amended to read as follows: 9-519.  
 35 For the purposes of K.S.A. 9-520 through 9-524, and amendments thereto,  
 36 and K.S.A. 9-532 through 9-541, and amendments thereto, unless  
 37 otherwise required by the context:

38 (a) *"Bank" means an insured bank as defined in 12 U.S.C. § 1813(h)*  
 39 *except the term shall not include a national bank which engages only in*  
 40 *credit card operations, does not accept demand deposits or deposits that*  
 41 *the depositor may withdraw by check or similar means for payment to*  
 42 *third parties or others, does not accept any savings or time deposits of less*  
 43 *than \$100,000, maintains only one office that accepts deposits and does*

1 *not engage in the business of making commercial loans.*

2 ~~(a)~~ (b) (1) "Bank holding company" means any company:

3 (A) Which directly or indirectly owns, controls, or has power to vote  
4 25% or more of any class of the voting shares of a bank or 25% or more of  
5 any class of the voting shares of a company which is or becomes a bank  
6 holding company by virtue of this act;

7 (B) which controls in any manner the election of a majority of the  
8 directors of a bank or of a company which is or becomes a bank holding  
9 company by virtue of this act;

10 (C) ~~for the benefit of whose shareholders or members 25% or more of~~  
11 ~~any class of the voting shares of a bank or 25% or more of any class of the~~  
12 ~~voting shares of a company which is or becomes a bank holding company~~  
13 ~~by virtue of this act, is held by trustees; or~~

14 ~~(D) which, by virtue of acquisition of ownership or control of, or the~~  
15 ~~power to vote the voting shares of, a bank or another company, becomes a~~  
16 ~~bank holding company under this act which the commissioner determines,~~  
17 ~~after notice and opportunity for a hearing, that the company directly or~~  
18 ~~indirectly exercises a controlling influence over the management or~~  
19 ~~policies of the bank or company.~~

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

21 (A) Shall be deemed to be a bank holding company by virtue of ~~its~~  
22 *the company's* ownership or control of shares acquired by ~~it~~ *the company*  
23 in connection with ~~its~~ *such company's* underwriting of securities if such  
24 shares are held only for such period of time as will permit the sale thereof  
25 on a reasonable basis;

26 (B) formed for the sole purpose of participating in a proxy solicitation  
27 shall be deemed to be a bank holding company by virtue of ~~its~~ *the*  
28 *company's* control of voting rights of shares acquired in the course of such  
29 solicitation;

30 (C) shall be deemed to be a bank holding company by virtue of ~~its~~ *the*  
31 *company's* ownership or control of shares acquired in securing or  
32 collecting a debt previously contracted in good faith, provided such shares  
33 are disposed of within a period of two years from the date on which such  
34 shares could have been disposed of by such company; *or*

35 (D) owning or controlling voting shares of a bank shall be deemed to  
36 be a bank holding company by virtue of ~~its~~ *the company's* ownership or  
37 control of shares held in a fiduciary capacity except where such shares are  
38 held for the benefit of such company or ~~its~~ *the company's* shareholders.

39 ~~(b)~~ (c) "Company" means any corporation, *limited liability company,*  
40 trust, ~~limited~~ partnership, association or similar organization including a  
41 bank but shall not include any corporation the majority of the shares of  
42 which are owned by the United States or by any state, or include any  
43 individual ~~or,~~ partnership *or qualified family partnership upon the*

1 *determination by the commissioner that a general or limited partnership*  
 2 *qualifies under the definition in 12 U.S.C. § 1841(o)(10).*

3 ~~(e) "Bank" means an insured bank as defined in section 3(h) of the~~  
 4 ~~federal deposit insurance act, 12 U.S.C. § 1813(h), except the term shall~~  
 5 ~~not include a national bank which engages only in credit card operations,~~  
 6 ~~does not accept demand deposits or deposits that the depositor may~~  
 7 ~~withdraw by check or similar means for payment to third parties or others,~~  
 8 ~~does not accept any savings or time deposits of less than \$100,000, accepts~~  
 9 ~~deposits only from corporations which own 51% or more of the voting~~  
 10 ~~shares of the bank holding company or its parent corporation of which the~~  
 11 ~~bank engaging only in credit card operations is a subsidiary, maintains~~  
 12 ~~only one office that accepts deposits, and does not engage in the business~~  
 13 ~~of making commercial loans.~~

14 ~~(d) "Subsidiary" with respect to a specified bank holding company~~  
 15 ~~means:~~

16 ~~(1) Any company more than 5% of the voting shares of which,~~  
 17 ~~excluding shares owned by the United States or by any company wholly~~  
 18 ~~owned by the United States, is directly or indirectly owned or controlled~~  
 19 ~~by such bank holding company or is held by it with power to vote;~~

20 ~~(2) any company the election of a majority of the directors of which~~  
 21 ~~is controlled in any manner by such bank holding company; or~~

22 ~~(3) any company more than 5% of the voting shares of which is held~~  
 23 ~~by trustees for the benefit of such bank holding company or its~~  
 24 ~~shareholders.~~

25 ~~(e) "Commissioner" means the Kansas state bank commissioner~~

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

30 ~~(f) (e) "Kansas bank" means any bank, as defined by subsection (e)~~  
 31 ~~(a), which, in the case of a state chartered bank, is a bank chartered under~~  
 32 ~~the authority of the state of Kansas, and in the case of a national banking~~  
 33 ~~association, a bank with its main office located *charter location* in Kansas.~~

34 ~~(g) (f) "Kansas bank holding company" means a bank holding~~  
 35 ~~company, as defined by subsection (a) (b), with total subsidiary bank~~  
 36 ~~deposits in Kansas which exceed the bank holding company's subsidiary~~  
 37 ~~bank deposits in any other state.~~

38 ~~(h) (g) "Out-of-state bank holding company" means any holding~~  
 39 ~~company which is not a Kansas bank holding company as defined in~~  
 40 ~~subsection (g) (f).~~

41 ~~(i) "Foreign bank" means any company organized under the laws of a~~  
 42 ~~foreign country, a territory of the United States, Puerto Rico, Guam,~~  
 43 ~~American Samoa or the Virgin Islands, which engages in the business of~~



1 ~~banking, or any subsidiary or affiliate, organized under such laws, of any~~  
 2 ~~such company~~

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

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

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

11 Sec. 15. K.S.A. 9-520 is hereby amended to read as follows: 9-520.

12 (a) Excluding shares held under the circumstances set out in ~~paragraph (2)~~  
 13 ~~of subsection (a) of K.S.A. 9-519(b)(2)~~, and amendments thereto, no bank  
 14 holding company or any subsidiary thereof shall directly or indirectly  
 15 acquire ownership or control of, or power to vote, any of the voting shares  
 16 of any bank which holds Kansas deposits if, after such acquisition, the  
 17 bank holding company and all subsidiaries would hold or control, in the  
 18 aggregate, more than 15% of total Kansas deposits.

19 (b) This section shall not prohibit a bank holding company or any  
 20 subsidiary thereof from acquiring ownership or control of, or power to  
 21 vote, any of the voting shares of any bank if the commissioner, in the case  
 22 of a bank organized under the laws of this state, or the comptroller of the  
 23 currency, in the case of a national banking association, determines that an  
 24 emergency exists and that the acquisition is appropriate in order to protect  
 25 the public interest against the failure or probable failure of the bank.

26 (c) As used in this section, "Kansas deposits" means ~~all deposits,~~  
 27 ~~savings deposits~~, shares or similar accounts held by banks, savings and  
 28 loan associations, savings banks and building and loan associations  
 29 attributable to any office in Kansas where deposits are accepted as  
 30 determined by the commissioner on the basis of the most recent reports to  
 31 supervisory authorities which are available at the time of the acquisition.

32 Sec. 16. K.S.A. 2014 Supp. 9-532 is hereby amended to read as

33 follows: 9-532. (a) With prior approval of the commissioner; (1) Any  
 34 company by virtue of acquisition of ownership or control of, or the power  
 35 to vote the voting shares of, a bank or another company, may become a  
 36 bank holding company; (2) any bank holding company may acquire,  
 37 directly or indirectly, ownership or control of, or power to vote, any of the  
 38 voting shares of, an interest in; or all or substantially all of the assets of a  
 39 Kansas state chartered bank or of a bank holding company that has an  
 40 ownership interest in a Kansas state chartered bank.

41 (b) Request for approval shall be made by filing an application in  
 42 such form as required by the commissioner, containing the information  
 43 prescribed by K.S.A. 9-533, and amendments thereto, and by rules and

1 regulations adopted by the commissioner. ~~At the time of filing the~~  
2 ~~application, the applicant shall pay to the commissioner a fee in an amount~~  
3 ~~established by rules and regulations adopted by the commissioner.~~

4 (c) *Any applicant making application under this section shall pay to*  
5 *the commissioner a fee in an amount established pursuant to section 12,*  
6 *and amendments thereto, to defray the expenses of the commissioner in the*  
7 *examination and investigation of the application. The commissioner shall*  
8 *remit all moneys received under this section to the state treasurer in*  
9 *accordance with the provisions of K.S.A. 75-4215, and amendments*  
10 *thereto. Upon receipt of each such remittance, the state treasurer shall*  
11 *deposit the entire amount in the state treasury to the credit of the bank*  
12 *investigation fund. The moneys in the bank investigation fund shall be*  
13 *used to pay the expenses of the commissioner in the examination and*  
14 *investigation of such applications and any unused balance shall be*  
15 *transferred to the bank commissioner fee fund.*

16 Sec. 17. K.S.A. 2014 Supp. 9-533 is hereby amended to read as  
17 follows: 9-533. An application filed pursuant to K.S.A. 9-532, and  
18 amendments thereto, shall provide the following information and include  
19 the following documents:

20 (a) A copy of any application by *an* applicant seeking approval by a  
21 federal agency of the acquisition of the voting shares or assets of a Kansas  
22 state chartered bank or of a bank holding company that has an ownership  
23 interest in a Kansas state chartered bank; and of any supplemental material  
24 or amendments filed with the application.

25 ~~(b) Copies of the public sections of the most recent CRA performance~~  
26 ~~evaluations for all banks which are subsidiaries of the applicant which~~  
27 ~~were assigned a rating of "needs to improve record of meeting community~~  
28 ~~credit needs" or "substantial noncompliance in meeting community needs"~~  
29 ~~under the federal community reinvestment act of 1977, 12 U.S.C. § 2901~~  
30 ~~et seq.~~

31 ~~(e)~~ Statements of the financial condition and future prospects,  
32 including current and projected capital positions and levels of  
33 indebtedness, of the applicant and the Kansas state chartered bank or bank  
34 holding company that has an ownership interest in a Kansas state chartered  
35 bank which is the subject of the application filed pursuant to K.S.A. 9-532,  
36 and amendments thereto.

37 ~~(d)~~ (c) Information as to how the applicant proposes to adequately  
38 meet the convenience and needs of the community served by the Kansas  
39 state chartered bank or bank holding company that has an ownership  
40 interest in a Kansas state chartered bank which is the subject of the  
41 application filed pursuant to K.S.A. 9-532, and amendments thereto, and  
42 the communities served by other Kansas banks which are subsidiaries of  
43 the applicant, in accordance with ~~the federal community reinvestment act~~

1 of 1977, 12 U.S.C. § 2901 et seq.

2 ~~(e) A list of the name and location of each subsidiary bank of the~~  
3 ~~applicant, together with each subsidiary's most recent examination date,~~  
4 ~~and assigned composite CAMEL rating, and information reflecting each~~  
5 ~~subsidiary's total assets, capital ratios, return on assets ratio and loan to~~  
6 ~~deposit ratios.~~

7 ~~(f)~~ (d) Any additional information the commissioner deems  
8 necessary.

9 Sec. 18. K.S.A. 2014 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 ~~—already subsidiaries—~~ of the  
14 applicant are operated in a safe, sound and prudent manner.

15 (b) Whether *the subsidiary* banks ~~—already subsidiaries—~~ of the  
16 applicant have provided adequate and appropriate services to their  
17 communities, including services contemplated by ~~the federal community~~  
18 ~~reinvestment act of 1977~~, 12 U.S.C. § 2901 et seq.

19 (c) Whether the applicant proposes to provide adequate and  
20 appropriate services, including services contemplated by ~~the federal~~  
21 ~~community reinvestment act of 1977~~, 12 U.S.C. § 2901 et seq., in the  
22 communities served by the Kansas state chartered bank or by the Kansas  
23 bank subsidiaries of the bank holding company that has an ownership  
24 interest in a Kansas state chartered bank.

25 (d) Whether the *financial condition of the applicant or any of such*  
26 *applicant's subsidiary banks would jeopardize the financial stability of,*  
27 *and the proposed acquisition will result in a Kansas state chartered bank or*  
28 *bank holding company that has an ownership interest in a Kansas state*  
29 *chartered bank that has adequate capital and good earnings prospects.*

30 ~~(e) Whether the financial condition of the applicant or any of its~~  
31 ~~subsidiary banks would jeopardize the financial stability of the Kansas~~  
32 ~~state chartered bank or bank holding company that has an ownership~~  
33 ~~interest in a Kansas state chartered bank which is the subject of the~~  
34 ~~application~~ *competence, experience and integrity of the managerial*  
35 *resources of the applicant or any proposed management personnel of any*  
36 *Kansas state chartered bank or any Kansas bank subsidiaries of the bank*  
37 *holding company that has an ownership interest in a Kansas state*  
38 *chartered bank indicates that to permit such person to control a bank*  
39 *would not be in the interest of the depositors of a bank or in the interest of*  
40 *the public.*

41 Sec. 19. K.S.A. 2014 Supp. 9-535 is hereby amended to read as  
42 follows: 9-535. (a) The commissioner shall approve the application if the  
43 commissioner determines that the application favorably meets each and

1 every factor prescribed in K.S.A. 9-534, and amendments thereto, the  
 2 proposed acquisition is in the interest of the depositors and creditors of the  
 3 Kansas state chartered bank or bank holding company that has an  
 4 ownership interest in a Kansas state chartered bank which is the subject of  
 5 the proposed acquisition and in the public interest generally. Otherwise,  
 6 the application shall be denied.

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

25 Sec. 20. K.S.A. 9-536 is hereby amended to read as follows: 9-536.  
 26 An applicant filing an application pursuant to K.S.A. 9-532, and  
 27 amendments thereto, ~~also shall be subject to~~ *may be required to the extent*  
 28 *applicable to supplement the application with such information as may be*  
 29 *required pursuant to K.S.A. 9-1719 through 9-1724 et seq.*, and  
 30 amendments thereto, ~~to the extent applicable.~~

31 Sec. 21. K.S.A. 9-542 is hereby amended to read as follows: 9-542.  
 32 Articles 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of  
 33 chapter 9 of the Kansas Statutes Annotated, K.S.A. 74-3004, 74-3005, 74-  
 34 3006, 75-1304, 75-1305 and 75-1306, and 75-1308, *and sections 1*  
 35 *through 13*, and amendments thereto, shall constitute and may be cited as  
 36 the state banking code.

37 Sec. 22. K.S.A. 9-701 is hereby amended to read as follows: 9-701.  
 38 Unless otherwise clearly indicated by the context, the following words  
 39 when used in ~~this act~~ *the state banking code*, for the purposes of ~~this act~~  
 40 *the state banking code*, shall have the meanings respectively ascribed to  
 41 them in this section:

- 42 (a) "Bank" means a state bank incorporated under the laws of Kansas.
- 43 (b) "Business of banking" means receiving or accepting money on

1 *deposit, and may include the performance of related activities that are not*  
2 *exclusive to banks, including paying drafts or checks, lending money, or*  
3 *any other activity authorized by applicable law.*

4 ~~(b)~~ (c) "Trust company" means a trust company incorporated under  
5 the laws of Kansas and which does not accept deposits.

6 ~~(e)~~ "Board" means the Kansas state banking board.

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

8 ~~(e)~~ "Executive officer" ~~means the chairperson of the board, the~~  
9 ~~president, each vice president, the cashier, the secretary and the treasurer~~  
10 ~~of a bank, unless such officer is excluded by resolution of the board of~~  
11 ~~directors or by the bylaws of the bank or bank holding company from~~  
12 ~~participation, other than in the capacity of a director, in major~~  
13 ~~policymaking functions of the bank or bank holding company, and the~~  
14 ~~officer does not actually participate in major policymaking functions of the~~  
15 ~~bank or bank holding company means a person who participates or has~~  
16 ~~authority to participate, other than in the capacity of a director, in major~~  
17 ~~policymaking functions of the bank or trust company, whether or not the~~  
18 ~~officer has an official title, the title designates the officer as an assistant,~~  
19 ~~or the officer is serving without salary or other compensation. The~~  
20 ~~chairperson of the board, the president, every vice president, the cashier,~~  
21 ~~the secretary and the treasurer of a company or bank are considered~~  
22 ~~executive officers.~~

23 (1) *A bank may, by resolution of the board of directors or by the*  
24 *bylaws of the bank or trust company, exempt an officer from participation,*  
25 *other than in the capacity of a director, in major policymaking functions of*  
26 *the bank or trust company if the officer does not actually participate*  
27 *therein.*

28 (2) *The commissioner may make the determination that a person is*  
29 *an executive officer if the commissioner determines that the criteria are*  
30 *met despite the existence of a resolution allowed pursuant to this*  
31 *subsection.*

32 ~~(f)~~ "Insured bank" ~~means a state bank whose deposits are insured~~  
33 ~~through the federal deposit insurance corporation or other governmental~~  
34 ~~agency or by an insurer approved by the state commissioner of insurance~~  
35 ~~for such purpose."Demand deposit" means a deposit that is payable on~~  
36 ~~demand, or a deposit issued with an original maturity or required notice~~  
37 ~~period of less than seven days, or a deposit representing funds for which~~  
38 ~~the depository institution does not reserve the right to require at least~~  
39 ~~seven days' written notice of an intended withdrawal, or a deposit~~  
40 ~~representing funds for which the depository institution does reserve the~~  
41 ~~right to require at least seven days' written notice of an intended~~  
42 ~~withdrawal and is not also a negotiable order of withdraw account.~~  
43 *"Demand deposit" does not include "time deposits" or "savings deposits"*

1 *as defined herein.*

2 (g) ~~"Item" means any check, note, order, or other instrument or~~  
 3 ~~memorandum providing for the payment of money, or upon which money~~  
 4 ~~may be collected." "Time deposit," also known as a certificate of deposit,~~  
 5 ~~means a deposit that the depositor does not have a right and is not~~  
 6 ~~permitted to make withdrawals from within six days after the date of~~  
 7 ~~deposit unless the deposit is subject to an early withdrawal penalty of at~~  
 8 ~~least seven days' simple interest on amounts withdrawn within the first six~~  
 9 ~~days after deposit. A time deposit from which partial early withdrawals~~  
 10 ~~are permitted must impose additional early withdrawal penalties for at~~  
 11 ~~least seven days' simple interest on amounts withdrawn within six days~~  
 12 ~~after each partial withdrawal. If such additional early withdrawal~~  
 13 ~~penalties are not contractually imposed, the account ceases to be a time~~  
 14 ~~deposit, but may become a savings deposit if the account meets the~~  
 15 ~~requirements for a savings deposit.~~

16 (h) ~~"Demand deposits" includes every deposit which is not a "time~~  
 17 ~~deposit," "savings deposit" or "negotiable order of withdrawal deposit" as~~  
 18 ~~defined in this section.~~

19 (i) ~~"Time deposits" means "time certificates of deposit" and "time~~  
 20 ~~deposits, open account" as defined in this section.~~

21 (j) ~~"Time certificate of deposit" means a deposit evidenced by a~~  
 22 ~~negotiable or nonnegotiable instrument which provides on its face that the~~  
 23 ~~amount of such deposit is payable, upon presentation and surrender of the~~  
 24 ~~instrument, to bearer or to any specified person or to such person's order.~~

25 (1) ~~On a certain date, specified in the instrument, not less than seven~~  
 26 ~~days after the date of the deposit; or~~

27 (2) ~~at the expiration of a certain specified time not less than seven~~  
 28 ~~days after the date of the instrument; or~~

29 (3) ~~upon notice in writing which is actually required to be given not~~  
 30 ~~less than seven days before the date of repayment.~~

31 (k) ~~"Time deposit, open account" means a deposit, other than a "time~~  
 32 ~~certificate of deposit," with respect to which there is in force a written~~  
 33 ~~contract with the depositor that neither the whole nor any part of such~~  
 34 ~~deposit may be withdrawn, by check or otherwise, prior to the date of~~  
 35 ~~maturity, which shall be not less than seven days after the date of the~~  
 36 ~~deposit, or prior to the expiration of the period of notice which must be~~  
 37 ~~given by the depositor in writing not less than seven days in advance of~~  
 38 ~~withdrawal.~~

39 (4) ~~(h) "Savings deposit" means a deposit: (1) Which consists of funds~~  
 40 ~~deposited to the credit of or in which the entire beneficial interest is held~~  
 41 ~~by one or more individuals, or of a corporation, association or other~~  
 42 ~~organization operated primarily for religious, philanthropic, charitable,~~  
 43 ~~educational, fraternal or other similar purposes and not operated for profit;~~

1 or that consists of funds deposited to the credit of or in which the entire  
2 beneficial interest is held by the United States, any state of the United  
3 States or any county, municipality or political subdivision thereof, or that  
4 consists of funds deposited to the credit of, or in which any beneficial  
5 interest is held by a corporation, partnership, association or other  
6 organization not qualifying above; and (2) with respect to which the  
7 depositor is not required by the deposit contract but may at any time be  
8 required by the bank to give notice in writing of an intended withdrawal  
9 not less than seven days before such withdrawal is made and which is not  
10 payable on a specified date or at the expiration of a specified time after the  
11 date of deposit or account with respect to which the depositor is not  
12 required by the deposit contract, but may at any time, be required by the  
13 depository institution to give written notice of an intended withdrawal not  
14 less than seven days before such withdrawal is made and that is not  
15 payable on a specified date or at the expiration of a specified time after  
16 the date of deposit.

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

23 ~~(n)~~ (j) "Municipal corporation" means any city incorporated under the  
24 laws of Kansas.

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

29 ~~(p)~~ (l) "Certificate of authority" means a ~~statement~~ *certificate* signed  
30 and sealed by the commissioner evidencing the authority of a bank or trust  
31 company to transact a general *banking or trust* business as ~~such~~ *provided*  
32 *by law*.

33 ~~(q)~~ "Transaction account" means a deposit or account on which the  
34 depositor or account holder is permitted to make withdrawals by  
35 negotiable or transferable instrument, payment orders of withdrawal,  
36 telephone transfers, or other similar device for the purpose of making  
37 payments or transfers to third persons or others.

38 ~~(r)~~ "Nonpersonal time deposit" means a time deposit, including a  
39 savings deposit that is not a transaction account, representing funds in  
40 which any beneficial interest is held by a depositor which is not a natural  
41 person.

42 ~~(s)~~ "Negotiable order of withdrawal deposit" means a deposit on  
43 which interest is paid and which is subject to withdrawal by the owner by

1 negotiable or transferable instruments for the purpose of making transfers  
2 to third parties, and which consists solely of funds in which the entire  
3 beneficial interest is held by one or more individuals, an organization  
4 which is operated primarily for religious, philanthropic, charitable,  
5 educational, fraternal or other similar purposes and which is not operated  
6 for profit, and with respect to deposits of public funds by an officer,  
7 employee or agent of the United States, any state, county, municipality or  
8 political subdivision thereof, the District of Columbia, the commonwealth  
9 of Puerto Rico, American Samoa, Guam, any territory or possession of the  
10 United States or any political subdivision thereof.

11 (t) (m) "Trust business" means engaging in, or holding out to the  
12 public as willing to engage in, the business of acting as a fiduciary for hire,  
13 except that no accountant, attorney, credit union, insurance broker,  
14 insurance company, investment adviser, real estate broker or sales agent,  
15 savings and loan association, savings bank, securities broker or dealer, real  
16 estate title insurance company or real estate escrow company shall be  
17 deemed to be engaged in a trust company business with respect to  
18 fiduciary services customarily performed by them for compensation as a  
19 traditional incident to their regular business activities.

20 (u) "~~Community development corporation~~" (CDC) means a corporate  
21 entity established by one or more financial institutions or by financial  
22 institutions and other investors or members, and operating for the primary  
23 purpose of housing development, economic growth and revitalization,  
24 small and minority business creation, and other community development  
25 initiatives.

26 (v) "~~Community development project~~" (CD project) means a specific  
27 project in a particular location, such as a neighborhood, city, county or  
28 state, the primary purpose of which is the economic improvement of that  
29 area or the provision of housing for low-income and moderate-income  
30 persons in that area and any state tax credit equity fund established  
31 pursuant to K.S.A. 74-8904, and amendments thereto.

32 (n) "*Community and economic development entity*" means an entity  
33 that makes investments or conducts activities that primarily benefit low-  
34 and moderate-income individuals, low- and moderate-income areas, or  
35 other areas targeted by a governmental entity for redevelopment, or would  
36 receive consideration as "*qualified investments*" under the community  
37 reinvestment act pub.L. 95-128, title VIII, 91 stat. 1147, 12 U.S.C. § 2901  
38 et seq., and any state tax credit equity fund established pursuant to K.S.A.  
39 74-8904, and amendments thereto.

40 (w) (o) "Depository institution" means any state bank, national  
41 banking association, state savings and loan or federal savings association,  
42 without regard to the state where the institution is chartered or the state in  
43 which the institution's main office is located.



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

4        Sec. 23. K.S.A. 9-801 is hereby amended to read as follows: 9-801.  
5 ~~Any five or more persons may organize a bank or trust company and make~~  
6 ~~and file articles of incorporation as provided by the laws of the state of~~  
7 ~~Kansas. Except as otherwise provided in subsection (b) of K.S.A. 9-1801,~~  
8 ~~and amendments thereto, no banking corporation or trust company shall be~~  
9 ~~organized or incorporated to engage in business as such until the articles of~~  
10 ~~incorporation have been submitted to and have been approved by the~~  
11 ~~board.~~  
*(a) No bank or trust company shall be organized or incorporated*  
12 *under the laws of this state, nor shall any such institution transact either a*  
13 *banking business or a trust business in this state, until the application for*  
14 *such bank's or trust company's incorporation and application for*  
15 *certificate of authority has been submitted to and approved by the state*  
16 *banking board. The form for making any such application shall be*  
17 *prescribed by the state banking board and any application made to the*  
18 *state banking board shall contain such information as the state banking*  
19 *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 the a bank or trust company shall not be the*  
28 ~~name of~~ *is different from that of any other bank or trust company doing*  
29 *business in the same city or town and within a 15-mile radius of the*  
30 *proposed location, and the name shall be accepted or rejected by the board*  
31 *selected for the trust company is different from any other trust company*  
32 *doing business in this state. Although, any bank or trust company may*  
33 *request exemption from the commissioner from the provisions of this*  
34 *subsection; and*

35        *(4) the articles of incorporation in addition to the information as now*  
36 ~~is required by law shall~~ *contain the names and addresses of its*  
37 ~~stockholders; and the amount of common stock subscribed by each and.~~  
38 *The articles of incorporation may contain such other provisions as are*  
39 *consistent with law the general corporation code. The articles of*  
40 ~~incorporation shall be subscribed by at least five of the stockholders of the~~  
41 ~~proposed bank or trust company or the parent company of such proposed~~  
42 ~~bank or trust company who are residents of the state of Kansas, and shall~~  
43 ~~be acknowledged by them. The full amount of the common stock including~~

1 ~~the surplus and undivided profits as required by this act shall be subscribed~~  
2 ~~before the articles of incorporation are filed.~~

3 *(d) If the state banking board shall determine any of the following*  
4 *factors unfavorably to the applicants, the application may be denied:*

5 *(1) The financial standing, general business experience and*  
6 *character of the organizers and incorporators;*

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

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

12 *(4) the prospects for success of the proposed bank or trust company;*  
13 *and*

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

15 *(e) The state banking board shall not make membership in any*  
16 *federal government agency a condition precedent to the granting of the*  
17 *authority to do business.*

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

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

39 *(h) The state banking board may approve the application of an*  
40 *existing bank or trust company to change such bank's or trust company's*  
41 *place of business and deny the application or applications for*  
42 *incorporation and authority to do business if:*

43 *(1) One or more such applications seeking to serve a territory are*

- 1 *pending before the state banking board;*
- 2 (2) *the board has determined all of such matters favorably in one or*  
3 *more of such applications;*
- 4 (3) *there is an application of an existing bank or trust company*  
5 *pending before the state banking board to change such bank's or trust*  
6 *company's place of business to serve the same territory which the state*  
7 *banking board determines should be approved; and*
- 8 (4) *the board determines that there is public need for only one bank*  
9 *or trust company to serve the territory.*
- 10 (i) *Any final action of the state banking board approving or*  
11 *disapproving an application shall be subject to review in accordance with*  
12 *the Kansas judicial review act.*
- 13 (j) *If upon the dissolution, insolvency or appointment of a receiver of*  
14 *any bank, trust company, national bank association, savings and loan*  
15 *association, savings bank or credit union, the commissioner is of the*  
16 *opinion that by reason of the loss of services in the community, an*  
17 *emergency exists which may result in serious inconvenience or losses to*  
18 *the depositors or the public interest in the community, the commissioner*  
19 *may accept and approve an application for incorporation and an*  
20 *application for authority to do business from applicants for the*  
21 *organization and establishment of a successor bank or trust company.*
- 22 Sec. 24. K.S.A. 9-802 is hereby amended to read as follows: 9-802.
- 23 (a) *The existence of any bank or trust company as a corporation shall date*  
24 *from the filing of ~~its~~ the bank's or trust company's articles of incorporation*  
25 *with the Kansas secretary of state's office from which time ~~it~~ such bank or*  
26 *trust company shall have and may exercise the incidental powers conferred*  
27 *by law upon corporations, except that no bank or trust company shall*  
28 *transact any business except the election of officers, the taking and*  
29 *approving of their official bonds, the receipts of payment upon stock*  
30 *subscriptions and other business incidental to its organization, until ~~it~~ such*  
31 *bank or trust company has secured the approval of the state banking board*  
32 *and the authorization of the ~~commissioners~~ commissioner to commence*  
33 *business.*
- 34 (b) *The full amount of the common stock including the surplus and*  
35 *undivided profits as required by the Kansas banking code shall be*  
36 *subscribed before the articles of incorporation are filed with the Kansas*  
37 *secretary of state's office.*
- 38 Sec. 25. K.S.A. 9-803 is hereby amended to read as follows: 9-803.
- 39 (a) *Any bank whose ~~charter~~ or articles of incorporation has lapsed, or*  
40 *hereafter shall lapse, may renew and extend ~~its~~ the bank's corporate*  
41 *existence in the manner provided by law and upon payment of the*  
42 *requisite fees.*
- 43 (b) *The acts of any bank or trust company whose articles of*

1 *incorporation have lapsed or terminated by the expiration of time and*  
2 *whose corporate existence is renewed and extended are hereby legalized*  
3 *and declared to be valid in the same manner and to the same effect as*  
4 *though the banks and trust companies had been duly authorized at all*  
5 *times since their organization.*

6 Sec. 26. K.S.A. 9-804 is hereby amended to read as follows: 9-804.

7 *(a) Upon approval of an application to organize a bank or trust company*  
8 *with the state banking board, such board shall cause to be made by and*  
9 *through the commissioner, a careful examination and investigation*  
10 *concerning:*

11 *(1) The amount of moneys paid in for capital, surplus and undivided*  
12 *profits, by whom paid, and the amount of capital stock owned in good faith*  
13 *by each stockholder;*

14 *(2) whether such bank or trust company has complied with the*  
15 *applicable provisions of law; and*

16 *(3) any other criteria the commissioner may require.*

17 *(b) When the capital of any bank or trust company shall have been*  
18 *paid in, the president or cashier shall transmit to the commissioner a*  
19 *verified statement showing the names and addresses of all stockholders,*  
20 *the amount of stock each subscribed, and the amount paid in by each. The*  
21 *commissioner shall examine such bank or trust company and shall charge*  
22 *the statutory examination fee and shall examine especially as to the*  
23 *amount of money paid in for capital, surplus and undivided profits, by*  
24 *whom paid, and the amount of capital stock owned in good faith by each*  
25 *stockholder, and generally whether such bank or trust company has*  
26 *complied with the provisions of law.*

27 *(c) If the commissioner finds ~~from such~~, after examination and*  
28 *investigation, that the bank or trust company has been organized as*  
29 *provided by law, has complied with the provisions of law and has secured*  
30 *the preliminary approval of the commissioner ~~as authorized if required by~~*  
31 *subsection (b) of K.S.A. ~~9-1801~~ 9-801(e), and amendments thereto, or*  
32 *upon the approval of the state banking board, the commissioner shall issue*  
33 *a certificate showing that such bank or trust company has been organized*  
34 *and its capital paid in as required by law, and that it is authorized to*  
35 *transact a general banking or trust business as provided by law.*

36 Sec. 27. K.S.A. 9-806 is hereby amended to read as follows: 9-806.

37 *Any newly organized bank or trust company which shall not begin*  
38 *business within ~~one hundred and twenty~~ 120 days after a certificate of*  
39 *authority has been issued to ~~it~~ such bank or trust company by the*  
40 *commissioner shall not engage in the banking business or the business of a*  
41 *trust company without again obtaining a certificate of authority from the*  
42 *commissioner.*

43 Sec. 28. K.S.A. 9-808 is hereby amended to read as follows: 9-808.

1 ~~(a) After first applying for and receiving approval from the commissioner~~  
2 *Upon the affirmative vote of not less than  $\frac{2}{3}$  of its outstanding voting*  
3 *stock, any national bank, federal savings association or federal savings*  
4 *bank organized under the laws of the United States and located in this*  
5 *state may become a state bank upon the affirmative vote of not less than  $\frac{2}{3}$*   
6 ~~*of its outstanding voting stock.*~~ Any national bank, federal savings  
7 association or federal savings bank desiring to become a state bank shall  
8 apply to the commissioner for permission to convert to a state bank, and:

9 (1) ~~Shall submit a certified copy of its articles of association, a~~  
10 ~~transcript of the minutes of the meeting of its stockholders showing~~  
11 ~~approval of the proposed conversion and;~~

12 (2) *the name selected for the bank shall not be the name of any other*  
13 *bank doing business in the same city or town and within a 15-mile radius*  
14 *of the location of the converted institution, and the name shall be accepted*  
15 *or rejected by the commissioner, although any bank may request*  
16 *exemption from the commissioner from this paragraph; and*

17 (3) *provide any other information required in the application form*  
18 *prescribed by the commissioner.*

19 (b) A federal savings association or federal savings bank operating in  
20 a mutual form must also convert to a stock form prior to converting to a  
21 state bank and shall submit appropriate documentation to the  
22 commissioner to show that the appropriate federal regulator has approved  
23 such mutual to stock conversion.

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

27 (1) All state and federal requirements for a conversion have been  
28 satisfied;

29 (2) the conversion *or the financial condition of the bank* will not  
30 adversely affect the interests of the depositors; ~~and~~

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

33 (4) *the competence, experience or integrity of the proposed*  
34 *management personnel indicates it would be in the interest of the*  
35 *depositors of the bank and in the interest of the public to permit the*  
36 *conversion.*

37 (d) If the commissioner determines each of ~~these~~ *the* matters in  
38 subsection (c) favorably the conversion shall be approved and the  
39 commissioner shall issue a certificate of authority. Upon issuance of a  
40 certificate of authority, the articles of incorporation, duly executed as  
41 required by ~~state law~~ *the Kansas corporate code*, shall be filed with the  
42 *Kansas secretary of state's office.*

43 ~~(b) (e) In any conversion authorized by this section the capital~~

1 requirements of this act shall apply, and the new name for such resulting  
2 bank shall be approved by the commissioner. In any conversion authorized  
3 by this section the resulting state bank shall have authority to issue its  
4 shares of stock for shares of stock in the national bank, federal savings  
5 association or federal savings bank or property of the national bank,  
6 federal savings association or federal savings bank for and upon such  
7 valuation as shall be agreed upon, and approved by the commissioner. In  
8 any conversion authorized by this section the resulting state bank by  
9 operation of law shall continue all trust functions being exercised by the  
10 national bank, federal savings association or federal savings bank and shall  
11 be substituted for the national bank, federal savings association or federal  
12 savings bank and shall have the right to exercise trust or fiduciary powers  
13 created by any instrument designating the national bank, federal savings  
14 association or federal savings bank even though such instruments are not  
15 yet effective.

16 (e) (f) In any conversion authorized by this section the resulting state  
17 bank shall succeed by operation of law without any conveyance or transfer  
18 by the act of the national bank, federal savings association or federal  
19 savings bank to all the actual or potential assets, real property, tangible  
20 personal property, intangible personal property, rights, franchises and  
21 interests, including those in a fiduciary capacity of the national bank,  
22 federal savings association or federal savings bank and shall be subject to  
23 all of the liabilities of the national bank, federal savings association or  
24 federal savings bank.

25 (d) (g) ~~In any conversion authorized by this section the rights and~~  
26 ~~responsibilities of any shareholder of the national bank, federal savings~~  
27 ~~association or federal savings bank who objects or dissents to the proposed~~  
28 ~~conversion shall be governed by the provisions of K.S.A. 17-6712, and~~  
29 ~~amendments thereto, as though the national bank, federal savings~~  
30 ~~association or federal savings bank was a Kansas corporation and the~~  
31 ~~objecting or dissenting shareholder was objecting or dissenting to a~~  
32 ~~proposed merger transaction. In any conversion authorized by this section~~  
33 ~~the corporate existence of the national bank, federal savings association or~~  
34 ~~federal savings bank shall be merged into and shall be continued in the~~  
35 ~~resulting state bank, and the resulting state bank shall be deemed to be the~~  
36 ~~identical corporate entity as the national bank, federal savings association~~  
37 ~~or federal savings bank.~~

38 (e) (h) Within a reasonable time after the effective date of the  
39 conversion, the resulting bank shall divest itself of all assets and liabilities  
40 that do not conform to state banking laws and rules and regulations. The  
41 length of this transition period shall be determined by the commissioner  
42 and shall be specified when the application for conversion is approved.

43 Sec. 29. K.S.A. 9-809 is hereby amended to read as follows: 9-809.

1 ~~(a) Any state bank may at any time, Upon the affirmative vote of not less~~  
2 ~~than  $\frac{2}{3}$  of its outstanding voting stock, become any state bank may convert~~  
3 ~~to a national bank, but in all the proceedings incident thereto such bank~~  
4 ~~shall be governed by the same rulings, laws and regulations as may be in~~  
5 ~~force and effect under federal law and authority governing national banks~~  
6 ~~becoming state banks.~~

7 (b) The state bank shall provide ~~written notice~~ *a copy of the*  
8 *application submitted to the comptroller of currency to the state bank*  
9 *commissioner within 10 days after the date the state bank receives*  
10 *preliminary applies for approval to convert to a national banking*  
11 *association from the office of the comptroller of the currency.*

12 (c) *The state bank shall provide to the commissioner written notice of*  
13 *approval by the comptroller of currency to convert to a national bank*  
14 *within 10 days of receiving the approval.*

15 (d) ~~In addition, not more than~~ *Within 15 days following the issuance*  
16 *of a charter certificate to the bank by the comptroller, the bank shall*  
17 *surrender its state certificate of authority or charter and shall certify in*  
18 *writing that notice of the conversion has been given to the corporations*  
19 *division of the Kansas secretary of state's office.*

20 Sec. 30. K.S.A. 9-811 is hereby amended to read as follows: 9-811.  
21 No financial institution whose deposits are insured by the federal deposit  
22 insurance corporation shall conduct business in this state unless such  
23 institution: (a) Has the legal right to accept deposits that the depositor has  
24 the legal right to withdraw on demand and to engage in the business of  
25 making commercial loans ~~or;~~ *or* (b) is a national bank which engages only  
26 in credit card operations, does not accept demand deposits or deposits that  
27 the depositor may withdraw by check or similar means for payment to  
28 third parties or others, does not accept any savings or time deposits of less  
29 than \$100,000, ~~accepts deposits only from corporations which own 51% or~~  
30 ~~more of the voting shares of the bank holding company or its parent~~  
31 ~~corporation, as defined by K.S.A. 9-519, and amendments thereto, of~~  
32 ~~which the bank engaging only in credit card operations is a subsidiary, as~~  
33 ~~defined by K.S.A. 9-519, and amendments thereto, maintains only one~~  
34 ~~office that accepts deposits, and does not engage in the business of making~~  
35 ~~commercial loans.~~

36 Sec. 31. K.S.A. 9-812 is hereby amended to read as follows: 9-812. A  
37 (a) ~~No bank corporation or trust company shall not change its name until~~  
38 ~~such name change has been submitted to and approved by the state bank~~  
39 ~~commissioner.~~

40 (b) *The commissioner shall not approve the name selected for the*  
41 *bank if it is the name of any other bank doing business in the same city or*  
42 *town and within a 15-mile radius of the proposed location.*

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 (b) or (c) of this section.*

5 *(e) Upon approval of such name change, the bank must notify and*  
6 *make the necessary filings as may be required by the Kansas secretary of*  
7 *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 and the commissioner*  
12 *must approve any use of a name other than the named approved by the*  
13 *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. 32. K.S.A. 9-901a is hereby amended to read as follows: 9-901a.

19 (a) For purposes of this section; ~~the:~~ (1) "Capital" ~~of a bank or trust~~  
20 ~~company shall be~~ means the total of the aggregate par value of its  
21 outstanding shares of capital stock, its surplus and its undivided profits;:

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

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

26 (b) ~~The minimum capital of a bank or trust company in existence on~~  
27 ~~July 1, 1975, shall be \$250,000 or such lesser amount as such bank or trust~~  
28 ~~company had on July 1, 1975. With respect to a bank or trust company in~~  
29 ~~existence on July 1, 1975, which thereafter transfers its place of business~~  
30 ~~from one city to another, the minimum capital shall be the amount required~~  
31 ~~by subsection (e). For banks organized on or after July 1, 2015, the~~  
32 ~~minimum capital of a bank at the time of organization shall be the greater~~  
33 ~~of \$3,000,000 or an amount equal to 8% of the proposed bank's estimated~~  
34 ~~deposits five years after its organization. The capital shall be divided with~~  
35 ~~60% of the amount as the aggregate par value of outstanding shares of~~  
36 ~~capital stock, 30% as surplus, and 10% as undivided profits.~~

37 (c) *For trust companies organized on or after July 1, 2015, the*  
38 *minimum capital shall at all times be \$500,000 of which 60% shall be the*  
39 *aggregate par value of its outstanding shares of capital stock, 30% its*  
40 *surplus and 10% its undivided profits.*

41 (d) *The state banking board may require that the bank or trust*  
42 *company have capital in excess of the amounts specified in this subsection*  
43 *if the state banking board determines that excess capital is necessary*



1 based on the character, and qualifications of the proposed board of  
2 directors and nature of the business of the bank or trust company.

3 (e) The minimum capital of a bank or trust company organized  
4 pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined  
5 by the commissioner, provided that the successor bank has obtained  
6 deposit insurance from the federal deposit insurance corporation or its  
7 successor.

8 (e) (f) The minimum capital of a bank or trust company organized as  
9 a corporation after July 1, 1975, or which thereafter transfers its place of  
10 business from one city to another, shall be as follows:

11 (1) For a bank at least \$250,000 or at least an amount equal to 8% of  
12 its estimated deposits five years after its organization or transfer of place  
13 of business, whichever is greater, of which 60% shall be the aggregate par  
14 value of its outstanding shares of capital stock, 30% its surplus and 10%  
15 its undivided profits;

16 (2) for a trust company at least \$250,000 of which 60% shall be the  
17 aggregate par value of its outstanding shares of capital stock, 30% its  
18 surplus and 10% its undivided profits.

19 The state banking board may require that the bank or trust company  
20 have capital in excess of the amounts specified in this subsection if the  
21 board determines that the amount and character of the anticipated business  
22 of the bank or trust company and the safety of the customers so require. All  
23 banks shall maintain a capital ratio of at least 5% of equity capital to total  
24 assets at all times.

25 (d) (g) The minimum capital of a bank or trust company organized  
26 pursuant to subsection (b) of K.S.A. 9-1801, and amendments thereto,  
27 shall be determined by the commissioner, provided that the successor bank  
28 has obtained deposit insurance from the federal deposit insurance  
29 corporation or its successor. Any bank that relocates its main office from  
30 one city to another pursuant to section 9, and amendments thereto, shall  
31 have equity capital equal to the greater of \$3,000,000 or 8% of its  
32 estimated deposits five years after the relocation.

33 (1) The commissioner, in the commissioner's discretion, may approve  
34 a relocation with a smaller equity capital amount if the bank can show  
35 that the circumstances surrounding the relocation warrant consideration  
36 of a lesser amount, and the safety of depositors would not be impacted by  
37 requiring a lesser amount.

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

41 (e) (h) Except as may be provided elsewhere in this act, no bank or  
42 trust company shall reduce voluntarily its capital stock or surplus below  
43 the amounts required by this section. Any national bank, federal savings

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

6 (i) The commissioner may require that the bank or trust company  
7 have capital in excess of the amounts specified in subsections (c) through  
8 (f) if the commissioner determines that excess capital is necessary based  
9 on the character, and qualifications of the proposed board of directors and  
10 nature of the business of the bank or trust company.

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

16 Sec. 33. K.S.A. 9-902 is hereby amended to read as follows: 9-902.

17 (a) The common and preferred stock of any bank or trust company  
18 hereafter created shall be divided into shares of \$5 \$1 each, or a any whole  
19 number multiple thereof. All subscriptions to such stock shall be paid in  
20 cash and any bank or trust company may change the par value of its shares  
21 to conform with this section.

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

32 (c) The requirements for a capital reduction pursuant to K.S.A. 9-  
33 904, and amendments thereto, and the requirements for new issue of  
34 preferred stock pursuant to K.S.A. 9-908, and amendments thereto, shall  
35 not apply to the circumstance described in this section.

36 Sec. 34. K.S.A. 9-903 is hereby amended to read as follows: 9-903.

37 (a) The shares of stock of any bank or trust company shall be deemed  
38 personal property and shall be transferred on the books of the bank or trust  
39 company in such manner as the bylaws thereof may direct.

40 (b) No transfer of stock shall be valid against the issuing bank or trust  
41 company so long as the registered owner thereof shall be liable as  
42 principal debtor, surety or otherwise to the bank or trust company on a  
43 matured, charged off or forgiven obligation, nor shall any dividend,

1 interest or profit be paid on such stock so long as the registered owner  
2 thereof is indebted to the bank or trust company on a matured, charged off  
3 or forgiven obligation, ~~but~~. All such dividends or profits shall be retained  
4 by the bank or trust company and applied to the discharge of any such  
5 obligations.

6 (c) No stock shall be transferred on the books of any bank or trust  
7 company when the bank or trust company is in a failing condition, or when  
8 its capital stock is impaired, except upon approval of the commissioner.  
9 ~~Whenever a transfer of shares of stock of any bank or trust company~~  
10 ~~occurs which results in direct or indirect ownership by a stockholder or an~~  
11 ~~affiliated group of stockholders of 10% or more of the outstanding stock of~~  
12 ~~the bank or trust company, and whenever additional shares of stock of the~~  
13 ~~bank or trust company are transferred to such stockholder or affiliated~~  
14 ~~group of stockholders, the president or other chief executive officer of the~~  
15 ~~bank or trust company shall report such transfer to the commissioner~~  
16 ~~within 10 days after transfer of the shares of stock on the books of the~~  
17 ~~bank or trust company~~

18 (d) *The president or other chief executive officer of a bank or trust*  
19 *company shall report to the commissioner within 10 days of the transfer of*  
20 *shares of stock on the books of the bank or trust company in the following*  
21 *situations:*

22 (1) *If there is a transfer of shares of stock which result in the direct or*  
23 *indirect ownership by a stockholder or an affiliated group of stockholders*  
24 *of 10% or more of the outstanding stock of the bank or trust company; or*

25 (2) *if there is a transfer of additional shares of stock to stockholders*  
26 *or an affiliated group of stockholders who own 10% or more of the*  
27 *outstanding stock of a bank or trust company.*

28 (e) *If there is a transfer of shares of stock which result in the direct or*  
29 *indirect ownership by a stockholder or an affiliate group of stockholders*  
30 *of 25% or more of the outstanding stock of the bank or trust company, a*  
31 *change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and*  
32 *amendments thereto.*

33 Sec. 35. K.S.A. 9-904 is hereby amended to read as follows: 9-904.

34 (a) ~~The capital stock of any bank or trust company may be reduced to the~~  
35 ~~minimum provided by law for a new bank or trust company by resolution~~  
36 ~~adopted by the stockholders representing  $\frac{2}{3}$  of the voting stock of such~~  
37 ~~bank or trust company, except that no such reduction shall become~~  
38 ~~effective until the commissioner approves the same.~~

39 (b) (a) ~~With prior approval of the state bank commissioner, a bank or~~  
40 ~~trust company may reduce the amount of its capital stock below the~~  
41 ~~minimum amount allowed by subsection (a) by transferring capital stock~~  
42 ~~to its surplus fund account. No such reduction shall be approved unless the~~  
43 ~~state bank commissioner finds that:~~

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

4 (2) the proposed reduction does not result in or is not in furtherance  
5 of a reduction in the institution's capital to an amount below ~~8% of total~~  
6 ~~deposits for a bank or below \$250,000 for a trust company~~ *the amount*  
7 *required by K.S.A. 9-901(a), and amendments thereto;*

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

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

13 (5) *the bank's surplus account will be increased in an amount equal*  
14 *to the amount of the proposed reduction in the capital stock account,*  
15 *unless a waiver is granted by the commissioner; and*

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

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

22 (e) ~~After the commissioner has approved such reduction a certificate~~  
23 ~~signed by the president and cashier of the bank or trust company setting~~  
24 ~~forth the result of such reduction of its capital stock, the names of its~~  
25 ~~stockholders and the amount of stock held by each, shall be filed with the~~  
26 ~~secretary of state and a duplicate shall be filed with the commissioner.~~

27 (d) (c) Whenever the capital stock of any bank or trust company shall  
28 be reduced as herein provided, every stockholder, owner or holder of any  
29 stock certificate shall surrender the same for cancellation and shall be  
30 entitled to receive a new certificate for such person's proportion of the new  
31 stock. No dividends shall be paid to any such stockholder until the old  
32 certificate is surrendered.

33 Sec. 36. K.S.A. 9-905 is hereby amended to read as follows: 9-905.  
34 The capital stock of any bank or trust company may be increased. The  
35 president and cashier shall forward a verified statement to the  
36 commissioner showing the amount of the increase, *paid in full*, the names  
37 and addresses of the subscribers; *and* the amount subscribed by each ~~and~~  
38 ~~that the same has been paid in full to the bank or trust company. The date~~  
39 ~~and amount of such increase also shall be certified to the secretary of state.~~

40 Sec. 37. K.S.A. 9-906 is hereby amended to read as follows: 9-906.  
41 (a) Whenever it shall appear that the capital stock of any bank or trust  
42 company is impaired, the commissioner shall notify ~~such~~ *the* bank or trust  
43 company to restore the capital stock within 90 days of receipt of such

1 notice.

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

8 (c) Within 15 days of receipt of ~~such~~ *the impairment notice from the*  
9 *commissioner, the board of directors of such the bank or trust company*  
10 *shall levy an assessment on the common stockholders sufficient to restore*  
11 *the capital stock.*

12 (d) ~~Such~~ *A bank or trust company with its board's approval may*  
13 *reduce its capital stock to the extent of the impairment, if such reduction*  
14 *will not reduce the capital stock below the amount required by this act is*  
15 *conducted pursuant to the requirements of K.S.A. 9-904, and amendments*  
16 *thereto.*

17 Sec. 38. K.S.A. 9-907 is hereby amended to read as follows: 9-907.

18 (a) Whenever any stockholder of a bank or trust company or an assignee  
19 of such stockholder, fails to pay any assessment ~~on such stockholder's~~  
20 ~~stock when the same is required to be paid as required by K.S.A. 9-906,~~  
21 ~~and amendments thereto, the directors of such the bank or trust company~~  
22 ~~may sell the stock of such delinquent stockholder, or so much thereof~~  
23 ~~of the stock as shall be necessary, to satisfy the assessment and any related~~  
24 ~~incidental expenses incident thereto, within 120 days of the bank or trust~~  
25 ~~company's receipt of impairment notice, to any person paying the highest~~  
26 ~~price therefor, which price shall be not less than the amount due upon such~~  
27 ~~stock with any expense incident thereto, and such sale may be either public~~  
28 ~~or private. If sold at private sale and the price offered by any~~  
29 ~~nonstockholder shall not exceed the highest bid of any stockholder, then~~  
30 ~~such stock shall be sold to the stockholder. If such sale shall be public,~~  
31 ~~then three weeks' notice thereof, published in a newspaper of general~~  
32 ~~circulation in the city or county where the bank or trust company is~~  
33 ~~located, shall be given. The excess, if any, realized upon the sale of the~~  
34 ~~stock shall be paid to the delinquent stockholder unless such stockholder is~~  
35 ~~further indebted to the bank or trust company then it may be retained by~~  
36 ~~the bank or trust company as an offset. If no purchaser can be found for~~  
37 ~~such stock upon the terms herein stated the stock shall be forfeited to the~~  
38 ~~bank or trust company to be disposed of within six months from the date~~  
39 ~~of the public or private sale as the board of directors shall determine.~~

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*  
9 *the bank or trust company. If the stockholder has debt, then the excess may*  
10 *be 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, it shall be forfeited to the bank or trust company to be disposed of as*  
13 *the board of directors shall determine within six months from the date of*  
14 *the public or private sale. If the stock cannot be disposed of within six*  
15 *months, the bank or trust company may request permission from the*  
16 *commissioner for additional time to dispose of the stock.*

17 Sec. 39. K.S.A. 9-908 is hereby amended to read as follows: 9-908.  
18 ~~Any bank or trust company may issue preferred stock of one or more~~  
19 ~~classes in such amounts as shall be approved by the state bank~~  
20 ~~commissioner. The holders of  $\frac{2}{3}$  in amount of the common stock of such~~  
21 ~~bank or trust company must approve such issuance at a meeting held for~~  
22 ~~that purpose and for which notice by registered mail must be given to each~~  
23 ~~stockholder by mailing such notice at least five days in advance of the date~~  
24 ~~of the meeting. No issue of preferred stock shall be valid until the par~~  
25 ~~value of all stock so issued shall be paid in. With the approval of the state~~  
26 ~~banking board the common stock may be reduced below the requirements~~  
27 ~~contained in K.S.A. 9-901a, and amendments thereto (a) Upon the~~  
28 ~~affirmative vote of  $\frac{2}{3}$  of the voting shares of the common stock of a bank~~  
29 ~~or trust company, and with the prior approval of the commissioner, a bank~~  
30 ~~or trust company may issue preferred stock of one or more classes. The~~  
31 ~~stockholders shall have a meeting to vote on the issuance of preferred~~  
32 ~~stock. Notice of this meeting shall be given to all stockholders at least five~~  
33 ~~days in advance of the date of the meeting by registered mail.~~

34 *(b) No preferred stock shall be retired unless the common stock shall*  
35 *be increased in an amount equal to the amount of the preferred stock*  
36 *retired. All preferred stock shall be retired consistent with safety to the*  
37 *depositors.*

38 Sec. 40. K.S.A. 9-909 is hereby amended to read as follows: 9-909.  
39 The holders of preferred stock shall not be liable for assessments to restore  
40 any impairment in the capital stock of a bank or trust company.

41 No dividends shall be declared or paid on common stock until all  
42 cumulative dividends, if any, on the preferred stock shall have been paid;  
43 ~~and~~. If the bank or trust company is dissolved or placed in liquidation no

1 payments shall be made to the holders of common stock until the holders  
2 of the preferred stock ~~are first shall have been~~ paid in full for any sums  
3 due upon ~~such~~ the preferred stock.

4 Sec. 41. K.S.A. 9-910 is hereby amended to read as follows: 9-910.  
5 ~~No bank or trust company during the time it shall continue in business,~~  
6 ~~shall permit to be withdrawn in the form of dividends, any portion of its~~  
7 ~~capital stock~~ *No dividends shall be paid from the capital stock account of*  
8 *a bank or trust company.* The current dividends of any bank or trust  
9 company shall be paid from undivided profits after deducting losses, ~~to be~~  
10 ~~ascertained.~~ *These losses are determined by using* generally accepted  
11 accounting principles at the time of making ~~such~~ the dividend. ~~Any bank~~  
12 ~~or trust company may reduce its capital stock as provided in this act.~~

13 Sec. 42. K.S.A. 9-911 is hereby amended to read as follows: 9-911.  
14 (a) The directors of any bank or trust company may declare *cash* dividends  
15 *only* from the undivided profits, ~~but before the declaration of any dividend~~  
16 ~~each bank or trust company.~~ *Before paying this dividend, the directors*  
17 *shall ensure that the surplus fund equals or exceeds the capital stock*  
18 *account. If the surplus fund is less than the capital stock account, the*  
19 *directors shall transfer 25% of its the net profits of the bank or trust*  
20 *company, since the last preceding dividend from undivided profits to its the*  
21 *surplus fund, until except no additional transfers shall be required once*  
22 *the surplus fund shall equal equals the total capital stock account.*

23 (b) *The directors of any bank or trust company may not declare or*  
24 *pay an asset dividend, other than cash dividends allowed pursuant to*  
25 *subsection (a), without prior approval from the commissioner.*

26 Sec. 43. K.S.A. 9-912 is hereby amended to read as follows: 9-912.  
27 (a) Any losses sustained by a bank or trust company in excess of its  
28 undivided profits may be charged to its surplus fund.

29 (b) Any bank or trust company, after receiving approval from the  
30 commissioner, may declare a stock dividend from its surplus fund, but no  
31 ~~such~~ dividend shall reduce the surplus fund to an amount less than 30%  
32 of the resulting total capital ~~and~~.

33 (c) Any bank or trust company may reduce its surplus *account* with  
34 permission of the ~~state bank~~ commissioner.

35 Sec. 44. K.S.A. 2014 Supp. 9-1101 is hereby amended to read as  
36 follows: 9-1101. (a) Any bank hereby is authorized to exercise by its  
37 board of directors or duly authorized officers or agents, subject to law, ~~all~~  
38 ~~such powers, including incidental~~ *the following* powers, ~~as shall be~~  
39 ~~necessary to carry on the business of banking, and:~~

40 (1) ~~To receive deposits and to pay interest thereon at rates which need~~  
41 ~~not be uniform on deposits.~~ The ~~state bank~~ commissioner, with approval of  
42 the state banking board, may by ~~rules and regulations of general~~  
43 ~~application~~ fix maximum rates of interest to be paid on deposit accounts

1 other than accounts for public moneys;

2 (2) to buy ~~and~~, sell ~~exchange~~, *discount or negotiate domestic*  
3 *currency*, gold, silver, foreign ~~coin~~ *currency*, bullion, commercial paper,  
4 bills of exchange, notes and bonds; *Foreign currency shall not be bought,*  
5 *sold, discounted or negotiated for investment purposes;*

6 (3) ~~to buy and sell bonds, securities, or other evidences of~~  
7 ~~indebtedness of the United States of America or those fully guaranteed,~~  
8 ~~directly or indirectly, by it, and general obligation bonds of the state of~~  
9 ~~Kansas or any municipality or quasi-municipality thereof, and of other~~  
10 ~~states, and of municipalities or quasi-municipalities in other states of the~~  
11 ~~United States of America. No bank shall invest an amount in excess of~~  
12 ~~15% of its capital stock paid in and unimpaired and the unimpaired surplus~~  
13 ~~fund of such bank in bonds, securities or other evidences of indebtedness~~  
14 ~~of any municipality or quasi-municipality of any other state or states of the~~  
15 ~~United States of America: (a) If and when the direct and overlapping~~  
16 ~~indebtedness of such municipality or quasi-municipality is in excess of~~  
17 ~~10% of its assessed valuation, excluding therefrom all valuations on~~  
18 ~~intangibles and homestead exemption valuation; (b) or if any bond,~~  
19 ~~security, or evidence of indebtedness of any such municipality or quasi-~~  
20 ~~municipality has been in default in the payment of principal or interest~~  
21 ~~within 10 years prior to the time that any bank acquires any such bonds,~~  
22 ~~security or evidence of indebtedness;~~

23 (4) to make all types of loans, ~~including loans on real estate~~, subject  
24 to the loan limitations contained in this act. Every real estate loan shall be  
25 secured by a mortgage or other instrument constituting a lien, or the full  
26 equivalent thereof, upon the real estate securing the loan, according to any  
27 lawful or well-recognized practice, which is best suited to the transaction.  
28 The mortgage may secure future advances. The lien of such mortgage shall  
29 attach upon its execution and have priority from time of recording as to all  
30 advances made thereunder until such mortgage is released of record. The  
31 lien of such mortgage shall not exceed at any one time the maximum  
32 amount stated in the mortgage *the state banking code*;

33 (4) (A) to buy and sell bonds, securities, or other evidences of  
34 indebtedness, including temporary notes, of:

35 (i) The United States of America or those fully guaranteed, directly or  
36 indirectly, by it; or

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

18 ~~(6) to buy and sell investment securities which are evidences of~~  
19 ~~indebtedness. The buying and selling of investment securities shall be~~  
20 ~~limited to buying and selling without recourse marketable obligations~~  
21 ~~evidencing indebtedness of any person, copartnership, association, or~~  
22 ~~corporation, or state or federal agency, including revenue bonds issued~~  
23 ~~pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory~~  
24 ~~board in the form of bonds, notes or debentures or both, commonly known~~  
25 ~~as investment securities, under such further definition of the term~~  
26 ~~"investment securities" as prescribed by the board, but the. The total~~  
27 ~~amount of such investment securities of any one obligor or maker held by~~  
28 ~~such bank shall at no time exceed 25% of the capital stock paid in and~~  
29 ~~unimpaired and the unimpaired surplus fund of such bank except that this~~  
30 ~~limit shall not apply to obligations of the United States government or any~~  
31 ~~agency thereof. If the obligor is a state agency including any agency~~  
32 ~~issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments~~  
33 ~~thereto, or the state armory board, the total amount of such investment~~  
34 ~~securities shall at no time exceed 25% of the capital stock paid in and~~  
35 ~~unimpaired and the unimpaired surplus fund of such bank surplus,~~  
36 ~~undivided profits, 100% of the allowance for loan and lease loss, capital~~  
37 ~~notes and debentures, and reserve for contingencies of such bank;~~

38 ~~(7) to subscribe to, buy and own such stock of the federal national~~  
39 ~~mortgage association as required by title 3, section 303 of the federal act~~  
40 ~~known as the national housing act as amended by section 201 of public~~  
41 ~~law No. 560, of the United States (68 Stat. 613-615), known as the housing~~  
42 ~~act of 1954, or amendments thereto to subscribe to, buy, hold and sell stock~~  
43 ~~of:~~

1 (A) *The federal national mortgage association in accordance with the*  
 2 *national housing act;*

3 (B) *the federal home loan mortgage corporation in accordance with*  
 4 *the federal home loan mortgage corporation act;*

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

8 (D) *a federal home loan bank. Any bank may also become a member*  
 9 *of a federal home loan bank;*

10 (8) to subscribe to, buy and own stock in one or more small business  
 11 investment companies in Kansas as otherwise authorized by federal law,  
 12 except that in no event shall any bank acquire shares in any small business  
 13 investment company if, upon the making of that acquisition the aggregate  
 14 amount of shares in small business investment companies then held by the  
 15 bank would exceed 5% of its capital and surplus. ~~Nothing in this act~~  
 16 ~~contained shall prohibit any bank from holding and disposing of such real~~  
 17 ~~estate and other property as it may acquire in the collection of its assets;~~

18 (9) to subscribe to, buy and own stock in any agricultural credit  
 19 corporation or livestock loan company, or its affiliate, organized pursuant  
 20 to the provisions of the laws of the United States providing for the  
 21 information and operation of agricultural credit corporations and livestock  
 22 loan companies, in an amount not exceeding either the undivided profits or  
 23 10% of the capital stock and surplus and undivided profits from such bank,  
 24 whichever is greater;

25 ~~(10) to subscribe to, buy and own stock in minbane capital~~  
 26 ~~corporation, a company formed for the purpose of providing capital to~~  
 27 ~~minority-owned banks. No bank's investment in such stock shall exceed~~  
 28 ~~2% of its capital and surplus;~~

29 ~~(11)~~ (10) to buy, hold, and sell any type of investment securities not  
 30 enumerated in this section with approval of the commissioner and upon  
 31 such conditions and under such regulations as are prescribed by the state  
 32 banking board;

33 ~~(12)~~ (11) to act as escrow agent;

34 ~~(13)~~ (12) to subscribe to, acquire, hold and dispose of stock of a  
 35 corporation having as its purpose the acquisition, holding and disposition  
 36 of loans secured by real estate mortgages, and to acquire, hold and dispose  
 37 of the debentures and capital notes of such corporation. No bank's  
 38 investment in such stock, debentures and capital notes shall exceed 2% of  
 39 its capital stock, surplus and undivided profits ~~and such investment shall~~  
 40 ~~be carried on the books of the bank as directed by the commissioner;~~

41 ~~(14)~~ (13) to purchase and sell securities and stock without recourse  
 42 solely upon the order, and for the account, of customers;

43 ~~(15)~~ (14) to subscribe to, acquire, hold and dispose of any class of

1 stock, debentures and capital notes of MABSCO agricultural services, inc.  
2 or any similar corporation having as its purpose the acquisition, holding  
3 and disposition of agricultural loans originated by Kansas banks. No  
4 bank's investment in such stock, debentures and capital notes shall exceed  
5 2% of its capital stock, surplus and undivided profits. ~~Such investment~~  
6 ~~shall be carried on the books of the bank as directed by the commissioner;~~

7 ~~(16) to buy, hold and sell mortgages, stock, obligations and other~~  
8 ~~securities which are issued or guaranteed by the federal home loan~~  
9 ~~mortgage corporation under sections 305 and 306 of the federal act known~~  
10 ~~as the federal home loan mortgage corporation act (P.L. 91-351);~~

11 ~~(17) to buy, hold and sell obligations or other instruments or~~  
12 ~~securities, including stock, issued or guaranteed by the student loan~~  
13 ~~marketing association created by (P.L. 92-318) of the United States;~~

14 ~~(18) (15) to engage in financial future contracts on United States~~  
15 ~~government and agency securities subject to such rules and regulations as~~  
16 ~~the state bank commissioner may prescribe pursuant to K.S.A. 9-1713, and~~  
17 ~~amendments thereto, to promote safe and sound banking practices;~~

18 ~~(19) (16) to subscribe to, buy and own stock in a bankers' bank~~  
19 ~~organized under the laws of the United States, this state, or any other state,~~  
20 ~~or a one bank holding company which owns or controls such a bankers'~~  
21 ~~bank, except no bank's investment in such stock shall exceed 10% of its~~  
22 ~~capital stock, surplus and undivided profits;~~

23 ~~(20) (17) subject to such rules and regulations as the state bank~~  
24 ~~commissioner may adopt pursuant to K.S.A. 9-1713, and amendments~~  
25 ~~thereto, to promote safe and sound banking practices, upon recorded prior~~  
26 ~~approval by the board of directors of the initial investment in a specific~~  
27 ~~company and pursuant to an investment policy approved by the board of~~  
28 ~~directors which specifically provides for such investments to buy, hold and~~  
29 ~~sell shares of an open-end investment company registered with the federal~~  
30 ~~securities and exchange commission under the federal investment~~  
31 ~~company act of 1940 and the federal securities act of 1933 and of a~~  
32 ~~privately offered company sponsored by an affiliated commercial bank, the~~  
33 ~~shares of which are purchased and sold at par and the assets of which~~  
34 ~~consist solely of securities which may be purchased by the bank for its~~  
35 ~~own account. Such shares may be purchased without limit if the assets of~~  
36 ~~the company consist solely of and are limited to obligations that are~~  
37 ~~eligible for purchase by the bank without limit. If the assets of the~~  
38 ~~company include securities which may be purchased by the bank subject to~~  
39 ~~limitation, such shares may be purchased subject to the limitation~~  
40 ~~applicable to purchase by the bank of such securities in a manner~~  
41 ~~consistent with the parameters outlined by the office of the comptroller of~~  
42 ~~the currency in banking circular 220, as such circular was issued on~~  
43 ~~November 21, 1986;~~

1       ~~(21)~~ (18) subject to the prior approval of the ~~state bank~~ commissioner  
2 and subject to such rules and regulations as are adopted by the ~~state bank~~  
3 commissioner pursuant to K.S.A. 9-1713, and amendments thereto, to  
4 promote safe and sound banking practices, a bank may establish a  
5 subsidiary which engages in the following securities activities: ~~(a)~~ (A)  
6 Selling or distributing stocks, bonds, debentures, notes, mutual funds and  
7 other securities; ~~(b)~~ (B) issuing and underwriting municipal bonds; ~~(c)~~ (C)  
8 organizing, sponsoring and operating mutual funds; ~~(d)~~ or (D) acting as a  
9 securities broker-dealer;

10       ~~(22)~~ to subscribe to, acquire, hold and dispose of stock of any class of  
11 the federal agricultural mortgage corporation, a corporation having as its  
12 purpose the acquisition, holding and disposition of loans secured by  
13 agricultural real estate mortgages. No bank's investment in such  
14 corporation shall exceed 5% of its capital stock, surplus and undivided  
15 profits and such investment shall be carried on the books of the bank as  
16 directed by the commissioner;

17       ~~(23)~~ (19) to subscribe to, buy and own stock in an insurance company  
18 incorporated prior to 1910, under the laws of Kansas, with corporate  
19 headquarters in this state, which only provides insurance to financial  
20 institutions. The investment in such stock shall not exceed 2% of the  
21 bank's capital stock, surplus and undivided profits;

22       ~~(24)~~ (20) to purchase and hold an interest in life insurance policies  
23 and to the extent applicable to purchase and hold an annuity in a manner  
24 consistent with the parameters outlined in the interagency statement of the  
25 purchase and risk management of life insurance, issued by the office of the  
26 comptroller of the currency, the board of governors of the federal reserve  
27 system, the federal deposit insurance corporation and the office of the  
28 thrift supervision on December 7, 2004; and set out in the respective  
29 agencies' issuances, including the federal deposit insurance corporation  
30 financial institution letter 127-2004, effective December 7, 2004, subject  
31 to the following limitations:

32       ~~(a)~~ (A) The cash surrender value of any life insurance policy or  
33 policies underwritten by any one life insurance company shall not at any  
34 time exceed 15% of the bank's capital stock, surplus, undivided profits,  
35 allowance for loan and lease losses, capital notes and debentures and  
36 reserve for contingency, unless the bank has obtained the prior approval of  
37 the ~~state bank~~ commissioner;

38       ~~(b)~~ (B) the cash surrender value of life insurance policies, in the  
39 aggregate from all companies, cannot at any time exceed 25% of the  
40 bank's capital stock, surplus, undivided profits, allowance for loan and  
41 lease losses, capital notes and debentures and reserve for contingency,  
42 unless the bank has obtained the prior approval of the state bank  
43 commissioner; and

1       ~~(e) (C)~~ the limitations set forth in ~~paragraphs (a) and (b)~~  
2 *subparagraphs (A) and (B)* shall not apply to any life insurance policy in  
3 place prior to July 1, 1993;

4       ~~(25) (21)~~ ~~subject to such rules and regulations as the state bank~~  
5 ~~commissioner may adopt pursuant to K.S.A. 9-1713, and amendments~~  
6 ~~thereto, to promote safe and sound banking practices, to act as an agent~~  
7 ~~and receive deposits, renew time deposits, close loans, service loans, and~~  
8 ~~receive payments on loans and other obligations for any company which is~~  
9 ~~a subsidiary, as defined in subsection (d) of K.S.A. 9-519, and~~  
10 ~~amendments thereto, of the bank holding company which owns the bank.~~  
11 Nothing in this subsection shall authorize a bank to conduct activities as an  
12 agent which the bank or the subsidiary would be prohibited from  
13 conducting as a principal under any applicable federal or state law. Any  
14 bank which enters or terminates any agreement pursuant to this subsection  
15 shall within 30 days of the effective date of the agreement or termination  
16 provide written notification to the commissioner which details all parties  
17 involved and services to be performed or terminated;

18       ~~(26) (22)~~ to make loans to the bank's stockholders or the ~~stockholders~~  
19 ~~of the bank's controlling bank holding company~~ *stockholders* on the  
20 security of the shares of the bank or ~~shares of the bank's controlling bank~~  
21 ~~holding company, with the limitation that this provided, loans on the~~  
22 *security of the shares of the bank* may occur only if the bank would have  
23 extended credit to such stockholder on exactly the same terms without the  
24 *bank* shares pledged as collateral;

25       ~~(27) (23)~~ to make investments in and loans to community  
26 ~~development corporations (CDCs) and community development projects~~  
27 ~~(CD projects) and economic development entities~~ as defined in K.S.A. 9-  
28 701, and amendments thereto, subject to the limitations prescribed by ~~the~~  
29 ~~comptroller of the currency as interpreted by rules and regulations which~~  
30 ~~shall be adopted by the state bank commissioner as provided by K.S.A. 9-~~  
31 ~~1713, and amendments thereto~~ *community reinvestment act pub.l. 95-128,*  
32 *title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq;*

33       ~~(28) (24)~~ to participate in a school savings deposit program  
34 authorized under K.S.A. 9-1138, and amendments thereto;

35       ~~(29) (25)~~ with prior approval of the commissioner, ~~to offer through~~  
36 ~~one or more control or hold an interest in a~~ financial ~~subsidiaries any~~  
37 ~~products or services which a national bank may offer through its financial~~  
38 ~~subsidiaries, subject to safety and soundness requirements imposed by the~~  
39 ~~commissioner~~ *subsidiary.* As used in this paragraph, "financial subsidiary"  
40 shall have the same meaning given to such term under the Gramm-Leach  
41 Bliley act of 1999 (P.L. 106-102); and

42       ~~(30)~~ to purchase or hold an annuity for the sole purpose of funding an  
43 employee deferred compensation and benefit plan subject to the limitations

1 ~~prescribed by rules and regulations which shall be adopted by the state~~  
2 ~~bank commissioner as provided by K.S.A. 9-1713, and amendments~~  
3 ~~thereto.~~

4 *(A) The financial subsidiary may engage in one or more of the*  
5 *following activities:*

6 *(i) Lending, exchanging, transferring, investing for others or*  
7 *safeguarding money or securities;*

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

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

14 *(iv) operating a travel agency; and*

15 *(v) activities that are financial in nature as determined by the*  
16 *commissioner.*

17 *(B) Such activities do not include:*

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

21 *(ii) real estate development or real estate investment, except as*  
22 *otherwise expressly authorized by Kansas law; or*

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

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

26 *(i) Directly or indirectly owning, controlling or having power to vote*  
27 *25% or more of any class of the voting shares of a financial subsidiary;*

28 *(ii) controlling in any manner the election of a majority of the*  
29 *directors or trustees of the financial subsidiary; or*

30 *(iii) otherwise directly or indirectly exercising a controlling influence*  
31 *over the management or policies of the financial subsidiary, as determined*  
32 *by the commissioner;*

33 *(26) to maintain and operate a postal substation on banking*  
34 *premises, in accordance with the rules and regulations of the United States*  
35 *postal service. The bank may advertise the services of the substation for*  
36 *the purpose of attracting customers to the bank and receive income*  
37 *therefrom. The bank shall keep the books and records of the substation*  
38 *separate from those of other banking operations;*

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

43 *(28) to act as an agent for any credit life, health and accident*

1 insurance, sometimes referred to as credit life and disability insurance,  
2 and mortgage life and disability insurance in connection with extensions  
3 of credit and only as a source of protection for such extension of credit;

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

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

12 (31) with prior approval of the commissioner, to acquire the stock of,  
13 or establish and operate a subsidiary to acquire the stock of, another  
14 insured depository institution or the holding company of the insured  
15 depository institution provided such acquisition is incidental to a  
16 reorganization otherwise authorized by the law of this state and which  
17 occurs nearly simultaneously with such acquisition;

18 (32) with prior approval of the commissioner, to establish and  
19 operate a subsidiary for the purpose of owning, holding and managing all  
20 or part of the bank's securities portfolio provided the parent bank owns  
21 100% of the stock of the subsidiary and the subsidiary shall not own, hold  
22 or manage securities for any party other than the parent bank. The  
23 subsidiary shall be subject to:

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

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

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

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

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

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

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

1 *legal lending limitations;*

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

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

6 *(34) to invest in, without limitation, obligations of or obligations*  
 7 *which are insured as to principal and interest by or evidences of*  
 8 *indebtedness that are fully collateralized by obligations of the federal*  
 9 *home loan banks, the federal national mortgage association, the*  
 10 *government national mortgage association, the federal home loan*  
 11 *mortgage corporation, the student loan marketing association and the*  
 12 *federal farm credit banks; and*

13 *(35) any bank or trust company may invest in bonds or notes secured*  
 14 *by mortgages which in turn are insured or upon which there is a*  
 15 *commitment to insure by the federal housing administration, or any*  
 16 *successor thereto, in debentures issued by the federal housing*  
 17 *administration or its successor, and in obligations of national mortgage*  
 18 *associations.*

19 *(b) Any bank hereby is authorized to exercise by the bank's board of*  
 20 *directors or duly authorized officers or agents, subject to approval by the*  
 21 *commissioner, any incidental power necessary to carry on the business of*  
 22 *banking.*

23 Sec. 45. K.S.A. 9-1101a is hereby amended to read as follows: 9-  
 24 1101a. ~~In accordance with normal business considerations and~~ Upon  
 25 approval of *the* stockholders owning <sup>2</sup>/<sub>3</sub> of the voting stock of the bank, the  
 26 bank may issue convertible or nonconvertible capital notes or debentures  
 27 in such amounts and under such terms and conditions as shall be approved  
 28 by the ~~state bank~~ commissioner, except that the principal amount of capital  
 29 notes or debentures outstanding at any time shall not exceed an amount  
 30 equal to 100% of the bank's paid-in capital stock plus 50% of the amount  
 31 of its unimpaired surplus fund. Capital notes or debentures which are by  
 32 their terms expressly subordinated to the prior payment in full of all  
 33 deposit liabilities of the bank shall be considered as part of the unimpaired  
 34 capital funds of the bank for purpose of the computation of the bank's loan  
 35 limit.

36 Sec. 46. K.S.A. 9-1102 is hereby amended to read as follows: 9-1102.  
 37 (a) Any bank or trust company may own, purchase, lease, hold, encumber  
 38 or convey real property ~~and certain personal property subject to the~~  
 39 ~~following:~~

40 ~~(1) Own suitable building, furniture and fixtures, stock in a single~~  
 41 ~~trust company organized under the laws of the state of Kansas, and stock~~  
 42 ~~in a safe deposit company organized under the laws of the state of Kansas,~~  
 43 ~~and stock in a corporation organized under the laws of this state owning~~



1 real estate all or a part of which is occupied or to be occupied by the bank  
2 or trust company;

3 ~~(2) purchase, hold, encumber and convey real estate or lease, as lessor~~  
4 ~~or lessee, including any building or buildings. Any real estate not~~  
5 necessary for the bank's or trust company's accommodation in the  
6 transaction of its business. *Real property* shall be disposed of or charged  
7 off its ~~the bank's or trust company's~~ books by the bank or trust company  
8 not later than seven years after ~~its the real property's~~ intended use for  
9 ~~banking bank or trust~~ purposes ends, unless the state bank commissioner  
10 authorizes the bank or trust company to retain such real estate on its books  
11 for a period not to exceed an additional three years; *Before the end of the*  
12 *holding period, a bank or trust company may request from the*  
13 *commissioner authorization to hold the real property for an additional*  
14 *year. No bank or trust company shall be granted more than three requests*  
15 *for additional time to hold any one parcel of real property.*

16 (b) Any bank or trust company may own, purchase, lease, hold,  
17 encumber or convey certain personal property necessary for the bank's or  
18 trust company's accommodation in the transaction of such bank's or trust  
19 company's business.

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

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

27 ~~(3)~~ (e) A bank's or trust company's total investment or ownership at  
28 all times in any one or more of the following shall not exceed  $\frac{1}{2}$  50% of its  
29 unimpaired capital stock, surplus, undivided profits and capital notes and  
30 debentures; and any such excess shall be removed from the bank's or trust  
31 company's books unless approval is granted by the ~~state bank~~  
32 commissioner:

33 ~~(A)~~ (1) The book value of real estate plus all encumbrances thereon;  
34 ~~(B)~~ (2) the book value of furniture and fixtures;  
35 ~~(C)~~ (3) the book value of stock in a safe deposit company;  
36 ~~(D)~~ (4) the book value of stock in a trust company; or  
37 ~~(E)~~ (5) the book value of stock in a corporation organized under the  
38 laws of this state owning real estate occupied by the bank or trust company  
39 and advances to such corporation acquired or made after July 1, 1973.  
40 Except that any real estate not necessary for the accommodation of the  
41 bank's or trust company's business shall be disposed of or charged off its  
42 books according to ~~paragraph (2)~~ subsection (a).

43 (b) (f) Any bank or trust company may acquire or purchase real estate

1 in satisfaction of any debts due it and may purchase real estate in  
2 satisfaction of any debts due it such bank or trust company, and may  
3 purchase real estate at judicial sales, but subject to the following:

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

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

9 (3) At the termination of the 10 years such real estate shall be charged  
10 off. The commissioner may grant an extension not to exceed four years, if  
11 in the commissioner's judgment it will be to the advantage of the bank or  
12 trust company to carry the real estate as an asset for such extended period.  
13 Any such extensions issued shall be reviewed by the commissioner on an  
14 annual basis.

15 (g) *No bank or trust company may buy and sell real estate as a  
16 business.*

17 (h) *A bank may hold or sell any personal property coming into  
18 ownership of the bank in the collection of debts. All such property, except  
19 legal investments, shall be sold within one year of acquisition, provided a  
20 commercially reasonable sale can occur. If a commercially reasonable  
21 sale cannot occur within one year, the commissioner may authorize a bank  
22 to carry such property as a book asset for a longer period. The bank shall  
23 not carry such property as a nonbook asset.*

24 (i) *The time periods for holding real estate or other property shall  
25 begin when:*

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

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

29 (3) *the bank has actual control of the property.*

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

34 (1) *All banking laws and rules and regulations applicable to the  
35 parent bank unless otherwise provided;*

36 (2) *consolidation with the parent bank of pertinent book figures for  
37 the purpose of applying all applicable statutory limitations including, but  
38 not limited to, capital requirements, owning and holding real estate and  
39 legal lending limitations;*

40 (3) *examination and supervision by the commissioner; the cost and  
41 responsibility of which will be attributable to the parent bank; and*

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

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

7       (A) *Find and document that the exchange is in the best interest of the*  
8 *bank and would improve the ability of the bank to recover, or otherwise*  
9 *limit, the bank's loss on real estate acquired through debts previously*  
10 *contracted;*

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

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

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

19       (2) *A bank may not further exchange the bank's interest in the*  
20 *corporation or limited liability company for an interest in any other real*  
21 *or personal property.*

22       Sec. 47. K.S.A. 2014 Supp. 9-1104 is hereby amended to read as  
23 follows: 9-1104. (a) *Definitions.* As used in this section:

24       (1) "Borrower" means an individual, sole proprietorship, partnership,  
25 joint venture, association, trust, estate, business trust, corporation, limited  
26 liability company, not-for-profit corporation, *state government of the*  
27 *United States or a United States* government unit or agency,  
28 instrumentality; or political subdivision thereof; or any similar entity or  
29 organization.

30       (2) "Capital" means the total of capital stock, surplus, undivided  
31 profits, 100% of the allowance for loan and lease loss, capital notes and  
32 debentures; and reserve for contingencies. Intangibles, such as goodwill,  
33 shall not be included in the definition of capital when determining lending  
34 limits.

35       (3) "Loan" means:

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

38       (B) a contractual commitment to advance funds;

39       (C) an overdraft;

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

42       (i) Discharge in bankruptcy;

43       (ii) expiration of the statute of limitations;

1 (iii) judicial decision; or

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

3 (E) any credit exposure to a borrower arising from a derivative  
4 transaction, repurchase agreement, reverse repurchase agreement,  
5 securities lending transaction or securities borrowing transaction between  
6 a bank and that borrower.

7 (4) "Derivative transaction" means any transaction that is a contract,  
8 agreement, swap, warrant, note or option that is based in whole, or in part,  
9 on the value of any interest in, or any quantitative measure or the  
10 occurrence of any event relating to, one or more commodities, securities,  
11 currencies, interest or other rates, indices or other assets.

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

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

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

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

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

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

30 (⊕) (A) A guaranty, commitment or agreement to take over or to  
31 purchase, made by any federal reserve bank or by any department, bureau,  
32 board, commission, agency or establishment of the United States of  
33 America, including any corporation wholly owned, directly or indirectly  
34 by the United States;

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

39 (⊕) (C) a bonded warehouse receipt issued to the borrower by some  
40 other person;

41 (⊕) (D) treasury bills, certificates of indebtedness; or bonds or notes  
42 of the United States of America or instrumentalities or agencies thereof; or  
43 those fully guaranteed by them;

1       ~~(5)~~ (E) general obligation bonds or notes of the state of Kansas or any  
2 other state in the United States of America;

3       ~~(6)~~ (F) general obligation bonds or notes of any Kansas municipality  
4 or quasi-municipality; or

5       ~~(7)~~ (G) a perfected interest in a repurchase agreement of United  
6 States government securities with the lending bank.

7       (e) *Special rules.* (1) The total liability of any borrower may exceed  
8 the general 25% limit by up to an additional 10% of the bank's capital. To  
9 qualify for this expanded limit:

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

13       ~~(B) the amount of the recorded lien or liens shall equal at least the~~  
14 ~~amount of the excess liability;~~

15       ~~(C) the appraised value of the real estate shall equal at least twice the~~  
16 ~~amount of the excess liability by which the borrower's total liability~~  
17 ~~exceeds the 25% limit; and~~

18       ~~(D)~~ (C) a portion of the ~~loan~~ *borrower's total liability*, equal to at  
19 least the ~~excess liability amount by which the total liability exceeds the~~  
20 *25% limit*, shall ~~have~~ *amortize within 20 years by regularly scheduled*  
21 *installment payments sufficient to amortize that portion within 20 years.*

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

25       (3) If the total liability of any ~~active bank officer~~ *shareholder owning*  
26 *25% or more of any class of voting shares, officers or directors* will  
27 exceed \$50,000, prior approval from the bank's board of directors shall be  
28 noted in the minutes.

29       (4) To the extent they are insured by the federal deposit insurance  
30 corporation, time deposits purchased by a bank from another financial  
31 institution shall not be considered a loan to that financial institution and  
32 shall not be subject to the bank's lending limit.

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

36       (f) *Combination rules.*

37       (1) *General rule.* Loans to one borrower will be attributed to another  
38 borrower and their total liability will be combined:

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

41       (B) when a common enterprise is deemed to exist between the  
42 borrowers.

43       (2) *Direct benefit.* The proceeds of a loan to a borrower will be

1 deemed to be used for the direct benefit of another person and will be  
2 attributed to the other person when the proceeds, or assets purchased with  
3 the proceeds, are transferred to another person, other than in a bona fide  
4 arm's length transaction where the proceeds are used to acquire property,  
5 goods or services.

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

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

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

13 (i) Loans are made to borrowers who are related directly or indirectly  
14 through common control, including where one borrower is directly or  
15 indirectly controlled by another borrower. Common control means to own,  
16 control or have the power to vote 25% or more of any class of voting  
17 securities or voting interests or to control, in any manner, the election of a  
18 majority of the directors; or to have the power to exercise a controlling  
19 influence over the management or policies of another person; and

20 (ii) substantial financial interdependence exists between or among the  
21 borrowers. Substantial financial interdependence is deemed to exist when  
22 ~~50 percent~~ 50% or more of one borrower's gross receipts or gross  
23 expenditures~~(, on an annual basis)~~, are derived from transactions with the  
24 other borrower. Gross receipts and expenditures include gross revenues,  
25 expenses, intercompany loans, dividends, capital contributions and similar  
26 receipts or payments; or

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

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

35 (4) *Special rules for loans to a corporate group.* (A) Loans by a bank  
36 to a borrower and the borrower's subsidiaries shall not, in the aggregate,  
37 exceed 50% of the bank's capital. At no time shall loans to any one  
38 borrower or to any one subsidiary exceed the general lending limit of 25%,  
39 except as allowed by other provisions of this section. For purposes of this  
40 paragraph, a corporation or a limited liability company is a subsidiary of a  
41 borrower if the borrower owns or beneficially owns directly or indirectly  
42 more than ~~50 percent~~ 50% of the voting securities or voting interests of the  
43 corporation or company.

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

4 (5) *Special Rules for loans to partnerships, joint ventures and*  
5 *associations.* (A) As used in this ~~subpart (5)~~ paragraph, the term  
6 "partnership" shall include a partnership, joint venture or association. The  
7 term partner shall include a partner in a partnership or a member in a joint  
8 venture or association.

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

12 (C) *Limited partner.* If the liability of a partner is limited by the terms  
13 of the partnership agreement, the amount of the partnership debt  
14 attributable to the partner is in direct proportion to that partner's limited  
15 partnership liability.

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

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

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

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

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

31 (g) The commissioner may order a bank to correct any loan not in  
32 compliance with this section *within 60 days*. A violation of this section  
33 shall be deemed corrected if that portion of the borrower's liability which  
34 created the violation could be legally advanced under current lending  
35 limits. ~~Failure to comply with the commissioner's order within 60 days~~  
36 ~~shall be grounds for the proposed removal of a bank officer or director~~  
37 ~~pursuant to K.S.A. 9-1805, and amendments thereto.~~

38 Sec. 48. K.S.A. 9-1107 is hereby amended to read as follows: 9-1107.  
39 (a) Any bank may borrow an amount not to exceed 100% of ~~its~~ *the bank's*  
40 capital stock and surplus for temporary purposes. ~~This limitation shall not~~  
41 ~~apply to any borrowing secured by~~ *The commissioner may authorize*  
42 *borrowing in excess of such limitation.*

43 (b) *Any bank may borrow without limitation upon legal investment*

1 securities; and rediscount and endorse in good faith any of the bank's  
2 negotiable notes without limitation.

3 (c) Any bank may borrow without limitation for ~~borrowing authorized~~  
4 ~~under the provisions of K.S.A. 1980 Supp. 12-5201 through 12-5218,~~  
5 ~~inclusive, purposes of investing in bonds issued pursuant to K.S.A. 12-~~  
6 ~~5219 et seq., and any amendments thereto, or for borrowing authorized~~  
7 ~~under the provisions of public law 94-499, the mortgage subsidy bond tax~~  
8 ~~act of 1980. The state bank commissioner may authorize borrowing in~~  
9 ~~excess of such limitation. Any bank may borrow upon legal investment~~  
10 ~~securities and rediscount and endorse in good faith any of its negotiable~~  
11 ~~notes, without limitation.~~

12 Sec. 49. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as  
13 follows: 9-1111. The general business of every bank shall be transacted at  
14 the place of business specified in ~~its~~ *the bank's* certificate of authority and  
15 at one or more branch banks established and operated as provided in this  
16 section. ~~Except for the establishment or operation of a trust branch bank or~~  
17 ~~the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135,~~  
18 ~~and amendments thereto, It shall be unlawful for any bank to establish and~~  
19 ~~operate any branch bank or relocate an existing branch bank except as~~  
20 ~~hereinafter provided. Notwithstanding the provisions of this section, any~~  
21 ~~location at which a depository institution, as defined by K.S.A. 9-701, and~~  
22 ~~amendments thereto, receives deposits, renews time deposits, closes loans,~~  
23 ~~services loans or receives payments on loans or other obligations, as agent,~~  
24 ~~for a bank pursuant to subsection (25) of K.S.A. 9-1101(a)(25), and~~  
25 ~~amendments thereto, or other applicable state or federal law, or is~~  
26 ~~authorized to open accounts or receive deposits under subsection (28) of~~  
27 ~~K.S.A. 9-1101(a)(28), and amendments thereto, shall not be deemed to be~~  
28 ~~a branch bank:~~

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

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

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

41 (2) the application shall include the nature of the banking business to  
42 be conducted at the proposed branch bank, the primary geographical area  
43 to be served by ~~it~~ *the proposed branch bank*, the personnel and office



1 facilities to be provided at the proposed branch bank and other information  
2 the commissioner may require;

3 (3) the application shall include the name selected for the proposed  
4 branch bank. The name selected for the proposed branch bank shall not be  
5 the name of any other bank or branch bank doing business *in the same city*  
6 *or town and* within a 15-mile radius of the ~~same city or town~~ *proposed*  
7 *location*, nor shall the name selected be required to contain the name of the  
8 applicant bank. If the name selected for the proposed branch bank does not  
9 contain the name of the applicant bank, the branch bank shall provide in  
10 the public lobby of such branch bank, a public notice that it is a branch  
11 bank of the applicant bank. *Any bank may request exemption from the*  
12 *commissioner from the provisions of this paragraph;*

13 (4) the application shall include proof of publication of notice that the  
14 applicant bank intends to file or has filed an application to establish a  
15 branch bank or relocate an existing branch bank. The notice shall be  
16 published in a newspaper of general circulation in the county where the  
17 applicant bank proposes to locate the branch bank. The notice shall be in  
18 the form prescribed by the commissioner and at a minimum shall contain  
19 the name and address of the applicant bank, the location of the proposed  
20 branch 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;

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

36 (6) if the commissioner determines a public hearing is not warranted,  
37 the commissioner shall approve or disapprove the application within 15  
38 days after receipt of a complete application but not prior to the end of the  
39 comment period. If a public hearing is held, the commissioner shall  
40 approve or disapprove the application within 60 days after consideration of  
41 the complete application and the evidence gathered during the  
42 commissioner's investigation. The period for consideration of the  
43 application may be extended if the commissioner determines the

1 application presents a significant supervisory concern. *The new branch or*  
2 *relocation shall only be granted* if the commissioner finds that:

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

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

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

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

17 (1) ~~After first applying for and obtaining the approval of the state~~  
18 ~~banking board, a bank incorporated under the laws of this state, which~~  
19 ~~does not meet the definition of "eligible bank," may establish and operate~~  
20 ~~one or more branch banks, or relocate an existing branch bank, anywhere~~  
21 ~~within this state;~~

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

27 (3) ~~the application shall include estimates of the annual income and~~  
28 ~~expenses of the proposed branch bank, the annual volume of business to be~~  
29 ~~transacted by it, the nature of the banking business to be conducted at the~~  
30 ~~proposed branch bank, the primary geographical area to be served by it~~  
31 ~~and the personnel and office facilities to be provided at the proposed~~  
32 ~~branch bank;~~

33 (4) ~~the application shall include the name selected for the proposed~~  
34 ~~branch bank. The name selected for the proposed branch bank shall not be~~  
35 ~~the name of any other bank or branch bank doing business within a 15-~~  
36 ~~mile radius of the same city or town, nor shall the name selected be~~  
37 ~~required to contain the name of the applicant bank. If the name selected for~~  
38 ~~the proposed bank does not contain the name of the applicant bank, the~~  
39 ~~branch bank shall provide in the public lobby of such branch bank, a~~  
40 ~~public notice that it is a branch bank of the applicant bank;~~

41 (5) ~~the application shall include proof of publication of notice that~~  
42 ~~applicant bank intends to file an application to establish a branch bank or~~  
43 ~~relocate an existing branch bank. The notice shall be published in a~~

1 newspaper of general circulation in the county where the applicant bank  
2 proposes to locate the branch bank. The notice shall be in the form  
3 prescribed by the state banking board and at a minimum shall contain the  
4 name and address of the applicant bank, the location of the proposed  
5 branch and a solicitation for written comments. The notice shall be  
6 published on the same day for two consecutive weeks and provide for a  
7 comment period of not less than 10 days after the date of the second  
8 publication;

9 (6) upon receipt of an application meeting the above requirements,  
10 and following the expiration of the comment period, within 60 days the  
11 state banking board may hold a hearing in the county in which the  
12 applicant bank seeks to establish and operate a branch bank. Notice of the  
13 time, date and place of such hearing if one is to be held shall be published  
14 in a newspaper of general circulation in the county where the applicant  
15 bank proposes to locate the branch bank not less than 10 or more than 30  
16 days prior to the date of the hearing, and proof of publication shall be filed  
17 with the commissioner. At any such hearing, all interested persons shall be  
18 allowed to present written and oral evidence to the board in support of or  
19 in opposition to the application. Upon completion of a transcript of the  
20 testimony given at any such hearing, the transcript shall be filed in the  
21 office of the commissioner and copies shall be furnished to the members of  
22 the state banking board not less than 10 days prior to the meeting of the  
23 board at which the application will be considered;

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

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

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

31 (8) any final action of the board approving or disapproving an  
32 application shall be subject to review in accordance with the Kansas  
33 judicial review act upon the petition of the applicant or any adversely  
34 affected or aggrieved person who provided written comments during the  
35 specified comment period *Upon the request of any bank or trust company*  
36 *proposing to relocate an existing branch less than one mile from the*  
37 *existing location the commissioner may exempt such bank or trust*  
38 *company from the requirements of this section;*

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

42 (e) ~~branch banks which have~~ *any bank location which has* been  
43 established and ~~are~~ *is* being maintained by a bank at the time of its merger

1 into or consolidation with another bank or at the time ~~its~~ *the bank's* assets  
2 are purchased and ~~its~~ *the bank's* liabilities are assumed by another bank  
3 may continue to be operated by the surviving, resulting or purchasing and  
4 assuming bank. ~~The surviving, resulting or purchasing and assuming bank,~~  
5 ~~with approval of the state bank commissioner, may establish and operate a~~  
6 ~~branch bank or banks at the site or sites of the merged, constituent or~~  
7 ~~liquidated bank or banks;~~

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

13 (g) as a condition to the operation and use of any remote service unit  
14 in this state, a state bank or national banking association, each hereinafter  
15 referred to as a bank, which desires to operate or enable its customers to  
16 utilize a remote service unit must agree that such remote service unit will  
17 be available for use by customers of any other bank or banks upon the  
18 request of such bank or banks to share its use and the agreement of such  
19 bank or banks to share all costs, including a reasonable return on capital  
20 expenditures incurred in connection with ~~its~~ *the remote service unit's*  
21 development, installation and operation. The owner of the remote service  
22 unit, whether a bank or any other person, shall make the remote service  
23 unit available for use by other banks and their customers on a  
24 nondiscriminatory basis, conditioned upon payment of a reasonable  
25 proportion of all costs, including a reasonable return on capital  
26 expenditures incurred in connection with the development, installation and  
27 operation of the remote service unit. Notwithstanding the foregoing  
28 provisions of this subsection, a remote service unit located on the property  
29 owned or leased by the bank where the principal place of business of a  
30 bank, or an attached auxiliary teller facility or branch bank of a bank, is  
31 located need not be made available for use by any other bank or banks or  
32 customers of any other bank or banks;

33 (h) for purposes of this section, "remote service unit" means an  
34 electronic information processing device, including associated equipment,  
35 structures and systems, through or by means of which information relating  
36 to financial services rendered to the public is stored and transmitted,  
37 ~~whether instantaneously or otherwise,~~ to a bank and which, for activation  
38 and account access, is dependent upon the use of a machine-readable  
39 instrument in the possession and control of the holder of an account with a  
40 bank *or is activated by a person upon verifiable personal identification.*  
41 The term shall include "online" computer terminals *which may be*  
42 *equipped with a telephone or televideo device that allows contact with*  
43 *bank personnel* and "offline" automated cash dispensing machines and

1 automated teller machines, but shall not include computer terminals or  
2 automated teller machines or automated cash dispensing machines using  
3 systems in which account numbers are not machine read and verified.  
4 Withdrawals by means of "offline" systems shall not exceed \$300 per  
5 transaction and shall be restricted to individual not corporate or  
6 commercial accounts;

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

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

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

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

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

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

16 (3) is not subject to a cease and desist order, consent order, prompt  
17 corrective action directive, written agreement, memorandum of  
18 understanding or other administrative agreement with its primary federal  
19 regulator or the office of the state bank commissioner. Upon providing  
20 notice to the commissioner, any state bank may conduct loan production  
21 activity at locations other than the place of business specified in the bank's  
22 certificate of authority or approved branch banks.

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

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

26 (B) approval of loan applications; and

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

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

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

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

40 (1) Operate safe deposit boxes;

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

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

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

4        Sec. 50. K.S.A. 9-1111b is hereby amended to read as follows: 9-  
 5 1111b. A bank making application to ~~the state banking board or the~~  
 6 commissioner for approval of a branch bank shall pay to the commissioner  
 7 a fee, in an amount established ~~by rules and regulations adopted by the~~  
 8 ~~commissioner pursuant to section 12, and amendments thereto,~~ to defray  
 9 the expenses of the ~~board, commissioner or other designees~~ in the  
 10 examination and investigation of the application. The commissioner shall  
 11 remit all amounts received under this section to the state treasurer in  
 12 accordance with the provisions of K.S.A. 75-4215, and amendments  
 13 thereto. Upon receipt of each such remittance, the state treasurer shall  
 14 deposit the entire amount in the state treasury to the credit of ~~a separate~~  
 15 ~~special account in the state treasury for each application~~ *the bank*  
 16 *investigation fund.* The moneys in ~~each such account~~ *the bank*  
 17 *investigation fund* shall be used only to pay the expenses of the board,  
 18 commissioner or other designees in the examination and investigation of  
 19 ~~the application to which it relates such applications~~ and any unused  
 20 balance shall be transferred to the bank commissioner fee fund.

21        Sec. 51. K.S.A. 9-1112 is hereby amended to read as follows: 9-1112.  
 22 (a) No bank shall buy, sell or trade tangible property as a business or invest  
 23 in the stock of another bank or corporation, except as specifically  
 24 authorized.

25        (b) *Unless prior approval of the commissioner is granted,* no bank  
 26 shall sell, give or purchase any instrument, contract, security or other asset  
 27 *or asset dividend* to or from:

- 28        (1) Any employee or ~~to or from~~ *an employee's related interest;*  
 29        (2) *any director or to a director's related interest;*  
 30        (3) the bank's parent company; or  
 31        (4) a subsidiary of the bank's parent company ~~without prior approval~~  
 32 ~~of the commissioner. Approval of the commissioner need not be obtained~~  
 33 ~~for an.~~

34        *This paragraph shall not apply to assignment of third party loans and*  
 35 *related security agreements for the payment thereof* to or from a subsidiary  
 36 of the bank's parent company.

37        (c) No bank shall acquire or make a loan on ~~its~~ *the bank's* own shares  
 38 of stock, or the stock of the bank's parent company or a subsidiary of the  
 39 bank's parent company, except as ~~provided in subsection (d) or except as~~  
 40 ~~provided in subsection (26) of K.S.A. 9-1101, and amendments thereto~~  
 41 *otherwise specifically authorized.*

42        (d) ~~A bank may hold or sell any property coming into its ownership in~~  
 43 ~~the collection of debts. All such property except legal investments, shall be~~

1 sold within one year of acquisition, provided a commercially reasonable  
2 sale can occur.

3 ~~(e) If a commercially reasonable sale cannot occur within one year,~~  
4 ~~the bank shall not carry such property as a book asset, except that the~~  
5 ~~commissioner may authorize a bank to carry such property as a book asset~~  
6 ~~for a longer period.~~*No bank shall give any preference to any depositor*  
7 *either by pledging any of the bank's assets as collateral security or in any*  
8 *other manner, except:*

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

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

14 Sec. 52. K.S.A. 2014 Supp. 9-1114 is hereby amended to read as  
15 follows: 9-1114. *(a) The business of any bank or trust company shall be*  
16 *managed and controlled by its such bank's or trust company's board of*  
17 *directors and this shall include the authority to provide for bonus*  
18 *payments, in addition to ordinary compensation for any or all of its*  
19 *officers and employees.*

20 *(b) The board shall consist of not less than five nor more than 25*  
21 *members who shall be elected by the stockholders at any regular annual*  
22 *meeting which shall be held on such the date of each calendar year as the*  
23 *bank or trust company may specify in its specified in the bank's or trust*  
24 *company's bylaws. A majority of the directors shall be residents of this*  
25 *state.*

26 *(c) If the date specified in the bylaws falls on a legal holiday, the*  
27 *meeting shall be held, and the directors elected, on the next following*  
28 *business day. If for any reason the election of directors is not made on the*  
29 *day fixed, or in the event of a legal holiday, on the next business day, an*  
30 *election may for any reason the meeting cannot be held on the date*  
31 *specified in the bylaws, the meeting shall be held on any a subsequent day*  
32 *within 60 days of the day fixed, to be designated by the board of directors,*  
33 *or, if the directors fail to fix the day, by the shareholders representing  $\frac{2}{3}$  of*  
34 *the shares.*

35 *(d) In all cases, at least 10 days' notice of the date for the annual*  
36 *meeting shall have been given by first-class mail to the shareholders. If the*  
37 *number of directors elected is less than 25, the number of directors may be*  
38 *increased so long as the total number does not exceed 25 and when the*  
39 *number is increased the first additional directors may be elected at a*  
40 *special meeting of the stockholders. The directors shall be elected in the*  
41 *manner provided in the general corporation code. Vacancies in the board of*  
42 *directors may be filled in the manner provided in the general corporation*  
43 *code. A majority of the directors shall be residents of this state.*

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

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

7       (g) Any director of any bank or trust company who shall become  
8 indebted to such bank or trust company on any judgment or whose  
9 indebtedness is charged off or forgiven shall forfeit such person's position  
10 as director and such vacancy shall be filled as provided by law.

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

18       (i) Each director shall take and subscribe an oath to administer the  
19 affairs of such bank or trust company diligently and honestly and to not  
20 knowingly or willfully permit any of the laws relating to banks or trust  
21 companies to be violated. A copy of each oath shall be filed with the  
22 commissioner within 15 days of the election of any officer or director. The  
23 commissioner may require the oath to be filed using an electronic means.

24       (j) Every bank and trust company shall notify the commissioner of  
25 any change in the chief executive officer, president or directors, including  
26 in such bank's or trust company's report a statement of the past and  
27 current business and professional affiliations of the new chief executive  
28 officer, president or directors.

29       Sec. 53. K.S.A. 9-1116 is hereby amended to read as follows: 9-1116.

30       (a) The board of directors shall hold at least four regular meetings each  
31 year, at least one of which shall be held during each calendar quarter.  
32 Minutes shall be made of each directors' meeting of a bank or trust  
33 company and shall show any action taken by the directors.

34       (b) In addition to other actions the board may take, the board shall  
35 take the following actions and note the same in the minutes:

36       (1) Election of all officers, showing their titles and salaries;

37       (2) approval of all regular employee compensation;

38       (3) prior approval of all bonuses to elected officers and employees, if  
39 provided;

40       (4) approval of all loans, including overdrafts. The board may  
41 establish a committee with authority to approve loans. The board shall  
42 approve a report from the committee summarizing all loans made since the  
43 board's last meeting;



1 (5) review and approval of the directors' examination or audit  
2 required under K.S.A. 9-1116, and amendments thereto;

3 (6) annual approval of all bank policies;

4 (7) review of all state and federal regulatory examination reports  
5 received since the board's last meeting;

6 (8) annual approval of fidelity bond and bank casualty insurance;

7 (9) approval of bank income and expenses and securities  
8 transactions;

9 (10) review and ratification of any committee reports; and

10 (11) approval of dividends and a review that the dividends are in  
11 compliance with K.S.A. 9-910, and amendments thereto.

12 (c) In addition, the board of directors or an auditor selected by the  
13 board shall make a thorough examination of the books, records, funds and  
14 securities held by the bank or trust company at each of the quarterly  
15 meetings and the result of such examination shall be recorded in detail. If  
16 the board selects an auditor, the auditor's findings shall be reported directly  
17 to the board. In lieu of the required four quarterly examinations, the board  
18 of directors may accept one annual audit by a certified public accountant  
19 or an independent auditor approved by the commissioner.

20 Sec. 54. K.S.A. 9-1119 is hereby amended to read as follows: 9-1119.  
21 No officer or employee of any bank shall certify any check, draft, or order  
22 drawn upon ~~such~~ the bank unless the maker or drawer of ~~such~~ the  
23 instrument has moneys or funds equal to the amount of ~~such~~ the check,  
24 draft or order on deposit with such bank at the time ~~such~~ the check, draft  
25 or order is certified; ~~but~~. Any check, draft or order so certified by any duly  
26 authorized officer or employee of any bank shall be shown immediately  
27 upon the books of the bank.

28 Sec. 55. K.S.A. 9-1122 is hereby amended to read as follows: 9-1122.  
29 (a) ~~Any~~ As used in this section:

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

35 (2) "office" means any place at which a bank transacts business;

36 (3) "emergency" means any condition or occurrence which may  
37 interfere physically with the conduct of normal business operations at the  
38 offices of a bank or trust company or which poses an imminent or existing  
39 threat to the safety or security of persons or property, or both. An  
40 emergency may arise as a result of and any one or more of the following,  
41 but is not limited to, fire, flood, earthquake, hurricane, tornado, wind, rain  
42 or snow storm, labor strike by bank or trust company employees, power  
43 failure, transportation failure, interruption of communications facilities,

1 *shortage of fuel, housing, food, transportation or labor, robbery or*  
2 *attempted robbery, actual or threatened enemy attack, epidemic or other*  
3 *catastrophe, riot, civil commotion, and other acts of lawlessness or*  
4 *violence, actual or threatened.*

5 *(b) a bank or trust company may remain closed on any one business*  
6 *day of every week or may make a permanent change in*~~*bank the bank's or*~~  
7 ~~*trust company's hours of business, upon the adoption by its board of*~~  
8 ~~*directors of a resolution authorizing the same to be done, and the posting*~~  
9 ~~*of. The bank or trust company shall post the resolution in a conspicuous*~~  
10 ~~*place within at the main office and all branch locations of the bank or trust*~~  
11 ~~*company premises at least 15 days in advance of any such closing or*~~  
12 ~~*change in business hours. Thereafter, the bank or trust company may*~~  
13 ~~*remain closed on the business day of every week designated in the*~~  
14 ~~*resolution, or may operate under the changed bank hours designated in the*~~  
15 ~~*resolution, and the resolution and the posting thereof shall control until the*~~  
16 ~~*same be repealed or amended by subsequent resolution which shall require*~~  
17 ~~*the same procedure in order to be effective.*~~ If the business day designated  
18 in any resolution regarding closing is a legal public holiday, the bank or  
19 trust company may close on the business day preceding or following the  
20 legal public holiday.

21 ~~Should a legal public holiday fall on Sunday, any bank or trust~~  
22 ~~company may close on the next preceding or following business day.~~

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

36 *(d) Whenever the officers of a bank or trust company are of the*  
37 *opinion that an emergency exists, or is impending, which affects, or may*  
38 *affect, a bank's or trust company's offices, the officers shall have the*  
39 *authority, in the reasonable and proper exercise of the officers' discretion,*  
40 *to determine not to open such offices on any business or banking day or, if*  
41 *having opened, to close such offices during the continuation of such*  
42 *emergency. The officers shall notify the commissioner of the emergency,*  
43 *the closing, the duration and the subsequent reopening within 48 hours of*

1 *any such event, if practical. In no case shall such offices remain closed for*  
 2 *more than 48 consecutive hours, excluding other legal holidays, without*  
 3 *requesting and obtaining the approval of the commissioner.*

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

17 (f) The posting of the notice provided for in this section shall be  
 18 notice to everyone of the closing or change in hours of the bank or trust  
 19 company, and thereafter no liability shall be incurred by the bank or trust  
 20 company by reason of closing or changing the bank hours pursuant to this  
 21 ~~act~~ section.

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

29 Sec. 56. K.S.A. 9-1123 is hereby amended to read as follows: 9-1123.  
 30 For the purposes of ~~this act~~ K.S.A. 9-1124 through 9-1127c, and  
 31 amendments thereto:

32 (a) The term "bank service ~~corporation~~ company" means a  
 33 corporation or limited liability company organized to perform services  
 34 authorized by this act, all of the capital stock of which is owned by one or  
 35 more state or national banks at least one of which is a state bank subject to  
 36 examination by the bank commissioner.

37 (b) The term "invest" includes any advance of funds to a bank service  
 38 ~~corporation~~ company, whether by the purchase of stock, the making of a  
 39 loan or otherwise, except a payment for rent earned, goods sold and  
 40 delivered or services rendered prior to the making of such payment.

41 (c) The term "depository institution" means a state or national bank,  
 42 savings and loan association, savings bank or credit union.

43 Sec. 57. K.S.A. 9-1124 is hereby amended to read as follows: 9-1124.

1 No limitation or prohibition otherwise imposed by any provision of state  
2 law exclusively relating to banks shall prevent any state bank or banks  
3 from investing not more than 10% of the paid-in and unimpaired capital  
4 and unimpaired surplus in a bank service-~~corporation~~ company. No bank  
5 shall invest more than 5% of its total assets in bank service-~~corporations~~  
6 companies.

7 Sec. 58. K.S.A. 9-1125 is hereby amended to read as follows: 9-1125.  
8 No bank service-~~corporation~~ company shall unreasonably discriminate in  
9 the provision of any services authorized under ~~this act~~ K.S.A. 9-1124  
10 through 9-1127c, and amendments thereto, to any depository institution  
11 that does not own stock in the service-~~corporation~~ company on the basis of  
12 the fact that the nonstockholding institution is in competition with an  
13 institution that owns stock in the bank service-~~corporation~~ company,  
14 except:

15 (a) It shall not be considered unreasonable discrimination for a bank  
16 service-~~corporation~~ company to provide services to a nonstockholding  
17 institution only at a price that fully reflects all of the costs of offering those  
18 services, including the cost of capital and a reasonable return thereon; and

19 (b) a bank service-~~corporation~~ company may refuse to provide  
20 services to a nonstockholding institution if comparable services are  
21 available from another source at competitive overall costs or if the  
22 providing of services would be beyond the practical capacity of the service  
23 ~~corporation~~ company. In any action or proceeding to enforce the duty  
24 imposed by this section, or for damages for the breach thereof, the burden  
25 shall be upon the bank service-~~corporation~~ company to show such  
26 availability or practical capacity.

27 Sec. 59. K.S.A. 9-1127a is hereby amended to read as follows: 9-  
28 1127a. Without regard to the provisions of K.S.A. 9-1127b and 9-1127c,  
29 and amendments thereto, a state bank may invest in a bank service  
30 ~~corporation~~ company that performs, and a bank service-~~corporation~~  
31 company may perform, the following services only for depository  
32 institutions:

33 (a) Check and deposit sorting and posting, computation and posting  
34 of interest and other credits and charges;

35 (b) preparation and mailing of checks, statements, notices and similar  
36 items; or

37 (c) any other clerical, bookkeeping, accounting, statistical or similar  
38 functions performed for a depository institution.

39 Sec. 60. K.S.A. 9-1127b is hereby amended to read as follows: 9-  
40 1127b. (a) A bank service-~~corporation~~ company may provide to any person  
41 any service authorized by this section, except that a bank service  
42 ~~corporation~~ company shall not take deposits.

43 (b) Except with the prior approval of the ~~state bank~~ commissioner, a

1 bank service ~~corporation~~ *company* shall not perform the services  
2 authorized by this section in any state other than this state and all  
3 shareholders of a bank service ~~corporation~~ *company* shall be located in this  
4 state.

5 (c) A bank service ~~corporation~~ *company* in which a state bank is a  
6 shareholder shall perform only those services that such state bank  
7 shareholder is authorized to perform under the law of this state and shall  
8 perform such services only at locations in this state in which such bank  
9 shareholder could be authorized to perform such services.

10 (d) A bank service ~~corporation~~ *company* in which a national bank is a  
11 shareholder shall perform only those services that such national bank  
12 shareholder is authorized to perform under federal law and shall perform  
13 such services only at locations in this state at which such national bank  
14 shareholder could be authorized to perform such services.

15 (e) A bank service ~~corporation~~ *company* that has both national bank  
16 and state bank shareholders shall perform only those services that may  
17 lawfully be performed by both ~~its~~ *the bank's service company's* national  
18 bank shareholder or shareholders under federal law and ~~its~~ *the bank*  
19 *service company's* state bank shareholder or shareholders under the law of  
20 this state and shall perform such services only at locations in this state at  
21 which both ~~its~~ *the bank service company's* state bank and national bank  
22 shareholders could be authorized to perform such services.

23 (f) Notwithstanding the other provisions of this section or any other  
24 provision of law, other than the provisions of federal branching law and  
25 the branching law of this state regulating the geographic location of banks  
26 to the extent that those laws are applicable to an activity authorized by this  
27 subsection, a bank service ~~corporation~~ *company* may perform at any  
28 geographic location any service, other than deposit taking, that the board  
29 of governors of the federal reserve system has determined, by regulation,  
30 to be permissible for a bank holding company under section 4(c)(8) of the  
31 federal bank holding company act.

32 Sec. 61. K.S.A. 9-1127c is hereby amended to read as follows: 9-  
33 1127c. (a) No state bank shall invest in the capital stock of a bank service  
34 ~~corporation~~ *company* that performs any service under ~~the authority of~~  
35 ~~subsections (c), (d) or (e) of K.S.A. 9-1127b(c), (d) or (e), and~~  
36 ~~amendments thereto, without the prior approval of the state bank~~  
37 ~~commissioner.~~

38 (b) No state bank shall invest in the capital stock of a bank service  
39 ~~corporation~~ *company* that performs any service under authority of  
40 ~~subsection (f) of K.S.A. 9-1127b(f), and~~ amendments thereto, and no bank  
41 service ~~corporation~~ *company* shall perform any activity under ~~subsection~~  
42 ~~(f) and~~ K.S.A. 9-1127b(f), and amendments thereto, without the prior  
43 approval of the ~~state bank~~ commissioner.

1 (c) In determining whether to approve or deny any application for  
 2 prior approval under ~~this section~~ *K.S.A. 9-1124 through 9-1127c, and*  
 3 *amendments thereto*, the ~~state bank~~ commissioner is authorized to consider  
 4 the financial and managerial resources and future prospects of the bank or  
 5 banks and bank service ~~corporation~~ *company* involved, including the  
 6 financial capability of the bank to make a proposed investment under this  
 7 act, and possible adverse affects such as undue concentration of resources,  
 8 unfair or decreased competition, conflicts of interest or unsafe or unsound  
 9 banking practices.

10 (d) In the event the ~~state bank~~ commissioner fails to act on any  
 11 application under this section within 90 days of the submission of a  
 12 complete application to them, the application shall be deemed approved.

13 Sec. 62. K.S.A. 9-1130 is hereby amended to read as follows: 9-1130.

14 (a) Every bank and trust company shall retain ~~its~~ *such bank's and trust*  
 15 *company's* business records for such periods as are or may be prescribed  
 16 by or in accordance with the provisions of this section.

17 (b) Each bank and trust company shall retain permanently ~~the minute~~  
 18 ~~books of meetings of its~~ *such bank's or trust company's*:

19 (1) *Minute books of its* stockholders and directors; ~~its~~;

20 (2) capital stock ledger and capital stock certificate ledger or stubs;  
 21 ~~its~~;

22 (3) general ledger or the record kept in lieu thereof; ~~its~~;

23 (4) daily statements of condition; and

24 (5) all records which the ~~state bank~~ commissioner shall, in  
 25 accordance with the provisions of this section, require to be retained  
 26 permanently.

27 (c) All other records of a bank or trust company shall be retained for  
 28 such periods as the commissioner shall, in accordance with the provisions  
 29 of this section, prescribe.

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

38 (1) Actions and administrative proceedings in which the production  
 39 of bank or trust company records might be necessary or desirable;

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

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

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

4 (e) Any bank or trust company may destroy any record which has  
5 been retained for the period prescribed, in accordance with the terms of  
6 this section for retention of records of ~~its~~ *such bank's or trust company's*  
7 class, and shall, after ~~it has destroyed a~~ *destroying such* record, thereafter  
8 be under no duty to produce such record.

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

17 (g) Any bank or trust company may cause any, or all, transactions,  
18 information and data occurring in the regular course of ~~its~~ *such bank's or*  
19 *trust company's* operations to be recorded and maintained by electronic  
20 means. When the electronic records of such transactions, information and  
21 data are converted to writing, such writings shall constitute the original  
22 records of such transactions, information and data and shall have the force  
23 and effect thereof.

24 (h) To the extent that they are not in contravention of any statute of  
25 the United States or regulations promulgated thereunder, the provisions of  
26 this section shall apply to all banks and trust companies doing business in  
27 this state.

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

30 Sec. 63. K.S.A. 9-1132 is hereby amended to read as follows: 9-1132.  
31 Except for persons who are executive officers, an officer or director of a  
32 bank or national banking association shall have no personal liability to the  
33 bank, association or ~~its~~ *the bank's or association's* stockholders for  
34 monetary damages for breach of duty as an officer or director, except that  
35 such liability shall not be eliminated for:

36 (a) Any breach of the officer's or director's duty of loyalty to the  
37 bank, association or ~~its~~ *the bank's or association's* stockholders;

38 (b) acts or omissions which constitute willful or gross and wanton  
39 negligent breach of the officer's or director's duty of care;

40 (c) acts in violation of K.S.A. 9-910, 9-911 or 9-912, and  
41 amendments thereto; or

42 (d) any transaction from which the officer or director derived an  
43 improper personal benefit. ~~For purposes of this section, "executive officer"~~

1 means the chairperson of the board, the president, each vice president, the  
2 cashier, the secretary and the treasurer of a bank or national banking  
3 association, unless such officer is excluded by resolution of the board of  
4 directors or by the bylaws of the bank or national banking association from  
5 participation in the policymaking functions of the bank or national banking  
6 association, and the officer does not actually participate in the  
7 policymaking functions of the bank or national banking association.

8 Sec. 64. K.S.A. 9-1133 is hereby amended to read as follows: 9-1133.  
9 The provisions of K.S.A. ~~9-1132~~ and 17-2268 and 17-5831, and  
10 amendments thereto, apply to an action brought against a director or  
11 officer of an insured depository institution, regardless of whether the  
12 action was filed before, on, or after May 20, 1993, unless the action was  
13 finally adjudicated before May 20, 1993. The provisions of this section  
14 shall not apply to executive officers as defined in K.S.A. ~~9-1132~~ 9-701 and  
15 17-2268 and 17-5831 and amendments thereto.

16 Sec. 65. K.S.A. 9-1137 is hereby amended to read as follows: 9-1137.  
17 (a) For the purposes of this section:

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

21 (2) "compliance review committee" means:

22 (A) An audit, loan review or compliance committee appointed by the  
23 board of directors of a bank *whose functions are to evaluate and seek to*  
24 *improve loan underwriting standards, asset quality, financial reporting to*  
25 *federal or state regulatory agencies or compliance with federal or state*  
26 *statutory or regulatory requirements*; or

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

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

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

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

38 (b) ~~This section applies to a compliance review committee whose~~  
39 ~~functions are to evaluate and seek to improve loan underwriting standards,~~  
40 ~~asset quality, financial reporting to federal or state regulatory agencies or~~  
41 ~~compliance with federal or state statutory or regulatory requirements.~~

42 (e) ~~Except as provided in subsection (d) (c):~~

43 (1) Compliance review documents are confidential and are not



1 discoverable or admissible in evidence in any civil action arising out of  
 2 matters evaluated by the compliance review committee; and

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

7 ~~(d)~~ (c) Subsection ~~(e)~~ (b) does not apply to any information required  
 8 by statute or rules and regulations to be maintained by or provided to a  
 9 governmental agency while the information is in the possession of the  
 10 governmental agency to the extent applicable law expressly authorizes its  
 11 disclosure.

12 ~~(e)~~ (d) This section may not be construed to limit the discovery or  
 13 admissibility in any civil action of any documents that are not compliance  
 14 review documents.

15 Sec. 66. K.S.A. 9-1138 is hereby amended to read as follows: 9-1138.

16 (a) As used in this section:

17 (1) "Accredited school" means any school operated by a public  
 18 school district organized under the laws of this state and any nonpublic  
 19 school accredited by the state board of education.

20 (2) "Board" means the board of education of a school district and the  
 21 governing authority of an accredited nonpublic school.

22 (b) In order to encourage savings among school children, a bank may  
 23 enter into a written agreement with a board of an accredited *elementary or*  
 24 *secondary* school to establish a school savings deposit program. Such  
 25 program shall be limited to the opening of accounts and the periodic  
 26 collection, by bank employees or school personnel, of deposits from  
 27 school children for deposit in such bank accounts.

28 (c) No such program shall be implemented until the executed  
 29 agreement and any information deemed necessary has been submitted to  
 30 the ~~Kansas state bank~~ commissioner. If the commissioner determines the  
 31 agreement and proposed program primarily promote educational  
 32 objectives and the purpose of this section, the commissioner shall provide  
 33 the bank with written approval to implement the program.

34 (d) Any bank participating in such school savings deposit program  
 35 shall have ~~its~~ *the bank's* main or branch office located in the same county  
 36 as the participating school, or if no bank in the county wants to participate  
 37 in such program, then banks in any contiguous county may participate.  
 38 ~~The school savings deposit program may be conducted in any elementary~~  
 39 ~~or secondary school.~~

40 Sec. 67. K.S.A. 2014 Supp. 9-1140 is hereby amended to read as  
 41 follows: 9-1140. ~~As used in K.S.A. 2014 Supp. 9-1139 and 9-1140, and~~  
 42 ~~amendments thereto:~~ (a) *No bank shall establish or maintain a branch in*  
 43 *this state on the premises or property of an affiliate if the affiliate engages*

1 *in commercial activities.*

2 (b) *As used in this section:*

3 (1) "Affiliate" means any company that controls, is controlled by, or  
4 is under common control with another company.

5 ~~(b)~~ (2) "Bank" shall have the meaning stated in ~~the federal deposit~~  
6 ~~insurance act~~, 12 U.S.C. § 1813(a)(1).

7 ~~(e)~~ (3) "Branch" means any office, other than the place of business  
8 specified in the bank's certificate of authority, at which deposits are  
9 received, checks paid, money lent or trust authority exercised, if approval  
10 has been granted by the appropriate federal or state supervisory agency.

11 ~~(d)~~ (4) "Commercial activities" means activities in which a bank  
12 holding company, a financial holding company, a national bank; or a  
13 national bank financial subsidiary may not engage under federal or state  
14 law.

15 ~~(e)~~ (5) "Control" means the power directly or indirectly to direct the  
16 management or policies of a bank or to vote 25% or more of any class of  
17 voting shares of a bank.

18 Sec. 68. K.S.A. 9-1201 is hereby amended to read as follows: 9-1201.  
19 All of the provisions contained within ~~K.S.A. 9-1204, 9-1205, 9-1206, 9-~~  
20 ~~1207, 9-1213 and 9-1214~~ *article 12 of chapter 9 of the Kansas Statutes*  
21 *Annotated*, and amendments thereto, shall extend and apply to ~~national~~  
22 ~~banks organized under federal laws and state organized banks any national~~  
23 ~~or state chartered bank that has a main office or branch in this state.~~

24 Sec. 69. K.S.A. 9-1204 is hereby amended to read as follows: 9-1204.  
25 Any bank may receive deposits from minors or in the name of minors and  
26 pay the same upon the order of such minors whether or not ~~said such~~  
27 ~~minors are emancipated until receiving certified copy of the appointment~~  
28 ~~of a guardian.~~ Payments so made shall discharge the bank ~~forever~~ from  
29 any further liability on ~~the~~ account of such deposits or the money so paid  
30 by the bank.

31 Sec. 70. K.S.A. 9-1205 is hereby amended to read as follows: 9-1205.  
32 Deposits may be made in the names of two or more persons, including  
33 minors, ~~payable to either or any of them, or payable to either or any of the~~  
34 ~~survivors or the sole survivors, and such deposits or any part thereof or~~  
35 ~~any interest thereon, may be paid to or on order of any of said persons~~  
36 ~~whether the other or others be living or not; and the receipt, order, or~~  
37 ~~acquittance of the person so paid and funds on deposit may be paid to any~~  
38 ~~or all of the joint owners under the terms of the deposit contract. Payment~~  
39 ~~to a joint owner in accordance with the terms of the deposit contract shall~~  
40 be valid and sufficient release and discharge to the bank for any payment  
41 so made.

42 Sec. 71. K.S.A. 9-1207 is hereby amended to read as follows: 9-1207.  
43 ~~Notice to any bank of An adverse claim to a bank deposit with such bank~~

1 ~~does not need not be recognized, and shall not be deemed effective to be~~  
2 ~~paid out by the bank,~~ unless and until either the:

3 (a) Person making the claim supplies indemnity deemed adequate by  
4 the bank; or ~~the~~ (b) bank is served with process or order issued by a  
5 court of competent jurisdiction in an action in which the adverse claimant  
6 and the person or persons nominally entitled to the deposit are parties.

7 Sec. 72. K.S.A. 9-1213 is hereby amended to read as follows: 9-1213.  
8 ~~If any bank shall be presented in the usual course of business with a draft~~  
9 ~~drawn on it by any bank in the state of Kansas, after said drawer bank has~~  
10 ~~failed or been closed for business by law or by other proper legal action,~~  
11 ~~which said draft was issued prior to the failure or closing of said bank and~~  
12 ~~has on deposit to the credit of said failed or closed bank sufficient funds~~  
13 ~~with which to pay said draft, said bank shall, upon receiving proof that~~  
14 ~~said draft represents payment of cash letters covering checks which had~~  
15 ~~been charged to the individual accounts of the said failed or closed bank~~  
16 ~~prior to the failure or closing of said bank, honor and pay said draft~~  
17 ~~regardless of its having received notice, constructive or otherwise, of the~~  
18 ~~failure or closing of such bank. When any drawee bank shall be presented~~  
19 ~~with a draft drawn on it in the usual course of business by a drawer bank~~  
20 ~~that has failed or been closed by operation of law or legal action, the~~  
21 ~~drawee bank shall accept and pay such draft regardless of having received~~  
22 ~~notice, constructive or otherwise, of the failure or closing of the drawer~~  
23 ~~bank if the:~~

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

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

28 (c) *drawee bank has received proof that the draft represents payment*  
29 *of cash letters covering checks that had been charged to the individual*  
30 *accounts of the failed or closed drawer bank prior to the failure or closing*  
31 *of the drawer bank.*

32 Sec. 73. K.S.A. 9-1214 is hereby amended to read as follows: 9-1214.  
33 Any *drawee* bank paying a draft under the circumstances set out in K.S.A.  
34 9-1213, *and amendments thereto*, shall be released from any further  
35 liability thereon, and shall be fully protected and held harmless from any  
36 claim made by the receiver or other liquidating agent of ~~said the~~ failed or  
37 closed *drawer* bank for sums representing payments made on ~~said the~~  
38 draft.

39 Sec. 74. K.S.A. 2014 Supp. 9-1215 is hereby amended to read as  
40 follows: 9-1215. (a) Subject to the provisions of this section ~~and K.S.A. 9-~~  
41 ~~1216, and amendments thereto~~, an individual ~~adult or minor, hereafter~~  
42 ~~referred to as the owner,~~ *of an account* may enter into a written contract  
43 with any bank located in this state ~~providing that the balance of the~~

1 owner's deposit account, ~~or that provides that at the time of the owner's~~  
2 ~~death, the balance of the owner's legal share of a deposit the account, at~~  
3 ~~the time of death of the owner shall be made payable on the death of the~~  
4 ~~owner shall be paid to one or more persons or, if the persons predecease~~  
5 ~~the owner, to another person or persons, hereafter referred to as the~~  
6 ~~beneficiary or beneficiaries. If a beneficiary has predeceased the owner,~~  
7 ~~that beneficiary's share shall be divided equally among the remaining~~  
8 ~~beneficiaries unless the contract provides otherwise.~~

9 (b) ~~If any beneficiary is a minor at the time the account, or any~~  
10 ~~portion of the account, becomes funds become payable to the beneficiary~~  
11 ~~and the balance, or portion of the balance, exceeds the amount specified by~~  
12 ~~K.S.A. 59-3053, and amendments thereto, the moneys shall be payable~~  
13 ~~only to a conservator of the minor beneficiary.~~

14 ~~Transfers pursuant to this section shall not be considered testamentary~~  
15 ~~or be invalidated due to nonconformity with the provisions of chapter 59~~  
16 ~~of the Kansas Statutes Annotated.~~

17 ~~Every contract authorized by this section shall be considered to contain~~  
18 ~~a right on the part of the owner during the owner's lifetime both to~~  
19 ~~pursuant to this section, the bank shall pay out in accordance with K.S.A.~~  
20 ~~59-3053, and amendments thereto.~~

21 (c) ~~During the owner's lifetime, the owner has the right to both~~  
22 ~~withdraw funds on deposit in the account in the manner provided in the~~  
23 ~~contract, in whole or in part, as though no beneficiary has been named, and~~  
24 ~~to change the designation of beneficiary. The interest of the beneficiary~~  
25 ~~shall be considered not to vest until the death of the owner and, if there is a~~  
26 ~~claim pursuant to subsection (g) of K.S.A. 39-709, and amendments~~  
27 ~~thereto, until such claim is satisfied. No change in the designation of the~~  
28 ~~beneficiary shall be valid unless executed in the form and manner~~  
29 ~~prescribed by the bank and delivered to the bank prior to the death of the~~  
30 ~~owner.~~

31 (d) ~~The interest of the beneficiary shall not vest until the death of the~~  
32 ~~owner. Vesting of the beneficiary's interest is subject to the following if,~~  
33 ~~prior to the owner's death or payment to the beneficiary, the bank has~~  
34 ~~received written notice:~~

35 (1) ~~From the department for children and families of a claim~~  
36 ~~pursuant to K.S.A. 39-709, and amendments thereto, the balance of the~~  
37 ~~owner's share shall be paid to the department for children and families to~~  
38 ~~the extent of medical assistance expended on the deceased owner, with the~~  
39 ~~beneficiary then receiving the balance of the owner's share, if any~~  
40 ~~remains; or~~

41 (2) ~~of the owner's surviving spouse's intent to claim an elective share~~  
42 ~~under K.S.A. 59-6a214, and amendments thereto, the balance of the~~  
43 ~~owner's share shall be paid to the court having jurisdiction as provided in~~

1 *K.S.A. 59-6a214, and amendments thereto, to the extent of the owner's*  
 2 *surviving spouse's elective share, with the beneficiary then receiving the*  
 3 *balance of the owner's share, if any remains.*

4 *(e) Transfers pursuant to this section shall not be considered*  
 5 *testamentary or be invalidated due to nonconformity with the provisions of*  
 6 *chapter 59 of the Kansas Statutes Annotated, and amendments thereto.*

7 *(f) Payment by the bank of the owner's deposit account pursuant to*  
 8 *the provisions of this section shall release and discharge the bank from*  
 9 *further liability for the payment.*

10 *(g) For the purposes of this section:*

11 *(1) The balance of the owner's deposit account or the balance of the*  
 12 *owner's legal share of a deposit account shall not be construed to not*  
 13 *include any portion of the account which under the law of joint tenancy is*  
 14 *the property of another joint tenant of the account upon the death of the*  
 15 *owner. As used in this section, "person" means any individual, individual*  
 16 *or corporate fiduciary or nonprofit religious or charitable organization as*  
 17 *defined by K.S.A. 79-4701, and amendments thereto; and*

18 *(2) where multiple owners exist, such owners will be presumed to*  
 19 *own equal shares of the deposit account unless the deposit contract with*  
 20 *the bank specifies a different percentage of ownership for the owners.*

21 Sec. 75. K.S.A. 9-1301 is hereby amended to read as follows: 9-1301.  
 22 Every bank operating under the provisions of ~~this act~~ *the state banking*  
 23 *code* and authorized to receive deposits of money shall insure the deposits  
 24 of each depositor with the federal deposit insurance corporation, or its  
 25 successor, ~~or with an insurer approved by the state commissioner of~~  
 26 ~~insurance in an amount not less than that provided by the federal deposit~~  
 27 ~~insurance corporation and shall pay all charges or assessments levied by~~  
 28 ~~such deposit insurance corporation, or its successor or such other insurer.~~  
 29 ~~Every state bank that accepts deposits of money which does not insure~~  
 30 ~~with the federal deposit insurance corporation shall furnish a blanket~~  
 31 ~~fidelity bond on all of its officers and employees in a principal amount of~~  
 32 ~~not less than 100% of the average total amount of all deposits in the bank;~~  
 33 ~~that average total deposits shall mean the average of the total amounts on~~  
 34 ~~deposit in such bank on June 30 and December 31 next preceding. The~~  
 35 ~~bond shall be executed by a corporate surety authorized to do business in~~  
 36 ~~the state and shall be held by the state bank commissioner for the benefit~~  
 37 ~~of the depositors of the bank; and if a receiver is appointed, the~~  
 38 ~~commissioner shall collect any moneys due under such bond for the~~  
 39 ~~benefit of the depositors. The bond shall provide that it cannot be canceled~~  
 40 ~~until at least 30 days after notice has been given to the state bank~~  
 41 ~~commissioner unless the commissioner shall authorize its cancellation at~~  
 42 ~~an earlier date. The premium on such bond shall be paid by the bank.~~

43 Any bank furnishing the bond shall also cause a certified audit of its

1 books and accounts to be made once in each calendar year by an  
2 independent certified public accountant licensed to do business in the state  
3 or an independent auditor approved by the commissioner, and the  
4 accountant or auditor shall audit and verify every account of the bank. The  
5 cost of any such audit shall be paid by the bank, and a copy of the report of  
6 such audit shall be filed with the state bank commissioner. Upon receipt of  
7 the report, the bank commissioner shall examine the report and shall  
8 transmit the report, with any recommendations as to action thereon, to the  
9 state banking board and the state banking board shall, without delay, take  
10 such necessary action as may be indicated by the audit report and the  
11 recommendations of the commissioner.

12 Whenever a bank shall fail to comply with the provisions of this  
13 section, the commissioner shall notify the bank that a continuation of such  
14 failure will result in the revocation of its authority to do business. If after  
15 receipt of such notice the bank fails or refuses to comply, the  
16 commissioner shall after a hearing or an opportunity for a hearing has been  
17 given to such bank, revoke its authority to transact business in this state.  
18 Hearings shall be conducted in accordance with the provisions of the  
19 Kansas administrative procedure act. The bank commissioner may grant a  
20 reasonable extension of time for compliance with this section under such  
21 rules and regulations as the state banking board may adopt. During the  
22 period of any such extension of time, the bank receiving the same shall  
23 give notice to persons making deposits, and include in all advertisements  
24 made for the purpose of securing deposits, a statement that the deposits of  
25 such bank are uninsured. The commissioner shall give written notice of  
26 such revocation to the president, cashier, or other managing officer of such  
27 bank, and by publishing a copy of the order of revocation in the Kansas  
28 register. The attorney general shall, at the request of the commissioner,  
29 then begin action for the appointment of a receiver for such bank and to  
30 dissolve same; and the receiver appointed shall take charge of such bank  
31 and liquidate the affairs and business in the same manner as provided in  
32 article 19 of chapter 9 of the Kansas Statutes Annotated, and any  
33 amendments thereto. *State banks may purchase surety bond coverage for  
34 the purpose of insuring deposits in excess of the federal deposit insurance  
35 corporation's coverage limit.*

36 Sec. 76. K.S.A. 9-1304 is hereby amended to read as follows: 9-1304.

37 (a) Upon the approval of the commissioner or, the receiver or liquidator; or  
38 the board of directors of any bank which may be closed because of its  
39 inability to meet the demands of its depositors may borrow from the  
40 federal deposit insurance corporation or its successor, and pledge any part  
41 or all of its assets as security, whether such bank is insolvent or not, except  
42 that all such loans first must have the approval of the commissioner.

43 (b) The assets, or any portion thereof, of any bank which may close

1 because of its inability to meet the demands of its depositors may be sold  
2 to the federal deposit insurance corporation or its successor upon such  
3 terms and conditions as the commissioner shall approve. ~~If the insurance~~  
4 ~~corporation is acting as receiver or liquidator for such bank, then the~~  
5 ~~approval of the district court of the county wherein the bank is located first~~  
6 ~~must be obtained for any such sale.~~ Nothing contained in this section shall  
7 limit the power of any bank, the commissioner or receiver or liquidator  
8 thereof to pledge or sell any assets in accordance with other provisions of  
9 ~~this act~~ *the state banking code* and existing laws.

10 Sec. 77. K.S.A. 2014 Supp. 9-1401 is hereby amended to read as  
11 follows: 9-1401. (a) The governing body of any municipal corporation or  
12 quasi-municipal corporation shall designate by official action recorded  
13 upon its minutes the banks, savings and loan associations and savings  
14 banks which shall serve as depositories of its funds and the officer and  
15 official having the custody of such funds shall not deposit such funds other  
16 than at such designated banks, savings and loan associations and savings  
17 banks. The banks, savings and loan associations and savings banks which  
18 have main or branch offices in the county or counties in which all or part  
19 of such municipal corporation or quasi-municipal corporation is located  
20 shall be designated as such official depositories if the municipal or quasi-  
21 municipal corporation can obtain satisfactory security therefor.

22 (b) Every officer or person depositing public funds shall deposit all  
23 such public funds coming into such officer or person's possession in their  
24 name and official title as such officer. If the governing body of the  
25 municipal corporation or quasi-municipal corporation fails to designate an  
26 official depository or depositories, the officer thereof having custody of its  
27 funds shall deposit such funds with one or more banks, savings and loan  
28 associations or savings banks which have main or branch offices in the  
29 county or counties in which all or part of such municipal corporation or  
30 quasi-municipal corporation is located if satisfactory security can be  
31 obtained therefor and if not then elsewhere, but upon so doing shall serve  
32 notice in writing on the governing body showing the names and locations  
33 of such banks, savings and loan associations and savings banks where such  
34 funds are deposited, and upon so doing the officer having custody of such  
35 funds shall not be liable for the loss of any portion thereof except for  
36 official misconduct or for the misappropriation of such funds by such  
37 officer.

38 (c) If eligible banks, savings and loan associations or savings banks  
39 under subsections (a) or (b) cannot or will not provide an acceptable bid,  
40 which shall include services, for the depositing of public funds under this  
41 section, then banks, savings and loan associations or savings banks which  
42 have main or branch offices in an adjoining county to the county in which  
43 all or part of such municipal or quasi-municipal corporation is located may

1 receive deposits of such municipal corporation or quasi-municipal  
2 corporation, if such banks, savings and loan associations or savings banks  
3 have been designated as official depositories under subsection (a) and the  
4 municipal corporation or quasi-municipal corporation can obtain  
5 satisfactory security therefor.

6 *(d) The depository bank, savings and loan association or savings*  
7 *bank and any agent, trustee, wholly owned subsidiary or affiliate having*  
8 *identical ownership granting a security interest shall enter into a written*  
9 *agreement with the municipal corporation or quasi-municipal corporation*  
10 *which so designates the bank as a depository for the municipal*  
11 *corporation or quasi-municipal corporation's public moneys.*

12 *(1) The agreement shall secure the public moneys of the municipal*  
13 *corporation or quasi-municipal corporation by granting a security interest*  
14 *in securities held by the depository bank, savings and loan association or*  
15 *savings bank and any agent, trustee, wholly owned subsidiary or affiliate*  
16 *having identical ownership pursuant to K.S.A. 9-1402, and amendments*  
17 *thereto.*

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

23 *(3) The security agreement shall be in writing, executed by all parties*  
24 *thereto, maintained as part of their official records, except for the*  
25 *municipal corporations or quasi-municipal corporations, approved by*  
26 *their boards of directors or their loan committees, which approvals shall*  
27 *be reflected in the minutes of the boards or committees.*

28 Sec. 78. K.S.A. 2014 Supp. 9-1402 is hereby amended to read as  
29 follows: 9-1402. (a) Before any deposit of public moneys or funds shall be  
30 made by any municipal corporation or quasi-municipal corporation of the  
31 state of Kansas with any bank, savings and loan association or savings  
32 bank, such municipal or quasi-municipal corporation shall obtain security  
33 for such deposit in one of the following manners prescribed by this  
34 section.

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

38 ~~(e)~~ Such bank, savings and loan association or savings bank may give  
39 a corporate surety bond of some surety corporation authorized to do  
40 business in this state, which bond shall be in an amount equal to the public  
41 moneys or funds on deposit at any given time less the amount of such  
42 public moneys or funds which is insured by the federal deposit insurance  
43 corporation or its successor and such bond shall be conditioned that such



1 deposit shall be paid promptly on the order of the municipal corporation or  
2 quasi-municipal corporation making such deposits.

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

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

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

29 (3) bonds of the state of Kansas;

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

32 (5) revenue bonds of any municipal corporation or quasi-municipal  
33 corporation of the state of Kansas if approved by the ~~state bank~~  
34 ~~commissioner in the case of banks and by the savings and loan~~  
35 ~~commissioner in the case of savings and loan associations or federally~~  
36 ~~chartered savings banks;~~

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

40 (7) warrants of any municipal corporation or quasi-municipal  
41 corporation of the state of Kansas the issuance of which is authorized by  
42 the state board of tax appeals and which are payable from the proceeds of  
43 a mandatory tax levy;

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

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

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

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

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

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

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

20 (i) Are underwritten by the federal national mortgage association, the  
21 federal home loan mortgage corporation, the federal housing  
22 administration or the veterans administration standards; ~~or are valued~~  
23 ~~pursuant to rules and regulations which shall be adopted by both the state~~  
24 ~~bank commissioner and the savings and loan commissioner after having~~  
25 ~~first being submitted to and approved by both the state banking board~~  
26 ~~under K.S.A. 9-1713, and amendments thereto, and the savings and loan~~  
27 ~~board. Such rules and regulations shall be published in only one place in~~  
28 ~~the Kansas administrative regulations as directed by the state rules and~~  
29 ~~regulations board;~~

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

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

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

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

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

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

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

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

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

27 Sec. 79. K.S.A. 9-1403 is hereby amended to read as follows: 9-1403.

28 (a) During the periods of peak deposits occurring at tax paying time and  
29 tax distributing time and continuing for a period of not to exceed 60  
30 continuous days at any given time and not to exceed 120 days in any  
31 calendar year the amount of security for the ~~deposit of public moneys~~  
32 *deposits of municipal corporations or quasi-municipal corporations* as  
33 required under K.S.A. 9-1402, and amendments thereto, may be reduced  
34 ~~by not more than  $\frac{1}{2}$  in an amount thereof up to 50% of the amount on~~  
35 *deposit during the peak period.*

36 (b) ~~The provisions of this section shall apply only to the deposits of~~  
37 ~~all municipal corporations and quasi-municipal corporations, but~~ *If*  
38 ~~the custodian of the funds of each of such municipal corporations or quasi-~~  
39 ~~municipal corporations~~ *municipal corporation or quasi- municipal*  
40 *corporation* together with an officer of the depository bank, savings and  
41 loan association or savings bank ~~may~~ *agree to reduce the amount of*  
42 *security as provide in subsection (a), then the parties shall enter into an*  
43 *agreement which designates in writing the beginning and end of each such*

1 ~~sixty-day~~ period, and a copy thereof, fully executed, shall be kept on file in  
2 the office of the governing body of such municipal corporation or quasi-  
3 municipal corporation and in the files of such bank, savings and loan  
4 association or savings bank.

5 Sec. 80. K.S.A. 9-1405 is hereby amended to read as follows: 9-1405.

6 (a) All bonds and securities given by any bank, savings and loan  
7 association or savings bank to secure public moneys of the United States  
8 or any board, commission or agency thereof, shall be deposited as required  
9 by the United States government or any of its designated agencies.

10 (b) All securities, security entitlements and financial assets securing  
11 the deposits of any municipal corporation or quasi-municipal corporation  
12 shall be deposited *as described in subsection (c) or (d) or* in a securities  
13 account with ~~a bank incorporated under the laws of this state, or organized~~  
14 ~~under the laws of the United States or~~ *one of the following custodial*  
15 *banks or trust companies:*

16 (1) *A Kansas state bank;*

17 (2) *a Kansas national bank;*

18 (3) *a state bank organized in another state and which has a main or*  
19 *branch office in this state;* ~~a;~~

20 (4) *a trust company incorporated under the laws of this state or*  
21 *another state;* ~~or~~

22 (5) *the federal home loan bank of Topeka or.*

23 (c) *Securities, security entitlements and financial assets securing the*  
24 *deposits of any municipal corporation or quasi-municipal corporation*  
25 *may be deposited with the state treasurer pursuant to a written custodial*  
26 *agreement and a receipt taken therefor issued with one copy going to the*  
27 *municipal corporation or quasi-municipal corporation making the public*  
28 *deposit and one copy going to the bank, savings and loan association or*  
29 *savings bank which has secured such public deposits. The receipt shall*  
30 *identify the securities, security entitlements and financial assets which are*  
31 *subject to a security interest to secure payment of the deposits of the*  
32 *municipal corporation or quasi-municipal corporation.*

33 (d) *Securities, security entitlements and financial assets securing the*  
34 *deposits of any municipal corporation or quasi-municipal corporation*  
35 *may be deposited with the federal reserve bank of Kansas City to be there*  
36 *held in such manner, under regulations and operating letters of the federal*  
37 *reserve bank of Kansas City, as to secure payment of the deposits of the*  
38 *municipal corporation or quasi-municipal corporation in the depository*  
39 *institution.*

40 (e) This section shall not prohibit any custodial bank or trust  
41 company ~~receiving securities, security entitlements and financial assets on~~  
42 ~~deposit from issuing a receipt and from depositing securities, security~~  
43 ~~entitlements and financial assets identified in the receipt in such bank's~~

1 ~~account with any bank chartered in Kansas or any other state, any trust~~  
 2 ~~company chartered in Kansas or any other state, any national bank, in the~~  
 3 ~~custodial bank or trust company's account if:~~

4 (1) *The custodial bank or trust company's account is located at a*  
 5 *bank or trust company organized under the laws of any state, the United*  
 6 *States or any centralized securities depository wherever located within the*  
 7 *United States; and*

8 (2) *the custodial bank or trust company issues a receipt which*  
 9 *identifies the securities, security entitlements and financial assets on*  
 10 *deposit at the custodial bank or trust company.*

11 (f) ~~No securities, security entitlements and financial assets securing~~  
 12 ~~public deposits shall be deposited in any bank, trust company, or national~~  
 13 ~~bank which is owned directly or indirectly custodial bank or trust~~  
 14 ~~company which has the following commonalities with the depository bank,~~  
 15 ~~savings and loan association, or savings bank:~~

16 (1) ~~Direct or indirect ownership by any parent corporation of the~~  
 17 ~~depository bank, or with any bank, trust company, or national bank,~~  
 18 ~~having;~~

19 (2) ~~common controlling shareholders, having a;~~

20 (3) ~~common majority of the board of directors or having; or~~

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

24 (g) ~~When securities, security entitlements and financial assets are~~  
 25 ~~deposited with the state treasurer as authorized by this subsection, the state~~  
 26 ~~treasurer shall make a charge for such service which is equivalent to the~~  
 27 ~~reasonable and customary charge made therefor. Securities, security~~  
 28 ~~entitlements and financial assets securing the deposits of any municipal~~  
 29 ~~corporation or quasi-municipal corporation may be deposited with the~~  
 30 ~~federal reserve bank of Kansas City to be there held in such manner, under~~  
 31 ~~regulations and operating letters of the bank, as to secure payment of the~~  
 32 ~~deposits of the municipal corporation or quasi-municipal corporation in the~~  
 33 ~~depository institution.~~

34 (e) ~~The depository bank, savings and loan association or savings bank~~  
 35 ~~and any agent, trustee, wholly-owned subsidiary or affiliate having~~  
 36 ~~identical ownership granting a security interest shall enter into a written~~  
 37 ~~agreement with the municipal corporation or quasi-municipal corporation~~  
 38 ~~granting the municipal corporation or quasi-municipal corporation a~~  
 39 ~~security interest in the securities, security entitlements and financial assets~~  
 40 ~~qualified under K.S.A. 9-1402, and amendments thereto, to secure~~  
 41 ~~payment of deposits of public moneys of the municipal corporation or~~  
 42 ~~quasi-municipal corporation. Such security interests shall be perfected by~~  
 43 ~~the depository bank, savings and loan association or savings bank and any~~

1 ~~agent, trustee, wholly-owned subsidiary or affiliate having identical~~  
 2 ~~ownership granting a security interest causing control of the securities,~~  
 3 ~~security entitlements and financial assets under the Kansas uniform~~  
 4 ~~commercial code to be given to the municipality or quasi-municipality.~~  
 5 ~~The security agreement and~~

6 (h) The custodial agreement shall be in writing, executed by all  
 7 parties thereto, maintained as part of their official records, and except for  
 8 the municipal corporations or quasi-municipal corporation, approved by  
 9 their boards of directors or their loan committees, which approvals shall be  
 10 reflected in the minutes of the boards or committees.

11 ~~(d)~~ (i) A bank, savings and loan association or savings bank which  
 12 fails to pay according to its terms any deposit of public moneys of any  
 13 municipal or quasi-municipal corporation shall immediately take ~~such~~  
 14 ~~actions as are required~~ *action* to enable bonds and securities pledged to  
 15 secure such deposit to be sold to satisfy its obligation to the municipal or  
 16 quasi-municipal corporation.

17 Sec. 81. K.S.A. 2014 Supp. 9-1407 is hereby amended to read as  
 18 follows: 9-1407. (a) That portion of any deposit of public moneys or funds  
 19 which is insured by the federal deposit insurance corporation, or its  
 20 successor, need not be secured as provided in ~~this act~~ *article 14 of chapter*  
 21 *9 of the Kansas Statutes Annotated, and amendments thereto.*

22 (b) Public moneys or funds deposited by a municipal corporation or  
 23 quasi-municipal corporation ~~through~~ *in* a selected bank, savings and loan  
 24 association or savings bank which are part of a reciprocal deposit program  
 25 ~~in which the bank, savings and loan association or savings bank shall not~~  
 26 ~~be treated as securities and need not be secured as provided in article 14~~  
 27 ~~of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, if~~  
 28 ~~the:~~

29 (1) *Bank, savings and loan association or savings bank* receives  
 30 reciprocal deposits from other participating institutions located in the  
 31 United States in an amount equal to the amount of funds deposited by the  
 32 municipal corporation or quasi-municipal corporation; and

33 (2) ~~for which the~~ total cumulative amount of each deposit does not  
 34 exceed the maximum deposit insurance amount for one depositor at one  
 35 financial institution as determined by the federal deposit insurance  
 36 corporation.

37 ~~Such deposits shall not be treated as securities and need not be secured~~  
 38 ~~as provided in this act.~~

39 Sec. 82. K.S.A. 2014 Supp. 9-1408 is hereby amended to read as  
 40 follows: 9-1408. As used in article 14 of chapter 9 of the Kansas Statutes  
 41 Annotated, *and amendments thereto:*

42 (a) ~~"Bank" means any bank incorporated under the laws of this state~~  
 43 ~~or any other state, or organized under the laws of the United States and~~

1 ~~which has a main or branch office in this state~~ "Branch" means any office,  
2 within this state, or another state, other than the main office, that is  
3 approved as a branch by a federal or state supervisory agency, at which  
4 deposits are received, checks paid or money lent. Branch does not include  
5 an automated teller machine, remote service unit or similar device, a loan  
6 production office or a deposit production office;

7 (b) "centralized securities depository" means a clearing agency  
8 registered with the securities and exchange commission which provides  
9 safekeeping and book-entry settlement services to its participants;

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

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

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

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

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

21 (h) "savings and loan association" means any savings and loan  
22 association incorporated under the laws of this state or any other state, or  
23 organized under the laws of the United States and which has a main or  
24 branch office in this state;

25 (e) (i) "savings bank" means any savings bank organized under the  
26 laws of the United States and which has a main or branch office in this  
27 state; and

28 ~~(d) "centralized securities depository" means a clearing agency~~  
29 ~~registered with the securities and exchange commission which provides~~  
30 ~~safekeeping and book-entry settlement services to its participants;~~

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

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

37 ~~(g) "branch" means any office within this state, other than the main~~  
38 ~~office, that is approved as a branch by a federal or state supervisory~~  
39 ~~agency, at which deposits are received, checks paid or money lent. Branch~~  
40 ~~does not include an automated teller machine, remote service unit or~~  
41 ~~similar device or a loan production office;~~

42 ~~(h) (j) "securities," "security entitlements," "financial assets,"~~  
43 ~~"securities account," "security agreement," "security interest," "perfection"~~

1 and "control" shall have the meanings given such terms under the Kansas  
2 uniform commercial code.

3 Sec. 83. K.S.A. 9-1501 is hereby amended to read as follows: 9-1501.  
4 ~~The state recognizes that the storing and safekeeping of personal property~~  
5 ~~in safe deposit boxes is germane and pertinent but not exclusive to the~~  
6 ~~business of banking and trust companies; and that suitable laws should be~~  
7 ~~enacted covering the relations resulting therefrom; and that all such laws~~  
8 ~~also should extend to separately incorporated safe deposit companies~~  
9 ~~inasmuch as banks are authorized by this act to incorporate and conduct~~  
10 ~~separately their safe deposit business~~ *Any bank, trust company or safe*  
11 *deposit corporation, may maintain safe deposit boxes and rent the same*  
12 *for consideration. The bank, trust company or safe deposit corporation*  
13 *shall prescribe the hours of entry into its safe deposit vault and may also*  
14 *retain and require the use of a preparation or guard key for the protection*  
15 *of the bank, trust company or deposit corporation and the user of such*  
16 *box.*

17 Sec. 84. K.S.A. 9-1502 is hereby amended to read as follows: 9-1502.  
18 ~~Any bank, either national or state, or trust company or safe deposit~~  
19 ~~corporation, may maintain safe deposit boxes and rent the same for a~~  
20 ~~consideration. The relationship between any such bank, trust company or~~  
21 ~~safe deposit company having and maintaining safe deposit boxes for~~  
22 ~~public use, and the user or users of such boxes shall be that of landlord and~~  
23 ~~tenant lessor and lessee, respectively, in the absence of a written contract~~  
24 ~~to the contrary; notwithstanding the fact that such bank, trust company or~~  
25 ~~safe deposit corporation prescribes the hours of entry into its safe deposit~~  
26 ~~vault, and also retains and requires the use of a preparation or guard key~~  
27 ~~for the protection of itself and the user of such box.~~

28 ~~The rights, duties, powers and privileges of any such bank, trust~~  
29 ~~company or safe deposit corporation in any such transaction shall be that~~  
30 ~~of landlord and for all purposes the tenant or, the lessee shall be deemed by~~  
31 ~~law to be in possession of such box and the contents thereof. The lessor~~  
32 ~~shall not be charged with knowledge of the contents of any such box. The~~  
33 ~~lessor may limit its liability to the lessee by provisions contained within a~~  
34 ~~lease agreement, except, that the lessor shall be liable for the acts of its~~  
35 ~~officers and employees for failure to exercise ordinary care.~~

36 Sec. 85. K.S.A. 9-1503 is hereby amended to read as follows: 9-1503.  
37 Joint tenancy in and to a safe deposit box may be created by contract, with  
38 two or more persons named as lessees. The terms of ~~such~~ *the* contract may  
39 provide that any one or more of the lessees, or the survivor or survivors of  
40 such lessee or lessees shall have access and entry to ~~such~~ *the* safe deposit  
41 box and the right to remove the contents from such box whether the other  
42 lessee or lessees be living, incompetent or dead; ~~and in case of such~~  
43 ~~removal the lessor shall not be liable for the removal thereof. If the~~



1 *contents are removed as provided by the contract, the lessor shall not be*  
2 *liable for the removal of the contents.*

3 Sec. 86. K.S.A. 9-1504 is hereby amended to read as follows: 9-1504.

4 *(a) In the event the sole lessee or all lessees in joint tenancy named in the*  
5 *lease agreement covering a safe deposit box rental shall die, the safe*  
6 *deposit box may be opened, forcibly if necessary, at any time thereafter, in*  
7 *the presence of persons ~~claiming to be interested in the contents thereof~~*  
8 *holding a legal or beneficial interest relating to the lessee, by two*  
9 *employees of the lessor, one of whom shall be an officer of the lessor. The*  
10 *contents shall be disposed of as follows:*

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

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

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

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

32 Sec. 87. K.S.A. 9-1505 is hereby amended to read as follows: 9-1505.

33 Upon the death of any lessee of a safe deposit box and upon the request of  
34 the district court or the county clerk or the director of taxation for the state  
35 of Kansas, the lessor shall ~~reply to such request and inform such official if~~  
36 ~~the~~ *disclose whether a* designated person was the lessee of a safe deposit  
37 box at the time of death.

38 Sec. 88. K.S.A. 9-1506 is hereby amended to read as follows: 9-1506.

39 *(a) The lessor shall have a lien upon the contents of any safe deposit box*  
40 *for the rental thereon. ~~ff~~*

41 *(b) The lessor may, after giving not less than 60 days' written notice*  
42 *to the lessee of such lessor's intention to enter the box, remove the*  
43 *contents and sell the same for the payment of rent due or other expenses*

1 *incurred by the bank in keeping the contents, open the box forcibly and*  
2 *remove the contents in the presence of two of its employees, one of whom*  
3 *shall be an officer, when:*

4 (1) *The lessee shall not pay the rent within ~~thirty (30)~~ 30 days after*  
5 *the same is due, ~~then the lessor, after giving not less than sixty (60) days'~~*  
6 *written notice to the lessee, personally or by registered mail delivered to*  
7 *the latest address shown upon the safe deposit records of the lessor, of its*  
8 *intention to sell the contents of said box for the payment of rent and*  
9 *expenses may open the box forcibly and remove the contents in the*  
10 *presence of two of its employees, one of whom shall be an officer*  
11 *thereof; or*

12 (2) *the lessee shall fail to surrender possession of any box within 30*  
13 *days from the date of the termination of the lease.*

14 (c) *The lessor ~~then~~ shall retain such contents for at least ~~ninety (90)~~*  
15 *90 days ~~thereafter and after opening the box.~~ The lessor then may sell any*  
16 *part or all of ~~said the~~ contents at public sale by giving notice thereof in like*  
17 *manner ~~as notice is required when chattels are sold under execution,~~*  
18 *pursuant to the requirements for a commercially reasonable sale under*  
19 *article 9 of the Kansas uniform commercial code and retain from the*  
20 *proceeds of sale ~~and the rental due it, the rent due,~~ the costs of opening*  
21 *and repairing the box, ~~and~~ the costs of sale ~~and any other amounts due to~~*  
22 *the lessor.*

23 (d) *Any article, item or document without apparent market value may*  
24 *be destroyed after two ~~(2)~~ years from the date of giving or mailing the*  
25 *required notice.*

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

29 Sec. 89. K.S.A. 2014 Supp. 9-1601 is hereby amended to read as  
30 follows: 9-1601. (a) Any bank, upon the affirmative vote of at least  $\frac{2}{3}$  of  
31 the voting stock, may apply to the commissioner for approval to conduct  
32 trust business. If approval is granted by the commissioner, a special permit  
33 shall be issued and the bank shall be authorized ~~and empowered~~, subject to  
34 such conditions as the commissioner may require, ~~to act in one or more~~  
35 ~~fiduciary capacities as exercise all powers necessary or incidental to~~  
36 ~~carrying on a trust business and also may exercise the following powers~~  
37 ~~to:~~

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

39 (2) *accept and execute any trust agreement and perform any trustee*  
40 *duties as required by such trust agreement;*

41 (3) *act as agent, trustee, executor, administrator, registrar of stocks*  
42 *and bonds, conservator, assignee, receiver, custodian, ~~transfer agent,~~*  
43 *corporate trustee, corporate agent corporate trustee or attorney-in-fact in*

1 *any agreed upon capacity;*

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

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

8 *(6) be a conservator for any minor, incapacitated person or trustee*  
9 *for any convict under the appointment of any court of competent*  
10 *jurisdiction;*

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

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

15 *(9) buy and sell foreign or domestic exchange, gold, silver, coin or*  
16 *bullion;*

17 *(10) act in any other fiduciary capacity in the same manner in and to*  
18 *perform any act as a fiduciary which trust companies incorporated under*  
19 *the laws of this state are permitted to act, including but not limited to the*  
20 *right of succession to individuals, corporations, associations, national bank*  
21 *associations or others, with or without reappointment, in any such office or*  
22 *capacities may perform under any provision of the banking or insurance*  
23 *laws of this state, including, without limitation, acting as a successor*  
24 *fiduciary to any trust company upon liquidation pursuant to K.S.A. 9-*  
25 *2107, and amendments thereto; and*

26 *(11) to perform or purchase trust services for or from a bank or*  
27 *service corporation through a trust service agency agreement provided the*  
28 *commissioner is notified 30 days after contracting for the service*  
29 *including in the notification the trust services provided, name of the*  
30 *servicer, and the date the service will commence.*

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

34 *(A) The reasonable probability of usefulness and success of the bank*  
35 *having trust authority;*

36 *(B) the financial history and condition of the bank and the character,*  
37 *qualifications and experience of the trust officers and personnel; and*

38 *(C) any other facts and circumstances that the commissioner deems*  
39 *appropriate.*

40 *(2) If the commissioner denies an application, the applicant shall*  
41 *have the right to a hearing to be conducted in accordance with the Kansas*  
42 *administrative procedure act. Any final order of the commissioner*  
43 *pursuant to this section is subject to review in accordance with the Kansas*

1 *judicial review act.*

2 ~~(b)~~ (c) (1) If the governing instrument limits investment of funds to  
3 deposit in time or savings deposits in the bank, any bank may act as trustee  
4 or custodian for any of the following without being issued a special  
5 permit:

6 (A) Individual retirement accounts established pursuant to ~~section~~  
7 ~~408 of the federal internal revenue code of 1986, and amendments thereto~~  
8 ~~26 U.S.C. § 408;~~

9 (B) trusts established pursuant to ~~section 401 of the federal internal~~  
10 ~~revenue code of 1986, and amendments thereto 26 U.S.C. § 401; and~~

11 (C) medical savings accounts established pursuant to ~~section 220 of~~  
12 ~~the federal internal revenue code of 1986, and amendments thereto 26~~  
13 ~~U.S.C. § 220.~~

14 (2) If the governing instrument limits investment of funds to deposit  
15 in time, savings or demand deposits in the bank, any bank may act as a  
16 trustee or custodian for any health savings accounts established pursuant to  
17 ~~section 223 of the federal internal revenue code of 1986, and amendments~~  
18 ~~thereto 26 U.S.C. § 223, without being issued a special permit pursuant to~~  
19 ~~subsection (a).~~

20 ~~(e)~~ (d) Any state bank having been granted trust authority by the ~~bank~~  
21 ~~commissioner of the state of Kansas~~ may add "and trust company" to its  
22 corporate name.

23 (e) *A bank making application to the commissioner for approval to*  
24 *conduct trust business shall pay to the commissioner a fee, in an amount*  
25 *established pursuant to section 12, and amendments thereto, to defray the*  
26 *expenses of the commissioner in the examination and investigation of the*  
27 *application. The commissioner shall remit all moneys received under this*  
28 *section to the state treasurer in accordance with the provisions of K.S.A.*  
29 *75-4215, and amendments thereto. Upon receipt of each such remittance,*  
30 *the state treasurer shall deposit the entire amount in the state treasury to*  
31 *the credit of the bank investigation fund. The moneys in the bank*  
32 *investigation fund shall be used to pay the expenses of the commissioner in*  
33 *the examination and investigation of such applications and any unused*  
34 *balance shall be transferred to the bank commissioner fee fund.*

35 Sec. 90. K.S.A. 9-1602 is hereby amended to read as follows: 9-1602.

36 (a) ~~The commissioner has the discretion to grant or reject the application~~  
37 ~~of any bank to acquire trust authority. The commissioner shall take into~~  
38 ~~consideration the amount of capital and surplus of such bank, the needs of~~  
39 ~~the community to be served and any other facts and circumstances that the~~  
40 ~~commissioner shall deem proper.~~

41 ~~(b)~~—The commissioner may revoke trust authority for any bank or  
42 trust company upon finding a failure to adhere to sound fiduciary  
43 practices.

1       (e) ~~(b)~~ *If the commissioner revokes the trust authority of a bank or*  
2 ~~trust company subject to revocation of trust authority shall be afforded the~~  
3 ~~bank shall have the right to a hearing to be conducted in accordance with~~  
4 ~~the provisions of the Kansas administrative procedure act. Any final order~~  
5 ~~of the commissioner pursuant to this section is subject to review in~~  
6 ~~accordance with the Kansas judicial review act.~~

7       Sec. 91. K.S.A. 9-1603 is hereby amended to read as follows: 9-1603.

8       (a) As soon as any bank shall exercise any trust authority it shall segregate  
9 all assets held in any fiduciary capacity and shall keep a separate set of  
10 books and records showing in proper detail all ~~transactions had in any~~  
11 ~~fiduciary capacity~~ *fiduciary transactions*. Such books and records *shall* at  
12 all times ~~shall be open to the inspection of, and subject to the~~ *be subject to*  
13 *inspection and supervision of*; the commissioner.

14       (b) Funds held by such bank in trust ~~that are awaiting investment or~~  
15 ~~distribution less the amount of insurance carried in which is insured by the~~  
16 ~~federal deposit insurance corporation shall be carried in a separate account~~  
17 ~~and shall not be used by the bank in the conduct of its business unless it~~  
18 ~~first shall set aside in the trust department, have pledged to them~~ United  
19 States bonds or other securities approved by the commissioner in an equal  
20 sum.

21       Sec. 92. K.S.A. 9-1604 is hereby amended to read as follows: 9-1604.

22 Upon the affirmative vote of a majority of the outstanding voting stock,  
23 any bank having trust authority ~~may liquidate, or may consolidate or~~  
24 ~~merge its trust department with any other bank having trust authority or~~  
25 ~~with any trust company, and any trust company may liquidate, or may~~  
26 ~~consolidate or merge with any other trust company or with any bank~~  
27 ~~having trust authority, except that such liquidation, consolidation or~~  
28 ~~merger shall not be effective until the commissioner has approved the~~  
29 ~~same in writing after the terms have been submitted to the commissioner~~  
30 ~~for examination and approval~~ *terminate the bank's trust business. The*  
31 *termination of trust services shall be done in accordance with the Kansas*  
32 *uniform trust code and with the contracting trustee provisions of K.S.A. 9-*  
33 *2107, and amendments thereto. Any bank terminating the bank's trust*  
34 *business may surrender such bank's special permit for trust authority or*  
35 *be granted inactive status pursuant to K.S.A. 9-1703, and amendments*  
36 *thereto.*

37       Sec. 93. K.S.A. 9-1607 is hereby amended to read as follows: 9-1607.

38       (a) Any ~~state or national~~ bank or trust company, when acting ~~in this state~~ as  
39 a fiduciary or a co-fiduciary with others, may with the consent of its co-  
40 fiduciary or co-fiduciaries, if any, who are hereby authorized to give such  
41 consent, cause any investment held in any such capacity, to be registered  
42 and held in the name of a nominee or nominees of such bank or trust  
43 company. Such bank or trust company shall be liable for the acts of any

1 such nominee with respect to any investment so registered.

2 *(b) The records of the bank or trust company shall at all times show*  
 3 *the ownership of any investment registered and held in the name of a*  
 4 *nominee, which investment shall be in the control of the bank or trust*  
 5 *company and be kept separate and apart from the assets of the bank or*  
 6 *trust company.*

7 Sec. 94. K.S.A. 9-1609 is hereby amended to read as follows: 9-1609.

8 *(a) Any ~~state or national~~ bank or trust company ~~qualified~~ authorized to act*  
 9 *as fiduciary ~~in this state~~ may establish common trust funds for the purpose*  
 10 *of furnishing investments to ~~itself~~:*

11 *(1) Such bank or trust company as fiduciary, ~~or to itself~~;*

12 *(2) such bank or trust company and others, as cofiduciaries ~~or to~~;*

13 *(3) another state or national bank or trust company, as fiduciary,*  
 14 *which is a subsidiary of the same bank holding company of which it is a*  
 15 *subsidiary, as such terms are defined in K.S.A. 9-519, and amendments*  
 16 *thereto; ~~and any state or national or~~*

17 *(4) another state or national bank or trust company with which it is*  
 18 *affiliated through common control, as defined in K.S.A. 9-1612, and*  
 19 *amendments thereto.*

20 *(b) Any bank or trust company ~~qualified~~ authorized to act as fiduciary*  
 21 *~~in this state~~ may, as such fiduciary or cofiduciary, invest funds which it*  
 22 *lawfully holds for investment in interests in such common trust funds, if*  
 23 *such investment is not prohibited by the instrument, judgment, decree or*  
 24 *order creating such fiduciary relationship, and if, in the case of*  
 25 *cofiduciaries, the bank or trust company procures the consent of its*  
 26 *cofiduciaries to such investment. ~~The state banking board is hereby~~*  
 27 *~~authorized to adopt rules and regulations for a plan of operation for the~~*  
 28 *~~management of funds for state banks and trust companies.~~*

29 Sec. 95. K.S.A. 9-1611 is hereby amended to read as follows: 9-1611.

30 Whenever the governing instrument of any trust authorizes a bank or trust  
 31 company acting as fiduciary to *either engage in any of the following*  
 32 *activities, such instrument shall also be deemed to authorize the bank or*  
 33 *trust company to engage in the following activities, with any company*  
 34 *which has or acquires control of such bank or trust company:*

35 *(a) Hold as a trust investment its own stock or obligations, or*  
 36 *property acquired from ~~itself the bank or trust company~~; or*

37 *(b) sell or transfer, by loan or otherwise, property held as fiduciary to*  
 38 *~~itself the bank or trust company~~; or*

39 *(c) purchase for investment the stock or obligations of, or property*  
 40 *from, ~~itself~~; such instrument shall also be deemed to authorize such bank*  
 41 *~~or trust company to deal in any manner described above, with any~~*  
 42 *~~company which has or acquires control of such the bank or trust company.~~*

43 Sec. 96. K.S.A. 9-1612 is hereby amended to read as follows: 9-1612.

1 For the purposes of ~~this act~~ *K.S.A. 9-1601 through 9-1611, and*  
 2 *amendments thereto*, any company has control over a bank or trust  
 3 company if: ~~(a)~~ the company directly or indirectly, or acting through one  
 4 or more persons;

5 (a) Owns, controls or has power to vote ~~twenty-five percent (25%)~~  
 6 *25% or more of any class of voting securities of the bank or trust*  
 7 *company;* ~~or~~

8 (b) ~~the company~~ controls, in any manner, the election of a majority of  
 9 the directors or trustees of the bank or trust company; *or*

10 (c) *has the power to direct the management or policies of the bank or*  
 11 *trust company.*

12 Sec. 97. K.S.A. 9-1701 is hereby amended to read as follows: 9-1701.

13 (a) The commissioner or the commissioner's ~~assistant or examiners staff~~  
 14 shall visit each bank and trust company at least once every 18 months, and  
 15 may visit any bank or trust company ~~if the~~ *at any time the* commissioner  
 16 deems ~~it~~ necessary, for the purpose of making ~~a full and careful~~  
 17 ~~examination and an examination or~~ inquiry into the condition of the affairs  
 18 of such bank or trust company. For such purpose the commissioner; *and*  
 19 the commissioner's ~~assistant and examiners staff~~ are authorized to  
 20 administer oaths and to examine under oath the directors, officers,  
 21 employees and agents of any bank or trust company. ~~Such examination~~  
 22 ~~shall be reduced to writing by the person making it and such person's~~  
 23 ~~reports shall contain a full, true and careful statement of the condition of~~  
 24 ~~such bank or trust company. The commissioner in lieu of making a direct~~  
 25 ~~examination and inquiry may accept the examination and report of an~~  
 26 ~~authorized federal agency.~~

27 (b) *The results of any examination pursuant to this section shall be*  
 28 *reduced to writing by the commissioner or the commissioner's staff.* The  
 29 commissioner shall provide to the board of directors of the bank or trust  
 30 company a copy of the examination report ~~written by the state examiners.~~  
 31 ~~Neither the commissioner, the commissioner's assistant nor any examiner~~  
 32 ~~shall examine any bank or trust company in which the person making such~~  
 33 ~~examination is a stockholder or is otherwise financially interested or to~~  
 34 ~~which bank or trust company or any officer thereof the person making the~~  
 35 ~~examination is indebted. No person shall personally examine a bank or~~  
 36 ~~trust company if that person is a stockholder of, indebted to, or otherwise~~  
 37 ~~financially interested in that bank or trust company.~~

38 (b) (c) The examination team may conduct an exit review meeting  
 39 with the board of directors of a bank or trust company following the  
 40 examination *of such bank or trust company as provided in subsection (a);*  
 41 ~~of such bank or trust company. Such an exit review shall be conducted~~  
 42 ~~when requested by the board of directors or management of the bank or~~  
 43 ~~trust company. Minutes shall be kept at all exit review meetings by the~~

1 ~~bank in any manner the bank determines to be appropriate.~~

2 (d) *The commissioner is hereby authorized to accept any examination*  
3 *report or any other report on a state bank or trust company made by the:*

4 (1) *Federal deposit insurance corporation or its successor;*

5 (2) *federal reserve bank; or*

6 (3) *consumer financial protection bureau.*

7 Sec. 98. K.S.A. 2014 Supp. 9-1702 is hereby amended to read as  
8 follows: 9-1702. (a) The commissioner or the commissioner's ~~designee~~  
9 *staff* is hereby authorized to examine the fiduciary affairs of any officer or  
10 employee of any bank or trust company when such officer or employee is  
11 serving in any fiduciary capacity that may affect the safety and soundness  
12 of such bank or trust company.

13 (b) The commissioner or the commissioner's ~~designee~~ *staff* is hereby  
14 authorized to examine any investment company, holding company,  
15 corporation or any other form of business entity which is affiliated with  
16 any bank or trust company to fully ascertain:

17 (1) The relationship between such bank or trust company and any  
18 such affiliate; and

19 (2) the effect of such relationship on the bank or trust company.

20 (c) For the purposes of this section, "affiliate" shall have the meaning  
21 ascribed to it in section 2 of the bank holding act of 1956, 12 U.S.C. §  
22 1841.

23 Sec. 99. K.S.A. 2014 Supp. 9-1703 is hereby amended to read as  
24 follows: 9-1703. (a) The expense of every regular examination, together  
25 with the expense of administering the banking and savings and loan laws,  
26 including salaries, travel expenses, supplies and equipment, shall be paid  
27 by the banks and savings and loan associations of the state, and for this  
28 purpose the bank commissioner shall, prior to the beginning of each fiscal  
29 year, make an estimate of the expenses to be incurred by the department  
30 during such fiscal year. From this total amount the commissioner shall  
31 deduct the estimated amount of the anticipated annual income to the fund  
32 from all sources other than bank and savings and loan association  
33 assessments. The commissioner shall allocate and assess the remainder to  
34 the banks and savings and loan associations in the state on the basis of  
35 their total assets, as reflected in the last March 31 report called for by the  
36 federal deposit insurance corporation under the provisions of section 7 of  
37 the federal deposit insurance act, 12 U.S.C. § 1817, and amendments  
38 thereto, or K.S.A. 17-5610, and amendments thereto, except that the  
39 annual assessment will not be less than \$1,000 for any bank or savings and  
40 loan association.

41 (b) (1) The expense of every regular trust examination, together with  
42 the expense of administering trust laws, including salaries, travel expenses,  
43 supplies and equipment, shall be paid by the trust companies and trust



1 departments of banks of this state, and for this purpose, the bank  
2 commissioner, prior to the beginning of each fiscal year, shall make an  
3 estimate of the trust expenses to be incurred by the department during such  
4 fiscal year. The commissioner shall allocate and assess the trust  
5 departments in the state on the basis of their total fiduciary assets, as  
6 reflected in the last December 31 report called for by the federal deposit  
7 insurance corporation under the provisions of section 7 of the federal  
8 deposit insurance act, 12 U.S.C. § 1817, and amendments thereto, or  
9 K.S.A. 17-5610, and amendments thereto, except that the annual  
10 assessment shall not be less than \$1,000 for any active trust department.  
11 The commissioner shall allocate and assess the trust companies in the state  
12 on the basis of their fiduciary assets as reflected in the last December 31  
13 report filed with the commissioner pursuant to K.S.A. 9-1704, and  
14 amendments thereto, except that the annual assessment will not be less  
15 than \$1,000 for any active trust company. A trust department *or trust*  
16 *company* which has no fiduciary assets, as reflected in the last December  
17 31 report called for by the federal deposit insurance corporation under the  
18 provisions of section 7 of the federal deposit insurance act, 12 U.S.C. §  
19 1817, and amendments thereto, or K.S.A. 17-5610, and amendments  
20 thereto, may be granted inactive status by the commissioner and the annual  
21 assessment shall not be more than \$100 for the inactive trust department. ~~A~~  
22 ~~trust company which has no fiduciary assets, as reflected in the last~~  
23 ~~preceding year-end report filed with the commissioner, may be granted~~  
24 ~~inactive status by the commissioner and the annual assessment shall not be~~  
25 ~~more than \$100 for an inactive trust company.~~

26 (2) No inactive trust department or trust company shall accept any  
27 fiduciary assets or exercise any part of or all of its trust authority until such  
28 time as it has applied for and received prior written approval of the  
29 commissioner to reactivate its trust authority.

30 (c) (1) A statement of each assessment made under the provisions of  
31 subsection (a) or (b) shall be sent by the commissioner on July 1 or the  
32 next business day thereafter, to each bank, savings and loan association,  
33 trust department and trust company that exists as a corporate entity with  
34 the secretary of state's office ~~as of the close of business on June 30~~, and is  
35 authorized by the ~~office of the state bank~~ commissioner to conduct  
36 banking, savings and loan or trust business. The assessment may be  
37 collected by the state bank commissioner as needed and in such  
38 installment periods as the commissioner deems appropriate, but no more  
39 frequently than monthly. When the commissioner issues an invoice to  
40 collect the assessment, payment shall be due within 15 days of the date of  
41 the invoice. The commissioner may impose a penalty upon any bank,  
42 savings and loan association, trust department or trust company which fails  
43 to pay its annual assessment when it is 15 days or more past due. The

1 penalty shall be assessed in the amount of \$50 for each day the assessment  
2 is past due.

3 (2) The commissioner shall remit all moneys received from such  
4 examination fees to the state treasurer in accordance with the provisions of  
5 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
6 remittance, the state treasurer shall deposit the entire amount in the state  
7 treasury. ~~Ten percent and credit 10% of each deposit shall be credited to~~  
8 ~~the state general fund and with the balance shall be credited~~ *transferred*  
9 to the bank commissioner fee fund. All expenditures from the bank  
10 commissioner fee fund shall be made in accordance with appropriation  
11 acts upon warrants of the director of accounts and reports issued pursuant  
12 to vouchers approved by the commissioner or by a person or persons  
13 designated by the commissioner.

14 (d) The amount of expenses incurred and the cost of service  
15 performed on account of any bank, trust department or trust company or  
16 other corporation which are outside the normal expenses of an  
17 examination required under the provisions of K.S.A. 9-1701 or 17-5612,  
18 and amendments thereto, shall be charged to and paid by the bank, trust  
19 department, trust company or corporation for which such expenses were  
20 incurred or cost of services performed.

21 (e) As used in this section, "savings and loan association" means a  
22 Kansas state-chartered savings and loan association.

23 (f) (1) In the event a bank, savings and loan association or trust  
24 company is merged into, consolidated with, or the assets and liabilities of  
25 which are purchased and assumed by another bank, savings and loan  
26 association or trust company, between the preceding March 31 and June  
27 30, for banks and savings and loan associations, or the preceding  
28 December 31 and June 30, for trust companies, the surviving or acquiring  
29 bank, savings and loan association or trust company is obligated to pay the  
30 assessment based on the value of the assets of all institutions involved with  
31 the merger, consolidation or assumption for the following fiscal year  
32 commencing July 1.

33 (2) In the event a bank, savings and loan association, or trust  
34 company is merged into, consolidated with, or the assets and liabilities of  
35 which are purchased and assumed by another bank, savings and loan  
36 association or trust company after July 1, the surviving entity shall be  
37 obligated to pay the unpaid portion of the assessment for the remainder of  
38 the fiscal year commencing July 1 which would have been due of the  
39 institution being merged, consolidated or assumed.

40 Sec. 100. K.S.A. 2014 Supp. 9-1704 is hereby amended to read as  
41 follows: 9-1704. (a) Each bank or trust company shall be required to make  
42 a report to the commissioner at any time upon the commissioner's request.  
43 Such reports shall be in a form *and manner* prescribed by the

1 commissioner and shall be verified by the president, chief executive  
2 officer or cashier and attested by at least three directors of the bank or trust  
3 company, none of whom shall have verified the report. The report shall  
4 show in detail the assets and liabilities of the bank or trust company at the  
5 close of business upon the date determined by the commissioner ~~and such~~  
6 ~~report shall be forwarded to the commissioner.~~ The commissioner may  
7 require a copy of the report, or a portion thereof, to be published in a  
8 newspaper, published in or having a general circulation in the place where  
9 the bank or trust company is located, within 10 days after the report is  
10 forwarded to the commissioner. The expense of publication shall be paid  
11 by the bank or trust company.

12 (b) Each trust company shall report to the commissioner all assets  
13 held by the trust company in a fiduciary capacity as of December 31 of  
14 each year. The report shall be in the form *and manner* prescribed by the  
15 commissioner, and shall be filed with the commissioner by January 30 of  
16 each year. The commissioner may require the report to be filed using an  
17 electronic means.

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

23 (d) *A request for information made pursuant to this section shall be*  
24 *made in writing and mailed to each bank and trust company. The request*  
25 *shall be deemed to be legal notice to each bank and trust company. The*  
26 *request may include the requirement for the filing of information by the*  
27 *bank or trust company using electronic means.*

28 Sec. 101. K.S.A. 9-1708 is hereby amended to read as follows: 9-  
29 1708. ~~Whenever any~~ *No officer, director, employee or agent of any bank or*  
30 *trust company shall refuse to submit the books, records, papers and*  
31 ~~instruments of such bank or trust company to the examination and~~  
32 ~~inspection of the bank or trust company by the commissioner, or any of the~~  
33 ~~commissioner's assistants or examiners, or in any manner obstruct or~~  
34 ~~interfere with the examination and investigation of such bank or trust~~  
35 ~~company, or refuse to be examined on~~ *under oath concerning any of the*  
36 *affairs of such bank or trust company, the commissioner may revoke the*  
37 *authority of such bank or trust company to transact business, and with the*  
38 *concurrence of the attorney general may institute proceedings for the*  
39 *appointment of a receiver for such bank or trust company. The*  
40 *commissioner may take such action as available pursuant to K.S.A. 9-*  
41 *1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy any*  
42 *violation of the provisions of this section.*

43 Sec. 102. K.S.A. 9-1709 is hereby amended to read as follows: 9-

1 1709. ~~Any (a) No bank or trust company which shall refuse or neglect for a~~  
2 ~~period of 90 days after demand in writing is made to comply with any~~  
3 ~~requirement lawfully made upon it by the commissioner shall be deemed~~  
4 ~~to have forfeited its franchise and the commissioner shall thereupon~~  
5 ~~revoke its authority to transact business. The commissioner shall give~~  
6 ~~notice of such revocation to the president, cashier, or other managing~~  
7 ~~officer of such bank or trust company and also by publishing a copy of~~  
8 ~~such order of revocation in the Kansas register. The attorney general, upon~~  
9 ~~the request of the commissioner, then shall begin action for the~~  
10 ~~appointment of a receiver for such bank or trust company and to dissolve~~  
11 ~~the same. for more than 60 days to comply with or respond to a written,~~  
12 ~~lawful, request of the commissioner. If the bank or trust company does not~~  
13 ~~comply with or respond to any such request, the commissioner may issue~~  
14 ~~an order notifying the bank or trust company that continued failure to~~  
15 ~~comply with the request shall result in the forfeiture of the authority to~~  
16 ~~transact business. Any bank or trust company receiving notice of such~~  
17 ~~order shall have the right to a hearing to be conducted in accordance with~~  
18 ~~the Kansas administrative procedure act. Any final order of the~~  
19 ~~commissioner is subject to review in accordance with the Kansas judicial~~  
20 ~~review act.~~

21 (b) *If any request or requirement made pursuant to an order issued*  
22 *under subsection (a) remains unsatisfied after a period of time as provided*  
23 *in the order, the commissioner shall appoint a receiver pursuant to article*  
24 *19 of chapter 9 of the Kansas Statutes Annotated, and amendments*  
25 *thereto. The order appointing the receiver shall not be subject to the*  
26 *Kansas administrative procedure act or the Kansas judicial review act.*

27 (c) *The commissioner may take such additional action as available*  
28 *pursuant to K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments*  
29 *thereto, to protect the depositors and creditors of the bank or trust*  
30 *company.*

31 Sec. 103. K.S.A. 9-1712 is hereby amended to read as follows: 9-  
32 1712. (a) All information the state bank commissioner generates in making  
33 an investigation or examination of a state bank or trust company shall be  
34 confidential information.

35 (b) All confidential information shall be the property of the state of  
36 Kansas and shall not be ~~subject to disclosure~~ *disclosed* except upon the  
37 written approval of the ~~state bank~~ commissioner.

38 (c) *Except for disclosure pursuant to subsection (e) and K.S.A. 9-*  
39 *2014, and amendments thereto, the commissioner shall give 10 days prior*  
40 *written notice to the affected bank or trust company of intent to disclose*  
41 *confidential information to the affected bank or trust company, except that,*  
42 *such confidential information shall not apply to reports filed pursuant to*  
43 *K.S.A. 9-2014, and amendments thereto.*

1 (d) Any bank or trust company receiving notice ~~as provided in~~  
2 ~~subsection (c)~~, of the intent to disclose confidential information may object  
3 to the disclosure of the confidential information and shall be afforded the  
4 right to a hearing in accordance with the provisions of the Kansas  
5 administrative procedure act.

6 (e) (1) *The commissioner may furnish to the federal deposit*  
7 *insurance corporation, or to any officer or examiner thereof, a copy of any*  
8 *or all examination reports made by the commissioner, or the*  
9 *commissioner's examiners, of any bank or trust company insured by such*  
10 *corporation. The commissioner may disclose to the federal deposit*  
11 *insurance corporation, or any official or examiner thereof, any and all*  
12 *information contained in the commissioner's office concerning the*  
13 *condition of any bank or trust company insured by such corporation.*

14 (2) *The commissioner may disclose any and all information contained*  
15 *in the commissioner's office concerning the condition of any bank or trust*  
16 *company to the:*

17 (A) *Federal reserve bank;*

18 (B) *office of the comptroller of currency;*

19 (C) *federal home loan bank;*

20 (D) *office of thrift supervision;*

21 (E) *financial crimes enforcement network; or*

22 (F) *consumer financial protection bureau.*

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

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

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

1       (6) *Nothing in this section shall be construed to limit the powers of*  
2 *the commissioner with reference to examinations and reports required by*  
3 *the state banking code.*

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

6       ~~(f)~~ (g) Any person who violates this section, upon conviction, shall be  
7 guilty of a class C misdemeanor.

8       (h) *The commissioner may provide any person with a letter of good*  
9 *standing upon request. Any person requesting a letter of good standing*  
10 *shall pay to the commissioner a fee in an amount established pursuant to*  
11 *section 12, and amendments thereto, to defray the expenses of the*  
12 *commissioner in investigating and complying with the request. The*  
13 *commissioner shall remit all moneys received under this section to the*  
14 *state treasurer in accordance with the provisions of K.S.A. 75-4215, and*  
15 *amendments thereto. Upon receipt of each such remittance, the state*  
16 *treasurer shall deposit the entire amount in the state treasury to the credit*  
17 *of the bank investigation fund. The moneys in the bank investigation fund*  
18 *shall be used to pay the expenses of the commissioner in the examination*  
19 *and investigation of such applications and any unused balance shall be*  
20 *transferred to the bank commissioner fee fund.*

21       Sec. 104. K.S.A. 2014 Supp. 9-1713 is hereby amended to read as  
22 follows: 9-1713. Except as otherwise provided by law, in order to promote  
23 safe and sound practices for entities regulated by the ~~state bank~~  
24 commissioner, the commissioner shall ~~adopt~~ *promulgate* such rules and  
25 regulations as shall be necessary to implement the provisions of K.S.A. 9-  
26 542, and amendments thereto, commonly known as the state banking code.  
27 All rules and regulations of ~~general application~~ shall first be submitted by  
28 ~~the commissioner~~ to the state banking board for ~~its~~ *the state banking*  
29 *board's* approval and upon approval shall be filed as provided by article 4  
30 of chapter 77 of the Kansas Statutes Annotated, *and amendments thereto.*

31       Sec. 105. K.S.A. 9-1714 is hereby amended to read as follows: 9-  
32 1714. (a) Whenever the ~~state bank~~ commissioner shall determine that the  
33 business of any bank or trust company is being conducted in an unlawful  
34 or unsound manner, ~~such~~ *the* commissioner may appoint a special deputy  
35 bank commissioner who shall immediately take charge of the operation of  
36 such bank or trust company for the purpose of ~~correcting~~ *resolving* any  
37 unlawful or unsound condition or operation. ~~Such appointment shall be~~  
38 ~~made in accordance with the provisions of K.S.A. 77-536, and~~  
39 ~~amendments thereto.~~

40       (b) After appointment, the special deputy bank commissioner shall  
41 continue to serve under the direction of the commissioner for such period  
42 of time as may be deemed reasonable and necessary by the commissioner  
43 and, during such period, such special deputy bank commissioner's salary,

1 which shall be determined by the commissioner, and expenses shall be  
2 borne by the bank or trust company under supervision.

3 (c) After such appointment, any such bank or trust company shall  
4 have the right ~~within 15 days from the date of the notice of such~~  
5 ~~appointment to appeal in writing to the state banking board, and upon such~~  
6 ~~appeal, the state banking board shall fix a date for a hearing, which hearing~~  
7 ~~shall be within 30 days from the date of such appeal and shall be~~  
8 ~~conducted in accordance with the provisions of the Kansas administrative~~  
9 ~~procedure act. The board shall render an order as to the correctness or~~  
10 ~~incorrectness of the commissioner's decision to take over the conduct of~~  
11 ~~such bank or trust company, and the order of such board shall be final and~~  
12 ~~conclusive to a hearing to be conducted in accordance with the Kansas~~  
13 ~~administrative procedure act. Any final order of the commissioner~~  
14 ~~pursuant to this section is subject to review in accordance with the Kansas~~  
15 ~~judicial review act.~~

16 Sec. 106. K.S.A. 9-1715 is hereby amended to read as follows: 9-  
17 1715. (a) (1) *Notwithstanding any provision of law to the contrary,* the  
18 commissioner shall have the power to authorize any or all ~~state~~ banks to  
19 engage in any activity in which ~~such banks could engage were they~~  
20 ~~operating as any insured depository institution at the time such authority is~~  
21 ~~granted, including but without limitation because of enumeration the~~  
22 ~~power to do any act, and own, possess and carry as assets, property of such~~  
23 ~~character including stocks, bonds or other debentures which, at the time~~  
24 ~~authority is granted, is authorized under applicable laws and regulations to~~  
25 ~~be done by any insured depository institution notwithstanding any~~  
26 ~~restriction elsewhere contained in the statutes of the state of Kansas any~~  
27 ~~other bank, savings and loan association or a savings bank organized~~  
28 ~~under the laws of the United States, this state or any other state, whose~~  
29 ~~deposits are insured by the United States government are lawfully~~  
30 ~~authorized to engage in at the time authority is granted.~~

31 (2) ~~This power shall include~~ *The commissioner shall have* the power  
32 to authorize any or all Kansas trust companies, *trust departments or both*  
33 to engage in any trust-related activity in which ~~the any trust company or~~  
34 ~~trust department of any insured depository institution with trust powers~~  
35 ~~could engage organized under the laws of the United States, this state, or~~  
36 ~~any other state, are lawfully authorized to engage in at the time authority~~  
37 ~~is granted. This power shall be in addition to any and all other powers~~  
38 ~~granted to the commissioner.~~

39 (b) The commissioner shall exercise the power granted in subsection  
40 (a) by the issuance of a special order if the commissioner deems it  
41 reasonably required to preserve and protect the welfare of a particular  
42 institution, or if the commissioner deems it reasonably required to preserve  
43 the welfare of all state banks or trust companies and to promote

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

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

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

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

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

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

18 (5) the governor.

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

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

34 (f) ~~As used in this statute, "insured depository institution" means a~~  
35 ~~bank, a savings and loan association or a savings bank organized under the~~  
36 ~~laws of the United States, this state, or any other state, whose deposits are~~  
37 ~~insured by the United States government. The powers contained in this~~  
38 ~~section shall be in addition to any and all other powers granted to the~~  
39 ~~commissioner.~~

40 Sec. 107. K.S.A. 9-1716 is hereby amended to read as follows: 9-  
41 1716. If the ~~state bank~~ commissioner shall determine that the condition of  
42 any bank is such that dividends should not be declared and paid ~~upon its~~  
43 ~~capital stock from capital~~ or that such dividends should be declared and



1 paid only subject to certain conditions, the commissioner shall render an  
 2 order ~~in accordance with the provisions of K.S.A. 77-536, and~~  
 3 ~~amendments thereto, that no such dividends be declared and paid or that~~  
 4 ~~such dividends be declared and paid only subject to certain conditions. The~~  
 5 ~~board of directors of the bank shall comply with such order until such time~~  
 6 ~~as it is rescinded or modified by the commissioner by subsequent order~~  
 7 ~~served upon the bank or by the state banking board upon appeal. Within 15~~  
 8 ~~days after prohibiting or limiting the declaration and payment of~~  
 9 ~~dividends. Upon receiving notice of the order, the bank shall have the right~~  
 10 ~~to appeal in writing to the board from the commissioner's determination~~  
 11 ~~and order by filing a notice of appeal with the commissioner, and~~  
 12 ~~thereupon the board shall fix a date for a hearing, which hearing shall be~~  
 13 ~~held within 30 days from the date such notice of appeal is filed. The board~~  
 14 ~~shall conduct the hearing in accordance with the provisions of the Kansas~~  
 15 ~~administrative procedure act and render its order affirming, modifying or~~  
 16 ~~rescinding the order of the commissioner, and the order of the board shall~~  
 17 ~~be final and conclusive and shall be complied with by the board of~~  
 18 ~~directors of the bank a hearing to be conducted in accordance with the~~  
 19 ~~Kansas 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 Sec. 108. K.S.A. 9-1717 is hereby amended to read as follows: 9-  
 23 1717. (a) Except with the written consent of the commissioner, no person  
 24 shall serve as a director, officer or employee of a bank who has been  
 25 convicted, or who is hereafter convicted, of any felony or any crime  
 26 involving dishonesty or a breach of trust.

27 (b) Any bank which willfully violates subsection (a), shall be deemed  
 28 guilty of a misdemeanor and upon conviction shall be punished by a fine  
 29 of ~~\$100~~ \$1,000 for each day the violation continues.

30 Sec. 109. K.S.A. 9-1719 is hereby amended to read as follows: 9-  
 31 1719. As used in K.S.A. 9-1719 to ~~9-1723~~ 9-1722, inclusive, and  
 32 ~~amendments thereto:~~

33 (a) "Control" means the power ~~directly or indirectly to direct the~~  
 34 ~~management or policies of a financial institution or to:~~

35 (1) Vote 25% or more of any class of voting shares ~~of a bank;~~

36 (2) *direct, in any manner, the election of a majority of the directors;*

37 *or*

38 (3) *direct or exercise a controlling influence over the management or*  
 39 *policies.*

40 (b) ~~"Bank" means a state bank or trust company incorporated under~~  
 41 ~~the laws of Kansas.~~

42 (e) ~~"Commissioner" means the Kansas state bank commissioner.~~

43 (d) ~~"Person" means an individual or a corporation, partnership, trust,~~

1 association, joint venture, pool, syndicate, sole proprietorship,  
2 unincorporated organization or any other form of entity not specifically  
3 listed in this subsection.

4 ~~(e) "Board" means the Kansas banking board.~~

5 Sec. 110. K.S.A. 9-1720 is hereby amended to read as follows: 9-  
6 1720. *Except with the approval of the commissioner, or as otherwise*  
7 *permitted by the state banking code*, it shall be unlawful for a person,  
8 acting directly or indirectly or through concert with one or more persons;  
9 to:

10 ~~(a) Acquire control of any bank through purchase, assignment, pledge~~  
11 ~~or other disposition of voting shares of such bank, except with the~~  
12 ~~approval of the commissioner or as otherwise allowed by this act or trust~~  
13 ~~company; or~~

14 ~~(b) commence any merger transaction with a bank or trust company~~  
15 ~~which includes, but is not limited to, any merger; consolidation,~~  
16 ~~acquisition of assets, or assumption of any liabilities.~~

17 Sec. 111. K.S.A. 2014 Supp. 9-1721 is hereby amended to read as  
18 follows: 9-1721. ~~(a) The party proposing to acquire control or effectuate a~~  
19 ~~merger transaction, hereinafter referred to as the applicant, shall apply~~  
20 ~~for approval from the commissioner shall be given, in writing, at least 60~~  
21 ~~days' prior written notice of any proposed bank acquisition to the proposed~~  
22 ~~change of control or merger transaction. If the commissioner does not~~  
23 ~~issue an order disapproving the proposed acquisition within that time or~~  
24 ~~extend the period during which a disapproval may issue for another 30~~  
25 ~~days, the proposed acquisition act on the application within the 60-day~~  
26 ~~time period, the application shall stand approved. The commissioner may,~~  
27 ~~for any reason, extend the time period to act on an application for an~~  
28 ~~additional 30 days. The period for disapproval time period to act on an~~  
29 ~~application may be further extended only if the commissioner determines~~  
30 ~~that any acquiring party the applicant has not furnished all the information~~  
31 ~~required under K.S.A. 9-1722, and amendments thereto, or that, in the~~  
32 ~~commissioner's judgment, any material information submitted is~~  
33 ~~substantially inaccurate. An acquisition may be made prior to expiration of~~  
34 ~~the disapproval period if the commissioner issues written notice of the~~  
35 ~~commissioner's intent not to disapprove the action.~~

36 ~~(b) The commissioner shall serve the acquiring party with an order of~~  
37 ~~disapproval. The order shall provide a statement of the basis for the~~  
38 ~~disapproval.~~

39 ~~(c) Within 15 days after service of an order of disapproval, the~~  
40 ~~acquiring party may request a hearing on the proposed acquisition with the~~  
41 ~~board. Upon receipt of a timely request, the board shall conduct a hearing~~  
42 ~~in accordance with the provisions of the Kansas administrative procedure~~  
43 ~~act.~~

1 (d) Any disapproval by the board of a proposed acquisition is subject  
2 to review in accordance with the Kansas judicial review act.

3 (e) Actual expense incurred by the commissioner or board in carrying  
4 out any investigation that may be necessary or required by statute shall be  
5 paid by the person submitting the proposed acquisition. Upon the filing of  
6 an application, the commissioner shall make an investigation of each  
7 party to the change of control or merger transaction. The commissioner  
8 may deny the application if the commissioner finds the:

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

13 (2) financial condition of any party to a change of control or merger  
14 transaction might jeopardize the financial stability of the bank or trust  
15 company or prejudice the interests of the depositors of a bank;

16 (3) competence, experience or integrity of any party to a change of  
17 control or merger transaction or of any of the proposed management  
18 personnel indicates it would not be in the interest of the depositors of the  
19 bank, the clients of trust services, or in the interest of the public to permit  
20 such person to control the bank or trust company; or

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

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

28 Sec. 112. K.S.A. 2014 Supp. 9-1722 is hereby amended to read as  
29 follows: 9-1722. (a) ~~A notice of a proposed bank acquisition~~ An  
30 application filed pursuant to K.S.A. 9-1721, and amendments thereto,  
31 shall contain the following information:

32 (1) The identity, personal history, business background and  
33 experience of each person by whom or on whose behalf the ~~acquisition~~  
34 *change of control or merger transaction* is to be made, including ~~such~~  
35 ~~person's~~ the material business activities and affiliations during the past five  
36 years and a description of any material pending legal or administrative  
37 proceedings in which the person is a party and any criminal indictment or  
38 conviction of such person by a state or federal court;

39 (2) a statement of the assets and liabilities of each person by whom or  
40 on whose behalf the ~~acquisition~~ *change of control or merger transaction* is  
41 to be made, ~~as of the end of the fiscal year for each of the five fiscal years~~  
42 ~~immediately preceding the date of the notice, together with related~~  
43 ~~statements of income and source and application of funds for each of the~~

1 ~~fiscal years then concluded and an interim statement of the assets and~~  
2 ~~liabilities for each such person, together with related statements of income~~  
3 ~~and source and application of funds, as of a date not more than 90 days~~  
4 ~~prior to the date of the filing of the notice application.~~ Individuals who  
5 own 10% or more shares in a bank holding company, as defined in K.S.A.  
6 9-519, and amendments thereto, shall file the financial information  
7 required by this paragraph;

8 (3) ~~the terms and conditions of the proposed acquisition change of~~  
9 ~~control or merger transaction and the manner in which the acquisition~~  
10 ~~such change of control or merger transaction is to be made;~~

11 (4) the identity, source and amount of the funds or other  
12 considerations used or to be used in making the ~~acquisition change of~~  
13 ~~control or merger transaction~~ and, if any part of these funds or other  
14 considerations has been or is to be borrowed or otherwise obtained for ~~the~~  
15 ~~such purpose of making the acquisition,~~ a description of the transaction,  
16 the names of the parties, and any arrangements, agreements or  
17 understandings with such persons;

18 (5) any plans or proposals which any ~~acquiring party making the~~  
19 ~~acquisition applicant~~ may have to liquidate the bank, ~~to sell its assets or~~  
20 ~~merge it with any company or trust company~~ or to make any other major  
21 change in its business or corporate structure or management;

22 (6) the identification of any person employed, retained or to be  
23 compensated by ~~the acquiring~~ any party or by any person on such person's  
24 behalf to make solicitations or recommendations to stockholders for the  
25 purpose of assisting in the ~~acquisition change of control or merger~~  
26 ~~transaction~~ and a brief description of the terms of such employment,  
27 retainer or arrangement for compensation;

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

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

35 ~~(8) (9) any additional relevant information in such forms as the~~  
36 ~~department may require by specific request in connection with any~~  
37 ~~particular notice the form and manner prescribed by the commissioner.~~

38 (b) With regard to any trust company which files a notice pursuant to  
39 this section, the commissioner may require fingerprinting of any proposed  
40 officer, director, shareholder or any other person deemed necessary by the  
41 commissioner. Such fingerprints may be submitted to the Kansas bureau of  
42 investigation and the federal bureau of investigation for a state and  
43 national criminal history record check. The fingerprints shall be used to

1 identify the person and to determine whether the person has a record of  
2 arrests and convictions in this state or other jurisdiction. The commissioner  
3 may use information obtained from fingerprinting and the criminal history  
4 for purposes of verifying the identification of the person and in the official  
5 determination of the qualifications and fitness of the persons proposing to  
6 acquire the trust company. Whenever the commissioner requires  
7 fingerprinting, any associated costs shall be paid by the applicant or the  
8 parties to the application.

9 (c) The commissioner may accept an application filed with the federal  
10 reserve bank or federal deposit insurance corporation in lieu of a statement  
11 filed pursuant to subsection (a). The commissioner may, in addition to  
12 such application, request additional relevant information.

13 (d) ~~At the time of filing a notice of a proposed bank acquisition an~~  
14 *application* pursuant to K.S.A. 9-1721, and amendments thereto, or an  
15 application filed pursuant to subsection (c), the applicant shall pay to the  
16 commissioner a fee in an amount established ~~by rules and regulations~~  
17 ~~adopted by the commissioner pursuant to section 12, and amendments~~  
18 *thereto, to defray the expenses of the commissioner in the examination and*  
19 *investigation of the application. The commissioner shall remit all moneys*  
20 *received under this section to the state treasurer in accordance with the*  
21 *provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of*  
22 *each such remittance, the state treasurer shall deposit the entire amount in*  
23 *the state treasury to the credit of the bank investigation fund. The moneys*  
24 *in the bank investigation fund shall be used to pay the expenses of the*  
25 *commissioner in the examination and investigation of such applications*  
26 *and any unused balance shall be transferred to the bank commissioner fee*  
27 *fund.*

28 Sec. 113. K.S.A. 9-1724 is hereby amended to read as follows: 9-  
29 1724. (a) ~~Before any bank can merge, consolidate with or transfer its assets~~  
30 ~~and liabilities under the provisions of article 67 or article 68 of chapter 17~~  
31 ~~of the Kansas Statutes Annotated, the bank concerned in such merger,~~  
32 ~~consolidation or transfer shall file, or cause to be filed, with the state~~  
33 ~~banking commissioner, certified copies of all proceedings had by its~~  
34 ~~directors and stockholders relating to such merger, consolidation or~~  
35 ~~transfer. The stockholders' proceedings shall show that a majority of the~~  
36 ~~outstanding voting stock was voted in favor of the merger, consolidation or~~  
37 ~~transfer. The stockholders' proceedings shall also contain a complete copy~~  
38 ~~of the agreement made and entered into by the bank, with reference to~~  
39 ~~such merger, consolidation or transfer. The provisions of this act~~ *The*  
40 *provisions of K.S.A. 9-1720 through 9-1724, and amendments thereto,*  
41 *shall not apply to the merger, consolidation or transfer of assets and*  
42 *liabilities transaction of a bank or trust company when the surviving entity*  
43 *is a national banking association or other federally chartered financial*

1 institution, except that the bank shall provide written notification to the  
 2 ~~state bank~~ commissioner of such a merger, consolidation or transfer of  
 3 assets and liabilities at least 10 days prior to its consummation. ~~In addition,~~

4 (b) Not more than 15 days following ~~such a~~ any merger,  
 5 ~~consolidation or transfer of assets and liabilities, the bank~~ transaction, any  
 6 bank or trust company that will cease to exist shall surrender its such  
 7 bank's or trust company's state certificate of authority or charter and shall  
 8 certify in writing that the proper instruments ~~as required by the Kansas~~  
 9 ~~general corporation code~~ have been *executed and* filed in accordance with  
 10 K.S.A. 17-6003, and amendments thereto.

11 Upon the filing of the stockholders and directors' proceedings, the  
 12 commissioner shall make an investigation of each party to the merger,  
 13 consolidation or transfer to determine whether:

- 14 (1) ~~The interests of the depositors, creditors and stockholders of the~~  
 15 ~~bank are protected;~~  
 16 (2) ~~the merger, consolidation or transfer is in the public interest; and~~  
 17 (3) ~~the merger, consolidation or transfer is made for legitimate~~  
 18 ~~purposes.~~

19 ~~The commissioner's consent to or rejection of such merger,~~  
 20 ~~consolidation or transfer shall be based upon such investigation. No~~  
 21 ~~merger, consolidation or transfer shall be made without the consent of the~~  
 22 ~~commissioner. At the time of filing the request for merger, consolidation or~~  
 23 ~~transfer, a fee shall be paid to the commissioner in an amount established~~  
 24 ~~by rules and regulations adopted by the commissioner.~~

25 (c) Notice of the merger, ~~consolidation or transfer~~ transaction shall be  
 26 published at least once each week for three consecutive weeks before or  
 27 after the merger, consolidation or transfer is to become effective, at the  
 28 ~~discretion of the commissioner,~~ twice in a newspaper of general circulation  
 29 published in each city or county in which the bank is located, or the  
 30 newspaper nearest such city or county and a certified copy of the each  
 31 notice shall be filed with the commissioner. *The first publication shall be*  
 32 *no later than five days after an application is filed. The second*  
 33 *publication shall be on the 14<sup>th</sup> day after the date of the first publication*  
 34 *or, if the newspaper does not publish on the 14<sup>th</sup> day, then the date that is*  
 35 *the closest to the 14<sup>th</sup> day. The notice shall be in the form prescribed by*  
 36 *the commissioner and shall provide for a comment period of not less than*  
 37 *10 days after the date of the second publication.*

38 (b) As used in this section, "bank" means a state bank or trust  
 39 company incorporated under the laws of Kansas.

40 Sec. 114. K.S.A. 2014 Supp. 9-1805 is hereby amended to read as  
 41 follows: 9-1805. (a) If the *state banking* board finds ~~in accordance with~~  
 42 ~~this section~~ that any current or former officer or director of any bank or  
 43 trust company has been dishonest, reckless or incompetent in performing

1 duties as such officer or director or willfully or continuously fails to  
2 observe any legally made order of the commissioner or *the state banking*  
3 *board*, the *state banking* board may take one or more of the following  
4 actions:

5 (1) Remove such officer or director; and  
6 (2) prohibit such officer's or director's further participation in any  
7 manner in the conduct of the affairs of any state bank or trust company in  
8 Kansas.

9 ~~(b) Prior to removing such officer or director, or prohibiting such~~  
10 ~~officer's or director's participation in the conduct of the affairs of any state~~  
11 ~~bank or trust company in Kansas, the board shall conduct a hearing in~~  
12 ~~accordance with the provisions of the Kansas administrative procedure act~~  
13 ~~*The officer or director shall have the right to a hearing before the state*~~  
14 ~~*banking board to be conducted in accordance with the Kansas*~~  
15 ~~*administrative procedure act. Any action of the state banking board*~~  
16 ~~*pursuant to this section is subject to review in accordance with the Kansas*~~  
17 ~~*judicial review act.*~~

18 ~~(c) The board may recess or continue any hearing from time to time.~~  
19 If upon the conclusion of such hearing the *state banking* board determines  
20 that the officer or director has been dishonest, reckless or incompetent in  
21 performing duties as such an officer or director, or has willfully or  
22 continuously failed to comply with any legally made order of the  
23 commissioner or *state banking* board, the *state banking* board may order  
24 ~~the officer's or director's office forfeited and vacated~~ *officer or director to*  
25 *vacate the office* and prohibit such officer's or director's further  
26 participation in the conduct of the affairs of any state bank or trust  
27 company in Kansas. The *state banking* board shall mail a copy of its  
28 removal order to the bank or trust company ~~which~~ *where* such officer or  
29 director was serving. ~~If the order prohibits such officer's or director's~~  
30 ~~further participation in the conduct of the affairs of any state bank or trust~~  
31 ~~company in Kansas, such order shall be published in the Kansas register~~  
32 ~~within 30 days after such order becomes final.~~

33 ~~(d) During the time from and after any legally made order by the~~  
34 ~~commissioner and upheld by the board, or order made by the board, and~~  
35 ~~not complied with by any officer or director the board may place a special~~  
36 ~~deputy in the bank up to and until the final disposition of the order by~~  
37 ~~compliance or final disposition by order of the district court.~~

38 ~~(e) Any action of the board pursuant to this section is subject to~~  
39 ~~review in accordance with the Kansas judicial review act. If on review the~~  
40 ~~court upholds an order of the board removing an officer or director or if~~  
41 ~~review of such an order is not sought within the time allowed by law, the~~  
42 ~~office of the officer or director shall be forfeited and vacated by law and~~  
43 ~~such office shall then be filled in accordance with existing statutes and~~

1 bylaws by another person or persons.

2 Sec. 115. K.S.A. 9-1807 is hereby amended to read as follows: 9-  
3 1807. (a) If the ~~state bank~~ commissioner ~~shall determine~~ *finds* that any  
4 bank or trust company is engaging ~~or, has engaged,~~ or the commissioner  
5 ~~has reasonable cause to believe that the bank or trust company~~ or is about  
6 to engage, in an unsafe or unsound practice ~~in conducting the business of~~  
7 ~~such bank or trust company,~~ or if the commissioner ~~shall determine~~ *finds*  
8 that any bank or trust company is violating ~~or, has violated,~~ or the  
9 commissioner ~~has reasonable cause to believe that the bank or trust~~  
10 ~~company~~ is about to violate a law, rule, *and* regulation or order of the  
11 commissioner or state banking board, the commissioner may issue and  
12 serve upon the bank or trust company a notice of charges ~~in respect~~  
13 ~~thereof.~~ The notice *of charges* shall contain a statement of the facts  
14 ~~constituting the alleged unsafe or unsound practice or practices or the~~  
15 ~~alleged violation or violations that forms the basis for a proposed cease~~  
16 *and desist order,* and shall state the time and place at which a hearing will  
17 be held by the *state banking* board to determine whether an order to cease  
18 and desist therefrom should be issued by the *state banking* board against  
19 the bank or trust company. Such hearing shall be fixed for a date not  
20 earlier than ~~thirty (30)~~ 30 days nor later than ~~sixty (60)~~ 60 days after  
21 service of such notice.

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

39 (c) Whenever the commissioner ~~shall determine~~ *finds* that ~~the a~~  
40 ~~bank's or trust company's~~ unsafe or unsound practice or ~~practices or the~~  
41 ~~violation or violations specified in the notice of charges served upon the~~  
42 ~~bank or trust company,~~ *a violation,* or the continuation thereof, is likely to  
43 cause insolvency ~~or, substantial dissipation of assets or earnings of the~~



1 ~~bank or trust company~~, or is likely to otherwise seriously prejudice the  
2 interests of its depositors, the commissioner may issue a temporary order  
3 requiring the bank or trust company to cease and desist from any such  
4 practice or ~~practices or violation or violations~~. *The order shall contain a*  
5 *notice of charges with a statement of the facts that forms the basis for a*  
6 *proposed temporary cease and desist order*. Such order shall be effective  
7 upon service ~~thereof upon~~ on the bank or trust company, and shall remain  
8 effective and enforceable pending the completion of the proceedings  
9 pursuant to such notice and until such time as the *state banking* board shall  
10 dismiss the charges specified in such notice, or if a cease and desist order  
11 is issued against the bank or trust company, until the effective date of any  
12 such order.

13 Sec. 116. K.S.A. 9-1901 is hereby amended to read as follows: 9-  
14 1901. Any corporation *that is not insolvent or critically undercapitalized*  
15 *and otherwise* transacting business under ~~this act~~ *the state banking code*  
16 may be dissolved by the district court of the county in which its place of  
17 business is located, in the following manner: A verified petition shall be  
18 filed in the office of the clerk of said court, signed by the president or a  
19 majority of the board of directors, setting forth that stockholders  
20 representing two-thirds in amount of the stock of such association have  
21 adopted a resolution favoring such dissolution, and directing proceedings  
22 to be instituted for that purpose, a copy of which resolution shall set forth  
23 that all claims and demands against such association have been paid and  
24 discharged; and thereupon a notice shall be published for the time and in  
25 the manner prescribed by the law for service by publication. Such notice  
26 shall state the name of the court in which the petition has been filed, the  
27 substance and purpose thereof, and that unless objections are filed thereto  
28 on or before a time to be stated, which shall not be less than forty-one days  
29 from the first publication, the relief prayed for will be granted.

30 A copy of such notice shall be sent to the bank commissioner within ten  
31 days after the first publication thereof, and the commissioner shall, within  
32 thirty days thereafter, make a thorough examination of the affairs of such  
33 bank, and file a certified copy of the report with said petition. Any creditor  
34 or stockholder may, on or before the time fixed by the notice, and  
35 afterwards, if permitted by the court, file written objections to the  
36 dissolution of such corporation. The petition and objections thereto, if any,  
37 shall stand for hearing the same as a civil action; and if upon the hearing  
38 thereof the court shall be satisfied that the petition is true, and that there is  
39 no valid objection to the dissolution of such corporation, it shall render  
40 judgment dissolving the same *its board of directors in accordance with*  
41 *K.S.A. 17-6801 et seq., and amendments thereto, provided the bank has*  
42 *completed a liquidation to the satisfaction of the commissioner pursuant to*  
43 *section 5, and amendments thereto.*

1        Sec. 117. K.S.A. 9-1902 is hereby amended to read as follows: 9-  
 2 1902. A bank or trust company shall be deemed to be insolvent when: ~~(1)~~  
 3 *(a)* The actual cash market value of ~~its~~ *a bank's or trust company's* assets is  
 4 insufficient to pay ~~its~~ *such bank's or trust company's* creditor liabilities,  
 5 except that for this purpose unconditional evidence of indebtedness of the  
 6 United States of America may be valued, at the discretion of the  
 7 commissioner, at par or cost whichever is the lesser; ~~(2) or (b)~~ when it is  
 8 unable to meet the demands of its creditors in the usual and customary  
 9 manner; ~~(3) when it shall fail to make good its reserve as required by this~~  
 10 ~~aet.~~

11        Sec. 118. K.S.A. 9-1902a is hereby amended to read as follows: 9-  
 12 1902a. A bank or trust company is critically undercapitalized when the  
 13 ratio of its capital to total assets is equal to or less than 2.0%. For the  
 14 purposes of this section, capital shall be the ~~sum~~ total of the institution's  
 15 common stock, surplus, undivided profits, capital reserves, noncumulative  
 16 perpetual preferred stock and outstanding cumulative perpetual preferred  
 17 stock ~~(including related surplus), but intangibles, such as goodwill, shall~~  
 18 ~~not be included in the capital calculation.~~

19        Sec. 119. K.S.A. 9-1903 is hereby amended to read as follows: 9-  
 20 1903. If it shall appear upon the examination of any bank or trust company  
 21 or from any report made to the commissioner that any bank or trust  
 22 company is:

23        *(a)* Critically undercapitalized, the commissioner may:

24        *(1)* Enter an informal memorandum pursuant to section 3, and  
 25 amendments thereto, to notify the bank or trust company of the unsafe and  
 26 unsound condition and require the bank or trust company to correct the  
 27 condition within the time prescribed by the commissioner; or

28        *(2)* take charge of such bank or trust company and all of its property  
 29 and assets. ~~If from such examination or reports it shall appear any bank or~~  
 30 ~~trust company is insolvent the commissioner shall take charge of such~~  
 31 ~~bank or trust company and all of its property and assets. In so doing~~ *In*  
 32 *taking charge of a critically undercapitalized bank or trust company,* the  
 33 commissioner may:

34        *(A)* Appoint a special deputy commissioner to take charge  
 35 temporarily of the affairs of ~~such insolvent or critically undercapitalized~~  
 36 ~~the~~ bank or trust company until a receiver is appointed. Such deputy shall  
 37 qualify, give bond and receive compensation as determined by the  
 38 commissioner, but such compensation shall be paid by the insolvent or  
 39 critically undercapitalized bank or trust company or in case of the  
 40 appointment of a receiver allowed by the court as costs in the case. After  
 41 appointment, the special deputy shall continue to serve under the direction  
 42 of the commissioner for such period of time as deemed reasonable and  
 43 necessary by the commissioner before returning charge of the bank or trust

1 company back to the board of directors of the institution or appointing a  
 2 receiver. In no case shall any bank or trust company continue in the charge  
 3 of a special deputy for a period exceeding nine months.; or

4 (B) appoint a receiver if it shall appear at any time that the bank or  
 5 trust company cannot sufficiently recapitalize, resume business or  
 6 liquidate the bank's or trust company's indebtedness to the satisfaction of  
 7 the depositors and creditors of such bank or trust company.

8 (b) Insolvent, the commissioner shall take charge of the bank or trust  
 9 company and all property and assets of such bank or trust company. In  
 10 taking charge of an insolvent bank or trust company, the commissioner  
 11 shall:

12 (1) Appoint a special deputy commissioner to take charge  
 13 temporarily of the affairs of the bank or trust company; or

14 (2) appoint a receiver if it shall appear at any time that the bank or  
 15 trust company cannot sufficiently recapitalize, resume business or  
 16 liquidate its indebtedness to the satisfaction of the depositors and  
 17 creditors of such bank or trust company.

18 Sec. 120. K.S.A. 9-1905 is hereby amended to read as follows: 9-  
 19 1905. ~~When the commissioner shall take charge of any insolvent or~~  
 20 ~~critically undercapitalized bank or trust company pursuant to article 19 of~~  
 21 ~~chapter 9 of the Kansas Statutes Annotated, and amendments thereto, the~~  
 22 ~~commissioner shall ascertain its actual condition as soon as possible by~~  
 23 ~~making a thorough investigation into its affairs and condition, and if the~~  
 24 ~~commissioner shall be satisfied that such bank or trust company cannot~~  
 25 ~~sufficiently recapitalize, resume business or liquidate its indebtedness to~~  
 26 ~~the satisfaction of its depositors and creditors, then the commissioner~~  
 27 ~~forthwith shall appoint a receiver therefor and require the receiver to give~~  
 28 ~~such bond as the commissioner deems proper. (a) In the event the~~  
 29 ~~commissioner appoints a receiver for any bank or trust company, the~~  
 30 ~~commissioner shall appoint:~~

31 (1) *The federal deposit insurance corporation; or*

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

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

42 (1) ~~The commissioner also shall fix receiver shall be entitled to~~  
 43 ~~reasonable compensation for the receiver but the same shall be subject to~~

1 the approval of the district court of the county wherein such bank or trust  
2 company is located upon the application of any party in interest.

3 Any receiver shall be a resident of the state of Kansas and shall have  
4 had at least five years credit experience.

5 (2) Upon written application made within 30 days after the ~~finding of~~  
6 ~~insolvency the commissioner shall~~ *filing in district court, the court may*  
7 appoint as receiver any person whom the holders of more than 60% in  
8 amount of the claims against such bank or trust company shall agree upon  
9 in writing. The creditors so agreeing may also agree upon the  
10 compensation and charges to be paid such receiver. Each receiver so  
11 appointed shall make a complete report to the commissioner covering the  
12 receiver's acts and proceedings as such. ~~The commissioner may remove for~~  
13 ~~cause any receiver and appoint the receiver's successor.~~

14 (c) *The bank or trust company shall have the right to petition for*  
15 *review of the commissioner's order taking charge, appointment of a*  
16 *special deputy or appointment of a receiver. Such review shall not be*  
17 *subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto.*  
18 *A petition for review shall be filed within 10 days of the commissioner's*  
19 *action. Notwithstanding any provision of law to the contrary, or by order*  
20 *of the court, review shall proceed as expeditiously as possible pursuant to*  
21 *the provisions of K.S.A. 77-701 et seq., and amendments thereto.*  
22 *Notwithstanding any provision of law to the contrary, the decision of the*  
23 *district court may be appealed only to the supreme court of Kansas. The*  
24 *time within which an appeal may be taken shall be 10 days from final*  
25 *disposition of the district court.*

26 Sec. 121. K.S.A. 9-1906 is hereby amended to read as follows: 9-  
27 1906. (a) A receiver appointed pursuant to K.S.A. 9-1905, and  
28 amendments thereto, ~~under the direction of the commissioner other than~~  
29 ~~the federal deposit insurance corporation,~~ shall take charge of any  
30 ~~insolvent or critically undercapitalized~~ bank or trust company and all of its  
31 assets and property, and liquidate the affairs and business thereof for the  
32 benefit of its depositors, creditors and stockholders. The receiver may ~~sell~~  
33 ~~or compound all bad and doubtful debts and~~ sell all the property of the  
34 bank or trust company upon such terms as the district court of the county  
35 where the bank or trust company is located shall approve. The receiver  
36 shall pay over all moneys received to the creditors and depositors of such  
37 bank or trust company ~~as ordered by the commissioner.~~

38 (b) In distributing assets of the ~~insolvent or critically undercapitalized~~  
39 bank or trust company in payment of its liabilities, the order of payment, in  
40 the event its assets are insufficient to pay in full all of its liabilities, shall  
41 be by category as follows:

42 (1) The costs and expenses of the receivership and real and personal  
43 property taxes assessed against the bank *or trust company* pursuant to

1 applicable law;

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

3 (3) claims of unsecured depositors;

4 (4) all other claims exclusive of claims on capital notes and  
5 debentures; *and*

6 (5) claims on capital notes and debentures.

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

10 Sec. 122. K.S.A. 9-1907 is hereby amended to read as follows: 9-  
11 1907. The federal deposit insurance corporation or its successor, hereby is  
12 authorized and empowered to be and act without bond as receiver ~~or~~  
13 ~~liquidator of any insolvent or critically undercapitalized of any bank, the~~  
14 ~~deposits in which are to any extent insured by such corporation, and which~~  
15 ~~bank shall have been closed. In the event of any such closing of any bank~~  
16 ~~the commissioner may tender to the insurance corporation the appointment~~  
17 ~~as receiver or liquidator of such bank, and. If the federal deposit insurance~~  
18 ~~corporation, or its successor, accepts the appointment then such the federal~~  
19 ~~deposit insurance corporation, or its successor, shall have and possess~~  
20 ~~succeed to all the rights, titles, powers and privileges and shall assume all~~  
21 ~~the duties and requirements provided by the laws of this state with respect~~  
22 ~~to a state receiver or liquidator, respectively, of a bank, its depositors and~~  
23 ~~other creditors, and shall be subject to the jurisdiction of the district courts~~  
24 ~~and supreme court of Kansas of the bank and of any stockholder, member,~~  
25 ~~account holder, depositor, officer or director of the bank with respect to~~  
26 ~~the bank.~~

27 Sec. 123. K.S.A. 9-1908 is hereby amended to read as follows: 9-  
28 1908. Whenever the federal deposit insurance corporation, or its successor,  
29 shall accept the appointment as receiver ~~or liquidator~~ for any bank the  
30 possession of and title to all of the assets, business, and property of every  
31 kind, ~~including real estate,~~ of such bank shall pass to and vest in ~~such the~~  
32 ~~federal deposit insurance corporation, or its successor,~~ as receiver ~~or~~  
33 ~~liquidator~~ without the execution of any instruments of assignment,  
34 endorsement, transfer or conveyance.

35 Sec. 124. K.S.A. 9-1909 is hereby amended to read as follows: 9-  
36 1909. All claims of depositors and other creditors must be filed with the  
37 receiver within one year after the date of the receiver's appointment, and if  
38 any claim is not ~~so~~ filed, then it shall be barred from participation in the  
39 estate and assets of any such bank or trust company.

40 Sec. 125. K.S.A. 9-1910 is hereby amended to read as follows: 9-  
41 1910. ~~The board of directors of any~~ *Upon the affirmative vote of <sup>2</sup>/<sub>3</sub> of the*  
42 *outstanding voting stock, the shareholders of a bank or trust company may*  
43 ~~place its affairs and assets under the control of the commissioner by~~

1 posting a notice in the following forms on its front door: "This bank is in  
2 the hands of the state bank commissioner." The posting of such notice or  
3 the taking possession and custody of any bank or trust company by the  
4 commissioner shall be sufficient to place all its assets and property of  
5 whatever nature in the possession of the commissioner, and *transfer all of*  
6 *its assets and property of whatever nature and any rights thereto to the*  
7 *possession and control of the commissioner and waive any right to the*  
8 *Kansas administrative procedure act, the Kansas judicial review act or*  
9 *any other lawful right to challenge the commissioner's authority without*  
10 *the execution of any instruments of assignment, endorsement, transfer or*  
11 *conveyance. Such action shall operate as a bar to any attachment*  
12 *proceedings.*

13 Sec. 126. K.S.A. 9-1915 is hereby amended to read as follows: 9-  
14 1915. It shall be unlawful for the president, director, managing officer,  
15 cashier or any other officer of any bank to ~~assent to the reception of~~  
16 ~~deposits or the creation of any debt by any bank agree to accept deposits,~~  
17 *in an amount that would create an excess above the federal deposit*  
18 *insurance corporation insured deposit amount, after such person has*  
19 *knowledge of the fact that such bank is insolvent or in failing*  
20 *circumstances. It hereby is made the duty of every such officer or*  
21 *managing officer to examine into the affairs of every such bank and know*  
22 *its condition if possible. Upon failure to discharge such duty such person*  
23 *shall be held to have had knowledge of the insolvency of such bank or that*  
24 *it was in failing circumstances, for the purposes of this act section. Every*  
25 *person who shall violate the provisions of this section shall be responsible*  
26 *individually for such deposits so received and all debts so contracted,*  
27 *except that any director or officer who may have paid more than such*  
28 *person's share of the liabilities mentioned in this section shall have the*  
29 *proper remedy at law against such other persons as shall not have paid*  
30 *their full share of such liabilities.*

31 Sec. 127. K.S.A. 9-1916 is hereby amended to read as follows: 9-  
32 1916. In all actions brought for the recovery of any deposits received ~~or~~  
33 ~~debt created, in an amount that would create an excess above the federal~~  
34 ~~deposit insurance corporation insured deposit amount, while any bank~~  
35 ~~was insolvent or in failing circumstances all officers, agents, and directors~~  
36 ~~of such bank may be joined as defendants or proceeded against severally.~~  
37 ~~The fact that any bank was insolvent or in failing circumstances at the time~~  
38 ~~of the reception of the deposit charged to have been so received, or the~~  
39 ~~creation of the debt charged to have been so created, shall be prima facie~~  
40 ~~evidence of such knowledge and assent to such deposit or creation of such~~  
41 ~~debt in accepting the deposit on the part of such officer, agent, or director~~  
42 ~~so charged therewith. This liability may be enforced by and against~~  
43 ~~executors and administrators of any deceased officer, director or agent.~~

1 Sec. 128. K.S.A. 9-2001 is hereby amended to read as follows: 9-  
2 2001. Every ~~banker~~, officer, employee, director or agent of any bank or  
3 trust company who shall neglect to perform any duty required by ~~this act~~  
4 *the state banking code*, or who shall fail to conform to any lawful  
5 requirement made by the ~~bank~~ commissioner, *upon conviction* shall be  
6 guilty of a *class A* misdemeanor, ~~and upon conviction shall be punished by~~  
7 ~~a fine not to exceed \$1,000, or by imprisonment not to exceed one year, or~~  
8 ~~by both fine and imprisonment.~~

9 Sec. 129. K.S.A. 9-2002 is hereby amended to read as follows: 9-  
10 2002. Every officer, director, agent or ~~clerk~~ *employee* of any bank or trust  
11 company doing business in the state of Kansas, who willfully and  
12 knowingly subscribes to or makes any false report or any false statement  
13 or entry in the books of such bank or trust company, or knowingly  
14 subscribes or exhibits any false writing ~~or~~, paper *or electronic equivalent*,  
15 with the intent to deceive any person as to the condition of such bank or  
16 trust company, upon conviction shall be guilty of a severity level 8,  
17 nonperson felony.

18 Sec. 130. K.S.A. 2014 Supp. 9-2004 is hereby amended to read as  
19 follows: 9-2004. ~~(a)~~ Every officer, *director, agent* or employee of a bank or  
20 trust company required by ~~this act~~ *the state banking code*, to take an oath  
21 or affirmation, who shall willfully swear or affirm falsely, shall be guilty  
22 of perjury, and upon conviction shall be punished as provided by K.S.A.  
23 2014 Supp. 21-5903, and amendments thereto.

24 ~~(b) (1) A violation of subsection (a) as provided in (b)(2) of K.S.A.~~  
25 ~~2014 Supp. 21-5903, and amendments thereto, is a severity level 7,~~  
26 ~~nonperson felony.~~

27 ~~(2) A violation of subsection (a) as provided in (b)(1) of K.S.A. 2014~~  
28 ~~Supp. 21-5903, and amendments thereto, is a severity level 9, nonperson~~  
29 ~~felony.~~

30 Sec. 131. K.S.A. 9-2005 is hereby amended to read as follows: 9-  
31 2005. Any bank commissioner or deputy bank commissioner who shall  
32 willfully neglect to perform any duty provided for by ~~this act~~ *the state*  
33 *banking code*, or who shall knowingly and willfully permit the violation of  
34 any of the provisions of ~~this act~~ *the state banking code*, for a period of  
35 ~~ninety~~ 90 days, by any bank *or trust company* doing business under ~~this~~  
36 ~~act~~ *the state banking code*, or who shall knowingly or willfully make any  
37 false statement concerning any bank *or trust company*, or who shall be  
38 guilty of any misconduct or corruption in office, *upon conviction* shall be  
39 deemed guilty of a *class A* misdemeanor, ~~and, upon conviction thereof in~~  
40 ~~any court of competent jurisdiction, shall be punished by a fine of not~~  
41 ~~exceeding one thousand dollars, or by imprisonment in the county jail not~~  
42 ~~to exceed one year, or by both such fine and imprisonment, in the~~  
43 ~~discretion of the court, and in addition thereto and shall be removed from~~

1 office by the governor.

2 Sec. 132. K.S.A. 9-2006 is hereby amended to read as follows: 9-  
3 2006. Any officer, *director, employee or agent* of any bank whose  
4 authority to transact a banking business has been revoked ~~as herein~~  
5 ~~provided pursuant to the the provisions of the state banking code~~, who  
6 shall receive or cause to be received any deposit of whatever nature after  
7 such revocation, upon conviction ~~thereof~~, shall be subject to a fine of not  
8 less than \$300 nor more than \$1,000, and by imprisonment for not less  
9 than six months nor more than one year *shall be guilty of a severity level*  
10 *8, nonperson felony*.

11 Sec. 133. K.S.A. 9-2007 is hereby amended to read as follows: 9-  
12 2007. Any receiver of an insolvent bank or trust company, *other than the*  
13 *federal deposit insurance corporation*, who fails to comply with the  
14 provisions of subsection (a) of K.S.A. 9-1912, and amendments thereto or  
15 who violates any of the provisions of this act relating to the examination of  
16 banks or trust companies, shall be subject to the same penalties provided  
17 for officers or employees of banks or trust companies *the state banking*  
18 *code, upon conviction shall be guilty of a class A misdemeanor*.

19 Sec. 134. K.S.A. 9-2008 is hereby amended to read as follows: 9-  
20 2008. It shall be unlawful for any officer, ~~clerk~~ *director, employee* or agent  
21 of any bank doing business ~~under this act pursuant to the provisions of the~~  
22 *state banking code*, to certify any check, draft or order drawn upon the  
23 bank unless the person, firm or corporation drawing such check, draft or  
24 order has on deposit with the bank, at the time such check, draft or order is  
25 certified, an amount of money equal to the amount specified in such check,  
26 draft or order. Any check, draft or order so certified by the ~~duly~~ authorized  
27 officer, *director, employee or agent* shall be a good and valid obligation  
28 against such bank; ~~but~~. Any officer, ~~clerk~~ *director, employee* or agent of  
29 any bank violating the provisions of this section, *upon conviction*, shall be  
30 deemed guilty of a misdemeanor, ~~and upon conviction shall be punished as~~  
31 ~~provided in K.S.A. 9-2007~~.

32 Sec. 135. K.S.A. 9-2010 is hereby amended to read as follows: 9-  
33 2010. No bank shall accept or receive on deposit, with or without interest,  
34 any money, bank bills or notes, or United States treasury notes, gold or  
35 silver certificates, or currency, or other notes, bills, checks; or drafts, when  
36 such bank is insolvent; ~~and~~. Any officer, director, ~~cashier, manager,~~  
37 ~~member, partner or managing partner~~ *employee or agent* of any bank, who  
38 shall knowingly violate the provisions of this section or be accessory to or  
39 permit or connive at the receiving or accepting on deposit of any such  
40 deposit, ~~shall be guilty of a felony, and upon conviction thereof shall be~~  
41 ~~punished by a fine not exceeding \$5,000, or by imprisonment in the~~  
42 ~~custody of the secretary of corrections not less than one year nor more than~~  
43 ~~five years, or by both such fine and imprisonment upon conviction, shall~~



1 *be guilty of a severity level 8, nonperson felony.*

2 Sec. 136. K.S.A. 9-2011 is hereby amended to read as follows: 9-  
3 2011. It shall be unlawful for any individual, firm or corporation to  
4 advertise, publish or otherwise promulgate that they are engaged in the  
5 banking business or trust business, without first having obtained authority  
6 from the ~~bank~~ commissioner ~~as herein provided~~. Any such individual or  
7 member of any such firm or officer of any such corporation violating this  
8 section ~~shall be guilty of a misdemeanor, and upon conviction shall be~~  
9 ~~punished by a fine not exceeding \$5,000, upon conviction, shall be guilty~~  
10 *of a class A misdemeanor.*

11 Sec. 137. K.S.A. 9-2012 is hereby amended to read as follows: 9-  
12 2012. ~~Every president, director, cashier, assistant cashier, teller, clerk,~~  
13 ~~officer or agent of any bank or trust company who embezzles, abstracts or~~  
14 ~~willfully misapplies any of the moneys, funds, securities or credits of the~~  
15 ~~bank or trust company, or who issues or puts~~ *(a) It shall be unlawful for*  
16 *any shareholder; director; officer; employee or agent of any bank or trust*  
17 *company, with the intent to injure, defraud or deceive a bank or trust*  
18 *company, any agent appointed to examine the affairs of such bank or trust*  
19 *company, the commissioner or the commissioner's staff or any other*  
20 *person to:*

21 *(1) Issue or put forth any certificate of deposit, ~~draws~~ draw any draft*  
22 *or bill of exchange, ~~makes~~ make any acceptance, ~~assigns~~ assign any note,*  
23 *bond, draft, bill of exchange, ~~or who makes; or~~*

24 *(2) to make use of the name of the bank or trust company in any*  
25 *manner, ~~with intent in either case to injure or defraud the bank or trust~~*  
26 *company or any individual, person, partnership, company or corporation,*  
27 *or to deceive any officer of the bank or trust company or any agent*  
28 *appointed to examine the affairs of the bank or trust company, and any*  
29 *person who with like intent aids or abets any officer, clerk or agent in*  
30 *violation of this act.*

31 *(b) It shall be unlawful for any person to aid or abet any shareholder;*  
32 *director; officer; employee or agent in violation of this section. Any person*  
33 *violating the provisions of this section, upon conviction, shall be guilty of*  
34 *a severity level 7, nonperson felony.*

35 Sec. 138. K.S.A. 9-2013 is hereby amended to read as follows: 9-  
36 2013. *(a) Except as provided in subsection (c), it shall be unlawful for: (1)*  
37 *Any person or corporation to ~~corruptly~~ give, offer or promise anything of*  
38 *value to any person, with intent to influence or reward an officer, director,*  
39 *employee, agent or attorney of any state bank or trust company in*  
40 *connection with any business or transaction of such bank or trust*  
41 *company; or*

42 *(2) any shareholder; officer, director, employee, agent or attorney of*  
43 *any state bank or trust company to ~~corruptly~~ solicit or demand for the*

1 benefit of any person; or to ~~corruptly~~ accept or agree to accept anything of  
2 value from any person intending to influence or reward in connection with  
3 any business or transaction of such bank or trust company.

4 (b) Any person or corporation violating the provisions of subsection  
5 (a), upon conviction, shall be guilty of a class A misdemeanor.

6 (c) This section shall not apply to bona fide salary, wages, fees or  
7 other compensation paid; or expenses paid or reimbursed in the ~~usual~~  
8 *ordinary* course of business.

9 Sec. 139. K.S.A. 9-2014 is hereby amended to read as follows: 9-  
10 2014. It shall be the duty of the ~~bank~~ commissioner ~~or any of the deputies~~  
11 ~~of the commissioner~~, to inform the county or district attorney of the county  
12 in which the bank or trust company is located, of any violation of any of  
13 the provisions of ~~this act~~ *the state banking code*, which constitute a  
14 misdemeanor or felony, by the *shareholders*, officers, directors, ~~owners~~  
15 *agents* or employees of any bank or trust company, which shall come to  
16 the notice of the ~~bank~~ commissioner ~~or the commissioner's deputies~~, and  
17 ~~upon receipt of such information the county or district attorney may~~  
18 ~~institute proceedings to enforce the provisions of this act.~~

19 Sec. 140. K.S.A. 9-2016 is hereby amended to read as follows: 9-  
20 2016. It shall be unlawful to transact a banking business or trust business  
21 without having first received a certificate from the commissioner. Any  
22 person violating the provisions of this section, either individually or as an  
23 interested party, in any association or corporation, *upon conviction* shall be  
24 guilty of a *class B* misdemeanor, ~~and on conviction shall be fined in a sum~~  
25 ~~of not less than \$300 nor more than \$1,000 or by imprisonment for not less~~  
26 ~~than 30 days nor more than one year, or by both such fine and~~  
27 ~~imprisonment.~~

28 Sec. 141. K.S.A. 9-2018 is hereby amended to read as follows: 9-  
29 2018. If any provision of ~~this act~~ *the state banking code*, or the application  
30 thereof to any person or circumstance is held invalid, such invalidity shall  
31 not affect other provisions or applications of the ~~act~~ *which state banking*  
32 *code that* can be given effect without the invalid provision or application,  
33 and to this end the provisions of ~~this act~~ *the state banking code* are  
34 declared to be severable.

35 Sec. 142. K.S.A. 9-2101 is hereby amended to read as follows: 9-  
36 2101. Any trust company authorized to receive deposits under K.S.A. 17-  
37 2025, prior to its repeal ~~by this act~~, shall be issued a certificate of authority  
38 by the ~~state bank~~ commissioner upon surrendering such trust company's  
39 charter and complying with the provisions of K.S.A. 9-804, and  
40 amendments thereto, and shall thereafter be subject to all of the  
41 requirements, limitations and terms of the *state banking code of Kansas*.

42 Sec. 143. K.S.A. 9-2102 is hereby amended to read as follows: 9-  
43 2102. ~~(a)~~ All trust companies, *regardless of when* incorporated ~~after the~~

1 effective date of this act, shall be organized and governed pursuant to this  
 2 act *the state banking code*.

3 ~~(b) All trust companies incorporated before the effective date of this~~  
 4 ~~act, upon the effective date of this act, shall be subject to and governed by~~  
 5 ~~the provisions of this act.~~

6 Sec. 144. K.S.A. 9-2103 is hereby amended to read as follows: 9-  
 7 2103. (a) A trust company may exercise all powers necessary or incidental  
 8 to carrying on a trust business, including, without limitation, all powers  
 9 conferred upon a business corporation by the Kansas corporation code of  
 10 1972, ~~and amendments thereto~~, and also may exercise the following  
 11 powers:

12 (1) To receive for safekeeping personal property of every description;

13 (2) to accept and execute any trust agreement and perform any trustee  
 14 duties as required by such trust agreement;

15 (3) to act as ~~assignee, transfer agent, registrar or receiver agent,~~  
 16 *trustee, executor, administrator, registrar of stocks and bonds, conservator,*  
 17 *assignee, receiver, custodian, corporate trustee or attorney in fact in any*  
 18 *agreed upon capacity;*

19 (4) to accept and execute all trusts and to perform any fiduciary duties  
 20 as may be committed or transferred to it by order, judgment or decree of  
 21 any court of record of competent jurisdiction;

22 (5) ~~to act as agent or attorney in fact in any agreed upon capacity;~~

23 (6) to act as executor or trustee under the last will and testament, or as  
 24 administrator, with or without the will annexed to the letters of  
 25 administration, of the estate of any deceased person;

26 (7) (6) to be a conservator for any minor, incapacitated person or  
 27 trustee for any convict under the appointment of any court of competent  
 28 jurisdiction;

29 (8) ~~if the trust company was organized and existing prior to 1930, to~~  
 30 ~~loan money upon real estate, chattel, collateral or personal security; to~~  
 31 ~~execute and issue its notes, bonds or debentures payable at a future date,~~  
 32 ~~and to pledge any of its securities not in excess of 105% of the amount of~~  
 33 ~~such notes, bonds or debentures thus issued, except that no holder of~~  
 34 ~~securities in excess of the amount provided herein shall acquire any title or~~  
 35 ~~claim to such excess; to buy and sell all kinds of government, state,~~  
 36 ~~county, municipal and corporation bonds, and all kinds of negotiable and~~  
 37 ~~nonnegotiable paper, securities, and stocks except that:~~

38 (A) ~~The total investment of any such trust company in bank stock~~  
 39 ~~shall at no time exceed  $\frac{1}{4}$  its paid-in capital; and~~

40 (B) ~~no trust company shall loan money upon or become the purchaser~~  
 41 ~~of its own stock, unless such purchase shall be necessary in the collection~~  
 42 ~~of, or to prevent loss upon, a debt previously contracted in good faith,~~  
 43 ~~whereupon the trust company may become the purchaser at public or~~

1 private sale, but any stock so purchased shall be disposed of within six  
 2 months after such purchase and shall not be included as a part of the assets  
 3 of such company after the expiration of six months from the date of  
 4 purchase;

5 ~~(9)~~ (7) to receive money in trust for investment in real or personal  
 6 property of every kind and nature and to reinvest the proceeds thereof;

7 ~~(10)~~ (8) to act in any fiduciary capacity and to perform any act as a  
 8 fiduciary which a Kansas state bank may perform under any provision of  
 9 the banking or insurance laws of this state, including, without limitation,  
 10 acting as a successor fiduciary to any bank upon liquidation of its trust  
 11 department through the transfer of its fiduciary assets pursuant to K.S.A.  
 12 9-1604, and amendments thereto, which liquidation may be effected in the  
 13 manner provided in K.S.A. 9-2107, and amendments thereto, or otherwise;

14 ~~(11)~~ (9) to act as either an originating trustee or as a contracting  
 15 trustee pursuant to K.S.A. 9-2107, and amendments thereto;

16 ~~(12)~~ (10) to exercise any other power expressly conferred upon trust  
 17 companies by any other provision of the laws of this state;

18 ~~(13)~~ (11) to buy and sell foreign or domestic exchange, gold, silver,  
 19 coin or bullion; and

20 (12) to perform or purchase trust services for or from a bank or  
 21 service corporation through a trust service agency agreement provided the  
 22 commissioner is notified 30 days after contracting for the service,  
 23 including in the notification the trust services provided, name of the  
 24 servicer and the date the service will commence.

25 ~~(14)~~ (b) Pursuant to K.S.A. 9-1713, and amendments thereto, the ~~state~~  
 26 ~~bank~~ commissioner may adopt rules and regulations clarifying any of the  
 27 above enumerated powers and duties extended to trust companies.

28 ~~(b)~~ (c) A trust company may be formed for a limited purpose to  
 29 exercise any one or more of the enumerated powers in subsection (a). The  
 30 articles of incorporation of such a trust company shall contain a list of the  
 31 specific powers that the trust company chooses and is authorized to  
 32 exercise.

33 Sec. 145. K.S.A. 9-2104 is hereby amended to read as follows: 9-  
 34 2104. (a) No executor, administrator, conservator or trustee holding trust  
 35 company stock, ~~and no~~ shall be personally subject to any liability as  
 36 stockholders in such trust company.

37 (b) No person holding trust company stock as collateral security shall  
 38 be personally subject to any liability as stockholders in such trust  
 39 company, ~~but~~.

40 (c) ~~The person owning the stock or the person pledging such stock~~  
 41 ~~shall be considered as holding same, and shall be deemed the person liable~~  
 42 ~~as a stockholder accordingly in the trust company.~~

43 (d) Any executor, administrator, conservator or trustee holding trust

1 company stock shall be liable ~~in like manner as the testator or intestate or~~  
2 ~~the conservatee or person interested in such trust fund would have been if~~  
3 ~~such person had been living and competent to act and hold the same stock~~  
4 ~~in such person's own name in the normal course of acting and carrying~~  
5 ~~out the fiduciary duties of an executor, administrator, conservator or~~  
6 ~~trustee.~~

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

9 (2) *Any person who has pledged such person's stock as collateral*  
10 *security may represent the same at all meetings and may vote accordingly*  
11 *as a shareholder.*

12 Sec. 146. K.S.A. 2014 Supp. 9-2107 is hereby amended to read as  
13 follows: 9-2107. (a) As used in this section:

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

26 (2) "originating trustee" means any trust company, bank, national  
27 banking association, savings and loan association or savings bank which  
28 has trust powers and its principal place of business is in this state and  
29 which places or transfers any fiduciary responsibility to a contracting  
30 trustee as provided in this section;

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

35 (b) Any contracting trustee and any originating trustee may enter into  
36 an agreement by which the contracting trustee, without any further  
37 authorization of any kind, succeeds to and is substituted for the originating  
38 trustee as to all fiduciary powers, rights, duties, privileges and liabilities  
39 with respect to all accounts for which the originating trustee serves in any  
40 fiduciary capacity, except as may be provided otherwise in the agreement.  
41 Notwithstanding the provisions of this section, no contracting trustee ~~as~~  
42 ~~defined in K.S.A. 9-2107(a)(1), and amendments thereto,~~ having its home  
43 office outside the state of Kansas shall enter into an agreement except with

1 an originating trustee which is commonly controlled as defined in K.S.A.  
2 9-1612, and amendments thereto, by the same bank holding company.

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

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

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

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

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

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

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

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

38 (1) The agreement;

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

41 (3) all other required regulatory approvals;

42 (4) ~~an affidavit of publication of notice of intent to file the application~~  
43 ~~with the commissioner~~ *proof of publication of notice that the applicant*

1 *intends to file or has filed an application pursuant to this section.*  
2 ~~Publication of the notice shall be on the same day for two consecutive~~  
3 ~~weeks in the official~~ *The notice shall be published in a newspaper of the*  
4 ~~city or county~~ *general circulation in the county* where the principal office  
5 of the originating trustee or financial institution is located. The notice shall  
6 be in the form prescribed by the commissioner and shall contain the name  
7 of the applicant contracting trustee; ~~and the originating trustee or financial~~  
8 ~~institution,~~ the proposed date of filing of the application with the  
9 commissioner, a solicitation for written comments ~~concerning the~~  
10 ~~application, and a notice of the public's right to file a written request for a~~  
11 ~~public hearing for the purpose of presenting oral or written evidence~~  
12 ~~regarding the proposed agreement. All comments and requests for public~~  
13 ~~hearing shall be filed with the commissioner on or before the 30<sup>th</sup> day after~~  
14 ~~the date the application is filed.~~ *The notice shall be published on the same*  
15 *day for two consecutive weeks and provide for a comment period of not*  
16 *less than 10 days after the date of the second publication; and*

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

29 (g) A contracting trustee making application to the commissioner for  
30 approval of any agreement pursuant to this section shall pay to the  
31 commissioner a fee, in an amount established ~~by rules and regulations of~~  
32 ~~the commissioner adopted~~ pursuant to ~~K.S.A. 9-1713 section 12,~~ and  
33 amendments thereto, to defray the expenses of the commissioner ~~or~~  
34 ~~designee~~ in the examination and investigation of the application. The  
35 commissioner shall remit all ~~amounts~~ *moneys* received under this section  
36 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
37 and amendments thereto. Upon receipt of each such remittance, the state  
38 treasurer shall deposit the entire amount in the state treasury to the credit  
39 ~~of a separate account in the state treasury for each application~~ *the bank*  
40 *investigation fund.* ~~The money~~ *moneys* in ~~each such account~~ *the bank*  
41 *investigation fund* shall be used to pay the expenses of the commissioner,  
42 or designee in the examination and investigation of ~~the application to~~  
43 ~~which it relates such applications~~ and any unused balance shall be

1 transferred to the bank commissioner fee fund.

2 (h) Upon the filing of ~~any such~~ *a complete* application with the  
3 commissioner, the commissioner shall make or cause to be made, a careful  
4 examination and investigation ~~concerning~~ *of the proposed agreement*. *If*  
5 *the commissioner finds any of the following matters unfavorably, the*  
6 *commissioner may deny the application:*

7 (1) The reasonable probability of usefulness and success of the  
8 contracting trustee; *and*

9 (2) the financial history and condition of the contracting trustee  
10 including the character, qualifications and experience of the officers  
11 employed by the contracting trustee; ~~and~~

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

14 ~~If the commissioner shall determine any of such matters unfavorably to~~  
15 ~~the applicants, the application shall be disapproved, but if not, then the~~  
16 ~~application shall be approved.~~

17 (i) ~~If no written request for public hearing is filed, The commissioner~~  
18 ~~shall render approval or disapproval of the application within 60~~ 90 days  
19 ~~of the date upon which the application was filed~~ *receiving a complete*  
20 *application.*

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

36 (k) ~~The commissioner may extend the period for approval or~~  
37 ~~disapproval if the commissioner determines that any information required~~  
38 ~~by this section has not been furnished, any material information submitted~~  
39 ~~is inaccurate or additional investigation is required. The commissioner,~~  
40 ~~prior to expiration of the application period provided for by this section,~~  
41 ~~shall give written notice to each party to the agreement of the~~  
42 ~~commissioner's intent to extend the period which shall include a specific~~  
43 ~~date for expiration of the extension period. If any information remains~~



1 incomplete or inaccurate upon the expiration of the extension period the  
2 application shall be disapproved.

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

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

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

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

21 Sec. 147. K.S.A. 2014 Supp. 9-2108 is hereby amended to read as  
 22 follows: 9-2108. It is unlawful for any trust company to establish or  
 23 operate a trust service office or relocate an existing trust service office  
 24 except as provided ~~in this act~~ *herein*.

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

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

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

41 (1) ~~The~~ *A certified copy of the* written action taken by the board of  
 42 directors of the trust company approving the establishment or operation of  
 43 the proposed trust service office or the proposed relocation of the trust

1 service office;

2 (2) all other required regulatory approvals; and

3 (3) ~~an affidavit of publication of notice of intent to file an application~~  
4 ~~to establish or operate a trust service office or relocate an existing trust~~  
5 ~~service office~~ *proof of publication of notice that the applicant intends to*  
6 *file or has filed an application pursuant to this section. Publication of the*  
7 *notice shall be on the same day for two consecutive weeks in the official*  
8 *The notice shall be published in a newspaper of the city general*  
9 *circulation where the proposed trust service office is to be located. The*  
10 *notice shall be in the form prescribed by the commissioner and shall*  
11 *contain the name of the applicant, the location of the proposed trust service*  
12 *office, the proposed date of filing of the application with the*  
13 *commissioner; and a solicitation for written comments concerning the*  
14 *application and a notice of the public's right to file a written request for a*  
15 *public hearing for the purpose of presenting oral or written evidence*  
16 *regarding the proposed trust service office. All comments and requests for*  
17 *public hearing shall be filed with the commissioner on or before the 30<sup>th</sup>*  
18 *day after the date the application is filed. The notice shall be published on*  
19 *the same day for two consecutive weeks and provide for a comment period*  
20 *of not less than 10 days after the date of the second publication; and*

21 (4) *the application shall include the name selected for the proposed*  
22 *trust service office. The name selected for the proposed trust service office*  
23 *shall not be the name of any other trust company or trust service office*  
24 *doing business in the state of Kansas, nor shall the name selected be*  
25 *required to contain the name of the applicant trust company. If the name*  
26 *selected for the proposed trust service office does not contain the name of*  
27 *the applicant trust company, the trust service office shall provide in the*  
28 *public lobby of such trust service office, a public notice that it is a trust*  
29 *service office of the applicant trust company. Any trust company may*  
30 *request exemption from the commissioner from the provisions of this*  
31 *subsection.*

32 (d) A trust company making application to the commissioner for  
33 approval of a trust service office under this section shall pay to the  
34 commissioner a fee, in an amount established by rules and regulations of  
35 the commissioner, adopted pursuant to K.S.A. 9-1713 section 12, and  
36 amendments thereto, to defray the expenses of the commissioner or  
37 designee in the examination and investigation of the application. The  
38 commissioner shall remit all ~~amounts~~ *moneys* received under this section  
39 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
40 and amendments thereto. Upon receipt of each such remittance, the state  
41 treasurer shall deposit the entire amount in the state treasury to the credit  
42 of a separate account in the state treasury for each application *the bank*  
43 *investigation fund. The moneys in each such account the bank*

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

5 (e) Upon ~~the~~ filing of ~~any such a complete~~ application with the  
6 commissioner, the commissioner shall make or cause to be made, a careful  
7 examination and investigation ~~concerning~~. *If the commissioner finds any*  
8 *of the following matters unfavorably, the commissioner may deny the*  
9 *application:*

10 (1) The reasonable probability of usefulness and success of the  
11 proposed trust service office; *and*

12 (2) the applicant trust company's financial history and condition  
13 including the character, qualifications and experience of the officers  
14 employed by the trust company; *and*

15 (3) ~~whether the proposed trust service office can be established~~  
16 ~~without undue injury to properly conducted existing banks, national~~  
17 ~~banking associations and trust companies. If the commissioner determines~~  
18 ~~any of such matters unfavorably to the applicants, the application shall be~~  
19 ~~disapproved, but if not, the application shall be approved.~~

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

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

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

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

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

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

1 ~~of a trust service office~~ *may take such action as available under K.S.A. 9-*  
2 *1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such*  
3 *violation.*

4 Sec. 148. K.S.A. 2014 Supp. 9-2111 is hereby amended to read as  
5 follows: 9-2111. (a) Except as provided in K.S.A. 9-2107, and  
6 amendments thereto, no trust company, trust department of a bank,  
7 corporation or other business entity, the home office of which is located  
8 outside the state of Kansas, shall establish or operate a trust facility within  
9 the state of Kansas, unless the laws of the state where the home office of  
10 the nonresident trust company, trust department of a bank, corporation or  
11 other business entity is located, reciprocally authorize a Kansas chartered  
12 trust company, trust department of a bank, corporation or other business  
13 entity to establish or operate a trust facility within that state.

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

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

24 (d) No Kansas bank with a trust department shall establish an out-of-  
25 state trust facility until an application has been filed with the commissioner  
26 and approval has been received. An application filed pursuant to this  
27 section shall be subject to the provisions in K.S.A. ~~9-1135~~ *9-1111*, and  
28 amendments thereto.

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

31 (f) *Any Kansas trust company or Kansas bank making application to*  
32 *the commissioner pursuant to subsection (c) or (d) shall pay to the*  
33 *commissioner a fee to be established pursuant to section 12, and*  
34 *amendments thereto, to defray the expenses of the commissioner in the*  
35 *examination and investigation of the application. The commissioner shall*  
36 *remit all moneys received under this section to the state treasurer in*  
37 *accordance with the provisions of K.S.A. 75-4215, and amendments*  
38 *thereto. Upon receipt of each such remittance, the state treasurer shall*  
39 *deposit the entire amount in the state treasury to the credit of the bank*  
40 *investigation fund. The moneys in the bank investigation fund shall be*  
41 *used to pay the expenses of the commissioner in the examination and*  
42 *investigation of such applications and any unused balance shall be*  
43 *transferred to the bank commissioner fee fund.*

1 Sec. 149. K.S.A. 2014 Supp. 44-314 is hereby amended to read as  
2 follows: 44-314. (a) Every employer shall pay all wages due to the  
3 employees of the employer at least once during each calendar month, on  
4 regular paydays designated in advance by the employer.

5 (b) The employer may designate the method by which employees  
6 receive wages, provided all wages shall be paid by one or more of the  
7 following methods:

8 (1) In lawful money of the United States;

9 (2) by check or draft which is negotiable in the community wherein  
10 the place of employment is located;

11 (3) by electronic fund transfer or deposit to an automated  
12 clearinghouse member financial institution account designated by the  
13 employee; or

14 (4) by payroll card.

15 (c) Any employer that elects to pay wages only by a method  
16 authorized in subsection (b)(3) shall offer an alternative payment method  
17 as a default option for employees that fail to designate a financial  
18 institution account for electronic fund transfer or deposit.

19 (d) Any employer that elects to pay wages using a payroll card as  
20 authorized in subsection (b)(4) shall allow employees at least one means of  
21 fund access withdrawal per pay period at no cost to the employee for an  
22 amount up to and including the total amount of the employee's net wages,  
23 as stated on the employee's earnings statement.

24 (e) Not less than 30 days prior to implementing a payroll program  
25 using only the methods authorized in subsection (b)(3) or (b)(4), an  
26 employer shall either:

27 (1) Conduct one or more employee forums to educate employees  
28 regarding the use of a direct deposit or payroll card program offered by the  
29 employer; or

30 (2) distribute educational information to employees about direct  
31 deposits or payroll cards as they may be used under the payroll card  
32 program offered by the employer.

33 (f) (1) Employers shall retain no interest in wages paid by electronic  
34 funds transferred to an employee's payroll card account, other than the  
35 right to correct inadvertent overpayments in accordance with the rules  
36 governing direct deposit.

37 (2) An employer may not charge an employee initiation, loading or  
38 other participation fees to receive wages payable in an electronic fund  
39 transfer to a payroll card account, with the exception of the cost required  
40 to replace a lost, stolen or damaged payroll card.

41 (g) As used in this section:

42 (1) "Payroll card" means a card, issued to an employee by an  
43 employer, a bank or other entity on behalf of an employer, onto which an

1 employee's net wages are loaded on regular paydays from a payroll card  
2 account and made accessible to an employee. ~~A payroll card is a machine  
3 readable instrument for purposes of K.S.A. 9-111d, and amendments  
4 thereto.~~

5 (2) "Payroll card issuer" means an employer, a bank or other entity  
6 that issues a payroll card to an employee under an employer payroll card  
7 program.

8 (3) "Payroll card account" means an account into which an employer  
9 deposits each participating employee's net wages on regular paydays  
10 through an electronic fund transfer.

11 (h) The end of the pay period for which payment is made on a regular  
12 payday shall be not more than 15 days before such regular payday unless a  
13 variance in such requirement is authorized by state or federal law.

14 Sec. 150. K.S.A. 2014 Supp. 39-709 is hereby amended to read as  
15 follows: 39-709. (a) *General eligibility requirements for assistance for  
16 which federal moneys are expended.* Subject to the additional requirements  
17 below, assistance in accordance with plans under which federal moneys  
18 are expended may be granted to any needy person who:

19 (1) Has insufficient income or resources to provide a reasonable  
20 subsistence compatible with decency and health. Where a husband and  
21 wife are living together, the combined income or resources of both shall be  
22 considered in determining the eligibility of either or both for such  
23 assistance unless otherwise prohibited by law. The secretary, in  
24 determining need of any applicant for or recipient of assistance shall not  
25 take into account the financial responsibility of any individual for any  
26 applicant or recipient of assistance unless such applicant or recipient is  
27 such individual's spouse or such individual's minor child or minor  
28 stepchild if the stepchild is living with such individual. The secretary in  
29 determining need of an individual may provide such income and resource  
30 exemptions as may be permitted by federal law. For purposes of eligibility  
31 for aid for families with dependent children, for food stamp assistance and  
32 for any other assistance provided through the Kansas department for  
33 children and families under which federal moneys are expended, the  
34 secretary for children and families shall consider one motor vehicle owned  
35 by the applicant for assistance, regardless of the value of such vehicle, as  
36 exempt personal property and shall consider any equity in any additional  
37 motor vehicle owned by the applicant for assistance to be a nonexempt  
38 resource of the applicant for assistance.

39 (2) Is a citizen of the United States or is an alien lawfully admitted to  
40 the United States and who is residing in the state of Kansas.

41 (b) *Assistance to families with dependent children.* Assistance may be  
42 granted under this act to any dependent child, or relative, subject to the  
43 general eligibility requirements as set out in subsection (a), who resides in



1 the state of Kansas or whose parent or other relative with whom the child  
2 is living resides in the state of Kansas. Such assistance shall be known as  
3 aid to families with dependent children. Where husband and wife are  
4 living together both shall register for work under the program  
5 requirements for aid to families with dependent children in accordance  
6 with criteria and guidelines prescribed by rules and regulations of the  
7 secretary.

8 (c) *Aid to families with dependent children; assignment of support*  
9 *rights and limited power of attorney.* By applying for or receiving aid to  
10 families with dependent children such applicant or recipient shall be  
11 deemed to have assigned to the secretary on behalf of the state any  
12 accrued, present or future rights to support from any other person such  
13 applicant may have in such person's own behalf or in behalf of any other  
14 family member for whom the applicant is applying for or receiving aid. In  
15 any case in which an order for child support has been established and the  
16 legal custodian and obligee under the order surrenders physical custody of  
17 the child to a caretaker relative without obtaining a modification of legal  
18 custody and support rights on behalf of the child are assigned pursuant to  
19 this section, the surrender of physical custody and the assignment shall  
20 transfer, by operation of law, the child's support rights under the order to  
21 the secretary on behalf of the state. Such assignment shall be of all  
22 accrued, present or future rights to support of the child surrendered to the  
23 caretaker relative. The assignment of support rights shall automatically  
24 become effective upon the date of approval for or receipt of such aid  
25 without the requirement that any document be signed by the applicant,  
26 recipient or obligee. By applying for or receiving aid to families with  
27 dependent children, or by surrendering physical custody of a child to a  
28 caretaker relative who is an applicant or recipient of such assistance on the  
29 child's behalf, the applicant, recipient or obligee is also deemed to have  
30 appointed the secretary, or the secretary's designee, as an attorney in fact to  
31 perform the specific act of negotiating and endorsing all drafts, checks,  
32 money orders or other negotiable instruments representing support  
33 payments received by the secretary in behalf of any person applying for,  
34 receiving or having received such assistance. This limited power of  
35 attorney shall be effective from the date the secretary approves the  
36 application for aid and shall remain in effect until the assignment of  
37 support rights has been terminated in full.

38 (d) *Eligibility requirements for general assistance, the cost of which*  
39 *is not shared by the federal government.* (1) General assistance may be  
40 granted to eligible persons who do not qualify for financial assistance in a  
41 program in which the federal government participates and who satisfy the  
42 additional requirements prescribed by or under this subsection (d).

43 (A) To qualify for general assistance in any form a needy person must

1 have insufficient income or resources to provide a reasonable subsistence  
2 compatible with decency and health and, except as provided for  
3 transitional assistance, be a member of a family in which a minor child or  
4 a pregnant woman resides or be unable to engage in employment. The  
5 secretary shall adopt rules and regulations prescribing criteria for  
6 establishing when a minor child may be considered to be living with a  
7 family and whether a person is able to engage in employment, including  
8 such factors as age or physical or mental condition. Eligibility for general  
9 assistance, other than transitional assistance, is limited to families in which  
10 a minor child or a pregnant woman resides or to an adult or family in  
11 which all legally responsible family members are unable to engage in  
12 employment. Where a husband and wife are living together the combined  
13 income or resources of both shall be considered in determining the  
14 eligibility of either or both for such assistance unless otherwise prohibited  
15 by law. The secretary in determining need of any applicant for or recipient  
16 of general assistance shall not take into account the financial responsibility  
17 of any individual for any applicant or recipient of general assistance unless  
18 such applicant or recipient is such individual's spouse or such individual's  
19 minor child or a minor stepchild if the stepchild is living with such  
20 individual. In determining the need of an individual, the secretary may  
21 provide for income and resource exemptions.

22 (B) To qualify for general assistance in any form a needy person must  
23 be a citizen of the United States or an alien lawfully admitted to the United  
24 States and must be residing in the state of Kansas.

25 (2) General assistance in the form of transitional assistance may be  
26 granted to eligible persons who do not qualify for financial assistance in a  
27 program in which the federal government participates and who satisfy the  
28 additional requirements prescribed by or under this subsection (d), but who  
29 do not meet the criteria prescribed by rules and regulations of the secretary  
30 relating to inability to engage in employment or are not a member of a  
31 family in which a minor or a pregnant woman resides.

32 (3) In addition to the other requirements prescribed under this  
33 subsection (d), the secretary shall adopt rules and regulations which  
34 establish community work experience program requirements for eligibility  
35 for the receipt of general assistance in any form and which establish  
36 penalties to be imposed when a work assignment under a community work  
37 experience program requirement is not completed without good cause. The  
38 secretary may adopt rules and regulations establishing exemptions from  
39 any such community work experience program requirements. A first time  
40 failure to complete such a work assignment requirement shall result in  
41 ineligibility to receive general assistance for a period fixed by such rules  
42 and regulations of not more than three calendar months. A subsequent  
43 failure to complete such a work assignment requirement shall result in a

1 period fixed by such rules and regulations of ineligibility of not more than  
2 six calendar months.

3 (4) If any person is found guilty of the crime of theft under the  
4 provisions of K.S.A. 39-720, and amendments thereto, such person shall  
5 thereby become forever ineligible to receive any form of general  
6 assistance under the provisions of this subsection (d) unless the conviction  
7 is the person's first conviction under the provisions of K.S.A. 39-720, and  
8 amendments thereto, or the law of any other state concerning welfare  
9 fraud. First time offenders convicted of a misdemeanor under the  
10 provisions of such statute shall become ineligible to receive any form of  
11 general assistance for a period of 12 calendar months from the date of  
12 conviction. First time offenders convicted of a felony under the provisions  
13 of such statute shall become ineligible to receive any form of general  
14 assistance for a period of 60 calendar months from the date of conviction.  
15 If any person is found guilty by a court of competent jurisdiction of any  
16 state other than the state of Kansas of a crime involving welfare fraud,  
17 such person shall thereby become forever ineligible to receive any form of  
18 general assistance under the provisions of this subsection (d) unless the  
19 conviction is the person's first conviction under the law of any other state  
20 concerning welfare fraud. First time offenders convicted of a misdemeanor  
21 under the law of any other state concerning welfare fraud shall become  
22 ineligible to receive any form of general assistance for a period of 12  
23 calendar months from the date of conviction. First time offenders  
24 convicted of a felony under the law of any other state concerning welfare  
25 fraud shall become ineligible to receive any form of general assistance for  
26 a period of 60 calendar months from the date of conviction.

27 (e) *Requirements for medical assistance for which federal moneys or*  
28 *state moneys or both are expended.* (1) When the secretary has adopted a  
29 medical care plan under which federal moneys or state moneys or both are  
30 expended, medical assistance in accordance with such plan shall be  
31 granted to any person who is a citizen of the United States or who is an  
32 alien lawfully admitted to the United States and who is residing in the state  
33 of Kansas, whose resources and income do not exceed the levels  
34 prescribed by the secretary. In determining the need of an individual, the  
35 secretary may provide for income and resource exemptions and protected  
36 income and resource levels. Resources from inheritance shall be counted.  
37 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and  
38 amendments thereto, shall constitute a transfer of resources. The secretary  
39 shall exempt principal and interest held in irrevocable trust pursuant to  
40 ~~subsection (e) of K.S.A. 16-303(c)~~, and amendments thereto, from the  
41 eligibility requirements of applicants for and recipients of medical  
42 assistance. Such assistance shall be known as medical assistance.

43 (2) For the purposes of medical assistance eligibility determinations

1 on or after July 1, 2004, if an applicant or recipient owns property in joint  
2 tenancy with some other party and the applicant or recipient of medical  
3 assistance has restricted or conditioned their interest in such property to a  
4 specific and discrete property interest less than 100%, then such  
5 designation will cause the full value of the property to be considered an  
6 available resource to the applicant or recipient. Medical assistance  
7 eligibility for receipt of benefits under the title XIX of the social security  
8 act, commonly known as medicaid, shall not be expanded, as provided for  
9 in the patient protection and affordable care act, public law 111-148, 124  
10 stat. 119, and the health care and education reconciliation act of 2010,  
11 public law 111-152, 124 stat. 1029, unless the legislature expressly  
12 consents to, and approves of, the expansion of medicaid services by an act  
13 of the legislature.

14 (3) (A) Resources from trusts shall be considered when determining  
15 eligibility of a trust beneficiary for medical assistance. Medical assistance  
16 is to be secondary to all resources, including trusts, that may be available  
17 to an applicant or recipient of medical assistance.

18 (B) If a trust has discretionary language, the trust shall be considered  
19 to be an available resource to the extent, using the full extent of discretion,  
20 the trustee may make any of the income or principal available to the  
21 applicant or recipient of medical assistance. Any such discretionary trust  
22 shall be considered an available resource unless: (i) At the time of creation  
23 or amendment of the trust, the trust states a clear intent that the trust is  
24 supplemental to public assistance; and (ii) the trust: (a) Is funded from  
25 resources of a person who, at the time of such funding, owed no duty of  
26 support to the applicant or recipient of medical assistance; or (b) is funded  
27 not more than nominally from resources of a person while that person  
28 owed a duty of support to the applicant or recipient of medical assistance.

29 (C) For the purposes of this paragraph, "public assistance" includes,  
30 but is not limited to, medicaid, medical assistance or title XIX of the social  
31 security act.

32 (4) (A) When an applicant or recipient of medical assistance is a party  
33 to a contract, agreement or accord for personal services being provided by  
34 a nonlicensed individual or provider and such contract, agreement or  
35 accord involves health and welfare monitoring, pharmacy assistance, case  
36 management, communication with medical, health or other professionals,  
37 or other activities related to home health care, long term care, medical  
38 assistance benefits, or other related issues, any moneys paid under such  
39 contract, agreement or accord shall be considered to be an available  
40 resource unless the following restrictions are met: (i) The contract,  
41 agreement or accord must be in writing and executed prior to any services  
42 being provided; (ii) the moneys paid are in direct relationship with the fair  
43 market value of such services being provided by similarly situated and

1 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed  
2 individuals or situations can be found, the value of services will be based  
3 on federal hourly minimum wage standards; (iv) such individual providing  
4 the services will report all receipts of moneys as income to the appropriate  
5 state and federal governmental revenue agencies; (v) any amounts due  
6 under such contract, agreement or accord shall be paid after the services  
7 are rendered; (vi) the applicant or recipient shall have the power to revoke  
8 the contract, agreement or accord; and (vii) upon the death of the applicant  
9 or recipient, the contract, agreement or accord ceases.

10 (B) When an applicant or recipient of medical assistance is a party to  
11 a written contract for personal services being provided by a licensed health  
12 professional or facility and such contract involves health and welfare  
13 monitoring, pharmacy assistance, case management, communication with  
14 medical, health or other professionals, or other activities related to home  
15 health care, long term care, medical assistance benefits or other related  
16 issues, any moneys paid in advance of receipt of services for such  
17 contracts shall be considered to be an available resource.

18 (5) Any trust may be amended if such amendment is permitted by the  
19 Kansas uniform trust code.

20 (f) *Eligibility for medical assistance of resident receiving medical*  
21 *care outside state.* A person who is receiving medical care including long-  
22 term care outside of Kansas whose health would be endangered by the  
23 postponement of medical care until return to the state or by travel to return  
24 to Kansas, may be determined eligible for medical assistance if such  
25 individual is a resident of Kansas and all other eligibility factors are met.  
26 Persons who are receiving medical care on an ongoing basis in a long-term  
27 medical care facility in a state other than Kansas and who do not return to  
28 a care facility in Kansas when they are able to do so, shall no longer be  
29 eligible to receive assistance in Kansas unless such medical care is not  
30 available in a comparable facility or program providing such medical care  
31 in Kansas. For persons who are minors or who are under guardianship, the  
32 actions of the parent or guardian shall be deemed to be the actions of the  
33 child or ward in determining whether or not the person is remaining  
34 outside the state voluntarily.

35 (g) *Medical assistance; assignment of rights to medical support and*  
36 *limited power of attorney; recovery from estates of deceased recipients.* (1)

37 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
38 amendments thereto, or as otherwise authorized on and after September  
39 30, 1989, under section 303 of the federal medicare catastrophic coverage  
40 act of 1988, whichever is applicable, by applying for or receiving medical  
41 assistance under a medical care plan in which federal funds are expended,  
42 any accrued, present or future rights to support and any rights to payment  
43 for medical care from a third party of an applicant or recipient and any

1 other family member for whom the applicant is applying shall be deemed  
2 to have been assigned to the secretary on behalf of the state. The  
3 assignment shall automatically become effective upon the date of approval  
4 for such assistance without the requirement that any document be signed  
5 by the applicant or recipient. By applying for or receiving medical  
6 assistance the applicant or recipient is also deemed to have appointed the  
7 secretary, or the secretary's designee, as an attorney in fact to perform the  
8 specific act of negotiating and endorsing all drafts, checks, money orders  
9 or other negotiable instruments, representing payments received by the  
10 secretary in [on] behalf of any person applying for, receiving or having  
11 received such assistance. This limited power of attorney shall be effective  
12 from the date the secretary approves the application for assistance and  
13 shall remain in effect until the assignment has been terminated in full. The  
14 assignment of any rights to payment for medical care from a third party  
15 under this subsection shall not prohibit a health care provider from directly  
16 billing an insurance carrier for services rendered if the provider has not  
17 submitted a claim covering such services to the secretary for payment.  
18 Support amounts collected on behalf of persons whose rights to support  
19 are assigned to the secretary only under this subsection and no other shall  
20 be distributed pursuant to subsection (d) of K.S.A. 39-756, and  
21 amendments thereto, except that any amounts designated as medical  
22 support shall be retained by the secretary for repayment of the  
23 unreimbursed portion of assistance. Amounts collected pursuant to the  
24 assignment of rights to payment for medical care from a third party shall  
25 also be retained by the secretary for repayment of the unreimbursed  
26 portion of assistance.

27 (B) Notwithstanding the provisions of subparagraph (A), the  
28 secretary of health and environment, or the secretary's designee, is hereby  
29 authorized to and shall exercise any of the powers specified in  
30 subparagraph (A) in relation to performance of such secretary's duties  
31 pertaining to medical subrogation, estate recovery or any other duties  
32 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes  
33 Annotated, and amendments thereto.

34 (2) The amount of any medical assistance paid after June 30, 1992,  
35 under the provisions of subsection (e) is (A) a claim against the property or  
36 any interest therein belonging to and a part of the estate of any deceased  
37 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
38 shall be charged for such medical assistance paid to either or both, and (B)  
39 a claim against any funds of such recipient or spouse in any account under  
40 K.S.A. 9-1215, ~~9-1216~~, 17-2263, 17-2264, 17-5828 or 17-5829, and  
41 amendments thereto. There shall be no recovery of medical assistance  
42 correctly paid to or on behalf of an individual under subsection (e) except  
43 after the death of the surviving spouse of the individual, if any, and only at

1 a time when the individual has no surviving child who is under 21 years of  
2 age or is blind or permanently and totally disabled. Transfers of real or  
3 personal property by recipients of medical assistance without adequate  
4 consideration are voidable and may be set aside. Except where there is a  
5 surviving spouse, or a surviving child who is under 21 years of age or is  
6 blind or permanently and totally disabled, the amount of any medical  
7 assistance paid under subsection (e) is a claim against the estate in any  
8 guardianship or conservatorship proceeding. The monetary value of any  
9 benefits received by the recipient of such medical assistance under long-  
10 term care insurance, as defined by K.S.A. 40-2227, and amendments  
11 thereto, shall be a credit against the amount of the claim provided for such  
12 medical assistance under this subsection (g). The secretary of health and  
13 environment is authorized to enforce each claim provided for under this  
14 subsection (g). The secretary of health and environment shall not be  
15 required to pursue every claim, but is granted discretion to determine  
16 which claims to pursue. All moneys received by the secretary of health and  
17 environment from claims under this subsection (g) shall be deposited in  
18 the social welfare fund. The secretary of health and environment may  
19 adopt rules and regulations for the implementation and administration of  
20 the medical assistance recovery program under this subsection (g).

21 (3) By applying for or receiving medical assistance under the  
22 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and  
23 amendments thereto, such individual or such individual's agent, fiduciary,  
24 guardian, conservator, representative payee or other person acting on  
25 behalf of the individual consents to the following definitions of estate and  
26 the results therefrom:

27 (A) If an individual receives any medical assistance before July 1,  
28 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
29 and amendments thereto, which forms the basis for a claim under  
30 subsection (g)(2), such claim is limited to the individual's probatable estate  
31 as defined by applicable law; and

32 (B) if an individual receives any medical assistance on or after July 1,  
33 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
34 and amendments thereto, which forms the basis for a claim under  
35 subsection (g)(2), such claim shall apply to the individual's medical  
36 assistance estate. The medical assistance estate is defined as including all  
37 real and personal property and other assets in which the deceased  
38 individual had any legal title or interest immediately before or at the time  
39 of death to the extent of that interest or title. The medical assistance estate  
40 includes, without limitation assets conveyed to a survivor, heir or assign of  
41 the deceased recipient through joint tenancy, tenancy in common,  
42 survivorship, transfer-on-death deed, payable-on-death contract, life estate,  
43 trust, annuities or similar arrangement.

1 (4) The secretary of health and environment or the secretary's  
2 designee is authorized to file and enforce a lien against the real property of  
3 a recipient of medical assistance in certain situations, subject to all prior  
4 liens of record and transfers for value to a bona fide purchaser of record.  
5 The lien must be filed in the office of the register of deeds of the county  
6 where the real property is located within one year from the date of death of  
7 the recipient and must contain the legal description of all real property in  
8 the county subject to the lien.

9 (A) After the death of a recipient of medical assistance, the secretary  
10 of health and environment or the secretary's designee may place a lien on  
11 any interest in real property owned by such recipient.

12 (B) The secretary of health and environment or the secretary's  
13 designee may place a lien on any interest in real property owned by a  
14 recipient of medical assistance during the lifetime of such recipient. Such  
15 lien may be filed only after notice and an opportunity for a hearing has  
16 been given. Such lien may be enforced only upon competent medical  
17 testimony that the recipient cannot reasonably be expected to be  
18 discharged and returned home. A six-month period of compensated  
19 inpatient care at a nursing home or other medical institution shall  
20 constitute a determination by the department of health and environment  
21 that the recipient cannot reasonably be expected to be discharged and  
22 returned home. To return home means the recipient leaves the nursing or  
23 medical facility and resides in the home on which the lien has been placed  
24 for a continuous period of at least 90 days without being readmitted as an  
25 inpatient to a nursing or medical facility. The amount of the lien shall be  
26 for the amount of assistance paid by the department of health and  
27 environment until the time of the filing of the lien and for any amount paid  
28 thereafter for such medical assistance to the recipient. After the lien is filed  
29 against any real property owned by the recipient, such lien will be  
30 dissolved if the recipient is discharged, returns home and resides upon the  
31 real property to which the lien is attached for a continuous period of at  
32 least 90 days without being readmitted as an inpatient to a nursing or  
33 medical facility. If the recipient is readmitted as an inpatient to a nursing or  
34 medical facility for a continuous period of less than 90 days, another  
35 continuous period of at least 90 days shall be completed prior to  
36 dissolution of the lien.

37 (5) The lien filed by the secretary of health and environment or the  
38 secretary's designee for medical assistance correctly received may be  
39 enforced before or after the death of the recipient by the filing of an action  
40 to foreclose such lien in the Kansas district court or through an estate  
41 probate court action in the county where the real property of the recipient  
42 is located. However, it may be enforced only:

43 (A) After the death of the surviving spouse of the recipient;



1 (B) when there is no child of the recipient, natural or adopted, who is  
2 20 years of age or less residing in the home;

3 (C) when there is no adult child of the recipient, natural or adopted,  
4 who is blind or disabled residing in the home; or

5 (D) when no brother or sister of the recipient is lawfully residing in  
6 the home, who has resided there for at least one year immediately before  
7 the date of the recipient's admission to the nursing or medical facility, and  
8 has resided there on a continuous basis since that time.

9 (6) The lien remains on the property even after a transfer of the title  
10 by conveyance, sale, succession, inheritance or will unless one of the  
11 following events occur:

12 (A) The lien is satisfied. The recipient, the heirs, personal  
13 representative or assigns of the recipient may discharge such lien at any  
14 time by paying the amount of the lien to the secretary of health and  
15 environment or the secretary's designee;

16 (B) the lien is terminated by foreclosure of prior lien of record or  
17 settlement action taken in lieu of foreclosure; or

18 (C) the value of the real property is consumed by the lien, at which  
19 time the secretary of health and environment or the secretary's designee  
20 may force the sale for the real property to satisfy the lien.

21 (7) If the secretary for aging and disability services or the secretary of  
22 health and environment, or both, or such secretary's designee has not filed  
23 an action to foreclose the lien in the Kansas district court in the county  
24 where the real property is located within 10 years from the date of the  
25 filing of the lien, then the lien shall become dormant, and shall cease to  
26 operate as a lien on the real estate of the recipient. Such dormant lien may  
27 be revived in the same manner as a dormant judgment lien is revived under  
28 K.S.A. 60-2403 et seq., and amendments thereto.

29 (8) Within seven days of receipt of notice by the secretary for  
30 children and families or the secretary's designee of the death of a recipient  
31 of medical assistance under this subsection, the secretary for children and  
32 families or the secretary's designee shall give notice of such recipient's  
33 death to the secretary of health and environment or the secretary's  
34 designee.

35 (9) All rules and regulations adopted on and after July 1, 2013, and  
36 prior to July 1, 2014, to implement this subsection shall continue to be  
37 effective and shall be deemed to be duly adopted rules and regulations of  
38 the secretary of health and environment until revised, amended, revoked or  
39 nullified pursuant to law.

40 (h) *Placement under the revised Kansas code for care of children or*  
41 *revised Kansas juvenile justice code; assignment of support rights and*  
42 *limited power of attorney.* In any case in which the secretary for children  
43 and families pays for the expenses of care and custody of a child pursuant

1 to K.S.A. 2014 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments  
2 thereto, including the expenses of any foster care placement, an  
3 assignment of all past, present and future support rights of the child in  
4 custody possessed by either parent or other person entitled to receive  
5 support payments for the child is, by operation of law, conveyed to the  
6 secretary. Such assignment shall become effective upon placement of a  
7 child in the custody of the secretary or upon payment of the expenses of  
8 care and custody of a child by the secretary without the requirement that  
9 any document be signed by the parent or other person entitled to receive  
10 support payments for the child. When the secretary pays for the expenses  
11 of care and custody of a child or a child is placed in the custody of the  
12 secretary, the parent or other person entitled to receive support payments  
13 for the child is also deemed to have appointed the secretary, or the  
14 secretary's designee, as attorney in fact to perform the specific act of  
15 negotiating and endorsing all drafts, checks, money orders or other  
16 negotiable instruments representing support payments received by the  
17 secretary on behalf of the child. This limited power of attorney shall be  
18 effective from the date the assignment to support rights becomes effective  
19 and shall remain in effect until the assignment of support rights has been  
20 terminated in full.

21 (i) No person who voluntarily quits employment or who is fired from  
22 employment due to gross misconduct as defined by rules and regulations  
23 of the secretary or who is a fugitive from justice by reason of a felony  
24 conviction or charge shall be eligible to receive public assistance benefits  
25 in this state. Any recipient of public assistance who fails to timely comply  
26 with monthly reporting requirements under criteria and guidelines  
27 prescribed by rules and regulations of the secretary shall be subject to a  
28 penalty established by the secretary by rules and regulations.

29 (j) If the applicant or recipient of aid to families with dependent  
30 children is a mother of the dependent child, as a condition of the mother's  
31 eligibility for aid to families with dependent children the mother shall  
32 identify by name and, if known, by current address the father of the  
33 dependent child except that the secretary may adopt by rules and  
34 regulations exceptions to this requirement in cases of undue hardship. Any  
35 recipient of aid to families with dependent children who fails to cooperate  
36 with requirements relating to child support enforcement under criteria and  
37 guidelines prescribed by rules and regulations of the secretary shall be  
38 subject to a penalty established by the secretary by rules and regulations  
39 which penalty shall progress to ineligibility for the family after three  
40 months of noncooperation.

41 (k) By applying for or receiving child care benefits or food stamps,  
42 the applicant or recipient shall be deemed to have assigned, pursuant to  
43 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the

1 state only accrued, present or future rights to support from any other  
2 person such applicant may have in such person's own behalf or in behalf of  
3 any other family member for whom the applicant is applying for or  
4 receiving aid. The assignment of support rights shall automatically become  
5 effective upon the date of approval for or receipt of such aid without the  
6 requirement that any document be signed by the applicant or recipient. By  
7 applying for or receiving child care benefits or food stamps, the applicant  
8 or recipient is also deemed to have appointed the secretary, or the  
9 secretary's designee, as an attorney in fact to perform the specific act of  
10 negotiating and endorsing all drafts, checks, money orders or other  
11 negotiable instruments representing support payments received by the  
12 secretary in behalf of any person applying for, receiving or having  
13 received such assistance. This limited power of attorney shall be effective  
14 from the date the secretary approves the application for aid and shall  
15 remain in effect until the assignment of support rights has been terminated  
16 in full. An applicant or recipient who has assigned support rights to the  
17 secretary pursuant to this subsection shall cooperate in establishing and  
18 enforcing support obligations to the same extent required of applicants for  
19 or recipients of aid to families with dependent children.

20 (1) (1) A program of drug screening for applicants for cash assistance  
21 as a condition of eligibility for cash assistance and persons receiving cash  
22 assistance as a condition of continued receipt of cash assistance shall be  
23 established, subject to applicable federal law, by the secretary for children  
24 and families on and before January 1, 2014. Under such program of drug  
25 screening, the secretary for children and families shall order a drug  
26 screening of an applicant for or a recipient of cash assistance at any time  
27 when reasonable suspicion exists that such applicant for or recipient of  
28 cash assistance is unlawfully using a controlled substance or controlled  
29 substance analog. The secretary for children and families may use any  
30 information obtained by the secretary for children and families to  
31 determine whether such reasonable suspicion exists, including, but not  
32 limited to, an applicant's or recipient's demeanor, missed appointments and  
33 arrest or other police records, previous employment or application for  
34 employment in an occupation or industry that regularly conducts drug  
35 screening, termination from previous employment due to unlawful use of a  
36 controlled substance or controlled substance analog or prior drug screening  
37 records of the applicant or recipient indicating unlawful use of a controlled  
38 substance or controlled substance analog.

39 (2) Any applicant for or recipient of cash assistance whose drug  
40 screening results in a positive test may request that the drug screening  
41 specimen be sent to a different drug testing facility for an additional drug  
42 screening. Any applicant for or recipient of cash assistance who requests  
43 an additional drug screening at a different drug testing facility shall be

1 required to pay the cost of drug screening. Such applicant or recipient who  
2 took the additional drug screening and who tested negative for unlawful  
3 use of a controlled substance and controlled substance analog shall be  
4 reimbursed for the cost of such additional drug screening.

5 (3) Any applicant for or recipient of cash assistance who tests  
6 positive for unlawful use of a controlled substance or controlled substance  
7 analog shall be required to complete a substance abuse treatment program  
8 approved by the secretary for children and families, secretary of labor or  
9 secretary of commerce, and a job skills program approved by the secretary  
10 for children and families, secretary of labor or secretary of commerce.  
11 Subject to applicable federal laws, any applicant for or recipient of cash  
12 assistance who fails to complete or refuses to participate in the substance  
13 abuse treatment program or job skills program as required under this  
14 subsection shall be ineligible to receive cash assistance until completion of  
15 such substance abuse treatment and job skills programs. Upon completion  
16 of both substance abuse treatment and job skills programs, such applicant  
17 for or recipient of cash assistance may be subject to periodic drug  
18 screening, as determined by the secretary for children and families. Upon a  
19 second positive test for unlawful use of a controlled substance or  
20 controlled substance analog, a recipient of cash assistance shall be ordered  
21 to complete again a substance abuse treatment program and job skills  
22 program, and shall be terminated from cash assistance for a period of 12  
23 months, or until such recipient of cash assistance completes both substance  
24 abuse treatment and job skills programs, whichever is later. Upon a third  
25 positive test for unlawful use of a controlled substance or controlled  
26 substance analog, a recipient of cash assistance shall be terminated from  
27 cash assistance, subject to applicable federal law.

28 (4) If an applicant for or recipient of cash assistance is ineligible for  
29 or terminated from cash assistance as a result of a positive test for  
30 unlawful use of a controlled substance or controlled substance analog, and  
31 such applicant for or recipient of cash assistance is the parent or legal  
32 guardian of a minor child, an appropriate protective payee shall be  
33 designated to receive cash assistance on behalf of such child. Such parent  
34 or legal guardian of the minor child may choose to designate an individual  
35 to receive cash assistance for such parent's or legal guardian's minor child,  
36 as approved by the secretary for children and families. Prior to the  
37 designated individual receiving any cash assistance, the secretary for  
38 children and families shall review whether reasonable suspicion exists that  
39 such designated individual is unlawfully using a controlled substance or  
40 controlled substance analog.

41 (A) In addition, any individual designated to receive cash assistance  
42 on behalf of an eligible minor child shall be subject to drug screening at  
43 any time when reasonable suspicion exists that such designated individual

1 is unlawfully using a controlled substance or controlled substance analog.  
2 The secretary for children and families may use any information obtained  
3 by the secretary for children and families to determine whether such  
4 reasonable suspicion exists, including, but not limited to, the designated  
5 individual's demeanor, missed appointments and arrest or other police  
6 records, previous employment or application for employment in an  
7 occupation or industry that regularly conducts drug screening, termination  
8 from previous employment due to unlawful use of a controlled substance  
9 or controlled substance analog or prior drug screening records of the  
10 designated individual indicating unlawful use of a controlled substance or  
11 controlled substance analog.

12 (B) Any designated individual whose drug screening results in a  
13 positive test may request that the drug screening specimen be sent to a  
14 different drug testing facility for an additional drug screening. Any  
15 designated individual who requests an additional drug screening at a  
16 different drug testing facility shall be required to pay the cost of drug  
17 screening. Such designated individual who took the additional drug  
18 screening and who tested negative for unlawful use of a controlled  
19 substance and controlled substance analog shall be reimbursed for the cost  
20 of such additional drug screening.

21 (C) Upon any positive test for unlawful use of a controlled substance  
22 or controlled substance analog, the designated individual shall not receive  
23 cash assistance on behalf of the parent's or legal guardian's minor child,  
24 and another designated individual shall be selected by the secretary for  
25 children and families to receive cash assistance on behalf of such parent's  
26 or legal guardian's minor child.

27 (5) If a person has been convicted under federal or state law of any  
28 offense which is classified as a felony by the law of the jurisdiction and  
29 which has as an element of such offense the manufacture, cultivation,  
30 distribution, possession or use of a controlled substance or controlled  
31 substance analog, and the date of conviction is on or after July 1, 2013,  
32 such person shall thereby become forever ineligible to receive any cash  
33 assistance under this subsection unless such conviction is the person's first  
34 conviction. First-time offenders convicted under federal or state law of any  
35 offense which is classified as a felony by the law of the jurisdiction and  
36 which has as an element of such offense the manufacture, cultivation,  
37 distribution, possession or use of a controlled substance or controlled  
38 substance analog, and the date of conviction is on or after July 1, 2013,  
39 such person shall become ineligible to receive cash assistance for five  
40 years from the date of conviction.

41 (6) Except for hearings before the Kansas department for children  
42 and families or, the results of any drug screening administered as part of  
43 the drug screening program authorized by this subsection shall be

1 confidential and shall not be disclosed publicly.

2 (7) The secretary for children and families may adopt such rules and  
3 regulations as are necessary to carry out the provisions of this subsection.

4 (8) Any authority granted to the secretary for children and families  
5 under this subsection shall be in addition to any other penalties prescribed  
6 by law.

7 (9) As used in this subsection:

8 (A) "Cash assistance" means cash assistance provided to individuals  
9 under the provisions of article 7 of chapter 39 of the Kansas Statutes  
10 Annotated, and amendments thereto, and any rules and regulations adopted  
11 pursuant to such statutes.

12 (B) "Controlled substance" means the same as in K.S.A. 2014 Supp.  
13 21-5701, and amendments thereto, and 21 U.S.C. § 802.

14 (C) "Controlled substance analog" means the same as in K.S.A. 2014  
15 Supp. 21-5701, and amendments thereto.

16 Sec. 151. K.S.A. 9-514, 9-515, 9-516, 9-517, 9-518, 9-519, 9-520, 9-  
17 523, 9-536, 9-538, 9-539, 9-542, 9-701, 9-702, 9-703, 9-801, 9-802, 9-803,  
18 9-804, 9-806, 9-807, 9-808, 9-809, 9-810, 9-811, 9-812, 9-813, 9-901a, 9-  
19 902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-909, 9-910, 9-911, 9-912,  
20 9-1101a, 9-1101b, 9-1102, 9-1103, 9-1105, 9-1106, 9-1107, 9-1108, 9-  
21 1109, 9-1110, 9-1111b, 9-1111d, 9-1112, 9-1113, 9-1116, 9-1119, 9-1122,  
22 9-1123, 9-1124, 9-1125, 9-1127a, 9-1127b, 9-1127c, 9-1130, 9-1132, 9-  
23 1133, 9-1137, 9-1138, 9-1201, 9-1204, 9-1205, 9-1207, 9-1213, 9-1214, 9-  
24 1301, 9-1301a, 9-1304, 9-1403, 9-1405, 9-1501, 9-1502, 9-1503, 9-1504,  
25 9-1505, 9-1506, 9-1507, 9-1602, 9-1603, 9-1604, 9-1605, 9-1606, 9-1607,  
26 9-1608, 9-1609, 9-1610, 9-1611, 9-1612, 9-1701, 9-1705, 9-1708, 9-1709,  
27 9-1710, 9-1711, 9-1712, 9-1714, 9-1715, 9-1716, 9-1717, 9-1718, 9-1719,  
28 9-1720, 9-1723, 9-1724, 9-1802, 9-1803, 9-1807, 9-1808, 9-1901, 9-1902,  
29 9-1902a, 9-1903, 9-1904, 9-1905, 9-1906, 9-1907, 9-1908, 9-1909, 9-  
30 1910, 9-1912, 9-1914, 9-1914a, 9-1915, 9-1916, 9-2001, 9-2002, 9-2003,  
31 9-2005, 9-2006, 9-2007, 9-2008, 9-2009, 9-2010, 9-2011, 9-2012, 9-2013,  
32 9-2014, 9-2015, 9-2016, 9-2017, 9-2018, 9-2101, 9-2102, 9-2103, 9-2104  
33 and 9-2105 and K.S.A. 2014 Supp. 9-532, 9-533, 9-534, 9-535, 9-805, 9-  
34 1101, 9-1104, 9-1111, 9-1114, 9-1118, 9-1135, 9-1139, 9-1140, 9-1215, 9-  
35 1216, 9-1303, 9-1401, 9-1402, 9-1407, 9-1408, 9-1601, 9-1702, 9-1703, 9-  
36 1704, 9-1706, 9-1707, 9-1713, 9-1721, 9-1722, 9-1801, 9-1804, 9-1805, 9-  
37 2004, 9-2106, 9-2107, 9-2108, 9-2111, 39-709 and 44-314 are hereby  
38 repealed.

39 Sec. 152. This act shall take effect and be in force from and after its  
40 publication in the statute book.