

Banking Code Amendments—Derivative Transaction and Lending Limits; Reciprocity for Certain Trust Companies; HB 2505

HB 2505 amends and inserts definitions in the provisions of the Banking Code that apply to lending limits to include derivative transactions and also amends the Code to create an exception to the provisions that apply to a prohibition on the establishment or operation of a trust company by an out-of-state trust entity.

Legal Lending Limits

The bill will, from and after January 21, 2013, add a new provision to the meaning of the term “loan” to include “any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between a bank and that borrower.”

The bill also creates a definition in the Code for the term “derivative transaction” and assigns the following definition: any transaction that is a contract agreement, swap, warrant, note, or option that is based in whole, or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest, or other rates, indices, or other assets.

Interstate Branching, Trust Departments; Reciprocity Requirement

The bill modifies a provision in the Code which prohibits any out-of-state trust company, trust department of a bank, or similar entity from establishing or operating a trust facility in Kansas, to create an exception for certain out-of-state trust entities. The exception will allow out-of-state trust entities to establish or operate a trust facility in Kansas if the laws of the state of the home office of the trust company or similar business entity reciprocally authorize a Kansas-chartered trust company or similar entity to establish or operate a trust facility within that state.

The bill requires these non-resident trust entities to file a copy of the application submitted to the home state and proof that the home state has reciprocity with Kansas with the Bank Commissioner, before the entity establishes a trust facility in Kansas. Further, a Kansas trust company can not establish an out-of-state trust facility until an application has been filed with the Bank Commissioner and approval has been received; the application would be subject to the provisions of the Code regulating the establishment of trust service offices (KSA 9-2108). Similarly, a Kansas bank with a trust department can not establish an out-of-state trust facility until an application has been filed with the Bank Commissioner and approval has been received; this application will be subject to the provisions of the Code regulating the establishment of a trust branch bank (KSA 9-1135).

For the purposes of the reciprocity provisions in the bill, a “trust facility” means any office, agency, desk, or other place of business at which trust business is conducted.